

Federal Department of Finance
Eigerstrasse 65
3003 Bern

Geneva, 16th of April 2021

UNOFFICIAL TRANSLATION (OFFICIAL DOCUMENT IN GERMAN VERSION)

Reference: Public consultation on the Federal law on tonnage tax for sea-going vessels

Dear Sir,

The Swiss Trading and Shipping Association (STSA) welcomes the public consultation procedure on the tonnage tax and owes the opportunity to submit its position from an industry perspective.

STSA is a non-profit, non-political Swiss association representing companies active in commodity trading and shipping activities, trade finance and related services. Since its creation in 2014 it acts as the umbrella organisation for the sector in Switzerland, bringing together three regional associations (Geneva, Zug, Lugano) with more than 180 members and institutions. This includes a significant number of members who are active in the shipping industry, including merchant shipowners, ship owners and charterers, as well as traders in marine fuels.

According to the proposal, the introduction of the tonnage tax in Switzerland is to be an instrument for promoting maritime shipping in Switzerland, the assessment basis of which is not to be the profit actually generated, but the freight volume of the ocean-going vessel per operating day calculated on a flat-rate basis using the net tonnage. The Federal Council formulates the goal of creating a level playing field with other countries, so that the competitiveness of Switzerland as a business location is secured. The STSA welcomes the objectives of the Federal Council to promote a competitive Swiss location in the field of maritime shipping and to create the necessary framework conditions for this. The introduction of the tonnage tax, which is widely accepted internationally and particularly widespread in the European Union, can represent a further element in the promotion of the Swiss maritime shipping industry.

However, the present draft proposal presented for the introduction of the tonnage tax in Switzerland leaves many questions unanswered - especially with regard to the scope of application and the practical feasibility (calculation basis). After a detailed analysis of the documents provided, it must be stated that the present draft in its planned form will be of little significance for the commodity trading industry in Switzerland and its associated shipping activities.

The Federal Council is pursuing the goal of structuring the scope of the draft in such a way that it complies with the applicable EU tonnage tax regulations. While the efforts towards uniform regulations seem understandable and desirable from an administrative point of view as well as for reasons of practicability and compatibility, they make it more difficult to apply the tonnage tax to companies from the commodity trading industry. This is due to the following three reasons:

1. **Prerequisite (Art. 74):** In order to a shipping company domiciled in Switzerland or a charter company to be able to apply for tonnage tax, a minimum proportion of the ship fleet must meet the flag requirement (at least 60 percent of the tonnage of its fleet must fly the Swiss flag or the flag of an EEA member state). However, a large part of the STSA members concerned do not own ships as they are mostly chartered. A big part of these chartering activities, in turn, is handled by charter companies domiciled abroad and located outside the EU or EEA states. Meanwhile, only a low number of transport activities (tonnage) can be subsumed under EU or EEA flags (maximum 5-10 percent). The flag requirement is therefore not to be fulfilled for members of the STSA under the given circumstances.
 - In order for commodity trading companies and their shipping activities to meet the requirements of Art. 74 para. 1 of the Federal Law on Tonnage Tax on Sea-going Ships, the flag requirement must be adapted. An extension to partner countries with which Switzerland or the EFTA states have concluded a free trade agreement would slightly increase this percentage. However, this would still be well below the envisaged threshold of 60 percent.

2. **Subject matter (Art. 73):** According to the present draft law, the person who operates the ship is liable to pay tax under Art. 73 para. 2 Tonnage Tax Act. According to Art. 73 Para. 3, the operation of the ship is deemed to be the management, the chartering, and the chartering out of the ship. In the case of the latter, a distinction is made between time and voyage charters and bareboat charters, although according to the explanatory report, bareboat charters will not be the subject of the bill. However, leaving out this category would exclude from the scope of the bill an operating activity that is also actively used by commodity trading companies. From the industry's perspective, there is also a need for clarification regarding the definition of operating activities within the chartering category (time, voyage or bareboat charter).
 - In order for commodity trading companies and their shipping activities to qualify as a taxable person under Art. 73 para. 2 Tonnage Tax Act, the inclusion of the bareboat

charter category as a qualifying business activity under Art. 73 para. 3 needs be considered.

3. **Calculation base (art. 75):** the taxable net profit from the operation of the sea-going vessel shall be calculated according to art. 75 par. 1 on the basis of its tonnage indicated as net tonnage (NRZ) in the international tonnage certificate according to the International Convention on Tonnage Measurement of Ships of 23 June 1969 and the number of operating days in the tax period. Due to the complexity of the business of chartering, the calculation of the tonnage tax for STSA members using the currently available indications is subject to great uncertainty. This includes the proposed calculation of tonnage tax based on the individual vessel, which results in significant additional work compared to a global (i.e., cumulative) assessment basis. There is also uncertainty as to whether and how ancillary activities, such as hedging activities in chartering out, will be included in the calculation. Analogous uncertainties in the practical implementation apply to the divisional calculation mentioned in the report, in which all expenses, including overhead costs, are to be allocated to the individual ships or the other activities.
 - The current information base and indications do not allow a conclusive assessment of the financial impact as well as the impact on transaction costs in the context of the calculation of the potential tonnage tax to be paid. A comparative analysis to the currently existing ordinary profit taxation is therefore associated with uncertainty.

A positive aspect is the planned consideration of ecological criteria and the associated incentive system that will enable low-emission ships to reduce their taxable net profit. The proposal thus takes up an essential element of current developments and discussions in the shipping industry, which are based on the emission reduction targets of the International Maritime Organization (IMO) (to reduce carbon intensity by at least 40% by 2030 compared to 2018 and total annual greenhouse gas emissions by at least 50% by 2050 compared to 2008) and which are supported by all STSA members. STSA therefore welcomes, on the one hand, the efforts to promote the reduction of greenhouse gas emissions from international shipping and to create the necessary framework conditions for this in an incentive system linked to the Tonnage Tax Act. On the other hand, a tonnage tax law in its present form would be of little importance for the commodity trading industry in Switzerland and associated shipping activities and, based on the present criteria (Art. 73 and 74 Tonnage Tax Act), would not be taken up by an overwhelming number of companies.

Please do not hesitate to contact us if you have any questions or would like to discuss this feedback in person.

With my regards,


Florence Schurch
Secretary General, STSA