The Finnish Ministry of Finance has issued a draft bill and a request for comments by 26 February 2018 on the new interest deduction limitation rules stemming from the European Union (EU) Anti-Tax Avoidance Directive (the Directive). The new interest deduction limitation rules are scheduled to be applied as of 2019. According to the draft bill, the new interest deduction limitation would expand and significantly tighten the current regulation. The most significant changes to the limitation rules would be:

• Net interest expenses accrued on loans from unrelated parties would fall within the scope of the rules
• The equity ratio based exemption would be abolished
• Real estate companies (and other entities taxed in accordance with the Finnish Income Tax Act) would be included in the scope of the rules
• All financial institutions and other companies operating within financing would become subject to the rules

In addition, the definition of related parties would be extended as a result of the Directive, and a holding of 25% of capital or voting rights would be deemed to constitute related party status, but only for the purpose of the interest deduction limitation rules. According to the Directive, the definition of interest and financial expenses (term “borrowing costs”) would include interest expense on all forms of debt, other costs economically equivalent to interest and expenses incurred in connection with the raising of funds.
Deductible and non-deductible net interest expenses

According to the draft bill, net interest expenses would continue to be deductible to the amount of 25% of the tax earnings before interest, taxes, depreciation and amortization (EBITDA). The tax EBITDA would be calculated in a similar manner to the current regulation by adding back interest expenses, tax depreciation and amortization, and the net group contribution to the taxable profit/loss before applying the interest deduction limitation. The possible interest deduction limitations would continue to be applied only if the net interest expenses exceed €500,000. Net interest expenses other than related party net interest expenses would be deductible up to €3 million, and they would be deducted primarily as part of the 25% tax EBITDA quota.

The non-deductible net interest expenses could be carried forward without time limitation similar to the current regulation. The non-deductible amount would be transferred in the case of possible mergers or de-mergers.

Impact on companies and future legislative actions

In the future, companies should track the amount of related party and other net interest expenses separately in more detail. In addition, companies should evaluate different associated company structures and their impact on related party status and on the deductibility of net interest expenses. Taxpayers who have been exempted from the current interest deduction limitation on the basis of the equity ratio exemption (also known as the balance sheet test) should plan and assess the impact of the new interest deduction limitation rules and the measures that should be taken accordingly.

The Ministry of Finance is requesting comments especially in regard to the abolishment of the equity ratio exemption and the suggested limits in euros. With respect to the possible exemption for Public Private Partnerships, the draft bill provides that the exemption should also be evaluated from the perspective of State aid rules and is thus discussed with the European Commission. Accordingly, the draft bill may be amended before issuance of the actual Government Bill and enactment of the final legislation.

For additional information with respect to this Alert, please contact the following:

Ernst & Young Oy, Helsinki
- Raimo Hietala, Transaction Tax  raimo.hietala@fi.ey.com
- Kennet Pettersson, International Tax Services kennet.pettersson@fi.ey.com
- Markku Järvenoja, Business Tax Services markku.jarvenoja@fi.ey.com
- Harri Pettersson, Business Tax Services harri.pettersson@fi.ey.com

Ernst & Young LLP, Nordic Tax Desk, New York
- Antoine Van Horen antoine.vanhoren@ey.com
- Susanne Hamre Skoglund susanne.skoglund@ey.com
- Nicole Maser nicole.maser1@ey.com
About EY
EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

© 2018 EYGM Limited.
All Rights Reserved.

EYG no. 00360-181Gbl
1508-1600216 NY
ED None

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com