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Legal regime of incentives to MARITIME FINANCING

Law 50 of June 28th, 2017

CONSIDERATIONS FOR THE CREATION OF LAW 50

Why was this law created?

In the maritime world there are cities that, based on their geographic and economic conditions, are renowned as international maritime financial centers. Examples of these cities would be: New York, London, and Singapore.

- Panama has a privileged geographical location in the region, and globally;
- Since 1970, Panama has become a financial center where multiple banks with local and international capital operate. In recent years the origin of the capital of several of its members has been regional;
- Panama has flexible regulations in terms of capital movements;
- Panama handles the U.S. dollar, the preferred currency for financing syndicated projects;
- Panama has the largest merchant marine fleet in the world, with close to 8200 ships registered under the Panamanian flag; and
- Together with the expanded Canal, its ports, auxiliary maritime services, and free zones, Panama is a global important maritime logistical hub with the potential for constant growth, and of attracting financial entities that wish to develop the opportunities these may provide.



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WHO WILL BE ABLE TO OFFER, STRUCTURE AND GRANT MARITIME FINANCING UNDER THIS NEW LAW?

Article 3 of Law 50 establishes that those allowed to perform this type of financial activity operations will be:

1. The banks of general, international or representative license;
2. The companies that carry out operations destined to design, structure and develop the financial conditions for maritime credit and their guarantees and obtain the corresponding authorization and recognition;
3. The financial companies regulated by Law 42 of 2001;
4. The financial leasing companies regulated by Law 7 of 1990;
5. Maritime financing entities; and
6. Consortiums or "Joint Ventures" between the State of Panamanian and private entities.

WHO WILL BE THE REGULATORS OF THESE ACTIVITIES?

Chapter VIII, articles 18 to 20 of Law 50, establish that the operations of this new activity will be governed by a governmental entity called the Certification and Supervisory Board of Maritime Financing Entities.

It is provided that the council will be composed of representative members from:

- The Panama Canal Authority (ACP)
- The Panamanian Maritime Authority (AMP)
- The Ministry of Economy and Finance (MEF)
- The Ministry of Commerce and Industry (MICI)
- The Labor Ministry (MITRADEL)
- The National Migration Service (SNM); and
- The Financial Coordination Council

Each representative member will be appointed for a period of 5 years that will concur with the presidential term, and may be re-elected for additional periods.

REGARDING THE PROJECTS AND THEIR PROCEDURES

To obtain the benefits established in Law 50, persons or entities wishing to engage in the maritime financing business must obtain a certification as a maritime financing entity through the corresponding authorities.

Likewise, maritime projects that wish to adhere to the benefits established in Law 50, must obtain a certification from the relevant authorities, which recognize said projects as a "Fundable Maritime Project", as the case may be.

Article 2 of Law 50 defines the following as Financeable Maritime Projects:

- a) Ship building;
- b) Construction of shipyards and the adaptation of other businesses, workshops or yards for the construction of ships;
- c) Construction and repair of containers that are used for foreign trade; and
- d) Construction of Sea Wind Farms.

The procedures for certifications will be carried out through a Maritime One-Stop Department, which will be considered a department of the Directorate General of Property of the Public Registry of Ships of the Panama Maritime Authority.

Law 50 establishes that public entities that will have shared functions with the Panama Maritime Authority for the development of the aforementioned Maritime One-Stop Department, must sign inter-institutional agreements to specify functions and appoint officials, within 90 calendar days following the enactment of Law 50, and that such agreements will be further approved by Executive Decree.

TYPES OF INCENTIVES

a) TAX INCENTIVES

Law 50 grants certain tax incentives through reforms made to articles of the Tax Code of the Republic of Panama and through special laws of the Republic of Panama such as Law 7 of 1990 of Leasing.

These modifications are set forth in Chapter IX of “Additional Provisions” of which we can mention among others, the following:

- Paragraph e) of article 708 is modified to the effect that, in addition to income from international maritime trade from domestic merchant ships registered in Panama, income from financing for the construction and purchase of ships that are part of the National Merchant Navy and that are duly registered, will also not be subjected to income tax.
- Likewise a paragraph is added to article 708 that establishes an income tax exemption for:
 - The income of companies that establish their operations in the Republic of Panama, with the purpose of creating construction yards for commercial ships, yachts, military ships and other types of ships for transport of merchandise or passengers and / or companies dedicated to financeable maritime projects;
 - Earnings from income arising from interests and commissions earned by ships and/or maritime financing entities stemming from granting a naval mortgage; and

- Earning from income arising from insurance and re-insurance that guarantee credits for maritime financing entities that are duly certified and/or financeable maritime projects.
- Moreover, as part of these tax incentives, Law 50 sets forth the following:
 - It's article 24 modifies article 23 of Law 7 of 1990, which regulates the leasing contract, establishing that lease contracts that stem from leasing of duly registered merchant ships for international maritime trade, shall not be subject to income tax in the Republic of Panama; and
 - Article 6 establishes import tax and other fees at 3% for introducing into the country, machinery, marine equipment, rolling industries, materials, tools, and other necessary elements for ship construction or the exclusive use of shipyards.
- Lastly, article 28 of Law 50 establishes that exemptions and tax incentives granted and established in paragraph e) and in the last paragraph of article 708 of the Tax Code, and in article 23 of Law 7 of 1990, shall have a duration period of 20 years from the moment the law enters into effect.

b) MIGRATORY AND WORK INCENTIVES

Chapters IV and V of Law 50 regulate migratory and labor incentives.

Among others, the following is established:

- The creation of a migratory permit and a work permit for foreign workers for maritime financing entities or financeable maritime projects;
- The migratory permit will include the permit for multiple entries and exits from the country;
- Migratory permits will be granted within the ranges of 10%, 15%, 20%, 25%, and to workers of trust, as well as in companies that employ less than ten people, for a maximum of up to five years; and
- Work permits shall be granted for a period of one extendable year for a period of up to five years.

CONCLUSIONS

- The new law has been created in order to take advantage of the geographic, logistical and economic advantages of the Republic of Panama, with the intention of supporting our financial center and creating a new pole for economic development for the country;
- The new law, based on the incentives it provides, and the expedited and centralized procedures it allows through a one-stop department, seeks to attract investments for the maritime and logistics sector through financial and banking entities both local and foreign; and

- The law's ultimate goal is to turn Panama into an international maritime finance center, focusing first in the short term on the regional market, to then move in the medium term to the global market.