

On July 9, 2009 the European Committee ("EC") issued a press release confirming that the proposed Dutch regime for group interest income will not be considered prohibited state aid. The official decision will be published as soon as confidentiality issues have been resolved.

Pursuant to the proposed "group interest box", the balance of group interest paid and received is included in the taxable basis for 5/25.5 part. At a statutory corporate income tax rate of 25.5%, group interest income is taxed effectively at 5%. Initially, the group interest box was introduced as an optional regime, and scheduled to become effective in 2007. A request for a decision confirming the regime was not to be considered state aid was submitted with the EC, and the effective date of the regime was suspended until such decision was rendered. Following an increasing concern that the initial optional character of the group interest box would be considered selective, and consequently considered prohibited state aid, the Dutch Ministry of Finance committed to a number of amendments:

1. The group interest box would be made mandatory for all tax payers subject to Dutch corporate income tax,
2. The scope of the definition "group" would be enlarged, and
3. The minimum capital requirement for the incorporation of a Dutch limited liability company would be abolished.

Following these commitments, the EC concluded that the group interest box can not be considered prohibited state aid. With this decision of the EC, it has become increasingly likely that the group interest box will become effective on 1 January 2010. From the press release, it can not be derived whether the EC has considered the entire proposed group interest box as laid down and explained in the recently released "consultation document".