TAX MANAGEMENT
PORTFOLIOS™

FOREIGN INCOME

Business Operations in Norway

by

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Business Operations in Norway

PORTFOLIO DESCRIPTION

Tax Management Portfolio, *Business Operations in Norway*, No. 7280-2nd, contains information designed to enable foreign businesses to determine the best method of conducting their operations in Norway from both a tax and a general legal point of view and addresses the practical problems confronting foreign businesses operating in Norway. The Portfolio analyzes in detail the statutory and procedural framework of Norwegian income taxation as it applies to individuals and corporations, both resident and nonresident. The analysis also covers many of the other legal details vital to the organization of a Norwegian company. In addition to providing a detailed explanation of the Norwegian system of income taxation, the Portfolio discusses the local taxes, the value added tax and other taxes.

This Portfolio may be cited as Nordbø, 7280-2nd T.M., *Business Operations in Norway*.

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DETAILED ANALYSIS

I. Norway — General Background

A. *Government and Legal system*

1. *Constitution/Government*

Norway is a constitutional monarchy with a parliamentary system. The Constitution of Norway, which was inspired by the United States Declaration of Independence of 1776 and the French Revolution in 1789, was passed in 1814. The Norwegian Constitution formally distributes the state power among three institutions: (i) the Norwegian Assembly (*Stortinget*), which holds the legislative power and consists of 169 democratically elected representatives; (ii) the Government (*Regjeringen*), which holds the executive power and consists of the Prime Minister and the Council of State; and (iii) the courts (*domstolene*), which hold the judicial power.

The duties of the King of Norway (Harald V since 1991) have become merely representative and ceremonial. Although some royal prerogatives still remain, these have little practical significance.

The official language is Norwegian (*bokmål* and *nynorsk*). In some districts, Sami is also an official language.

2. *Norway and the European Union*

Norway is not a member of the European Union. Two referenda on the matter have been held in 1972 and 1994, both voting down EU membership. Norway is instead a member of the European Free Trade Association (EFTA).[1] All EFTA Member States except for Switzerland are members of the European Economic Area (EEA). The EEA Agreement entered into force on January 1, 1994, and is Norway's main link to the European Union, as it enables Norway to participate in the EU internal market.

The main objective of the EEA Agreement is to strengthen commercial business and economic connections between the Member States by endorsing equal competition regulations. The EEA Agreement, like the European Union, is based on the "Four Freedoms" — freedom of movement of goods, services, individuals (employees) and capital. Within the limits of the Four Freedoms, the EEA Agreement encourages cooperation in the areas of, *inter alia*, environmental protection, consumer policy, research, education, cultural affairs, tourism and social policy.

The EEA Agreement is a dynamic legislative instrument. Under the EEA Agreement, Norway is required to implement any new laws and regulations passed in the European Union governing the internal market. The implementation procedure is led by the EEA Joint Committee, whose main function is to adopt EU regulations and decisions, and direct these to Norway, Lichtenstein and Iceland. The formal adoption of laws must be carried out by each Member State under Article 3 of the EEA Agreement. The EEA Agreement, therefore, obliges Norway to implement many of the same rules as those the EU Member States pursue without being an EU Member State (which reduces Norway's ability to influence the legislation).

3. *Judicial System*

The general court system comprises the Supreme Court (*Høyesterett*), Courts of Appeals (*Lagmannsrett*), and District Courts (*Tingrett*).

The majority of civil disputes are first brought to the Conciliation Board (*Forliksråd*et), which is a conciliation service with limited jurisdiction situated in each municipality. However, the Conciliation Board is not part of the ordinary court system. The Conciliation Board's judgment can be reviewed by instituting legal proceedings before the ordinary courts of first instance, i.e., the District Courts. Norway is divided into 59 judicial districts, each judicial district having one District Court.

The Courts of Appeal are the courts of second instance and hear appeals against judicial decisions of the District Courts. There are six Courts of Appeal in Norway, each of which covers a particular geographical area.

An appeal against a decision of the Court of Appeal can be brought to the Supreme Court, which is situated in Oslo. The right to appeal to the Supreme Court is limited and the Supreme Court's decisions are final.

The ordinary courts hear all types of cases, both criminal and civil, including tax cases. In addition, there are some specialized courts with limited jurisdiction in certain subject matters. The Labor Court, the Land Consolidation Court and the Social Security Tribunal are examples of such specialized courts. Under the terms of Norway's international obligations, international courts influence the judicial system in Norway. For example, the European Court of Human Rights may hear an appeal and settle it with binding effect for Norway as a Member State of the European Convention on Human Rights.

The general statute of limitations on monetary claims is three years from the due date of the claim, with an extension of up to 10 years if the debtor or debt is unknown to the creditor. The statute of limitations for criminal offences varies from two years to 25 years from the date of the incident, depending on the crime. The time limit for reopening income tax assessments is five years from the end of the tax year but may be extended to 10 years in the case of a tax return that is incomplete or includes incorrect information.

4. *Tax Legislation, Tax Authorities and Advanced Rulings*

a. *Tax Legislation*

Tax legislation is adopted by the Norwegian Government in a manner consistent with the adoption of legislation in other fields of law. Tax bills are referred to the Parliamentary Tax

[1] The European Free Trade Association (EFTA) has four Member States: Switzerland, Liechtenstein, Iceland and Norway. Norway is also a member of the World Trade Organization (WTO) and the Organisation for Economic Cooperation and Development (OECD).

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Committee for preparation, where substantive Parliamentary considerations, along party lines, are negotiated. Normally, Parliament adopts the Tax Committee's proposals as resolved by the Committee. For further discussion regarding Norway's principal taxes, see IV.

b. Tax Authorities

The Norwegian Tax Administration (*Skattekontoret*) is the main authority responsible for enforcing taxes in Norway. The Tax Administration is divided into four divisions with nationwide responsibility for: (i) the management of information internally and towards the taxpayers (including collecting information, providing quality assurance and making information available); (ii) guiding, controlling and assessing taxes; (iii) handling priority risk areas and complex matters; and (iv) collecting taxes. In addition, there are certain specialized tax offices, in particular the Petroleum Tax Office (*Oljeskattekontoret*).

c. Advance Rulings

Norway has a system that allows taxpayers to request rulings on the tax consequences of proposed transactions from the tax authorities. It may be advisable to request a ruling before a transaction is carried out, if a tax issue is contentious or unclear, to ascertain the tax consequences of the proposed transaction. The ruling is binding on the tax authorities only. Taxpayers have the right to appeal an advance ruling (see V.B.12., for more details).

5. Arbitration

a. In General

Most arbitral proceedings in Norway are (and traditionally have been) conducted on an ad hoc basis, and not by way of institutional arbitration. The conduct of ad hoc arbitration varies, but usually it involves written submissions and an oral hearing.

b. The Norwegian Arbitration Act

The Norwegian Arbitration Act of May 14, 2004 is based on the UNCITRAL Model Law on International Commercial Arbitration. The general rule under the Arbitration Act is that the parties shall appoint the arbitrator(s) jointly. The arbitral proceedings and the award are not kept confidential unless agreed to by the parties in connection with the initiation of the arbitration.

c. Arbitral Institutions

The Arbitration and Dispute Resolution Institute of the Oslo Chamber of Commerce (OCC) is the only general provider of institutional arbitration in Norway. The OCC's Arbitration Rules (2017) are harmonized with the Arbitration Act and the UNCITRAL Model Law.

For Nordic arbitration on offshore and maritime matters, the Nordic Offshore and Maritime Arbitration Association (NOMA) was established by the national maritime law associations of Denmark, Finland, Norway, and Sweden. The arbitration scheme provided by NOMA is similar to ad hoc arbitration, but with an institutional framework consisting of rules based on the UNCITRAL Arbitration Rules and Best Practice Guidelines, which are fairly detailed and commonly used.

d. Enforcement of Awards

Norway is a signatory to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards. Both domestic and foreign arbitral awards are enforceable in Norway. However, awards made in languages other than English, Norwegian, Swedish, or Danish will require a certified translation into an official language for enforcement in Norway. Arbitral awards are rarely set aside in Norway.

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II. Operating a Business in Norway

A. *Foreign Investment Regulation*

1. Opportunities

In general, the Norwegian State welcomes foreign investment and there are few restrictions on such investment. The government agency, Innovation Norway, is the most important public instrument for innovation and the development of Norwegian enterprises and industry. Innovation Norway provides financial support, advisory services, and network and marketing support to entrepreneurial businesses.

2. Incentives

Generally, incentives apply to both local and foreign investment.

Under the terms of Norway's international commitments,[1] foreign persons have the right to travel in Norway, to enter into commercial and trade activities in Norway and, specifically, to be afforded "national treatment" by the Norwegian authorities with regard to such activities.

3. Restrictions

Although local and foreign investments in Norway normally are to be treated equally, some exceptions apply. These exceptions relate to the fisheries and agricultural sectors, from which foreign investment in general is excluded.

B. *Currency and Exchange Controls*

The Norwegian currency is the *krone* (plural *kroner*).

Exchange controls used to play a significant role in controlling capital movements in accordance with the Norwegian government's political aims. During the period from the 1980s until 1990, a substantial part of the exchange control system was phased out, and the object of the remaining regulation is foreign exchange statistics and tax control. As a consequence, currently there are no restrictions on foreigners in receipt of dividends, profits and/or fees in Norway transferring such amounts out of the country. However, under the Financial Institutions Act of October 4, 2015, only companies that are licensed as financial institutions or credit institutions may operate foreign exchange businesses.

Like other European Union (EU) Member States and Members of the European Economic Area (EEA), Norway has adopted a number of regulations designed to prevent criminal activity and improve security by cracking down on money laundering and terrorism. In particular:

> (i) Financial institutions, lawyers, accountants, etc., are required to obtain certain information from the person, company or other entity making the payment in any transaction in which the amount exceeds NOK 100,000.[2] The information pertains basically to the identity of the payer, which is then connected to the transaction/transfer concerned to make it possible for the authorities to trace the transaction/transfer if necessary.
>
> (ii) If a financial institution, lawyer, accountant, etc., suspects that a transaction relates to the proceeds of a criminal act or terrorist financing, further investigation is required.[3] The information must be submitted to the National Authority for Investigation and Prosecution of Economic and Environmental Crime (*Økokrim*).[4]

C. *Trade and Commerce Regulation*

1. Imports and Exports

a. Licenses and Quotas

As a result of Norway's international commitments, in particular the EEA Agreement, general import and export controls have been almost completely abolished. However, the import and export of some goods, such as live animals, animal feed, weapons and medical products, requires a license. The import and export controls are supervised by the Directorate of Customs and Excise.

Some goods are subject to import restrictions and may require documentation or permits to be imported. Restricted goods include alcohol, tobacco, foodstuff, plants, seeds, animals, medicine, waste and explosives.

b. Custom Duties and Other Taxes

Three types of taxes may be payable upon import: customs duty, value added tax (VAT) and special duties.

As a starting point, all goods imported into Norway are subject to customs duty. However, Norway has, on its own or together with the other European Free Trade Association (EFTA) countries, entered into a number of free trade agreements that provide exceptions from or reduce the general customs tariff. The most important agreement is the EEA Agreement, which establishes free trade between the EFTA Member States and the EU Member States, provided the goods concerned are produced within the EEA. In effect, customs duty mainly applies to textiles (for example, clothing), foodstuffs (food and drink), animal foodstuffs and some plant species.

Because Norway is not a member of the European Union, it is not part of the EU Customs Union. The EEA Agreement does not bind Norway's trade policy toward third countries and, thus, Norway's customs tariffs may differ from the EU customs tariffs.

VAT is normally levied on all goods imported into Norway. Norway levies special duties on some products, including alcohol, tobacco, sugar, chocolate, motor vehicles and certain petroleum products.

c. Customs Documentation

All imports of goods must be notified to the Norwegian Customs Service. In practice, nearly all imports and exports are reported by freight forwarders who report the movement of

[1] For instance, the European Economic Area (EEA) Agreement and the Organisation for Economic Cooperation and Development (OECD) accession document.

[2] Laundering Act (*Hvitvaskingsloven* (2018-06-01-23)), Sec. 10.

[3] Laundering Act, Sec. 25.

[4] Laundering Act, Sec. 26.

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goods through a special electronic customs clearance procedure (TVINN).

The TVINN system provides the customs documentation for imports and exports. An enterprise that is not registered for VAT will pay import VAT and — if applicable — customs and special duties, based on the information given in the customs declaration. Businesses that are registered for VAT are responsible for calculating and reporting the import VAT via their sales returns and to support the customs clearance documentation with supplementary documents, such as the invoice, consignment notes, waybills, etc.

From 2020, a simplified import procedure was introduced for the importation of goods of minor value (small consignments). Foreign suppliers of small consignments that choose to register for VAT on E-Commerce (VOEC) are required to calculate and collect VAT on their sales to Norwegian customers. In return, the products are released through customs with less administration and no related handling charges.

2. General Regulation of Business

a. Monopolies

The Competition Act entered into effect on May 1, 2004.[5] In substance, the law in force corresponds to EU and EEA competition rules in the field of abuse of a dominant position.

The law prohibits anticompetitive cooperation in general,[6] as well as abuse of a dominant position affecting the Norwegian market.[7] The Norwegian Competition Authority (*Konkurransetilsynet*) is the primary enforcer of the Competition Act.

An agreement that is prohibited is deemed invalid. The effect of violating a prohibition will normally be liability to pay penalties (competition fines) and/or damages.[8] To avoid preventing normal commercial trade, certain individual and block exemptions have been adopted.[9] These exemptions in principle permit certain types of anticompetitive contract clauses. For example, a block exemption allows vertical restraints of trade,[10] whereby a producer and a distributor, subject to a market share threshold of 30%, may agree on exclusive territories, exclusive customers and restricting the sale of competing brands by the distributor, among other things.

If a company violates Section 10 (prohibition on competitive restrictions) or 11 (abuse of a dominant position) of Chapter 3 of the Competition Act, the Norwegian Competition Authority may issue a decision requiring the company to cease the violation[11] and may also impose penalties of up to 10% of the company's annual sales.[12]

b. Mergers

As a general rule, under the Competition Act,[13] mergers and acquisitions in which the parties' turnovers exceed certain thresholds require prior notification to the Norwegian Competition Authority. However, notification is not required if the undertakings concerned have a total turnover of less than NOK 1 billion or if only one of the undertakings has an annual turnover in Norway exceeding NOK 100 million.

The Competition Act enables the Authority to prevent acquisitions that will give rise to a significant restriction of competition in any relevant market, irrespective of whether it triggers a mandatory merger filing. The Authority may block acquisitions that entail a significant restriction of competition unless the parties are able to resolve the Authority's concerns through divestitures or other commitments.

The parties to a transaction decide themselves at what time they file the notification with the Norwegian Competition Authority. However, implementing a merger or an acquisition prior to expiration of the deadlines for the Norwegian Competition Authority to adopt a decision in the case is prohibited. A decision to block a transaction may be appealed to the Competition Appeals Board.

c. Restrictive Trade Practices

The Marketing Act[14] governs certain restrictions on trade, such as misleading and aggressive marketing. Also, the advertising of tobacco products or alcoholic beverages is prohibited in Norway, under special regulations.

d. Price Controls

The Norwegian Competition Authority has a far-reaching legal authority[15] to impose, *inter alia*, price limits, minimum prices and price freezes. These types of measures were previously frequently adopted as an instrument for regulating economic development but, since the 1980s, price controls rarely have been utilized. However, the authority to adopt such measures still exists.

e. Securities Regulation

(1) In General

The primary Norwegian legislation on trading in securities is the Securities Trading Act[16] and accompanying regulations. Norwegian legislation relating to securities trading and financial markets has to a large degree been harmonized with relevant EU directives and regulations.

Three marketplaces are licensed to offer trading in shares in Norway: Oslo Børs, Euronext Expand (regulated markets operated by Oslo Børs) and Euronext Growth (a multilateral trading facility operated by the Oslo Børs). Oslo Børs ASA is wholly owned by Oslo Børs VPS Holding ASA, which was acquired by Euronext on June 18, 2019.

Investment services in Norway may only be provided by investment firms, credit institutions, UCITS management companies and alternative investment fund managers with a license from the Norwegian Financial Supervisory Authority (*Finanstilsynet*).[17] This license may be granted to Norwegian enti-

[5] Competition Act (*Konkurranseloven* (2004-03-05-12)).
[6] Competition Act, Ch. 3, Sec. 10.
[7] Competition Act, Ch. 3, Sec. 11.
[8] Competition Act, Ch. 7, Sec. 28-31.
[9] Competition Act, Ch. 1, Sec. 3.
[10] Norwegian regulation June 21, 2010, no. 898.
[11] Competition Act, Ch. 3, Sec. 12.
[12] Competition Act, Ch. 7, Sec. 29.
[13] Competition Act, Ch. 4, Sec. 18 and in a regulation issued under that section.
[14] Marketing Act (*Markedsføringsloven* (2009-01-09-2)).
[15] General Price Measures Act (*Pristiltaksloven* (1993-06-11-66)), Sec. 1.
[16] Securities Trading Act (*Verdipapirhandelloven* (2007-06-29-75)).
[17] Securities Trading Act, Sec. 9-1.

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ties, EEA entities who hold a similar license in their home state and have passported to Norway, or branches of non-EEA entities with a similar license in their home state.

In addition, there is a limited exception in the Securities Trading Act for certain non-EEA institutions providing investment services to eligible counterparties in Norway. The exception will apply to all non-EEA institutions that fulfils the following conditions: (i) the entity is authorized to perform the said investment services in its home country; (ii) the entity is under supervision of the regulator in its home country; (iii) the Norwegian Financial Supervisory Authority and the regulator in the entity's home country have entered into a supervisory agreement; and (iv) the entity's home country is not a jurisdiction under monitoring by the Financial Action Task Force. Such institutions may provide investment services to eligible counterparties in Norway without any license from the Norwegian Financial Supervisory Authority.

(2) Information, Control and Surveillance

Issuances of securities in both the equity and bond markets in Norway may be subject to prospectus requirements, if the total consideration is for more than one million euros. The Financial Supervisory Authority (*Finanstilsynet*) controls issuances of more than eight million euros and evaluates whether the prospectus contains the required information and whether it would otherwise be unlawful to carry out the issuance.

Under the Securities Trading Act,[18] a company that is listed on a Norwegian regulated market or multilateral trading facility, or has applied for listing on such market, must promptly release any inside information directly concerning the company (i.e., precise information about financial instruments, the issuer of such instruments or other matters that are likely to have a significant effect on the price of the relevant financial instruments or related financial instruments, and that are not publicly available or commonly known in the market). A company may, however, delay the release of such information in order not to prejudice its legitimate interests, provided it is able to ensure the confidentiality of the information and the delayed release would not be likely to mislead the public.[19] Oslo Børs may levy fines on companies violating these requirements.

(3) Securities Depository and Transfers of Shares

The EU Central Securities Depositories Regulation (CSDR) has been implemented in Norway. Hence, all securities listed on Norwegian marketplaces may be registered on any Central Securities Depository (CSD) licensed in accordance with the CSDR.

There is only one licensed CSD in Norway: Euronext Securities Oslo (ES-OSL).[20] ES-OSL is the Norwegian paperless centralized securities register. It is a computerized book-keeping system in which the ownership of, and all transactions relating to, registered securities are recorded. ES-OSL and Oslo Børs are both wholly owned by Euronext NV through the company Euronext Nordics Holdings AS.

All transactions relating to securities registered with ES-OSL are made through computerized book entries.[21] No physical share certificates are, or may be, issued. ES-OSL confirms each entry by sending a transcript to the registered shareholder irrespective of any beneficial ownership. To give effect to such entries, the individual shareholder must establish a share account with an account agent. Norwegian banks, the Central Bank of Norway (*Norges Bank*), authorized securities brokers in Norway and Norwegian branches of credit institutions established within the EEA are allowed to act as account agents.

(4) Disclosure Obligations

If a person's, entity's or consolidated group's proportion of the total issued shares and/or rights to shares in a company listed on a regulated market reaches, exceeds or falls below the respective thresholds of 5%, 10%, 15%, 20%, 25%, 1/3, 50%, 2/3 or 90% of the share capital or the voting rights of that company, the person, entity or group in question has an obligation under the Securities Trading Act[22] to notify Oslo Børs and the issuer immediately. The same applies if the disclosure thresholds are passed in other circumstances, such as a change in the relevant company's share capital.

(5) Insider Trading

According to Section 3-1 of the Securities Trading Act, the EU Prospectus Regulation (596/2014) applies in Norway. In accordance with the EU Prospectus Regulation, subscription for purchase, sale or exchange of financial instruments that are listed, or subject to an application for listing, on a Norwegian regulated market, or incitement to such dispositions, must not be undertaken by anyone who has inside information. The same applies to the entry into, purchase, sale or exchange of options or futures/forward contracts or equivalent rights whose value is connected to such financial instruments, or incitement to such dispositions.

(6) Mandatory Offer Requirement

The Securities Trading Act[23] requires any person, entity or consolidated group that becomes the owner of shares representing more than one-third (or more than 40% or 50%)[24] of the voting rights of a company listed on a Norwegian regulated market (with the exception of certain foreign companies) to make an unconditional general offer to purchase the remaining shares in that company within four weeks.

(7) Ultimate Beneficial Owners Registry

The Ultimate Beneficial Owners Registry Act of 2019[25] requires all entities doing business in Norway, including branches, to file information as to their ultimate owners with a central registry. According to Sections 4 and 3 of the Act, information about individuals that directly or indirectly own or control more than 25% of the shares or votes of an entity doing business in Norway must be filed with the registry. The Act partly

[18] Securities Trading Act, Sec. 5-1.
[19] Securities Trading Act, Sec. 5-3.
[20] Securities Depository (VPS).
[21] Securities Registry Act (*Verdipairsentralloven* (2002-07-05-64)).
[22] Securities Trading Act, Sec. 4-2.
[23] Securities Trading Act, Sec. 6-1.
[24] Securities Trading Act, Sec. 6-6.
[25] Ultimate Beneficial Owners Registry Act (*Lov om register over reelle rettighetshavere* (2019-01-03-2), partly in force as of November 1, 2021.

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entered into force as of November 1, 2021. From this date, all business entities are obliged to obtain an overview of which individuals are beneficial owners. This information must be documented, stored and, if necessary, disclosed to the authorities. The purpose of the legislation is to ensure increased transparency on Norwegian entities' ownership structures.[26]

Comment: As of this writing, the provisions of the Act concerning the obligation to file information with the central registry have not yet entered into force, because the public register has not been launched yet. It is unclear when the register will open to the public.

3. Intellectual Property Rights

a. In General

The term "intellectual property rights" refers to the legal area within the civil law dealing with the legal protection for intellectual achievements, inventions and designs. The available legal provisions offer a broad range of protection against various forms of imitation and infringement. This legal protection is codified and developed in a series of bodies of laws. The laws have a number of features in common, *inter alia*, the fact that they create exclusive rights. The most important laws are the Copyright Act,[27] the Patents Act,[28] the Designs Act,[29] the Trade Names Act[30] and the Trade Marks Act.[31]

It is highly advisable to register the relevant domain name in Norway immediately for purposes of protecting intellectual property (IP) rights. The e-mail address of the Norwegian registration body for these purposes (NORID) is info@norid.no.

b. Patents

Patents are governed by the Patents Act. The process of obtaining a sole proprietary right to an invention is initiated by way of an application to the relevant registration authority, the Norwegian Industrial Property Office (*Patentstyret*). To be patentable, an invention must meet a number of formal and material requirements.[32] The two fundamental requirements are that the invention must be novel, i.e., it must not be previously known anywhere in the world, and that it must fulfil the requirements for being an inventive step, i.e., it must be distinctly different from prior technical knowledge known at the time of application ("the state of the art").[33] A patent can be applied for through:

(i) The Norwegian Industrial Property Office by way of a regular national patent application;

(ii) The European Patent Office (EPO) in the form of a European patent application;[34] or

(iii) An international patent application in accordance with the Patent Cooperation Treaty (PCT) system.[35]

If all requirements are met, the result is the same under all three procedures: the applicant obtains a patent with validity for Norway and the legal consequences that follow from the Norwegian Patent Act. The maximum period of validity of a patent is 20 years from the time the application was filed (unlike under the U.S. system, where the validity period begins when the patent is granted).[36] Through the registered patent, the owner obtains an exclusive right to use his or her invention commercially.

Norway has ratified the PCT[37] and the European Patent Convention (EPC).[38] In addition, Norway has acceded to the Paris Convention for the Protection of Industrial Property.[39] For purposes of the Paris Convention, the rules of priority have a certain relevance. These rules make it possible for an inventor to apply for patent protection in a number of jurisdictions. If the requirement for novelty is met at the time of the first application, it is deemed to have been met in relation to subsequent applications filed within 12 months.[40] Norway is not part of the EU Unitary Patent System.

c. Designs

Exclusive rights to a design are acquired through an application procedure. A written application is submitted to a registration authority, the Norwegian Industrial Property Office.[41] As in the case of patents, the application is examined for purposes of ensuring that it meets the requirements of absolute novelty and sufficient disparity *vis-à-vis* prior designs.[42] Legal protection is afforded with respect to the physical and visible appearance of a product. The design registration is valid for a period of five years from the date of the application.[43] The registration can be renewed for four additional periods of five years each. The right over the design gives the proprietor the exclusive right to make use of the design on a commercial basis. Because Norway is a party to the Paris Convention for the Protection of Industrial Property, a design for which a protection application was filed in a Member State is afforded protection with respect to subsequent applications filed in other Member States as if they were filed at the time of the original application. This priority period lasts for six months from the date of the first application.

d. Copyrights

Copyright arises without any formal procedures such as registration having to be completed. Sole and exclusive rights arise when the work concerned is created. The fundamental principle is that a work must be original. In other words, it must be the creator's own work and not an imitation. In addition, the work must express the author's creativity. The copyright lasts

[26] Ultimate Beneficial Owners Registry Act, Secs. 4 and 3, referring to the Anti-Money Laundering Act (*Hvitvaskingsloven* (2018-01-06-23)), Sec. 14.
[27] Copyright Act (*A˚ndsverkloven* (2018-06-15-40)).
[28] Patents Act (*Patentloven* (1967-12-15-9)).
[29] Designs Act (*Designloven* (2003-03-14-15)).
[30] Trade Names Act (*Foretaksnavneloven* (1985-06-21-79)).
[31] Trade Marks Act (*Varemerkeloven* (2010-03-26)).
[32] Patents Act, Secs. 2 and 8.
[33] Patents Act, Sec. 2.
[34] Patents Act, Sec. 66a.
[35] Patents Act, Sec. 28.
[36] Patents Act, Sec. 40.
[37] Patent Cooperation Treaty of 1970.
[38] European Patent Convention of 1973.
[39] Paris Convention for the Protection of Industrial Property of 1883.
[40] Patents Act, Sec. 6.
[41] Designs Act, Sec. 13.
[42] Designs Act, Sec. 3.
[43] Designs Act, Sec. 23.

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for 70 years after the year of the originator's death.[44] The former protection period of 50 years was extended as a result of an EU Directive. The exclusive right comprises both an economic and a personal right.[45] The economic side of copyright protection relates to the right to reproduce the work and to make it available to the general public.[46] The personal right concerns the right to be identified as the author in connection with various permitted exploitations of the work and a right to object to prejudicial alterations to the work.[47]

The two most important international conventions in the copyright field are the Bern Convention and the Universal Copyright Convention. Norway has ratified both these conventions. In addition, Norway has ratified the Rome Convention for, *inter alia*, performing artists and record producers.

e. Trademarks

The exclusive right to a trademark is obtained by way of registration or establishment in the marketplace.[48] Registration takes place after completion of a registration procedure with the Norwegian Industrial Property Office. This authority investigates whether the mark applied for is registrable per se, i.e., whether the mark distinguishes the goods of the proprietor from the goods of other tradesmen. Furthermore, the examination aims at finding out whether the mark conflicts with prior trademark rights.[49] The applicant does not need to make actual use of the trademark at the time of the application. On the other hand, the owner must commence using the trademark commercially within five years from the completion of the registration procedure.[50]

Exclusive rights to a trade symbol may also be obtained as the result of extensive use *vis-à-vis* consumers. The requirement is that the symbol has become known as a trademark to a substantial part of the circle of consumers to which it is directed.[51] The required level of establishment is deemed to have been reached if one-third of the consumer group has knowledge of the mark.

A trademark right can in principle be unlimited in time. When a trademark right has been established based on a registration, the exclusive right is valid for 10 years.[52] The registration rights can be renewed for additional periods of 10 years for an unlimited time. The exclusive right to a trademark means that the owner has protection against competitors' written or verbal use of their own or confusingly similar trademarks in their business activities.[53] Normally, "confusing similarity" requires the existence of similar marks and related goods or services. However, there is one exception to this principle for well-reputed trademarks. In that case, the protection goes beyond related goods or services if the use of the other mark takes unfair advantage of the reputation of the first mark or in some manner damages its distinctiveness.[54] The expanded protection for well-reputed trademarks is a result of Norwegian harmonization with EU law.

Norway has implemented rules regarding an international registration procedure under the Madrid Protocol of June 27, 1989.[55] It has also adopted regulatory provisions with respect to the European Community Trade Mark.[56] Both the Madrid Protocol and the Community Trademark concern international registration procedures that provide considerable savings and shortened procedures compared to those provided for in earlier regulations. These international registration procedures have proven to be effective tools for Norwegian export industries seeking trademark protection for their business activities in international markets.

Norway has regulations regarding the control of counterfeited goods. The enforcement of this control is mainly carried out by Norwegian Customs. The regulation can be found in the Customs Act.[57]

f. Domain Names

Norway's national top-level domain is .NO. It can be registered with any .NO domain reseller, such resellers being known as "accredited registrars." Only legal entities that have a valid organization number in the Brønnøysund Central Coordinating Register for Legal Entities (*Enhetsregisteret*) and a Norwegian postal address may register domain names under the .NO domain. Private individuals over 18 years old, holding a Norwegian postal address, registered in the Norwegian registry office and holding a Norwegian national identity number may also register up to five .NO domain names.

The domain name .NO must contain at least two, and at most 63, characters and may contain the letters a through z, æ, ø and Ä, numbers 0 through 9, dashes, and any of the characters of the official Norwegian minority languages. Domain names are allocated in the order in which applications are entered in the .NO register.

The owner of a registered domain is required at all times to ensure that the selected domain name neither constitutes an infringement of the rights of another party nor in any other way constitutes a violation of applicable statutes or public order.

g. Trade Names

The exclusive right to a trade name is obtained by way of registration or establishment.[58] The rules regarding trade names correspond to a large extent to the provisions and principles regarding trademarks under the Norwegian Trademark Act, as described at e., above. A principal rule is that protection for a trade name lasts for an unlimited time.

h. Sanctions

All Norway's IP laws contain rules on prohibitions and corresponding fines in the case of violations by third parties of

[44] Copyright Act, Sec. 11.
[45] Copyright Act, Sec. 3.
[46] Copyright Act, Sec. 3.
[47] Copyright Act, Sec. 5.
[48] Trade Marks Act, Sec. 3.
[49] Trade Marks Act, Sec. 16.
[50] Trade Marks Act, Sec. 8.
[51] Trade Marks Act, Sec. 3.
[52] Trade Marks Act, Sec. 32.
[53] Trade Marks Act, Sec. 4.
[54] Trade Marks Act, Sec. 4.
[55] Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks.
[56] Council Regulation (EC) No 40/94 of December 20, 1993, on the Community Trade Mark.
[57] Customs Act (*Tolloven* (2007-12-21-119)).
[58] Trade Names Act, Ch. 2.

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protected IP rights. Such prohibitions can also be made in the form of interlocutory injunctions. Sanctions may include compensation for damages for the holder of the right concerned. The maximum penalty under each Norwegian IP law is imprisonment for up to three months.

D. Immigration Regulations

Citizens of EEA Member States and EU Member States are allowed to stay and work in Norway for a period of up to three months without registering or applying for a permit.[59] Permission to reside and work in Norway for a period exceeding three months normally requires an alien to: be formally employed to work in Norway; have status as a self-employed person offering services; have access to sufficient means to be self-supporting or be enrolled at an approved educational institution provided education (including vocational education) is the primary purpose of the stay; be covered by a health insurance policy covering all risks during the stay; and state that he or she is self-supporting and can provide for any accompanying family members.[60] Documentation can be filed over the Internet. An alien must present him or herself personally at the local police authority for identification control and registration.

An alien from a country other than an EU Member State or an EEA Member State may not be employed in Norway without having a residence permit. Residence permits must be obtained before entering Norway.

Norwegian citizenship can be obtained on application by naturalization of an alien. Even though the conditions for obtaining Norwegian citizenship will vary depending on the category into which the applicant falls, citizenship can generally be obtained for an alien who:

(i) Is over the age of 12 years and has documented or clarified his or her identity;

(ii) Resides in Norway with a valid residence permit and intends to continue to reside in Norway;

(iii) Has or meets the requirements for obtaining a permanent residence permit;[61]

(iv) Has stayed in Norway for the requested amount of time prior to the application, meaning a total of seven years (including time during one or more application-processing period(s)) during the previous 10 years and holds a residence or work permit of at least one year's duration if the applicant is over the age of 18.

(v) If between the ages of 18 and 67, has completed mandatory tuition in the Norwegian language or has documented sufficient skills in Norwegian or Sami; and

(vi) Has not been convicted of a criminal offense or been ordered to undergo psychiatric health treatment or psychiatric care resulting in an extended qualifying period.

[59] Immigration Act (*Utlendingsloven* (2008-05-15-35)), Ch. 13, Sec. 111.

[60] Immigration Act, Ch. 13, Sec. 112.

[61] A permanent residence permit gives improved protection against expulsion and entitles a person to stay and work in Norway indefinitely. The conditions that must be fulfilled to obtain a permanent residence permit are, in general, residence in Norway for a continuous period of three years and completion of instruction in the Norwegian language.

E. Labor Relations

Norwegian labor legislation is generally employee-oriented and a foreign investor should expect to have to comply with a number of labor regulations. The Working Environment Act[62] provides that employment may only be terminated if this is objectively justified based on circumstances relating to the undertaking, the employer or the employee concerned, for example, grave misbehavior on the part of the employee or general redundancy.[63] The period of notice may not be shorter than one month and ranges, according to the age and seniority of the employee, from one to six months.[64] Probationary employment of up to six months is permitted. During this period, termination of an employee requires less strict objective grounds and the notice period can be limited to 14 days.

Temporary layoffs can in general be used if, for a *limited* period of time, a company is unable to employ its employees in a reasonable and rational/efficient manner because of a temporary reduction in tasks and assignments. With the exception of the initial 15 working days of the lay-off period (also known as the "employer's period"),[65] the employee will not be entitled to work or receive salary while he or she is laid off, but the employee could be entitled to benefits from the Norwegian National Insurance. The employee has both a right and an obligation to return to work once the lay-off period expires.

Temporary layoffs cannot be used if the reduction in tasks and assignments appears to be permanent, in which case redundancies and permanent terminations will be the alternative. In no case can a temporary lay-off exceed six months.

The work week in Norway is normally agreed as being 37.5 hours[66] and the annual minimum vacation period (with vacation pay calculated based on the employee's income received from the employer during the previous calendar year) is four weeks and one day.[67] However, a vacation period of five weeks is common in many business sectors and also mandatory for many companies that are bound by collective bargaining agreements.

Trade unions have played an important role in the Norwegian Labor market since the beginning of the 1900s. The trade unions, in particular the largest ones, are actively involved and have become important participants in both political and judicial issues. On behalf of their members, the trade unions have greater ability than do employees themselves to enter into agreements with terms that differ from the terms of the Employment Protection Act.

[62] Working Environment Act (*Arbeidsmiljøloven* (2005-06-17-62)).

[63] Working Environment Act, Ch. 15, Sec. 15-7. It should be noted that the ability to terminate employment because of general redundancy is less restricted in Norway compared to, e.g., Germany, France and Spain.

[64] Working Environment Act, Ch. 15, Sec. 15-3.

[65] Act on Payment of Salary during Temporary lay-offs (*Permitteringslønnsloven*), Sec. 3

[66] The Working Environment Act, Ch. 10, Sec. 10-4 states that nine hours per day and 40 hours per week are the legal maxima for ordinary working hours.

[67] Vacation Act (*Ferieloven* (1988-04-29-21)). It should be noted that the act states that an employee is entitled to 25 working days' vacation per calendar year. However, as the Act's use of the term "working days" also refers to Saturdays, this corresponds to four weeks plus one day.

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F. Financing the Business and Incentives

The Norwegian State's policy is to create a favorable Norwegian business climate in general.

There are no incentive schemes aimed specifically at foreign or domestic investors.

The "*SkatteFUNN*" tax incentive scheme provides, within specified limits,[68] a tax credit for research and development (R&D) costs connected to pre-qualified projects.[69] Other tax incentive schemes are aimed at preventing further rural depopulation in the northern parts of Norway specifically. For investment in this part of the country, reduced payroll taxes and personal income tax rates apply.

The Norwegian State offers financial support, such as investment grants, low-cost loans and subsidies aimed at promoting industrial development. This financial support is governed by Innovation Norway (*Innovasjon Norge*) and applies generally to investment in all parts of the country. However, in line with the State's regional political aims, some support may only be offered in areas with special employment difficulties or with low levels of economic activity. The preferred target group for governmental support is small and medium-sized enterprises, entrepreneurs and women. Furthermore, agriculture, fishery, energy and environment, and the petroleum industry are preferred sectors for support.

[68] The maximum deductibility basis (cap) for internal research and development (R&D) costs is NOK 25 million.

[69] Tax Act, Sec. 16-40.

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III. Forms of Doing Business in Norway

A. Principal Business Entities

The following are the principal business entities in Norway:

(i) Limited Liability Company (*Aksjeselskap*);

(ii) Public Limited Company (*Allmennaksjeselskap*);

(iii) European Company (*Societas Europaea*);

(iv) Cooperative (*Samvirkelag*);

(v) Limited Partnership (*Kommandittselskap*);

(vi) Unlimited Liability Partnership (*Ansvarlig selskap*);

(vii) Split Liability Partnership (*Delt ansvar*);

(viii) Sole Proprietorship (*Enkeltpersonsforetak*); and

(ix) Branch of a foreign corporation (*Norskregistrert utenlandsk foretak*).

B. Limited Liability Company

Since 1910, Norway has had a law that regulates limited liability companies (LLCs). A major inter-Nordic corporate law reform was adopted via the Company Act of 1976. In 1997, the Company Act of 1976 was replaced by the Companies Act[70] and the Public Companies Act.[71]

The Companies Act applies to all Norwegian LLCs, whereas the Public Companies Act regulates all public limited companies (PLCs). The better part of the regulation of these two types of limited liability companies is identical, with just a few exceptions.

The Companies Act states that an LLC is "a company in which none of the shareholders has personal liability for the company's obligations, either in full or for parts thereof that together comprise the company's total obligations, unless otherwise provided by law."[72] The shareholders' liability extends only to their invested capital. An AS must be registered in the Norwegian Register of Business Enterprises (*Foretaksregisteret*).

A PLC is required to be designated as such both in its articles of association and its registration with the Register of Business Enterprises. In the case of both entities, minimum corporate capital requirements apply for purposes of protecting their creditors. An LLC must at all times maintain a minimum restricted equity of NOK 30,000 and for a PLC the amount is NOK one million.[73]

An LLC and a PLC obtain corporate status and are then furnished with a unique organization number on registration with the Register of Business Enterprises. Before registration, an organization is not recognized as a company, meaning it may not acquire rights or obligations.[74] Instead, the organization is treated as a partnership and the founders as partners.[75] An LLC is considered formed when the basic incorporation document has been signed by all its founders.

For U.S. federal income tax purposes, under the "check-the-box" regulations, only a Norwegian PLC is treated as a *per se* corporation. By contrast, an LLC may be subject to a different entity classification (a flow-through entity) under the "check-the-box" regulations.

A change from one classification to the other (i.e., from an LLC to a PLC) or vice versa requires a shareholders' resolution, an adjustment of the corporate capital and the filing of the requisite notice with the Register of Business Enterprises.[76]

1. Formation

Foreign direct investment in Norway is, in most cases, made through an LLC. An investor may either incorporate a new company or acquire all the shares of an existing company and amend its articles of association to suit its specific requirements relating to the name of the company, its business address, the board of directors, line of business, etc. "Shelf companies" are commonly offered by law firms. An LLC may be established in a matter of days, provided all the requirements are met.

a. Incorporators and Procedure

An LLC is formed by one or more founders. There are no specific requirements in relation to a "founder" — i.e., a founder may be a Norwegian citizen, a foreigner, a physical person or a corporate body. However, as a general rule, an LLC cannot subscribe to its own shares.

The founders must prepare an incorporation document that, in addition to the articles of association, must contain the following information:

(i) The founders' names or business names, addresses, dates of birth and national ID suffixes or organization numbers.

(ii) The number of shares that are to be subscribed for by each of the founders. The founder(s) and the subscriber(s) must be identical.

(iii) The amount to be paid for each share.

(iv) The date for settlement of the share capital contribution.

(v) The names and addresses of the individuals elected to the company's board of directors and the name and address of the company's auditor. Companies with operating revenues of less than NOK six million, a balance sheet total of less than NOK 23 million, and fewer than 10 employees may choose to omit the audit.[77]

The articles of association must contain the following material elements: the company's business name; the business activities of the company; the size of the share capital; and the face value of each share. In the case of a PLC, the company must also specify in its articles of association the municipality

[70] Companies Act (*Aksjeloven* (1997-06-13-44)).

[71] Public Companies Act (*Allmennaksjeloven* (1997-06-13-45)).

[72] Companies Act, Sec. 1-1.

[73] Companies Act, Sec. 3-1; Public Companies Act, Sec. 3-1.

[74] Companies Act, Sec. 2-20; Public Companies Act, Sec. 2-20.

[75] Companies Act, Sec. 2-20; Public Companies Act, Sec. 2-20.

[76] Companies Act, Secs. 15-1, 15-2; Public Companies Act, Secs. 15-1, 15-2.

[77] Companies Act, Sec. 2-3; Public Companies Act, Sec. 2-3.

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in Norway in which the company is to have its registered address.

If the share contribution will be made by cash or wire transfer, a bank deposit account in the company's name must be established. Furthermore, if the share contribution will be made in kind, an opening balance sheet is required to be enclosed with the incorporation document. The opening balance sheet must be drawn up by the founders in accordance with the provisions of the Accounting Act and approved by a registered or state authorized public accountant.[78]

The shares are subscribed and the company formed on the founders' signing of the incorporation document.[79] The notification to the Register of Business Enterprises must be made within three months subsequent to the signing of the incorporation document.[80] The company achieves corporate status on registration with the Register of Business Enterprises.

An LLC can be incorporated electronically at the website of the Register of Business Enterprises.

b. Company Name

A Norwegian company name, which may be expressed in any language, must officially contain a minimum of three letters and the word "*aksjeselskap*" or the abbreviation "AS."[81] The name of a public limited liability company must include the word "*allmennaksjeselskap*" or the abbreviation "ASA."[82]

c. Capital Stock

The minimum capital requirement for an LLC is NOK 30,000[83] and for a PLC it is NOK one million.[84]

Before an LLC is registered, the entire amount of its authorized capital must be fully paid.[85] The capital is an asset that may be used for purposes of the company's activities. There is no requirement as to the minimum face value of each share, but all the shares must have the same face value.

An LLC may issue shares classified as either common or preferred shares.[86] An LLC may also issue convertible bonds and bonds including options and warrants. Only a PLC has the right to offer to the public the opportunity to subscribe for and acquire shares and other securities issued by it.[87]

The rights of each class of shares are determined by the articles of association.[88] In principle, each share entitles its owner to one vote unless otherwise stipulated in the articles of association.[89] The articles of association may prescribe that the shares in a class of shares are not to confer a voting right or are to carry only limited voting power. Only registered shares are permitted; bearer shares may not be issued. An LLC must keep a shareholder register disclosing the names of the owners of the shares, their birth date or registration number, their digital and physical addresses, the number of shares held and, normally, whether the shares are pledged.[90] A PLC must establish its shareholder register in a securities register.[91] The shareholder register is a public document and must be kept in an adequate manner.[92] The shareholder register may also be kept electronically. All the shares in a Norwegian LLC may be held by a single shareholder, be it a Norwegian or a foreign company or individual.

2. Operation

a. License

Once it has met the registration requirement, a Norwegian LLC does not need a license to carry on a trade or business.

b. Amendment of Articles

Decisions regarding amendments to the articles of association and the amount of the company's capital must be made by resolution of the General Meeting. Such a resolution requires the approval of at least two-thirds of both the votes cast and the share capital represented at the General Meeting.[93]

c. Alteration of Share Capital

Share capital may be increased either by subscription of new shares or by an increase of the existing shares' nominal value. An increase may be accompanied by a duty for the shareholders to make a payment or financed by a transfer from retained earnings or other unrestricted equity.[94]

Share capital may be reduced for purposes of:

(i) Covering a loss that cannot be covered in any other way;

(ii) Distribution to the shareholders or cancellation of the company's treasury shares; or

(iii) Allocation to reserves to be used in accordance with a resolution of the General Meeting.[95]

d. Acquisition of Treasury Stock

Norwegian LLCs and PLCs have a restricted ability to hold treasury shares.[96] Neither entity can subscribe to its own shares.[97] An LLC may hold treasury shares provided the acquisition does not result in the share capital less the total face value of treasury shares becoming less than NOK 30,000. The equivalent limit for a PLC is NOK one million. Additionally, the total nominal value of a PLC's holding of its own shares cannot exceed 10% of the share capital.[98]

[78] Companies Act, Sec. 2-8; Public Companies Act, Sec. 2-8.
[79] Companies Act, Sec. 2-9; Public Companies Act, Sec. 2-9.
[80] Companies Act, Sec. 2-18; Public Companies Act, Sec. 2-18.
[81] Company Name Act (*Foretaksnavneloven* (1985-21-06-79)), Secs. 2-1, 2-2.
[82] Company Name Act, Sec. 2-2.
[83] Companies Act, Sec. 3-1.
[84] Public Companies Act, Sec. 3-1.
[85] Companies Act, Sec. 2-11; Public Companies Act, Sec. 2-11.
[86] Companies Act, Sec. 4-1; Public Companies Act, Sec. 4-1.
[87] As emerges from a comparison of Public Companies Act, Sec. 10-1 and Companies Act, Sec. 10-1.
[88] Companies Act, Sec. 4-1; Public Companies Act, Sec. 4-1.
[89] Companies Act, Sec. 5-3; Public Companies Act, Sec. 5-4.
[90] Companies Act, Sec. 4-5.
[91] Public Companies Act, Sec. 4-4.
[92] Companies Act, Sec. 4-6; Public Companies Act, Sec. 4-5.
[93] Companies Act, Sec. 5-18; Public Companies Act, Sec. 5-18.
[94] Companies Act, Secs. 10-1, 10-20; Public Companies Act, Secs. 10-1, 10-20.
[95] Companies Act, Sec. 12-1; Public Companies Act, Sec. 12-1.
[96] Companies Act, Ch. 9; Public Companies Act, Ch. 9.
[97] Companies Act, Sec. 9-1; Public Companies Act, Sec. 9-1.
[98] Companies Act, Sec. 9-2; Public Companies Act, Sec. 9-2.

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Norwegian LLCs and PLCs may only acquire their own shares if the general meeting has authorized the board of directors to make such acquisitions, with the majority required for amendments of the articles of association.[99] The authorization shall apply for a specific period, which may not exceed two years, and must describe the basis on which acquisition and disposal of treasury shares may take place. The resolution of the general meeting shall be notified to the Register of Business Enterprises and it must be registered before shares can be acquired pursuant to the authorization.[100]

The normally vested voting rights are excluded in the case of treasury shares and such shares are not counted when a resolution requires the consent of all the shareholders.[101]

e. Corporate Officers and Directors

Norwegian corporate law does not prescribe the appointment of officers of an LLC. Subject to the terms of its articles of association, individuals who may act on behalf of a company include members of the board of directors (*styremedlemmer*) and the general manager (*daglig leder*).[102]

A Norwegian LLC must have a board of directors comprised of at least one director, while the board of a PLC must maintain at least three directors.[103] The directors are elected by the general meeting and serve for a term of two years, unless the articles of association provide otherwise. However, directors in PLCs may not serve for a period of more than four years between each election.[104] The board of directors must itself elect its chairperson if this individual has not been elected by the general meeting.

A PLC must appoint a general manager who is responsible for the company's day-to-day current business.[105] For an LLC, appointing a general manager is optional.[106] The general manager of a PLC cannot be elected as a director of the board. If an LLC does not appoint a general manager, the board of directors is responsible for the daily management of the company.[107]

The general manager and at least one-half of the board of directors must be residents of Norway or citizens of states that are parties to the European Economic Area (EEA) Agreement or of the United Kingdom of Great Britain and Northern Ireland, and residents of such states.[108] An individual who is less than age 18 may not be a director on the board or a general manager.

In the case of LLCs and PLCs with more than 30 employees, the employees are entitled to have one director and one observer with alternates to be elected by and from among the employees.[109] The number of directors that may be appointed by and from among the employees increases to up to one-third and at least two directors in the case of a company with more than 50 employees and one more director if the company has more than 200 employees.[110]

f. General Meetings

The rights of a shareholder, be it an individual or a corporation, are exercised at a general meeting (*generalforsamling*), which the shareholders are entitled to attend.[111] The general meeting is the supreme authority of the company.[112]

The ordinary general meeting must be held at least once a year and be held as a formal meeting. The board decides the manner of the meeting, unless the articles of association limits the board's authority. The general meeting can be held either in person or electronically, provided the board can ensure the meeting can be properly conduct.[113]

If the general meeting is held in person, it must be held in the municipality in which the registered office of the company is located, unless the articles of association state another location. The general meeting may be held elsewhere if necessary for special reasons.

If the general meeting is held as an electronic meeting, the board must ensure that there are systems in place such that that the requirements of the law for a general meeting are met. The systems must ensure that participation and voting can be verified in a secure manner, and a satisfactory method must be used to authenticate the sender. The articles of association may stipulate further requirements for electronic attendance in the general meeting.

The ordinary general meeting must be held within six months after the close of each financial year.[114] A shareholder may be present in person or represented by a proxy appointed at the shareholder's own discretion.[115] The proxy only applies for the first ordinary general meeting, unless expressly stated otherwise. The shareholders also have the right to attend electronically, unless the board finds that there are fair reasons for denial.

The annual ordinary general meeting is required to transact and resolve:

(i) Approval of the annual accounts and the directors' annual report, including the distribution of dividends; and

(ii) Any other business that, by law or under the articles of association, is to be transacted by the general meeting.

A resolution of the general meeting is adopted by a simple majority of the votes represented at the meeting.[116] In the event of a tie, the vote of the chairperson of the meeting is decisive even if the chairperson does not have a voting right. Certain resolutions must, however, be supported by a qualified majority of the votes present or represented at the meeting.[117] A resolution to amend the articles of association is valid only if at least two-thirds of both the votes cast and the share capital represent-

[99] Companies Act, Sec 9-4 (1); Public Companies Act, Sec 9-4 (1).
[100] Companies Act, Sec 9-4; Public Companies Act, Sec 9-4.
[101] Companies Act, Sec. 5-3; Public Companies Act, Sec. 5-4.
[102] Companies Act, Ch. 6; Public Companies Act, Ch. 6.
[103] Companies Act, Sec. 6-1; Public Companies Act, Sec. 6-1.
[104] Public Companies Act, Secs. 6-3, 6-6.
[105] Public Companies Act, Sec. 6-2.
[106] Companies Act, Sec. 6-2.
[107] Companies Act, Sec. 6-14.
[108] Companies Act, Sec. 6-11; Public Companies Act, Sec. 6-11.
[109] Companies Act, Sec. 6-4; Public Companies Act, Sec. 6-4.
[110] Companies Act, Sec. 6-4; Public Companies Act, Sec. 6-4.
[111] Companies Act, Sec. 5-2; Public Companies Act, Sec. 5-2.
[112] Companies Act, Sec. 5-1; Public Companies Act, Sec. 5-1.
[113] Companies Act, Sec. 5-8; Public Companies Act, Sec. 5-8.
[114] Companies Act, Sec. 5-5; Public Companies Act, Sec. 5-6.
[115] Companies Act, Sec. 5-2; Public Companies Act, Sec. 5-2.
[116] Companies Act, Sec. 5-17; Public Companies Act, Sec. 5-17.
[117] Companies Act, Sec. 5-19; Public Companies Act, Sec. 5-19.

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ed at the general meeting support the resolution.[118] Unanimity is required for some resolutions, for example, a resolution regarding an increase of the shareholders' obligations to the company or compulsory redemption of the shares of the company.[119]

The board of directors may summon an extraordinary general meeting at any time.[120] Shareholders may also summon an extraordinary general meeting by applying in writing to the board provided they represent at least one-tenth of the share capital in the case of an LLC and one-twentieth of the share capital in the case of a PLC. A company's auditor is also authorized to call for an extraordinary general meeting by written application to the board.

g. Board of Directors Meetings

The board of directors is the highest executive power in an LLC and a PLC. In principle, the board of directors must deal with matters at a directors' meeting, unless the chairperson finds that the matter may be submitted in writing or dealt with in another adequate manner. However, in the case of a PLC, the annual accounts and the directors' annual report, as well as the remuneration of the general manager, must be discussed at a meeting.

The manner of a meeting of the board of directors must be satisfactory, and each board member and the general manager can demand that the matters are considered in a meeting.[121] The meeting may be held either in person or electronically. A quorum of the directors is present if more than half of the entire board, or any higher number of directors as provided by the articles of association, is present at the meeting or otherwise participates in the board of directors' proceedings.[122]

h. Books and Records

Every LLC and PLC is required to keep books.[123] This duty contains an obligation to record all transactions and accounting arrangements as often as the type and size of the company requires. All the information in the books must be specified exactly and documented.[124] The books must[125] be expressed in Norwegian kroner and the language used can be Norwegian, Swedish, Danish, or English.

i. Financial Statements

Every LLC and PLC must prepare an annual report and annual accounts within six months of the close of each financial year. The annual accounts must include, *inter alia*, an income statement and a balance sheet.[126] A company's auditor must also submit an auditor's report for each financial year, which together with the annual report and the annual accounts, are filed with the Register of Company Accounts, where these documents are available for public inspection.[127]

An LLC with an operating income of less than NOK six million, a balance sheet total of less than NOK 23 million and (on average) less than 10 full-time employees is exempted from the requirement to have a statutory auditor.[128] On May 1, 2023, the threshold values are increased to an operating income of less than NOK seven million, and a balance sheet total of less than NOK 27 million. The threshold value for the number of full-time employees remains the same. An LLC exceeding these limits is also exempted from the requirement to have its liquidation balance audited. The Accounting Act contains detailed provisions as to the valuation of assets and liabilities and the manner in which the financial statements are to be presented. Principally, the annual accounts must be expressed in Norwegian kroner, Euros or the foreign currency of the country in which the company has its principal office.[129] The annual reports may express the company's share capital in Euros. However, all Norwegian fiscal reporting, including income tax returns and value added tax returns, must be done in Norwegian kroner. Thus, euro-based financial reporting involves a double reporting system: one each for book purposes and tax purposes.

j. Dividends and Other Profit Distributions

A dividend (other than a liquidation dividend) may only be paid as long as the distributing company subsequent to the distribution: (i) retains net assets that cover the share capital, as well as other restricted equity of the company; and (ii) has sound equity and liquidity.[130]

The distribution of profits, including the payment of dividends, is required to be decided by resolution of the shareholders at the general meeting or by the board (based on the approved annual accounts) pursuant to a proxy granted by the general meeting after it has approved the annual accounts. Such a proxy must be filed with the Register of Business Enterprises and may only be valid for a period ending on the date of the following ordinary general meeting. The resolution made by the general meeting may not specify a larger dividend than that which was proposed or approved by the board.[131]

An LLC and a PLC may only grant a loan or provide a security to a shareholder if:

(i) The loan or security provided is within the limits of the assets that the company may use to pay dividends; and

(ii) Adequate security is provided for a claim for the repayment or recovery of the financial assistance.[132]

The above requirements do not apply with respect to a loan or security granted to companies in the same group. Norway has implemented strict regulations relating to financial assistance in connection with acquisitions or financial support granted to shareholders.[133] However the rules concerning financial assistance provided by companies in connection with the acquisition of the company's shares were liberalized as of January 1, 2020. The current rules allow an LLC and a PLC to provide credit or security in connection with acquisitions of its own

[118] Companies Act, Sec. 5-18; Public Companies Act, Sec. 5-18.
[119] Companies Act, Sec. 5-20; Public Companies Act, Sec. 5-20.
[120] Companies Act, Sec. 5-6; Public Companies Act, Sec. 5-7.
[121] Companies Act, Sec. 6-19; Public Companies Act, Sec. 6-19.
[122] Companies Act, Sec. 6-24; Public Companies Act, Sec. 6-24.
[123] Bookkeeping Act (*Bokføringsloven* (2004-11-19-73)), Sec. 2.
[124] Bookkeeping Act, Sec. 4.
[125] Some exemptions apply.
[126] Accounting Act, Sec. 3-1.
[127] Accounting Act, Sec. 8-2.
[128] Companies Act, Sec. 7-6.
[129] Special requirements apply.
[130] Companies Act, Secs. 8-1, 3-6; Public Companies Act, Secs. 8-1, 3-6.
[131] Companies Act, Sec. 8-2; Public Companies Act, Sec. 8-2.
[132] Companies Act, Sec. 8-7; Public Companies Act, Sec. 8-7.
[133] Companies Act, Secs. 8-7, 8-10, Public Companies Act, Secs. 8-7, 8-10.

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shares, within the limits of the assets that the company may use to pay dividends.[134] This limitation does not apply in the case of acquisitions of LLCs within a group.[135]

There is also a set of procedures that a company must follow when entering into an agreement to provide financial support with a shareholder, a member of management, and so forth.[136] As of January 1, 2020, these procedures were also liberalized. Failure to adhere to the procedures renders an agreement invalid with retroactive effect only if the company can prove that the contracting party knew that the agreement was not approved by the company's board of directors.

3. *Statutory Mergers*

A company takeover can take the form of a merger, in which case the target company is dissolved, and its assets and liabilities are absorbed by the surviving company. A takeover may also be completed by means of a consolidation whereby a new corporate entity is established and acquires the assets and liabilities of the companies intending to merge.[137]

Mergers must be approved by the general meetings of the companies involved. The merger agreement must be reported to the Register of Business Enterprises, which issues a public notice to the creditors of the dissolving company. The creditors must submit any objections to the company within six weeks after the public notice is issued.[138] The absorbed company is deemed to be dissolved and its assets and liabilities formally transferred to the surviving company when the merger is registered in the Register of Business Enterprises, i.e., after the end of the six-week notification period and subject to the company giving final notice.

4. *Liquidations*

The general meeting may decide by resolution, supported by a simple majority, to liquidate a company, be it an LLC or a PLC.[139]

Apart from a voluntary liquidation decided by the shareholders, an LLC and a PLC can be put into liquidation by the District Court on certain formal grounds, for example, if the statutory accounts for the last financial year have not been submitted to the Register of Company Accounts.[140]

Action must be taken immediately by the board of directors and the shareholders to avoid an involuntary liquidation if the equity of an LLC or a PLC is assumed to be lower than can be deemed sound. The same applies for the board of directors of a PLC if more than half of the equity of the company has been lost.[141] In this situation, the board of directors is under a legal obligation to refer the question of liquidation to a meeting of the shareholders.[142]

5. *Reorganizations*

In addition to the statutory merger described under 3., above, a reorganization of a company or a group of companies may also be carried out by way of a demerger, a change in legal form or a transfer of assets, rights, liabilities, etc., and a liquidation. In general, the same regulations apply when carrying out either a merger or demerger, and specific corporate law regulations apply when carrying out a change in legal form and/or liquidation. The transfer of assets, rights, liabilities, etc. is normally governed by general contract law.

C. European Company

The EU Council Regulation on the *Societas Europaea* (SE)[143] became binding for Norway under the EEA Joint Committee Decision of June 25, 2002. The terms of the Directive were incorporated into Norwegian law under the Act on European Companies.[144] The SE is intended to be a European corporate form for intra-EEA (i.e., between the EEA and EU Member States) cooperation.

Under the SE Directive, an SE is a legal entity whose capital is divided into shares. The shareholders are subject to the principle of limited liability up to the amount of the share capital subscribed for.[145] The capital of an SE must be expressed in Euros and must be 120,000 euros or more. Aside from this requirement, Member State domestic provisions regarding share capital and shares also apply to an SE.[146]

An SE must have its seat in an EEA Member State[147] and its corporate name must include the abbreviation "SE."[148] The corporate seat and the main office must be in the same Member State. The corporate seat may be moved from one Member State to another without the company having to be dissolved in the first state and then reincorporated in the other.[149]

An SE may only be established by public limited companies resident in more than one EEA Member State — either by the merger of public limited companies resident in separate Member States, or by such companies establishing a new common SE holding company or new common SE subsidiary. Individuals may not form an SE.

The Norwegian tax treatment of an SE that has its corporate seat registered in Norway is consistent with the corporate tax treatment of a Norwegian limited liability company. The SE's shareholders are treated in the same way as the shareholders of a Norwegian limited liability company. To the extent taxes are withheld on dividends payable by an SE with its corporate seat in Norway, the SE is treated in the same way as a Norwegian limited liability company and can claim benefits under the terms of an applicable Norwegian tax treaty.

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[134] Companies Act, Secs. 8-10, Public Companies Act, Secs. 8-10.
[135] Companies Act, Secs. 8-10.
[136] Companies Act, Sec. 3-8, 8-10 Public Companies Act Sec. 3-8, 8-10.
[137] Companies Act, Sec. 13-2; Public Companies Act, Sec. 13-2.
[138] Companies Act, Secs. 13-13, 13-14; Public Companies Act, Secs. 13-14, 13-15.
[139] Companies Act, Sec. 16-1; Public Companies Act, Sec. 16-1.
[140] Companies Act, Sec. 16-15; Public Companies Act, Sec. 16-15.
[141] Companies Act, Sec. 3-5; Public Companies Act, Sec. 3-5.
[142] Companies Act, Sec. 3-5; Public Companies Act, Sec. 3-5.

[143] Council Regulation (EC) No. 2157/2001 of October 8, 2001 on the Statute for a European Company (SE).
[144] Act on European Companies (*Lov om Europeiske selskaper* (2005-04-01-14)).
[145] Council Regulation, Art. 1.
[146] Council Regulation, Art. 4.
[147] Council Regulation, Arts. 1 and 7.
[148] Company Name Act, Sec. 10.
[149] Act on European Companies, Sec. 7; Council Regulation, Art. 8. Moving the corporate seat may, however, trigger capital gains (exit) taxation. See V.B.3.b.

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D. Cooperative

Besides the limited liability company (LLC) form, the only readily available form of corporate entity in Norway is that of a cooperative (*Samvirkeforetak*).[150] The similarities and differences between a cooperative and an LLC and a PLC may be summarized as follows: like the LLC and PLC, a cooperative is a separate entity, established with the intention of furthering the economic interest of its members and making profit. A cooperative has separate management powers vested in a board of directors and liability with respect to its debts is limited to the amount of the assets. However, unlike the LLC and PLC, a cooperative does not issue shares and its members have no liability to pay in capital.

E. Partnerships

1. Formation

Both unlimited and limited liability partnerships are governed by the Partnership Act.[151] Unlimited and limited liability partnerships are established by a written partnership agreement that has to be registered with the Register of Business Enterprises.[152] A partnership is a legal entity conducting business under a special trade name disclosing the form of partnership by using the word "*ansvarlig selskap*" or the abbreviation "ANS" for an unlimited liability partnership; "*kommandittselskap*" or the abbreviation "KS" for a limited liability partnership; and "*delt ansvar*" or the abbreviation "DA" for a partnership with split liability. A KS is a partnership with one or more general partners with joint and several liability for the debts of the partnership and one or more limited partners. In the case of a DA, each partner has liability for his or her proportionate part of the partnership's debts.[153]

2. Administration

The partners have the supreme authority in a partnership and decisions are made in the partnership meeting.[154] In the case of an unlimited partnership, each partner is jointly and severally liable for the debts and commitments of the partnership. If the assets of a partnership are insufficient, the personal assets of the partners may be used to cover the deficiency.[155] This also applies to unlimited liability partners in a limited partnership. The silent or limited partners, however, are liable for a partnership's debts only to the extent of their vested interests.[156]

3. Dissolution

Both the unlimited and a limited liability partnership may be voluntarily terminated by a resolution of the partnership meeting.[157] An unlimited partner may demand that a partnership be terminated as a consequence of certain events. Voluntary termination must be reported to the Register of Business Enterprises.[158]

F. Branch of a Foreign Corporation

1. Registration

A non-Norwegian corporation carrying on business activity in Norway must register a branch with the Register of Business Enterprises.[159] Documents to be filed include a certificate of good standing of the foreign corporation, information regarding the business of the corporation and information regarding the branch manager.[160] The branch manager need not be resident in Norway.

2. Liability

A Norwegian branch office of a foreign corporation is considered to be the unincorporated extension of the foreign entity's activity in the jurisdiction of Norway. Therefore, any debts or liabilities incurred by the branch office are deemed to accrue to the head office.

3. Books and Records

A foreign entity is required to keep books if it carries on or participates in business in Norway.[161] The duty to keep books includes an obligation to record all transactions and accounting arrangements. The frequency and extent of this obligation depends on the type of entity concerned. All information in the books must be specified exactly and documented.[162] The books must generally be expressed in Norwegian kroner and the language to be used can be Norwegian, Swedish, Danish or English.

A Norwegian branch office must submit an annual report and annual accounts to the Register of Company Accounts.[163] As a rule, the branch office also must submit the same documents of its foreign parent corporation to the Register of Company Accounts.[164] An auditor's report is only required if the branch office has an annual turnover of more than NOK six million, provided the branch has a balance sheet total of more than NOK 23 million, or if the branch on average has more than 10 full-time employees.

[150] Cooperative Act (2007-06-29-81 (*Samvirkelova*)).
[151] Partnership Act (1985-06-21-83 *Selskapsloven*)).
[152] Partnership Act, Sec. 2-3, *cf.*, Register of Business Enterprises Act, Ch. 3.
[153] A partner having, e.g., a 20% stake in a DA would be liable for 20% of the partnership's debts.
[154] Partnership Act, Sec. 2-8.
[155] Partnership Act, Secs. 1-2 and 2-4.
[156] Partnership Act, Sec. 1-2.
[157] Partnership Act, Sec. 2-37.
[158] Partnership Act, Sec. 2-39.
[159] Register of Business Enterprises Act, Sec. 2-1.
[160] Register of Business Enterprises Act, Sec. 3-8.
[161] Bookkeeping Act (*Bokføringsloven* (2004-11-19-73)), Sec. 2.
[162] Bookkeeping Act, Sec. 4.
[163] Accounting Act, Sec. 3-1 and Sec. 1-2 No. 13.
[164] Accounting Act, Sec. 8-2.

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IV. Principal Taxes

A. *Sources of Authority in Tax*

1. Legislative

a. Organization of the Tax Law

The taxation of individuals, business entities and trusts is governed by the same legislative framework, i.e., the Income and Wealth Tax Act of 1999 ("the Tax Act").[165] This legislation gives statutory authority to the Tax Administrative Regulations, which provide more specific regulations.[166] While the Tax Act covers all businesses, specific tax regimes apply to certain industries, such as the petroleum, shipping and hydroelectric power industry. For the petroleum industry there is an additional Petroleum Tax Act that is a supplementary regulation to the Tax Act.[167] Shipping companies are taxed under the ordinary tax rules, unless they elect to be taxed under the optional tonnage tax regime.[168] Furthermore, certain large multinational enterprises are also now subject to global minimum tax under the Supplementary Tax Act,[169] which introduced the OECD Pillar Two rules into Norwegian law.

The general tax administration is regulated by the Tax Administration Act.[170] Tax collection is regulated by the Tax Collecting Act.[171]

Value added tax (VAT) is regulated by the Value Added Tax Act.[172]

A number of other provisions and regulations supplement the above regulations.

Note: With effect from January 1, 2020, a general anti-abuse rule (GAAR) has been adopted for purposes of income tax, VAT and other duties, and is now part of the Tax Act. The GAAR is mainly intended to codify current case law-based practice. (see V.B.11., below, for more details).

b. Other Legislative Documents that Can Be Used to Interpret the Law

According to the Norwegian doctrine of sources of law, preparatory works (*travaux préparatoires*) can be used to interpret the law.

c. Legislative Process

The tax legislation is enacted by the Parliament in accordance with other legislation. As the tax law is updated annually, the Parliament enacts the updated tax rules annually as part of the passing of the National State Budget. The Government presents a proposal for the National State Budget (for the following year) to the Parliament in the autumn, with particular assistance from the Norwegian Ministry of Finance. This also includes the updated tax provisions. This is then discussed, revised and finally enacted by the Parliament.

d. Constitutional Challenge

Norway has a codified Constitution, *Grunnloven* of 1814, which sets limits for the content of other legislation. In the case of a conflict between the Constitution and other legislation, the provisions set out in the Constitution will prevail in accordance with the *lex superior* principle. There is no separate constitutional court. Cases under which a law is set aside as violating the Constitution (for example, a court decision holding that a specific tax charge has been issued in conflict with Article 97, which states that no law may be given retroactive effect) will typically be brought all the way to the Supreme Court for a final decision.

Enacting changes to the Constitution entails a specific procedure that requires a two-thirds majority of the votes in Parliament. The enactment of changes to ordinary legislation requires a majority of the votes only (i.e., more than 50%) and is a much speedier process.

2. Administrative

Administrative practice may be relevant to the interpretation of the law. Such administrative practice is normally provided by either the tax authorities (including tax offices and special tax bodies) or the Ministry of Finance, mainly in the form of rulings (*vedtak*) or statements (*uttalelser*). Rulings are normally related to a specific case and may be either provided by the tax office or by the Tax Appeal Board (*Skatteklagenemnda*). Statements are normally provided by either the Directorate of Taxes or the Ministry of Finance and may be both general and specific.

3. Courts

A tax case will normally be initiated by the tax office. When the tax office reaches a conclusion, the taxpayer may either accept the ruling or file an appeal. A complaint is raised before the tax office, which will normally pass the case on to the Tax Appeal Board, or alternatively to the Directorate of Taxes. When the Tax Appeal Board reaches a conclusion, the taxpayer may either accept the ruling or bring the case before the courts. In the court system, a tax case will follow the same procedures as general civil (or criminal) law cases.

B. *Income Tax*

The taxation of individuals, business entities and trusts in Norway is governed by the same legislative framework, namely, the Tax Act.

Individuals are subject to three types of income taxes:

(i) The common (or basic) rate, comprised of municipal tax, county tax and national income tax, at the combined rate of 22%[173] (2024).

(ii) A bracket income tax is levied according to the five brackets (2023):

[165] Income and Wealth Tax Act (*Skatteloven* (1999-03-26-14)), hereafter the "Tax Act."

[166] Tax Administrative Regulations (*Forskrift til utfylling og gjennomføring mv. av skatteloven 26. mars 1999 nr. 14* (1999-11-19-1158)).

[167] Petroleum Tax Act (*Petroleumsskatteloven* (1975-06-13-35)).

[168] Tax Act, Sec. 8-2 – 8-20.

[169] Supplementary Tax Act (*Suppleringsskatteloven* (2024-01-12-1)).

[170] Tax Administration Act (*Skatteforvaltningsloven* (2016-05-27-14)).

[171] Tax Collecting Act (*Skattebetalingsloven* (2005-06-17-67)).

[172] Value Added Tax Act (*Merverdiavgiftsloven* (2009-06-19-58)).

[173] A reduced rate at 18.50% applies in certain rural parts of northern Norway.

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- Income exceeding NOK 208,050: 1.7%
- Income exceeding NOK 292,850: 4.0%
- Income exceeding NOK 670,000: 13.6%
- Income exceeding NOK 937,900: 16.6%
- Income exceeding NOK 1,350,000: 17.6%.

In addition, the employee social security contribution is levied on earned income at the rate of 7.8%; the rate is 11.0% for the self-employed.

The top combined marginal tax rate on earned income is 47.4%, excluding the employer' social security contribution.[174]

(iii) The employee's social security contribution is levied on income exceeding NOK 69,650 at rates ranging from 5.1% to 11.0%. (For further discussion, see XIII., below.)

Limited liability companies, cooperatives, and nonprofit associations (to the extent they are engaged in business activities) are subject to income tax at a flat corporate rate of 22% in 2024. For entities that are subject to finance tax on salaries (see E., below), the rate is 25%. (For further discussion, see V., below.)

Partnerships and limited partnerships are not recognized as taxable entities; instead, the net income accrued by these entities is taxed at the level of their partners. (For further discussion, see XI., below.)

Foreign individuals and business entities that are not tax resident in Norway are subject to Norwegian tax only to the extent their income, including dividends, derives from a permanent establishment operated or managed in Norway or from real property situated in Norway. In addition, income attributable to employment in Norway or personal services performed in Norway is also taxable in Norway.[175] Furthermore, directors' fees received from Norwegian companies are taxable in Norway even if all related work or services are performed outside Norway. (For further discussion, see IX. and XIV., below.)

C. Estate/Inheritance/Transfer and Gift Tax

The inheritance tax in Norway was abolished with effect from January 1, 2014. Gifts are normally not taxable in the hands of either the giver or the recipient. Norway has no general transfer tax as such, but see the discussions regarding the value added tax (at D., below) and stamp duty on transfers of real estate (at H., below).

D. Value Added Tax

The Norwegian value added tax (VAT) was introduced by the VAT Act of 1969, which entered into effect on January 1, 1970, replacing the previous general sales tax. The current legislative framework for VAT is the VAT Act of June 19, 2009, in effect as of January 1, 2010.

VAT is payable on all supplies of goods and services made within Norway by entrepreneurs in the course of their commercial activity, unless those supplies are specifically exempted from VAT. VAT also applies to the import of goods and services from both the European Union (EU) and other countries.

VAT is levied on the supply, import and personal use/self-supply of goods and services. To prevent the accumulation of the tax at subsequent stages, VAT is deductible for business customers (entrepreneurs) until the stage of final consumption by a non-VAT-liable entity. This means that, ultimately, non-VAT-liable users (the consumers) bear the burden of the tax, as they cannot deduct the VAT charged to them by entrepreneurs.

Entrepreneurs are entitled to deduct input VAT only to the extent they carry on VAT-liable business. Input VAT is charged on an invoice by other entrepreneurs or paid under the reverse charge mechanism with respect to "intangible services," i.e., services capable of delivery from a remote location (*fjernleverbare tjenester*).

Nonresident entrepreneurs are normally entitled to a refund of VAT on goods and services purchased in Norway, provided they use the goods and services for purposes of carrying on an economic activity outside Norway that would be subject to VAT if it were carried on in Norway.

VAT is calculated based on the consideration, i.e., the price paid for the supply of goods or services, exclusive of VAT, and is levied at a standard rate of 25%. However, in certain circumstances, reduced rates of 15% and 12% apply, as discussed below.

The reduced rate of 15% applies to foodstuffs and food additives, with the exception of pharmaceutical products, tap water (not bottled water), spirits, wine, strong beer and tobacco products.

The reduced rate of 12% applies to hotel accommodation; the letting of camping sites, leisure housing, etc.; admission to sporting events and other services in the field of sport that are not exempt from VAT; admission to cinemas, museums, galleries and amusement parks; the transportation of vehicles on vessels and passenger transportation, including tourist trips and sightseeing tours, with the exception of services with respect to which transportation is ancillary.

There is also a zero VAT rate, which applies to sales of a number of goods and services. Examples are the sale of books, newspapers and certain magazines, and the transfer of goods and services as part of the transfer of a business as a going concern. The supplier of such goods/services is liable to register for VAT and thus has the right to deduct input VAT (i.e., exemption with credit).

The following transactions are exempt for purposes of the VAT Act and do not entitle the supplier to deduct input VAT (i.e., exemption without credit): the supply and letting of immovable property (see below on voluntary scheme for the letting out of real property); medical, social and dental care; education; banking and financial services; insurance transactions; certain sporting activities; admission to concerts, circuses, theatres and the like; assignments or transfers of copyright with respect to literary or artistic works (subject to certain exceptions); assignments or transfers of authors', artists' or performers' presentations of a literary or artistic nature, and rights relating to sound or visual recordings of such presentations.

Exports of goods and services are subject to a zero rate of output VAT, which means that the exporter does not account for VAT on those supplies but is entitled to deduct input VAT.

[174] Normally 14.1% (zone 1).
[175] Tax Act, Sec. 2-3.

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A voluntary registration scheme applies for the letting out of real property to VAT-liable lessees, entitling the lessor to deduct input VAT.

Nonresident entrepreneurs supplying goods and/or tangible services to Norwegian customers generally must register for VAT if their sales exceed NOK 50,000 over a 12-month period. Formerly, nonresident entrepreneurs had to register in the VAT Register through a representative. From April 1, 2017, direct registration without the use of a representative has been expanded. The scope for direct registration encompasses most businesses resident in a European Economic Area (EEA). The representative arrangement will continue to apply to other foreign businesses and to businesses in the EEA that elect to make use of a representative. The VAT representative will, in general, be jointly liable with the foreign entrepreneur for their VAT payments.

Nonresident entrepreneurs supplying certain intangible services (i.e., services capable of delivery from a remote location) may be required to register for VAT depending on the type of service and whether the purchaser is an enterprise or a consumer. A reverse charge scheme applies for sales to Norwegian enterprises and public bodies.[176] Under the reverse charge scheme, a Norwegian customer will be liable to report the VAT due on such purchases either through its general sales returns (if the customer is VAT-registered) or through a special reporting form for the import of intangible services (*Mva-melding for omvendt avgiftsplikt — RF-0005*).

Foreign suppliers of "electronic services" (software programs, music, games, e-books, etc.) to Norwegian private consumers must register for VAT in Norway either through a Norwegian VAT representative or by a simplified registration procedure (VOEC). If a supplier of electronic services renders services by using an intermediary, the intermediary will be deemed to be the supplier.

With effect from January 1, 2023, a nonresident entrepreneur is also required to register for VAT using the VOEC simplified procedure for the provision of intangible services other than electronic services (e.g., legal advice) if the Norwegian customer is not deemed an enterprise. This rule applies to sales to private persons and to pure holding companies, trusts, and non-commercial entities.

For further research on Norway's VAT system, see also the VAT Navigator.

E. Social Security Contributions of Employers

All employers are required to pay national insurance contributions on salary and other remuneration paid to employees (including directors) that relates to their work performance or positions.[177] Employers are also generally required to pay national insurance contributions on behalf of Norwegian employees working outside Norway and nonresident employees working in Norway. Foreign entities are likewise liable for Norwegian employers' contributions on payments made to employees covered by the national social security system. Entities without a branch office registration are required to register as employers with the Register of Business Enterprises for this purpose.[178] The contributions are payable to the Central Office — Foreign Tax Affairs.

An employer is exempted from making contributions only if there is evidence that the employee concerned is covered by the social security scheme of an EU Member State or any other state that has entered into a social security treaty with Norway.[179] The employer might also have to evidence that such cover is in accord with the tie breaker clause of EU Regulation No. 883/2004 or the applicable tax treaty.

The employers' contribution ranges from 0% to 14.1% of salary and other remuneration paid to an employee, depending on the municipality in which the employer's business is situated. The rate of 0% applies in the northernmost parts of the country. The rate in Oslo is 14.1%.

From January 1, 2024, there is a surcharge of 5% on salary and other remuneration exceeding NOK 850,000.

A "finance tax on salary," in effect, is an additional employers' national insurance contribution on salary and other remuneration paid to employees involved in financial services. Businesses that typically are subject to the finance tax are banks, insurance companies, mutual funds, investment companies, pension funds, and those providing services related to financing and insurance activities and fund management. The tax rate is 5%.

Note: The Norwegian Parliament has issued an instruction to the government to "remodel" the finance tax, but this is currently the subject of further consideration.

An employer's liability to pay the employers' contributions only applies with respect to remuneration paid to persons who provide dependent personal work and not remuneration for independent personal services. If the recipient of the remuneration bears the financial risk for the work and is responsible for the outcome of the work, he or she will normally be classified as self-employed and the remuneration classified as remuneration for services.

Employers' national insurance contributions are tax-deductible.

F. Social Security Contributions of Employees and the Self-Employed

Contributions of employees and the self-employed are assessed and collected along with ordinary income taxes. See A., above.

G. Wealth Tax

Individuals are subject to both national and municipal wealth tax on their worldwide wealth if they are resident in Norway on January 1 of the relevant financial year. Foreign resident individuals are subject to wealth tax on all tangible assets situated in Norway. Companies are generally exempt from

[176] Private consumers are exempt from the reverse charge scheme.

[177] National Insurance Act (*Folketrygdloven* (1997-02-28-19)), Sec. 23-2.

[178] See www.brreg.no.

[179] This includes the following jurisdictions: Australia, Canada (including Quebec), Chile, Israel, Switzerland, Turkey, the United Kingdom and the United States. Bosnia-Herzegovina, India, Montenegro and Serbia have also entered into similar treaties with Norway.

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wealth tax.[180] Instead, the owners of the company are liable to net wealth tax on their ownership shares.[181]

The duty to pay wealth tax is applicable with respect to all assets that have an economic value, subject to only a few exceptions (for example, for a right to a periodic contribution that is limited in terms of time or a right of use that is limited in terms of time).[182] This includes tangible assets, intangible assets, virtual (or digital) assets, financial instruments and rights related to such assets. In principle, the valuation of the assets is made at market value.

However, special valuation rules apply with respect to certain assets. Real property, inter alia, may be valued at a price lower than its market value.[183] Thus, the wealth tax value of office and industrial buildings is normally set at 80% (2024) of the rental value calculated in accordance with specific rules. Furthermore, residential houses and vacation homes are to be valued in accordance with a set pattern. The value of residential houses may not exceed 25% of the market value up to NOK 10 million, and 70% of the market value above NOK 10 million. The value of vacation homes may not exceed 30% of their market value.[184]

Shares in both resident and nonresident companies that are publicly listed[185] are normally valued at 80% of their market price as of January 1 of the tax assessment year. Shares in resident companies that are not publicly listed are normally valued at 80% (2024) of their proportional part of the company's total wealth tax value as of January 1 of the year before the tax assessment year. By contrast, shares in nonresident companies that are not publicly listed are normally valued at 80% of their estimated market price as of January 1 of the tax assessment year. The same applies to shares in a resident company that is not publicly listed, if the company is newly established or was the acquiring company in a simplified merger between companies with the same owner or a reverse parent-subsidiary merger.

Note: With effect from 2023, a new valuation rule is proposed for aquaculture licenses, which would value such assets to 50% of their market value.

The special valuation rules apply only to assets held directly by the individual liable to wealth tax.

The tax on wealth is assessed based on net wealth, meaning that a taxable resident individual may deduct all of his or her debts.[186] The value of debt (i.e., debt that can be deducted when assessing net wealth) is reduced in accordance with the same valuation principles as apply to the taxpayer's various types of assets. For example, if the taxpayer has invested 20% of his or her net worth in an office building (for which the net tax value is set at 80% of rental value), then 20% of his or her debt should be valued at 80% of its original value. This reduction rule does not apply in the case of debt corresponding to investment in the taxpayer's own home or vacation home.

Nonresident individuals and companies may deduct only debt that is undertaken for purposes of financing a Norwegian-based business operation.[187]

For individuals, national and municipal wealth taxes are levied at the combined rate of 1% on net wealth exceeding NOK 1.7 million, and at the combined rate of 1.1% on net wealth exceeding NOK 20 million (2024).

H. Stamp Duty

The Act on Stamp Duty covers taxes levied on the registration of real property transactions. Stamp duty is levied on the registration of acquisitions of real property and leasehold rights, and on the grant of mortgages on real property. Stamp duty is normally calculated at a rate of 2.5% of the market value of the real property at the time of registration.[188]

Some real property transactions are exempt from stamp duty. When real property is acquired by inheritance or from a spouse, stamp duty will normally not be imposed. Further, the transfer of shares in a company owning real property (or having a lease over real property) falls outside the scope of stamp duty. The registration of a transfer that is made as part of the legal merger or demerger of a limited liability company or as part of an income tax-exempt reorganization is exempt from stamp duty.

I. Real Property Tax

The municipalities in Norway have the authority to levy tax on real property.[189] The municipalities' authority to levy tax on real property encompasses residential property and business property, including industrial property, undeveloped property and installations.[190]

The tax base is the property's "objective sales value," not the value the property may have for its current owner, etc. Separate valuation rules apply to hydroelectric power plants, based on the value of the energy produced.

From 2019, production facilities and production installations will no longer be part of the tax base for industrial buildings. Transitional regulations apply. Property tax may still be levied on hydroelectric power plants, wind-power plants, grids and installations covered by the special tax regime for petroleum.

The rate of real property tax is determined by the municipality concerned within the statutory limits, which range from a minimum of 0.2% up to a maximum of 0.7% of the assessed value of the real property. The maximum rate is 0.4% for residential houses and vacation homes.

J. Trade Tax

No tax on trade or business is levied in Norway other than the tax on income.

[180] Entities without owners, such as mutual insurance companies, are subject to national wealth tax at a rate of 0.25% as of 2019, resulting in a net wealth tax of 0.95% (national and municipal tax).

[181] Tax Act, Sec. 2-36.

[182] Tax Act, Sec. 4-1.

[183] Tax Act, Sec. 4-10.

[184] Tax Act, Sec. 4-10.

[185] "Publicly listed shares" means shares listed on the Oslo Stock Exchange or Euronext Expand.

[186] Tax Act, Sec. 4-1. Contingent claims and taxes for which the payment date has not arrived are not deductible, see Tax Act, Sec. 4-3.

[187] Tax Act, Sec. 4-31.

[188] Act on Stamp Duty (*Dokumentavgiftsloven* (1975-12-12-59)), Sec. 7.

[189] Act on Real Property Tax (*Lov om eigedomsskatt til kommunane* (1975-06-06-29)), Sec. 2.

[190] Act on Real Property Tax, Secs. 4 and 3.

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K. Sales Tax

No sales tax is levied in Norway other than VAT.

L. Excise Tax

Excise taxes are levied on various products, including motor vehicles, gasoline, and alcohol.

M. Petroleum Income Tax

Companies involved in petroleum exploitation are subject to a petroleum income tax on income derived from the exploration, the production or transportation of petroleum at a rate of 56% (2023). For further discussion, see VI., below.

N. Resource Rent Tax on Hydropower Production

Owners of hydropower plants are subject to a secondary tax at the rate of 45% (2023) on “economic rent income” (as defined) from the production of hydroelectric power. This tax is in addition to the ordinary tax on business income (22% in 2023), and is often referred to as the “super-profit tax.” For further discussion, see VII.A.2., below.

O. Natural Resource Tax on Hydropower Production

Natural resource tax is levied on the production of hydroelectric power at a combined rate of NOK 0.013 per kWh. For further discussion, see respectively VII.A.3. and VII.B.3., below.

P. Production Tax on Onshore Wind Farm Power Production

Production tax is levied on the production of power by onshore wind farms power at a rate of NOK 0.02 per kWh.

Q. Windfall Tax on Hydroelectric and Onshore Wind Farm Power Production

The Windfall Tax was abolished with effect from October 1, 2023.

R. Production Tax on Aquaculture

A production fee of NOK 0.935 per kilo produced is charged on fish farming of salmon, trout and rainbow trout in the Norwegian sea.

S. Resource Rent Tax on Aquaculture Companies

Owners of commercial licenses for the production of salmon, trout and rainbow trout in the Norwegian sea are subject to a secondary tax at the rate of 25% (2024) on “economic rent income” (as defined). This tax is in addition to the ordinary tax on business income (22% in 2023), and is often referred to as the “super-profit tax”. For further discussion, see VII.C., below.

T. Shipping Tonnage Tax

The ship tonnage tax regime provides a full tax exemption on income derived from shipping activities. Companies under the regime pay an annual tonnage tax calculated per vessel. For further discussion, see VIII., below.

U. Global Minimum Tax

Effective as from January 1, 2024, Norway has adopted the OECD Pillar Two global minimum tax rules, aiming to ensure that certain large multinational enterprises are subject to a minimum corporate income tax rate of 15%. For further discussion, see XVIII.B., below.

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V. Taxation of Domestic Corporations

A. *What Is a Domestic Corporation?*

A corporation that is resident (*hjemmehørende*) in Norway is considered a domestic corporation for tax purposes.[191] Pursuant to case law and rulings of the tax authority, a corporation founded and registered in Norway in accordance with the Norwegian legislation has normally been considered resident in Norway. Similarly, a corporation that has its place of effective management in Norway has been considered resident in Norway even if it is not registered in Norway and even if it is organized as a foreign corporation.

Pursuant to amendments to the Tax Act with effect from January 1, 2019, and no later than January 1, 2020, for companies with a non-calendar financial year, a corporation established under Norwegian law will, as a starting point, be considered resident in Norway regardless of its place of management. The purpose of this rule is to prevent the situation in which a company can be incorporated in Norway but maintain an effective place of management in another country where it is not treated as resident, and not be tax resident in either jurisdiction. Furthermore, a corporation established under foreign law may also be considered resident in Norway if its management in a broader context (such as management at the board level) is situated in Norway, although factors such as the location of the business premises, where the general meetings take place, and where the business activity is carried on, should also be taken into account.[192]

There is an exception under the law for companies considered to be resident in another country pursuant to an applicable tax treaty.[193] Notwithstanding this exception, all companies are still required to file a Norwegian tax return with respect to their Norwegian source income.[194]

B. *Corporate Income Tax*

1. *Taxation of Worldwide Income*

A Norwegian resident company is liable to Norwegian taxation on its worldwide income, i.e., on its income from all Norwegian and foreign sources, except for income derived from petroleum extraction outside Norway, which is tax exempt.[195] The tax liability may, however, be restricted under the terms of an applicable tax treaty. Foreign income tax paid on foreign-source income taxable in Norway may be credited under the Norwegian foreign tax credit provisions or under provisions contained in an applicable treaty.

2. *Accounting*

a. *In General*

Norwegian corporate entities are, by law, required to keep books of account. The Accounting Act requires the books to be drawn up and maintained in accordance with generally accepted accounting principles and based on sound business practice. Journals and ledgers must, as a rule, be retained for a period of five years after the relevant accounting year. Ledgers and journals relating to construction projects, banking and financing, petroleum exploration, value added tax (VAT) on real property investments, mergers, demergers and the liquidation of limited companies, customs declarations, and transfer pricing documentation must be retained for a period of 10 years.

The annual accounts provide the basis for information to be included in the corporate tax return. The tax rules differ significantly from the accounting rules on a number of points, particularly as regards the valuation of assets, the timing of income, and gain and loss recognition. Income is generally taxable on an accruals basis, but costs are deductible only when realized. Reserves and allocations for expected but unrealized costs and losses are generally not tax deductible. Specific tax regulations govern the amortization and depreciation of fixed assets (see 4.f., below). Specified tax forms[196] are used to reconcile the figures presented in the profit and loss (P&L) statement and balance sheet with the figures to be entered on the corporate tax return, and to show temporary differences and the basis for calculating deferred tax liabilities or assets in the balance sheet.

> *Example:* Capital losses are tax deductible on only final realization. An allocation made for an expected (but unrealized) loss of NOK 100,000 would result in the annual accounts being NOK 100,000 lower than the net taxable profit in the annual tax return. The loss would, however, be tax deductible if realized in a later year, at that time creating a cost of NOK 100,000 in the tax return but not in the annual accounts. The allocation would therefore represent a temporary difference and create a deferred tax asset with a value of NOK 22,000 in view of the 22% tax rate (2024).

b. *Accounting Periods*

The period for which net income must be computed for tax accounting purposes is normally 12 months and corresponds to the calendar year. A fiscal year that differs from the calendar year may be chosen if required to achieve the same fiscal year as that of a foreign parent company. If a change in fiscal year is required, for example, because a Norwegian company has been acquired by a company with a different fiscal year, the accounting period for the year of transition may be extended to last up to 18 months.

c. *Consolidated Returns*

Norway does not have a system for the use of consolidated returns. In other words, each corporate taxpayer must file its own tax return, based on its own, separate annual accounts. However, tax consolidation within a group of companies can be achieved by utilizing the rules for company group contributions (see 3.g., below).

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[191] Tax Act, Sec. 2-2.
[192] Tax Act, Sec. 2-2 (7).
[193] Tax Act, Sec. 2-2 (8).
[194] Tax Administration Act, Sec. 8-2 (1).
[195] Tax Act, Secs. 2-1 and 2-2(6).

[196] RF-1167 *Næringsoppgave* 2 and RF-1267 *Spesifikasjon av forskjeller mellom regnskapsmessige og skattemessige verdier.*

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d. Annual Reports

The annual accounts, the directors' report and the auditor's statement must be filed with the Norwegian Register of Company Accounts within one month after they are approved by the General Meeting and no later than July 31 of the following year. Late filing penalties of up to NOK 66,404 (2024) apply. The annual accounts must include a P&L statement, a balance sheet and a cash flow statement, including notes.

The filed annual accounts, directors' report and auditor's statement are available for public inspection. There is no public access to corporate tax returns.

3. Calculation of Gross Income

a. In General

A Norwegian limited liability company is subject to Norwegian tax on its worldwide income, except for income derived from petroleum extraction outside Norway, which is tax exempt.[197]

Corporate taxable gross income comprises all of a company's gross income derived from the company's business activity or capital, which includes business profits, capital gains, dividends, interest and royalties. Taxable gross income may be in the form of monies, goods, or benefits paid or accrued.

b. Capital Gains

As a rule, capital gains are taxable in the same manner as other income from capital.[198] The tax liability for capital gains arises on the sale, destruction or other form of abandonment of proprietary rights in an asset, which may be a tangible asset, a financial instrument, an intangible asset or a right related to such an asset. The taxable capital gain is any positive difference between: (i) the asset's sale price, amount of compensation or market value; and (ii) the asset's original cost less deducted depreciation, less sales expenses.

For resident corporate shareholders, gains from the sale or other disposition of shares in a Norwegian resident company or partnership are tax-exempt. See XVIII.C.2., below, for further discussion.

Tax on capital gains realized involuntarily (for example, as a result of fire or other damage) and capital gains resulting from expropriation may be deferred if the taxpayer, by the end of the third tax year following that in which the gains were realized, reinvests the proceeds by purchasing a new asset of the same kind. The capital gains must be deducted from the cost of the new asset.

Furthermore, taxation of capital gains on fixed assets that are eligible for depreciation on an individual basis, such as ships, aircraft and buildings, may be deferred on a depreciating balance basis, under which 20% of the gain is subject to tax annually.

A capital gains tax liability may also arise when a company emigrates from Norway.[199] If, for example, a company's corporate seat is moved outside Norway, for tax purposes the company will be classified as no longer resident in Norway.[200] The emigration is classified as a taxable event entailing a liability to tax (i.e., exit tax) on gains from the company's assets at the time of emigration but only on assets that are moved out of Norwegian tax jurisdiction. If the company continues operating in Norway through a taxable branch activity, assets "transferred" to the branch would not be deemed realized.[201] The tax liability arises only when the company emigrates to: (i) a non-European Economic Area (EEA) country; or (ii) a "low-tax EEA country," and the company does not become actually established and does not commence genuine economic activities in that country (see XVIII., below).

c. Dividend Income

In principle, dividends are taxable income in the same manner as is other income from capital.[202] However, the participation exemption rule provides for an important exemption for corporate shareholders. The participation exemption was implemented in 2004–2006 with a view to avoiding double taxation of a company's profits. The rule originally provided that dividends paid to corporate entities were tax-exempt. In 2008, the participation exemption rule was amended to introduce taxation on 3% of net dividends received. The rule was further amended in 2012 so that dividends received from subsidiaries in which the recipient holds 90% or more of the shares and voting power are fully tax-exempt, while 3% of other dividends covered under the exemption rule still remain taxable, providing an effective tax rate of 0.66% (3% × 22%).[203]

Note: In December 2022, a tax expert committee appointed by the Norwegian government and chaired by Professor Ragnar Torvik submitted its report on proposed changes to the Norwegian tax system. The report of the Torvik committee recommends extending the 3% dividend income inclusion rule under the participation exemption method to cover capital gains and increasing the overall rate to 5%. As of this writing, the Government has not followed up on this recommendation.

The Norwegian participation exemption appears especially favorable when compared with the participation exemption adopted in a number of other countries, in particular because there is no minimum holding period or minimum ownership stake requirement for the rules to apply.

The following legal entities may benefit from the participation exemption:[204]

(i) Public and private limited liability companies resident in Norway;

(ii) The Norwegian savings bank (*sparebank*) and other independent financial enterprises;

(iii) Norwegian cooperatives (*samvirkeforetak*);

(iv) Norwegian foundations (*stiftelse*);

(v) State-owned companies;

(vi) Municipalities;

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[197] Tax Act, Secs. 2-1 and 2-2(6).
[198] Tax Act, Sec. 5-1, 5-30.
[199] Tax Act, Sec. 10-71.
[200] See V.A., above, for further discussions.
[201] Tax Act, Sec. 9-14.
[202] Tax Act, Sec. 10-11.
[203] Tax Act, Sec. 2-38.
[204] Tax Act, Sec. 2-38.

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(vii) European Companies (*Societates Europaeae* or SEs); and

(viii) Foreign companies that correspond to the legal entities listed above at (i) through (vii) and are subject to limited tax liability in Norway.

Norwegian partnerships are not included in the list of legal entities that qualify for the participation exemption. Such partnerships are treated as tax-transparent entities (for further discussion, see XI., below). Norwegian law does not recognize the concept of a trust arrangement.

The participation exemption covers dividends and gains from the sale of shares in a public or private limited liability company and other companies of the same standing as limited liability companies for tax purposes, associations, savings banks and other independent financial institutions. Dividends and gains from the sale of shares in partnerships are also covered.

The participation exemption is, in principle, also applicable to dividends and gains from the sale of shares in corresponding foreign corporations.[205] However, special rules apply in such cases (for further discussion, see XVIII., below).

d. Income from Foreign Sources

As noted in 1., above, a Norwegian resident limited liability company is liable to Norwegian taxation on its worldwide income, including income from foreign sources.[206] Income derived by a foreign subsidiary company is normally not taxable in Norway until a distribution is made, although, in the majority of cases, only 3% of such income will be taxable (if not tax-exempt) under the participation exemption rule. However, Norwegian resident taxpayers that control a minimum of 50% of the capital of a company resident in a low-tax country will be continuously liable to pay tax on their share of the foreign company's profit regardless of whether dividends are distributed (see f., below).

Profits and losses from a direct investment in another country must be included in the corporate tax return of a Norwegian company and will be subject to Norwegian taxation under Norwegian rules, unless such profits are exempted from Norwegian taxation by an applicable tax treaty or the income is derived from petroleum extraction outside Norway, which is tax exempt, and the associated costs with undertaking such activities is non-deductible.[207]

e. Share Options

When a Norwegian company exercises a share option, the market value of the shares at the date of the exercise of the option must be reflected as an asset of the company. The tax treatment of any gains relating to the exercise of a share option or the transfer of shares obtained as a result of the exercise of such an option is similar to the capital gains treatment of shares in general (see b., above).

[205] Tax Act, Sec. 2-38.

[206] Tax Act, Sec. 2-2.

[207] Tax Act, Sec. 2-2 (6).

f. Income of Controlled Foreign Corporations

If a company resident in a "low-tax country" is controlled by Norwegian taxpayers, the rules regarding controlled foreign companies (CFCs) will be triggered.[208] As a result, the company's Norwegian shareholders are continuously liable to pay tax on their share of the foreign company's profits, whether or not dividends are distributed.[209]

A company resident in a "low-tax country" is considered to be controlled by Norwegian taxpayers if Norwegian taxpayers control or own, directly or indirectly,[210] a minimum of 50% of the shares in the foreign company. Even where all the conditions described above are fulfilled, some exemptions exist with respect to companies situated in the EEA or a tax treaty partner country (for further discussion, see XVIII.C.6., below).

g. Company Group Contributions

The tax rules do not allow for the taxation of a group as a whole and, consequently, the companies in a group are treated as separate taxpayers. Consolidated balance sheets are not allowed for tax purposes, which means that a company may only deduct its own losses and is liable to pay tax only on its own profits.

However, to establish similar tax treatment and tax neutrality between: (i) companies that are members of a group; and (ii) companies that operate a number of businesses as a single company, the Tax Act allows group contributions to be made, i.e., unilateral contributions of capital from one company in a group to another. The grantor of a qualifying group contribution may deduct the amount of the group contribution from its taxable income and the recipient company must include the amount of the group contribution in its taxable income. This means that the group, for taxation purposes, may utilize the profits of one company to offset the losses of another company.

The most important conditions that must be fulfilled to qualify for the group contribution tax benefits are as follows:[211]

(i) Both the granting company and the recipient company must be organized as limited liability companies or as companies with the same standing for tax purposes as limited liability companies.[212]

(ii) As a rule, both the granting and the recipient companies must be resident in Norway. An exception applies as a consequence of Norway's obligations under the EEA Agreement, if certain conditions are fulfilled. Thus, a foreign company resident in the EEA is, for this purpose, treated as a Norwegian resident company provided: (i) the foreign company's organization corresponds to that of a Norwegian limited liability company; (ii) the foreign company is liable to pay tax in Norway because it has a Norwegian branch; and (iii) the amount of the group contribution paid is taxable in Norway as branch profits.[213]

[208] Tax Act, Secs. 10-60–10-68.

[209] Tax Act, Secs. 10-60–10-68.

[210] "Indirectly-owned shares" means shares that are owned or controlled by another Norwegian-controlled company.

[211] Tax Act, Secs. 10-1–10-4.

[212] Tax Act, Sec. 10-1.

[213] Tax Act, Sec. 10-4.

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(iii) Both companies must be part of the same group. A "group" is defined as "a parent company together with a subsidiary or a number of subsidiaries."[214] The ultimate common parent company must own more than 90% of the shares and the votes of the companies in the group.[215] However, the parent company is not required to be resident in Norway.

The conditions listed above must be fulfilled at the end of the applicable financial year in which the group contribution is made.

(iv) The granting company's right to deduct the group contribution presupposes that the group contribution does not exceed that company's taxable income. Moreover, the requirements related to a limited liability company's distribution of dividends discussed at III.B.2.j., above, must be met.[216] Qualification for the deduction of a group contribution does not require the contribution to be paid by the end of the financial year concerned — accrued group contributions also qualify.

(v) Income subject to the Petroleum Revenue Tax Act does not qualify for the group contribution deduction.

4. *Business Expenses*

a. *In General*

Expenses incurred by a Norwegian company are generally deductible, provided they are incurred for purposes of acquiring, maintaining or protecting taxable income.[217] A tax deduction for accrued expenses is available only if, at the end of the financial year concerned, the taxpayer has a contractual obligation to pay the expenses and the liability can be estimated accurately.

b. *Organizational Expenses*

Expenses incurred in relation to the establishment of a company, such as expenses related to the preparation of the articles of incorporation, the holding of the general meeting and fees for filings with the Register of Business Enterprises, are not deductible for the company if the owners are charged for the expenses. However, it is common practice for the company itself to be charged for the incorporation expenses[218] and, therefore, for such expenses normally to be deductible for the company.

c. *Entertainment Expenses*

Subject to limited exceptions, entertainment expenses are generally not deductible.[219] Non-deductible entertainment expenses may be defined as costs concerning persons who are not related to the company paying them. Persons related to the company include employees, owners and members of the Board of Directors. Expenses relating to such persons are not considered entertainment expenses and are normally deductible without any limitations, provided they serve a business purpose.

A tax deduction is available for a limited amount of specified entertainment costs. The cost of simple meals with customers or business partners that does not exceed NOK 562 per person is deductible. The cost of gifts to business connections is normally not deductible. Nevertheless, a deduction is allowed for inexpensive promotional gifts. See n., below, for the treatment of bribes, etc.

d. *Interest and Royalties*

In general, except where the specific interest deduction limitation rules discussed below apply, interest expenses are fully deductible for all types of debts provided the company is liable for the debts during the period over which the interest accrues.[220] All costs incurred by a lender in relation to the obtaining and maintenance of debt capital are considered deductible interest.

As of October 7, 2015, the granting of a new loan by a company to an individual shareholder and any increase in an existing loan is taxed as dividends in the hands of the shareholder. As of May 11, 2016, the granting of a new loan by a partnership to an individual partner and any increase in an existing loan are taxed as distributions in the hands of the partner.

Debt interest is fully deductible even if the relevant loan relates to tax-free share income. For example, a company that takes out a loan to purchase shares may deduct the interest even if the income from the shares is covered by the participation exemption and therefore nearly tax-free. However, in *IKEA* (October 18, 2016), the Norwegian Supreme Court denied a deduction for interest on debt that was set up as part of an intra-group reorganization. The decision denied the deduction by reference to the anti-tax avoidance rules derived from case law based on the fact that the transactions were found to have substantially no purpose other than to establish a tax-deductible interest cost.

The tax deduction for interest payments made between directly or indirectly related parties under terms that deviate from normal market terms may be reduced or increased in accordance with normal market interest terms.[221]

Interest on a shareholder's capital contribution to a company in the form of a loan is generally a deductible expense in the hands of the payor and taxable income in the hands of the recipient. In *Rauma* (February 15, 2017), the Norwegian Supreme Court denied a deduction for interest under a loan agreement without a specified term, holding that only interest on debt is tax deductible and that the term "debt" implies the existence of a specific repayment obligation.

However, the issue of thin capitalization may be relevant. Although the Tax Act contains no specific rules prescribing a maximum debt-to-equity ratio, the tax authorities may disallow interest deductions to the extent a company could not reasonably have obtained the debt funding concerned in the ordinary credit market.[222]

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[214] Tax Act, Sec. 10-4, Companies Act, Sec. 1-3, Public Companies Act, Sec.1-3.

[215] Tax Act, Sec. 10-4.

[216] Tax Act, Sec. 10-2.

[217] Tax Act, Sec. 6-1.

[218] Companies Act, Sec. 2-5; Public Companies Act, Sec. 5.

[219] Tax Act, Sec. 6-21.

[220] Tax Act, Sec. 6-40.

[221] Tax Act, Sec. 13-1.

[222] Tax Act, Sec. 13-1.

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Rules limiting the deductibility of interest on related party debt apply with effect from 2014 and were further tightened in 2016.[223] With effect from 2019, the rules have been substantially amended for companies that are part of a consolidated group (see below). The 2016 rules will continue to apply to standalone entities that are not part of a consolidated group, and to group companies that incur interest expenses on debt to related parties that are not part of the consolidated group.

Under the 2016 rules, net interest expense paid to a related party is not tax deductible to the extent the company's total net interest expense exceeds 25% of taxable income before interest. tax depreciation and amortization (EBITDA), subject to certain adjustments.[224] Also, interest on third-party debt falls within the scope of the limitation if a related party has provided security in favor of the debtor. The limitation does not apply to companies with net interest expenses of less than NOK 5 million. Net interest expense in excess of the limitation may be carried forward for up to 10 years.

The European Free Trade Association (EFTA) Surveillance Authority concluded, in a reasoned opinion dated October 25, 2016, that the 2016 Norwegian interest deduction limitation rules were contrary to the freedom of establishment under the EEA agreement. The Norwegian Ministry of Finance rebutted this conclusion but stated that amendments to the rules were under consideration, including the possibility of widening the scope of the limitation rules to include interest paid to nonrelated parties.

In October 2018, the Norwegian Finance Department presented a detailed set of new interest deduction limitation rules. The new rules entered into force January 1, 2019. The rules apply to companies that are part of a consolidated group for financial accounting purposes or could have been part of a consolidated group if *International Financial Reporting Standards (IFRS)* were applied. For such companies, the interest limitation applies regardless of whether the interest is paid to a related party or a third party, but with a threshold of NOK 25 million rather than NOK five million, as under the 2016 rules. "Equity escape rules" allow interest to remain fully deductible if the equity ratio at the company level or at the Norwegian group level is no more than 2% lower than the equivalent equity ratio of the worldwide group. Pure Norwegian domestic groups will, by definition, always satisfy the equity test, and are therefore not affected by the new rules.

As mentioned, the 2016 rules continue to apply to interest expenses on related-party debt incurred by standalone entities that are not part of a group. The 2016 rules also apply to interest expenses incurred by group companies on debt to related parties that are not part of the group. The latter applies irrespective of whether the company satisfies the equity test set out above.

Royalty payments under a licensing agreement are deductible. As in the case of interest payments, a deduction for a royalty payment made to a related-party licensor may be reduced if the royalty payment exceeds market rates.

[223] Tax Act, Sec. 6-41.

[224] When calculating the company's total net interest expense, debt to/from related parties and third parties is included.

e. Profit Distributions and Paid-in Capital

Profit distributions and the return of paid-in capital are not deductible.

f. Depreciation and Amortization

The purchase price of a fixed asset may be deducted immediately if the useful life of the fixed asset is less than three years or the purchase price is less than NOK 30,000.[225] Other fixed assets must be capitalized and depreciated using the declining balance method at the following maximum rates depending on the classification of the asset under one of the following groups:[226]

(i) Office machines: 30%;

(ii) Acquired goodwill: 20%;

(iii) Trailers, trucks, buses, taxis and vehicles for the transportation of disabled persons: 24%

(iv) Cars, tractors, machines, equipment, instruments and furniture: 20%;

(v) Ships, vessels and drilling rigs: 14%;

(vi) Aircraft and helicopters: 12%;

(vii) Equipment for the transmission and distribution of electrical power and electrical devices in power plants: 5%;

(viii) Industrial buildings, hotels, guest houses and restaurants: 4%;

(ix) Office buildings: 2%;

(x) Permanent technical installations in buildings: 10%.

For assets in groups (i) to (iv), which normally consist of multiple assets, depreciation is calculated on a pooled basis, on the aggregate tax book value of the assets in the group. Assets in groups (v) to (ix) are depreciated based on the individual asset's tax book value, while assets in group (x) are depreciated based on the tax book value of all technical installations in each building.[227]

Buildings that, because of their simple construction, have a useful life expectancy of no more than 20 years may be depreciated at the rate of 20%.

Assets in wind power plants purchased no earlier than June 19, 2015, and no later than December 31, 2021, may be depreciated on a straight-line basis over five years provided no work on the project was commenced before June 19, 2015.[228]

Fixed assets that fall outside these groups may be depreciated only when a substantial decrease in their value is demonstrated. Intangible assets with a specific life, such as patents, may be depreciated on a straight-line basis over the remaining period of their life.

[225] Tax Act, Sec. 14-40.

[226] Tax Act, Sec. 14-43.

[227] Tax Act, Sec. 14-41.

[228] The rule was sanctioned by the EFTA Surveillance Authority on July 6, 2016 and came into force with retroactive effect from 2015.

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g. Obsolete Equipment

If any balance in groups (i) to (iv) and (x), as described in f., above, or an individual asset's balance in groups (v) to (ix) is reduced to an amount of less than NOK 30,000, the asset or the assets are considered to be obsolete equipment and their remaining book value may be depreciated in its entirety.[229]

h. Charitable Contributions

As a general rule, expenditure in the form of gifts and charitable contributions is not deductible. The only statutory exceptions are deductions for contributions and gifts made to an EEA-based company, foundation or organization with a noncommercial objective that relates to:

(i) Social work with regard to children, youths, elder care, the handicapped and other disadvantaged groups;

(ii) Cultural work with regard to children and youths;

(iii) Religious activities;

(iv) Development and human rights aid; and

(v) The preservation of natural resources or culture, and animal protection.[230]

The deductible amount is restricted to NOK 25,000 annually (2023).

Furthermore, contributions made to institutions that, in cooperation with the government, conduct scientific research or vocational training that may have significance for the taxpayer's business are deductible.[231]

i. Capital Losses

Generally, capital losses are deductible to the same extent as gains are taxable.[232] The right to deduct a capital loss arises on the sale, destruction or other form of disposal involving the abandonment of proprietary rights in an asset. The asset may be a tangible asset, a financial instrument, an intangible asset or a right related to such an asset.

A deductible capital loss is defined as any negative difference between: (i) an asset's sale price, amount of compensation or market value; and (ii) the asset's original cost less deducted depreciation, less sales expenses.

Furthermore, the deduction of capital losses on fixed assets that are eligible for depreciation on an individual basis, such as ships, aircraft and buildings, must be deferred on a depreciating balance basis, 20% of the loss being tax deductible annually.

There is no right to deduct a loss if the amount of compensation paid for the asset appears to be a mere gift or token compensation. Further, any gift element included in the compensation is not deductible. Where the compensation includes a gift element, the deductible capital loss is any negative difference between the market value (not the sale price) of the asset and the asset's original cost less deducted depreciation.

Under the participation exemption, there is no deduction for capital losses on the sale of shares to the extent capital gains on the sale of such shares are exempt from taxation, as described at 3.b. and d., above.[233]

j. Bad Debts

Bad debts are deductible provided they are connected to the conduct of a business.[234] Examples include losses on accounts receivable and losses on receivables related to a company's operations.

Bad debts between two related parties where both are qualifying entities under the participation exemption rules (see 3.d., above) are not tax deductible.

Reserves made for doubtful debts are not tax deductible. A bad debt is tax deductible only when it is established that the loss is final. This will normally require that the debtor is dissolved or bankrupt, or that debt enforcement has been finalized without recovery.

k. Inventory

Inventory is defined as goods that are intended for sale in the pursuit of a trade or business. The costs related to such goods are deductible. The right to deduct costs related to goods accrues when the goods are sold, the inventory as a whole being valued at the end of each financial year. The inventory is valued in accordance with its acquisition value or manufacturing cost.[235] The first-in-first-out (FIFO) method is used to determine the value of the inventory. Obsolete inventory may not be depreciated — its cost may be deducted only on physical scrapping or destruction.

l. Rents

Payments under a lease agreement for office space and other property used for business purposes are deductible.

m. Salary and Wages

Salary and wages are normally deductible.

n. Non-deductible Business Expenses

Bribes and other payments or services rendered for purposes of achieving unlawful or illegitimate benefits, etc., are never tax deductible, regardless of the jurisdiction in which the expense is incurred. The benefit is treated as illegitimate if the provision of the benefit is inconsistent with the ordinary business or administrative ethics in the jurisdiction in which the benefit is provided or in Norway.

Expenses incurred in connection with research and development (R&D) are normally fully tax deductible. Expenses incurred for purposes of developing a specific fixed asset must, however, be capitalized and amortized/depreciated. The obligation to capitalize arises at the point in time when it appears more likely than not that the fixed asset will come into existence.

Norwegian corporate income tax is not tax deductible. Other taxes, including real property taxes and social security

[229] Tax Act, Sec. 14-47.
[230] Tax Act, Sec. 6-50.
[231] Tax Act, Sec. 6-42.
[232] Tax Act, Sec. 6-2.
[233] Tax Act, Sec. 2-38.
[234] Tax Act, Sec. 6-2.
[235] Tax Act, Sec. 14-5.

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contributions, are deductible if incurred for business purposes. Foreign taxes are tax deductible insofar as they are not credited against Norwegian tax. The availability of such tax credits is discussed in XIX.A., below.

Reserves and provisions are not tax deductible. Consequently, expenses and losses are deductible only on realization.

5. *Capital Expenditure*

The amount of a capital expenditure may not be taken as a current deduction, except when the capital asset concerned is a fixed asset with a cost of less than NOK 30,000 or has an expected life of less than three years.[236] Other capital costs may be expensed over a number of years (see 4.f., above).

6. *Loss Carryforward and Carryback*

In principle, the Tax Act prescribes that each year's income (or loss) is to be settled separately. Nevertheless, ordinary losses may be carried forward indefinitely,[237] subject to the following restrictions:

(i) When there has been a remission of debt, only losses that exceed the amount of the remission may be deducted; and

(ii) In the case of bankruptcy of the taxpayer, the right to carry forward losses is restricted to the amount that the taxpayer repays the creditors for uncovered debts after the bankruptcy. This assumes that the debts are genuine and can be proven.

When an enterprise ceases or a company is liquidated, the Tax Act prescribes a right to carry back a loss, provided it is an unrecovered loss in the year of cessation or liquidation.[238] In these cases, the tax assessment for the previous financial year (and if necessary, also the year before the previous financial year) may be amended, as a deduction for the unrecovered deficit is granted in relation to the income for these years.

7. *Tax Credits*

As described in 1., above, a Norwegian resident company is liable to Norwegian taxation on its income from both Norwegian and foreign sources. This may result in the same income being subject to double taxation, i.e., in both Norway and abroad. To avoid this, Norway has entered into a number of tax treaties that provide for a tax credit in the case of double taxation. To the extent a treaty is not applicable, the Norwegian Tax Act prescribes certain tax credit rules applying to income that originates from a foreign source or wealth situated in a foreign country.[239]

Only taxpayers that are considered resident in Norway in accordance with the Tax Act may benefit from the foreign tax credit rules.[240] In addition, where an applicable tax treaty contains rules on where a company is to be considered resident, the company in question is also required to be classified as resident in Norway under the treaty.[241]

Credit is available for taxes assessed and paid in the foreign country in which the income has its source, or the wealth is located.[242] Only direct taxes are covered — duties and other indirect taxes are not included. The Tax Act contains no specific provisions as to where income should be considered to have its source. This is determined on a case-by-case basis.

The objective of the tax credit rules is to avoid double taxation, not to subsidize foreign activities. Therefore, the Tax Act does not allow a tax credit exceeding the corresponding Norwegian tax on the same income or wealth.[243]

8. *Tax Rates and Calculation of Taxable Income*

The basic national income tax rate for a domestic corporation is 22% (2024). This rate is a flat rate and applies irrespective of the amount of corporate net income. For entities that are subject to finance tax on salaries, the rate is 25% (see IV.E., above). As described in 3.c., above, some exemptions apply regarding share income.[244]

Some businesses are exempt from taxation. In general, the exemption covers taxable entities that have a public welfare objective and nonprofit purposes for themselves and their members.[245]

9. *Assessment and Filing*

The annual tax return and accompanying forms must be filed by the end of May in the year following the income year and must be submitted over the Internet. A 30-day extension of the deadline is available on application. Late filing penalties of NOK 638.50 per day apply, with a maximum penalty of NOK 63,850.

Filing of incorrect or incomplete forms may trigger penalties based on the amount of tax that was or could have been evaded as a result of the wrongful information. The basic penalty rate is 20%. The rate is 10% if the incorrect information was provided by the taxpayer's employer, bank or other third party. On the other hand, the rate can be increased to 40% or 60% in cases of gross negligence or willful misconduct. Such cases can also be subject to criminal proceedings as tax fraud, which is punishable by imprisonment for up to six years.

Provided the tax return is filed on time, the tax authority will normally finalize their assessment by mid-October to early November of the same year. The tax authority may, however, reopen and amend a tax assessment. From 2017, the basic limitation period is five years from the end of the income year at issue. The limitation period is extended to 10 years if the taxpayer has been subjected to the increased penalty rate or criminal proceedings for tax fraud.

10. *Audit Process and Limitations Period for Assessment and Collection*

Tax audits may be triggered by specific circumstances or initiated randomly. An audited taxpayer is required to make all books and records pertaining to its business operations avail-

[236] Tax Act, Sec. 14-40.
[237] Tax Act, Sec. 14-6.
[238] Tax Act, Sec. 14-7.
[239] Tax Act, Sec. 16-20.
[240] Tax Act, Secs. 16-20, 2-2.
[241] Tax Act, Sec. 16-20.
[242] Tax Act, Sec. 16-20.
[243] Tax Act, Sec. 16-21.
[244] A special rate applies to companies resident in Svalbard but only with respect to business carried on there; thus, income from sources outside Svalbard is not covered.
[245] Tax Act, Sec. 2-32.

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able for inspection. An audit may cover any part of the taxable business going back up to five years, unless the 10-year limitation rule (see above) applies.

11. Reorganizations

a. Tax Treatment

In principle, mergers, demergers, changes in legal form and liquidations are taxable events in that they are treated as disposals of shares and of the underlying assets. As such, corporations and their shareholders are potentially liable to tax on any gains realized on disposed of assets and shares.[246] However, the Tax Act provides various exceptions which can produce tax-neutral transactions, provided certain conditions are fulfilled, in particular the assumption of the tax attributes of the target company by the acquiring company.[247]

Specifically, the tax neutrality exception may apply to a reorganization in the following circumstances:

(i) A merger or demerger where the shareholders in the transferor company receive, as consideration, shares in the transferee company or such shares plus an additional payment, which, however, may not exceed 20% of the total consideration.[248] Provided the transferee company belongs to a group, and one or a number of the group companies hold(s) a total of more than 90% of both the shares and the votes at the general meeting of the transferee company, the consideration in the form of shares may instead consist of shares in the parent company;

(ii) A merger between a parent company and a wholly-owned subsidiary or between two wholly-owned subsidiaries. In these cases, there is no requirement relating to consideration.[249]

The rules apply to mergers and demergers between Norwegian companies and between Norwegian companies and foreign companies that are resident in the EEA. However, if the foreign company is resident in an EEA country in which the tax charge on corporate income is less than two-thirds of the amount of tax the company would have been charged had it been resident in Norway (i.e., a “low-tax country”), some special requirements apply. To benefit from the rules regarding tax-free merger or demerger, the companies must be actually established in the host country and must carry on genuine economic activities there.[250]

A special provision aims at preventing the improper use of mergers and demergers to take advantage of a company’s tax attributes.[251] Under this provision, the benefits of using the transferred tax attributes in relation to a merger or demerger may be lost if the exploitation of the tax attributes is “the predominant objective of the transaction.” Should that be the case, the merger or demerger itself will not be set aside and may even enjoy the tax neutrality exemption. However, the relevant tax attributes in the transferor or transferee companies, typically losses or tax credits carried forward, will either be:

(i) Discontinued, provided the relevant attribute represents a tax advantage; or

(ii) Recognized as income without any right to set-off losses.

Provided specific procedures are followed, a sole proprietorship or a partnership may be transformed into a new company in a tax-neutral transaction. To achieve this, the new company must assume all of the transferor’s tax attributes.

Liquidations require that the tax attributes of a company be settled.[252] All assets belonging to the liquidating company, including goodwill, will be taxed as if sold to the shareholders at market value. The net gain may be offset with current losses or losses carried forward. Any remaining losses, tax credits or other tax attributes not realized as part of the liquidation will be permanently lost.

Capital distributed to a shareholder is subject to tax as capital gains if the distributed amount exceeds the capital invested by the shareholder (see 3.b., above).[253]

b. Value Added Tax

A deduction for input VAT taken on the acquisition of certain investments, for example, buildings used in a business activity, will be conditional, meaning that a change in use or a transfer of ownership may trigger a liability to recover a proportional amount of the former deduction. In the case of a merger, demerger or change in legal form, it is possible to avoid any repayment of VAT by entering into a VAT Adjustment Agreement, under which the transferee declares that it will take over the latent VAT adjustment liability formerly held by the transferor. According to established practice, there are strict formal requirements and a short deadline for entering into such an agreement.

12. Advance Rulings

Norway has a system that allows taxpayers to request rulings on the tax consequences of proposed transactions from the Tax Office or, in complex or cross-border cases, by the Directorate of Taxes. It may be advisable to request a ruling before a transaction is carried out, if a tax issue is contentious or unclear, to ascertain the tax consequences of the proposed transaction. The applicant starts the procedure by submitting a written request. If the tax question raised is considered a question of principle, the Tax Office will forward the request to the Directorate of Taxes. The procedure typically takes about three months. An advance ruling is subject to a moderate fee and the ruling is binding on the tax authorities only. Taxpayers have a right to appeal advance rulings and have them reconsidered by the Tax Appeal Board.

[246] Tax Act, Sec. 11-1.
[247] Tax Act, Sec. 11-1.
[248] Tax Act, Sec. 11-2; Companies Act, Sec. 13-2; Public Companies Act, Sec. 13-2.
[249] Tax Act, Sec. 11-2, Companies Act, Secs. 13-23, 13-24, Public Companies Act, Sec. 13-24.
[250] Tax Act, Sec. 11-11, in force from June 2011.
[251] Tax Act, Sec. 14-90.
[252] Tax Act, Sec. 14-48.
[253] Tax Act, Sec. 10-37.

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C. Other Taxes

1. Dividend Tax

Norway has no separate dividend tax. Domestic taxpayers are required to include dividends in their tax returns as income from capital (unless the dividends are exempt under the participation exemption rules — see B.3.c., above). Foreign entities receiving dividends from Norwegian companies may be subject to dividend withholding tax (see IX.B., below).

2. Stamp Duty

Stamp duty is levied on real property transactions at the rate of 2.5% of the market value of the property[254] (see IV.H., above).

3. Indirect Taxes

There is no Norwegian sales tax other than VAT (see IV.D., above).

4. Trade Tax

There is no Norwegian tax on a trade or business other than income tax.

5. Real Estate Tax

See IV.I., above.

6. Local Taxes

Except for real property tax (see IV.I., above) and natural resources tax (see IV.M., above), no municipal or other local taxes are levied on corporations or other legal entities conducting business in Norway.

7. Employer's National Insurance Contributions

An entity that has employees is liable to pay employers' national insurance contributions on the salary and other remuneration paid to its employees at varying rates, depending on the municipality in which the employer's business is situated (see further at IV.E., above).

[254] Act on Stamp Duty, Sec. 7.

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VI. Taxation of Oil and Gas Companies

A. *In General*

All resident corporations in Norway pay income tax at the rate of 22% (2024). Corporations involved in petroleum exploitation are, in addition, subject to a petroleum tax on income from the exploration for, or the production or transportation of, petroleum at a rate of 56%. The combined top marginal tax rate on such income is therefore 78% (2024). The term "petroleum" refers to all liquid or gaseous hydrocarbons extracted from the ground under the bottom of the ocean and within the territory of the Norwegian continental shelf.[255]

Net income from petroleum exploitation is taxed on a "ring fence-basis," meaning the income and business expenses of a company from activities on the continental shelf are isolated from income and business expenses related to other activities (with one exception, see E., below). However, this treatment allows for consolidated taxation between different fields.

The petroleum tax system is based on the same rules and principles as the general corporate income tax system and the Tax Act applies to the extent the Petroleum Tax Act does not state otherwise.[256] The Petroleum Tax Act provides specific rules that affect the basis for income taxation as well as the petroleum income tax. These rules are explained briefly in B. to G., below.

B. *Scope of Taxation*

The geographic scope for the taxation of petroleum-related activities is as follows:[257]

(i) Within Norwegian waters, including all sea areas within the Norwegian territorial borders and the continental shelf;

(ii) Within offshore areas adjacent to the Norwegian Continental Shelf with respect to certain transmedian fields (subject to Norwegian treaty rights);

(iii) Outside Norway, or areas referred to above in (i), with respect to the transportation of petroleum to land, and related activities or work, to the extent Norway, under international law or an agreement with another state, has a right to impose taxation on such activities and work; and

(iv) Within Norway with respect to the transportation of petroleum by pipeline from areas mentioned above in (i), (ii) or (iii), as well as other activities at receiving and shipment installations that form a part of the production and transportation of such petroleum.

Any activity relating to petroleum exploitation, such as drilling, seismic services, engineering, maintenance and catering that is carried on in the areas listed above will be covered by the geographical scope of the Petroleum Tax Act and subject to Norwegian income tax at the rate of 22% (2024). However, only income from exploration for, or the production and transportation of, petroleum will be subject to petroleum income tax at a 56% rate, in addition to the ordinary 22% (2024) income tax.[258]

C. *Norm Price*

The taxation of income from the sale of crude oil is based on a norm price system under which the "norm price" for crude oil is set by the Ministry of Petroleum and Energy.[259] The taxable gross income is calculated by reference to the taxpayer's production of crude oil multiplied by the norm price at the relevant point in time.

The norm price is (normally) computed four times per year in arrears, with individual prices for each day. The norm price system does not apply to sales from all fields of exploitation — the taxable income from "exempt" fields is based on the actual sale price, subject to a regular transfer pricing evaluation.

The norm price system has not yet been practiced in the context of sales of gas (gaseous petroleum), except — to a certain extent — propane gas.

D. *Special Provisions on Allowances*

Financial costs are allowable for petroleum tax purposes, subject to the following limitation: the allowable amount is restricted to a share of the company's financial costs corresponding to 50% of the value of production equipment, divided by the company's total debt.[260] This limitation applies only with respect to the allowance for petroleum tax purposes (56% tax rate). For corporate tax purposes (22% tax rate), all financial costs are allowable. The limitation for petroleum tax purposes is intended to prevent the thin capitalization of companies involved in petroleum exploitation.

A cash-flow based tax was introduced with effect from income year 2022. This means that the full cost of investments is deducted immediately in the special tax base. Furthermore, a deduction is also made for the calculated ordinary company tax in the special tax base. In order to maintain a combined marginal tax rate of 78%, the special tax rate was technically increased from 56% to 71.8%.

For calculation of the ordinary income tax, expenditure on production equipment may be depreciated on a straight-line basis at a rate of 16.67% over six years,[261] starting in the year in which the costs are incurred, regardless of whether the equipment is ready for use. Other depreciable assets may be depreciated on a declining-balance basis in accordance with the ordinary rules in the Tax Act, with the maximum rates ranging from 2% to 30%, depending on the nature of the asset, as from the time the equipment is delivered and ready for use.

Expenditure related to the abandonment and decommissioning of fields is deductible, but only after the costs have been incurred, i.e., no deduction is given for provisions for future decommissioning and abandonment costs.[262]

[255] Oil and Energy Department's regulations concerning the norm price (*Normprisforskriften*) of June 25, 1976 nr. 5 §13.

[256] Petroleum Tax Act, Art. 8 Sec. 1.

[257] Jan Samuelsen, *A Guide to Norwegian Petroleum Taxation* (2006), p. 18.

[258] Petroleum Tax Act, Art. 5 Sec. 1.

[259] Petroleum Tax Act, Art. 4.

[260] Petroleum Tax Act, Art. 3 Litra d).

[261] Petroleum Tax Act, Art. 3 Litra b).

[262] Petroleum Tax Act, Art. 3 Litra g).

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E. Special Provisions on Losses

A company involved in petroleum exploitation may also deduct 50% of its losses incurred from other activities from profits derived from petroleum exploitation, but only from the base for the ordinary corporation income tax (22%).[263]

From 2022, the tax value of a company's net losses from petroleum exploitation-related activity are refunded in cash the year after the applicable fiscal year.

F. Exploration Costs

The particular rules for a cash refund of the tax value of exploration costs were terminated with the introduction of the cash flow based tax system. See VI.D. and E., above.

G. Uplift Relief

With the introduction of the cash flow based tax system in 2022, discussed above, the "uplift" relief system was cancelled. Any unused uplift and tax loss carried forward will be refunded with the tax settlement for 2022, i.e., in fall 2023.

The uplift (*friinntekt*)[264] provided an additional deduction of 5.3% (7.5% with respect to costs incurred before May 5, 2013, over four years, including income year 2016) of the cost of production equipment before 2018, over four years, which amounted to a total relief of 21.2% on invested capital. From 2019, the rate was 5.2%, reducing the uplift to 20.8% on investments made in 2019. The uplift had the same effect as an allowance but was really a tax-free yield on invested capital. Unused uplift could be carried forward to a later year with interest (0.7% in 2021).

A company that had unused uplift at the time it ceased business operations could have the tax value of the uplift refunded in cash. The uplift was applied to the petroleum tax base only (taxed at 56%) and not the base for the ordinary corporate income tax (taxed at 22%).

H. COVID-19 Pandemic Tax Incentives

Oil and gas companies were allowed to deduct the full amount of investments made in 2020 and 2021 from the petroleum tax base immediately. The rule was limited to investments covered by development plans for fields and transportation infrastructure submitted by the end of 2021 and approved by the end of 2022.

Oil and gas companies were also able to seek refunds of the tax value of losses from income years 2020 and 2021.

[263] Petroleum Tax Act, Art. 3 Litra c) Sec. 6.
[264] The Petroleum Tax Act, Art. 5 Sec. 4.

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VII. Taxation of Hydroelectric Power, Onshore Wind Farm and Aquaculture Companies

A. *Taxation of Hydroelectric Power Companies*

1. *In General*

The Norwegian Tax Act contains special rules regarding the taxation of the production, trading and distribution of hydroelectric power.

The special rules concerning the taxation of facilities for hydroelectric power production mean that all entities involved in such activity, whether publicly or privately owned, are taxed based on their profits. Like those of most other businesses, such profits are taxed at the rate of 22% (for a more detailed analysis, see V., above). However, certain specific rules on depreciation and further taxation apply.

2. *Depreciation*

As described in V.B.4.f., above, the purchase cost of fixed assets is depreciated using the declining balance method at rates not exceeding specified rates. Certain fixed assets used in power plants are depreciated using straight-line deprecation. The acquisition value of dams, tunnels, pipe trenches and power stations is depreciated annually at the rate of 1.5% over 67 years. The acquisition value of machines in power plants, generators, pipes, etc. is correspondingly depreciated annually at the rate of 2.5% over 40 years.[265] Other fixed assets in power plants are depreciated using the declining balance method in accordance with the general rules for fixed assets. Electrotechnical equipment may, however, be depreciated at the rate of 5% annually on a declining balance basis.

3. *Resource Rent Tax*

In addition to the ordinary corporate income tax on business income at the rate of 22%, power plant owners are subject to resource rent tax (*grunnrenteskatt*) — often referred to as "super-profit tax" — at the rate of 57,7% (2024). The tax is levied on the taxpayer's economic rental income (as defined) from its production of hydroelectric power. The combined effective tax rate amounts to 67% (2024).[266] Economic rental income is, in broad terms, calculated as the market value of a power plant's production in the current financial year less operating expenses, license fees, real property tax, and depreciation.[267] The value of a power plant's annual production is based on the observed spot market price at the hour of production.[268]

However, the application of resource rent tax is subject to the following conditions and exemptions:

(i) Power provided under concession conditions is valued at the achieved price;

(ii) Power provided under long-term sales and leasing contracts of more than seven years concluded prior to January 1, 1996, is valued at the actual contract price. This also applies to large, long-term sales and leasing contracts with power delivered to and consumed by qualifying industrial production companies and with a total volume of 150 GWh or more concluded after January 1, 1996, provided the power is used in a buyer's production operations (only certain industrial activities qualify for this purpose), whereas sales and leasing contracts with a total volume of 150 GWh or more may have a duration of down to three years if concluded after January 1, 2024;

(iii) Power consumed in the power producer's own production operations is valued at a price determined by the Ministry of Finance; and

(iv) Power provided to private consumers under long-term, fixed-price contracts is valued at the actual contract price.

From 2021, the resource rent tax was converted to a cash flow based tax. As such, the current system implies that all investments are deductible in the year of the investment and are not depreciated over time.

For investments completed before the cash flow tax system was introduced, a base deduction or uplift equal to the normal return on a power plant's operating assets is to be deducted in calculating the economic rental income.[269] The deduction is calculated by using the average of the tax value (after depreciation) of operating assets effectively connected with the power production in the power plant as of January 1 and December 31 of the current financial year, multiplied by an interest rate determined by the Ministry of Finance (for financial year 2023, the interest rate was 3%).

Resource rent tax is not levied on power plants with generators that have a nominal operating capacity of less than 10,000 kVA in the financial year concerned.[270]

The tax value of any net loss in the resource rent tax base is refunded in cash as part of the tax settlement for the fiscal year.

4. *Natural Resources Tax*

Power plant owners are also subject to natural resources tax to the municipality and county in which the facility is located.[271] The natural resources tax is based on one-seventh of the power plant's total production of electric power during the previous six years and the current financial year. The levy is calculated at a rate of NOK 0.011/kWh in the case of the municipality and NOK 0.002/kWh in the case of the county, for a total of NOK 0.013/kWH.

Natural resources tax is not levied on power plants with generators that have a nominal operating capacity of less than 10,000 kVA (2024) in the financial year concerned.[272]

The natural resources tax may be credited against the ordinary corporate income tax in the current financial year. If this tax exceeds the assessed corporate income tax in the current financial year, the excess amount may be carried forward for deduction in later years, increased by an interest rate determined

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[265] Tax Act, Sec. 18-6.

[266] Corporate income tax is deductible in the resource rent tax base, providing an effective tax rate of 45% and a combined effective tax rate of 67%.

[267] Tax Act, Sec. 18-3.

[268] See https://www.nordpoolgroup.com/.

[269] Tax Act, Sec. 18-3.

[270] Tax Act, Sec. 18-3.

[271] Tax Act, Sec. 18-2.

[272] Tax Act, Sec. 18-2.

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by the Ministry of Finance. For financial year 2023, this interest rate was 3,4%.

5. Windfall Tax

A windfall tax, referred to as a "high-price contribution," intended to target the particularly high prices for electricity in recent years, was in effect from September 28, 2022, until October 1, 2023. The levy was structured as a surtax with the gross sales revenue, not net profits, as the tax base. The was 23% of the electricity price averaging more than NOK 0.70 per kWh per month.

B. Taxation of Onshore Wind Farms

1. In General

With effect from January 1, 2024, new rules impose additional tax burdens on all onshore wind farm companies with more than five turbines or an installed effective capacity of at least 1MW. All entities involved are taxed based on their profits. Like those of most other businesses, such profits are taxed at the rate of 22%, but with certain additional tax rules discussed in 2. to 5., below.

2. Depreciation

As described in V.B.4.f., above, the purchase cost of fixed assets used in power production is depreciated using the declining balance method at rates not exceeding specified rates. Turbines, gears, rotors, etc., are generally classified as "machinery" eligible for depreciation at 20% annually on a declining balance. The tower itself and its foundations etc., are eligible for depreciation at 4% annually on a declining balance basis while electrotechnical equipment may be depreciated at the rate of 5% annually on a declining balance basis. Other fixed assets in power plants are depreciated using the declining balance method in accordance with the general rules for fixed assets.

Assets in wind power plants purchased no earlier than June 19, 2015, and no later than December 31, 2021, may be depreciated on a straight-line basis over five years provided no work on the project was commenced before June 19, 2015.[273]

3. Resource Rent Tax

In addition to the ordinary corporate income tax at the rate of 22%, as from January 1, 2024, owners of onshore wind farms are also subject to resource rent tax (*Grunnrenteskatt*) — often referred to as a "super-profit tax" — at the rate of 32.1% (2024) on income (as defined) from the production of onshore wind farm power. The combined effective tax rate of these companies amounts to 47% (2024).[274]

The resource rent tax is a cash flow-based tax. As such, all investments are deductible in the year of the investment and cannot be depreciated over time. In broad terms, resource rent income is calculated as: the market value of a wind farm's production in the current financial year minus operating expenses, license fees, production tax, natural resources tax, real property tax and current year's investments in fixed assets. Financial costs are not deductible.

The annual production of an onshore wind farm would be valued at the observed spot market price at the hour of production,[275] subject to exemptions for the following contractual arrangements:

(i) Power provided under long-term sales and leasing contracts concluded before September 28, 2022, is valued at actual contract price;

(ii) Certain fixed price contracts with delivery to consumers.

The tax value of any net loss in the resource rent tax base is refunded in cash as part of the tax settlement for the fiscal year. However, unlike the rules for hydropower, the cash refund is available only after the construction of a wind farm has been completed and production has started, and only after the tax office has carried out an assessment. For pre-existing wind farms, a negative income balance is eligible only for a loss carryforward, with interest determined annually by the tax authority.

Comment: The rules are strongly criticized by investors, the industry itself, and the off-takers of the produced power. The primary objection is that there is no long-term super-profit available from production of wind power. This is particularly true for the project financed wind power plants: these power plants typically have disposed their full production capacity in advance, by entering long-term power purchase agreements with smelters and similar industrial plants. They also typically have long-term project financing. In combination, such arrangements provide long-term steady cashflows but with low return on investment, without possibility of benefiting from high spot market prices, as we have seen since the energy price increase following the closing of Russia's gas exports to Europe. Furthermore, capital expenditure made prior to the introduction of the tax is deductible only by straight-line depreciation over five years. The amount available for such depreciation is also reduced according to years passed since year of investment and year of introduction of the tax (2023). Finance costs (interest, etc.) are not deductible. In combination, these factors could for some wind farm companies provide an effective tax rate closing in on 100%, implying a serious risk of default and potential bankruptcy. Several law firms, including Haavind, have publicly raised concerns about whether a tax with such effects may be unconstitutional (by having retroactive effect and implying confiscation of property), in violation of the Human Rights Convention (on the right to property) and in conflict with Norway's obligation under the EEA-agreement (on the free movement of capital).

4. Production Tax

A production tax on onshore wind farms in the form of an excise duty on the production of electric power at the rate of NOK 0.023 per kWh (2024).

5. Windfall Tax

See VII.A.5., above.

[273] The rule was sanctioned by the EFTA Surveillance Authority on July 6, 2016, and came into force with retroactive effect as from 2015.

[274] Corporate income tax is deductible in the resource rent tax base, providing an effective tax rate of 25% and a combined effective tax rate of 47%.

[275] See www.nordpoolspot.com.

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C. Taxation of Aquaculture Companies

1. In General

Norway is by far the world's largest producer of farmed salmon. In 2023, Norway exported 1.2 million tons — equal to 16 million meals every day, year-round — at a value of NOK 122 billion.[276] The industry has been highly profitable the past 10 years.

In addition to the ordinary corporate income tax at the rate of 22%, as from January 1, 2023 aquaculture companies producing salmon, trout, and rainbow trout in the Norwegian sea under government license are also subject to a specific resource rent tax, as discussed below.

2. Resource Rent Tax

Often referred to as a super-profit tax, owners of commercial aquaculture licenses are subject to resource rent tax (*Grunnrenteskatt*) at the rate of 32.1% (2024). The tax is based on the economic rental income (as defined) from the production of salmon, trout, and rainbow trout in Norwegian waters. This tax, taken together with the ordinary corporate income tax, might raise the effective tax rate on profits made by aquaculture companies to 47%[277].

Resource rent income is, in broad terms, calculated as: the market value of the production at sea in the current financial year minus operating expenses, production tax, tax on real property and current year's investments in fixed assets. Financial costs are not deductible.

The market value of annual production is defined as realized slaughter volume times market value of the fish at the time they are extracted from the pen.

[276] Norway exported 1.2 million tons of farmed salmon last year (fishfarmingexpert.com)

[277] The corporate income tax is deductible in the resource rent tax base, providing an effective tax rate of 25% and a combined effective tax rate of 47%.

Note: Farmed salmon, trout and sea trout are typically sold for delivery to wholesalers gutted and packed on ice in crates, and typically exported by truck or airfreight. Non-exhaustive information on daily spot trading prices is available online (Nasdaq Salmon Index)[278] and hedging contracts are available on the EU Fish Pool exchange.[279] Identifying the market value of salmon stock at the time of extraction from a farming pen typically requires subtracting cost of transport, slaughter, and packing. An independent price board is currently under establishment, tasked with setting the market value from 2025 onwards.

The resource rent tax is a cash flow-based tax. As such, all investments for use exclusively in the sea phase of the production are deductible in the year of the investment and cannot be depreciated over time. However, no deduction is available for the cost of acquiring business licenses, except to the extent consideration was paid for licenses bought from the Government at public auction in 2018 and 2020 or that were otherwise awarded by the Government at a fixed price in 2020. In such case, the deductible amount would be limited to 40% of the consideration paid for the licenses and spread over five years. No deduction would be available if a license was acquired from another party or on the secondary market.

Negative resource rent income can be carried forward with interest and deducted from positive resource rent income in subsequent years.

The current rules include a tax-free allowance of NOK 70 million.

3. Production Tax

The production tax is an excise duty of NOK 0.9354 per kilo (2024) salmon, trout and rainbow trout produced under a commercial license. The tax revenue is divided between the host county and municipality in which an aquaculture facility is located.

[278] NASDAQ Salmon Index (nasdaqomxtrader.com)

[279] Fish Pool — European Salmon Exchange (https://fishpool.eu/).

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VIII. Taxation of Shipping Companies

Norwegian shipping companies are taxed under the ordinary corporate income tax rules unless an election is made to be taxed under the optional tonnage tax regime.

The tonnage tax regime provides a full tax exemption for income from shipping activities. Under the regime, companies pay an annual tonnage tax calculated per vessel. The rates for 2024 are as follows:

- Up to 1,000 net tons: NOK 0.9 per day, per 100 net tons;
- 1,001 to 10,000 net tons: NOK 18 per day, per 1,000 net tons;
- 10,001 o 25,000 net tons: NOK 12 per day, per 1,000 net tons; and
- Over 25,000 net tons: NOK 6 per day, per 1,000 net tons.

No tonnage tax is charged if the vessel concerned is out of operation for a period exceeding three months. The rates are reduced by up to 25% if the vessel meets certain environmental requirements.

To qualify for the tonnage tax regime, a shipping company is required, *inter alia*, to own or lease at least one specified kind of vessel and be involved in specified shipping activities only. Investments or business operations outside the defined scope may lead to a shipping company being disqualified from the tonnage tax regime altogether.

Electing for the tonnage tax regime involves a lock-in period of 10 years.

Financial income that does not qualify as income from shipping activities is taxed under the ordinary tax rules at the rate of 22%.

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IX. Taxation of Foreign Corporations

A. *What Is a Foreign Corporation*

Any corporation that is not resident in Norway for tax purposes is a foreign corporation. Accordingly, a corporation that is not established or registered in accordance with Norwegian law and does not have its place of effective management in Norway is considered a foreign corporation.

B. *Determination of Taxable Income*

As a rule, only corporations that are resident in Norway have unlimited Norwegian tax liability, whereas foreign corporations may be subject to limited tax liability in Norway. Limited tax liability accrues on income that has its source in Norway. Assuming no applicable tax treaty limits its tax liability, a foreign corporation is liable to pay Norwegian tax on the following items of income:[280]

(i) Section 2-3(1)(a): Income derived from tangible property located in Norway that is owned or controlled by a foreign corporation.[281]

The tax liability comprises income from capital and capital gains, and it does not require that the assets be attributable to a business activity. Unless protected by an applicable tax treaty, a foreign corporation may therefore be subject to tax in Norway on income, including gains, from tangible movable property (including ships and aircraft) and real property located in Norway.

It is important to note that Section 2-3(1) of the Tax Act does not refer to gains on the disposal of shares. Under Norwegian law, shares are not regarded as movable property. This means that gains of a nonresident company on the disposal of shares of a Norwegian company are taxable only if the shares are connected to business activity that is taxable in Norway.[282]

Comment: As the threshold for "business activity" in Norway is very low when fixed property is involved, most such foreign investments are viewed as part of a business activity. Therefore, these investments are generally taxable under the business activity rule in Section 2-3(1)b of the Tax Act and are also allowed to be taxed under the permanent establishment (PE) rules of Norwegian tax treaties. Section 2-3(1)a would apply in the unusual situation of a nonresident company or (more commonly) a nonresident individual making a passive investment in Norwegian fixed property.

The movable assets rule in Section 2-3(1)a could have an impact on companies that are resident in low-tax jurisdictions and other jurisdictions with which Norway does not have a tax treaty, as well as on movable property located in Norway (e.g., machines, vehicles, containers, ships, aircraft, etc.). The Ministry of Finance has stated that an aircraft (specifically, a helicopter) operated by a Norwegian entity under a dry-lease with a nonresident company would normally not have a sufficiently strong connection to Norway for there to be tax liability under Section 2-3(1)a, i.e., for the nonresident entity to be taxable in Norway on a gain from the sale of the aircraft. Similar principles are thought to apply to ships. There are also special rules in Sections 2-34 and 2-37 that apply to ships and aircraft operated in international traffic or between Norwegian ports and airports.

(ii) Section 2-3(1)(b): Income from business activity that a foreign corporation performs or participates in and that is carried out in or managed from Norway, including the hiring out of personnel to other parties in Norway.[283] This tax liability assumes a business activity of a certain extent and duration; a single transaction or passive capital return is not sufficient for this purpose. However, the Tax Act does not provide a "permanency test" to be met for a foreign corporation to become taxable on income deriving from such business activity. A foreign corporation doing business in Norway in this manner and without tax treaty protection can, therefore, become subject to tax on its business income even if it does not have a local PE. Nonetheless, given that Norway has entered into tax treaties with approximately 80 countries, most foreign entities doing business in Norway are likely to be protected under an applicable tax treaty, which will require the existence of a local PE for Norwegian tax liability to arise.[284]

(iii) Section 2-3(1)(c), with further reference to Section 10-13: Dividend payments made by a company resident in Norway.[285] A foreign corporation is subject to withholding tax in Norway at the rate of 25% on dividend payments from Norwegian resident companies.[286] An exception to this rule exists for corporate shareholders resident and incorporated in the European Economic Area (EEA), provided they carry on genuine economic activities in their home jurisdiction.[287] The withholding tax rate for nonresident shareholders can often be reduced under the terms of an applicable tax treaty (for further discussion, see XIX.B.3., below).

(iv) Section 2-3(1)(i), with further reference to Section 10-80: Interest payments made by a company resident in Norway to a related party corporation resident in a low-tax jurisdiction. Such foreign corporation is subject to withholding tax in Norway at the rate of 25% on interest payments. An exception to this rule exists for corporate share-

[280] Tax Act, Sec. 2-3(1), concerning the tax liability of nonresident companies, reads as follows [unofficial translation]:

A nonresident person, company or entity is tax liable to Norway for

a. Wealth in or income from fixed or movable property that it owns or controls in Norway,

b. Wealth in or income from a business activity that it carries out or participates in and that is operated in or managed from Norway, [. . .]

c. Dividends on shares and interest on primary capital certificates in Norwegian resident companies, according to the rules in Section 10-3.

[281] Tax Act, Sec. 2-3(1).

[282] Tax Act, Sec. 2-3(1)b.

[283] Tax Act, Sec. 2-3.

[284] OECD Model Convention, Art. 5.

[285] Tax Act, Secs. 2-3, 10-13.

[286] Tax Act, Secs. 2-3, 10-13.

[287] Tax Act, Sec. 2-38.

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holders resident and incorporated in the European Economic Area (EEA), provided they carry on genuine economic activities in their home jurisdiction. The withholding tax rate for nonresident shareholders can often be reduced under the terms of an applicable tax treaty.

(v) Section 2-3(1)(j), with further reference to Section 10-81: Royalty payments and payments for leasing of ships, vessels, rigs, and aircraft made by a company resident in Norway to a related party corporation resident in a low-tax jurisdiction. Such foreign corporation is subject to withholding tax in Norway at the rate of 25% on relevant payments. An exception to this rule exists for corporate shareholders resident and incorporated in the European Economic Area (EEA), provided they carry on genuine economic activities in their home jurisdiction. The withholding tax rate for nonresident shareholders can often be reduced under the terms of an applicable tax treaty.

(vi) Section 2-3(1)(k), (l) and (m): As from 2024, income from exploration and exploitation of minerals, renewable energy resources or carbon capture storage on the Norwegian Continental Shelf or in the Norwegian Economic Zone of the North Sea, within the limits of international law is also subject to Norwegian tax liability.

The Norwegian tax liability of a foreign corporation described above is exhaustive. This means that foreign corporations are not subject to Norwegian tax on interest on accounts receivable from a Norwegian debtor (except as defined in (iv), above), interest from bank deposits in Norway or income from intellectual property rights, services, or royalties (except as defined in (v), above). However, such income will be subject to taxation in Norway as business income if it is related to business activities that the foreign corporation performs or participates in that are carried on in or managed from Norway (see (ii), above).

Note: On April 2, 2024, the Norwegian Government proposed a new Section 2-3(1)(n), which would introduce a tax liability on income of foreign corporations derived from exploration and production of aquatic organisms (aquaculture) on the Norwegian Continental Shelf or in the Norwegian Economic Zone of the North Sea.

See XVIII.C.3., below, for further discussion.

C. Method of Taxation

The taxable income of a foreign corporation is primarily assessed and taxed in the same manner as is a domestic corporation. The same rules apply regarding accrual, tax rates (except for the withholding tax on dividends, interest, and royalties — see IX.B., above), deductions, depreciation, and loss carryforward and carryback. A foreign corporation may deduct expenses incurred for purposes of acquiring, maintaining, or protecting income that is taxable in Norway. The expenses need not be incurred in Norway. Also, interest expense is fully deductible for all types of debt provided the company concerned is liable for the debt in the period in which the interest accrues. However, the right to deduct interest requires that the debt be contracted for the furtherance of a business activity that is taxable in Norway.[288]

For the rates of source country taxation applying to investment income, services income and capital gains under Norway's domestic law and tax treaties and the context for the application of those rates, see the Withholding Tax Chart.

D. Assessment and Filing

A foreign corporation that is subject to tax in Norway is normally subject to the same assessment and tax return filing obligations as a domestic corporation (for further discussion, see V.B.9. and 10., above).

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[288] Tax Act, Secs. 6-40, 4-31.

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X. Taxation of a Branch

A. Determination of Taxable Income

Norwegian tax law does not provide any specific rules concerning the calculation of the profits of a Norwegian branch of a foreign corporation. In determining the taxable income or loss of a branch, the same set of rules apply as in the case of other types of entities used for doing business in Norway (see V., above). All income and expenses attributable to a Norwegian branch are taxable and deductible, respectively. The tax liability also encompasses capital gains and losses attributable to the branch.

In addition, interest expense with respect to all types of debts is fully deductible, provided the foreign parent company of a branch is liable for the debt concerned in the period during which the interest accrues. The right to deduct interest also requires that the debt have been contracted for the furtherance of a taxable business activity in Norway.[289] Deductibility may also be restricted by the specific limitation rules (see V.B.4.d., above). Interest on a loan provided by a head office to its branch is not accepted as a real cost and is, therefore, not deductible. The same rule applies to royalties on intangibles, etc. paid by a branch to a head office. Provided the foreign parent company is an entity that is comparable to a Norwegian limited liability company, its Norwegian branch will be covered by the participation exemption (see V.B.3.c., above).

The taxable income of a branch may be further protected by the terms of an applicable tax treaty,[290] in particular one that includes a nondiscrimination clause relating to the treatment of PEs.[291] Entities resident in the European Economic Area (EEA) may, in addition, be protected by the European Union (EU) "four freedoms" applicable to the single market, which by extension apply to Norway under the EEA agreement. For example, a branch will thus have access to the benefits of the group contribution rules (see V.B.3.g., above).

B. Method of Taxation

The method of branch taxation in Norway is as described at IX.C., above. The net profit attributable to a branch is subject to corporate income tax at the rate of 22%.[292] Profits of a branch may be remitted to the head office without being subject to withholding tax or other taxation.

Branch tax is assessed based on the tax return and is paid in three installments in the year following the fiscal year: two advance payments are due by February 15 and April 15, respectively, and a final payment is due within three weeks from receipt of the tax statement, which normally would mean in early October of the same year.

C. Books and Records

A foreign corporation with a Norwegian branch is required to keep books of account for its local business operations. The Accounting Act requires that the books be drawn up and maintained in accordance with generally accepted accounting principles and based on sound business practice. Journals and ledgers must be retained for a period of five years after the relevant accounting year. Documents relating to particular projects and the cost of constructing or upgrading fixed property, and transfer pricing documentation must be retained for a period of 10 years.

D. Assessment and Filing

The annual accounts provide the basis for the information to be included in the corporate tax return of the parent company. The tax rules differ significantly from the accounting rules on a number of points, particularly as regards the valuation of assets and the timing of income, gain and loss recognition. Special tax forms[293] are used for reconciling the figures presented in the profit and loss (P&L) statement and balance sheet with the figures to be entered in the corporate tax return, and to show temporary differences and the basis for calculating deferred tax liabilities or assets.[294]

With effect for the fiscal year 2023, all corporate entities, including a Norwegian branch of a foreign corporation, must file their tax return through a digital accounting system or financial reporting software. Filing on paper format is no longer possible.[295]

A foreign corporation with a Norwegian branch must file branch accounts and, in principle, also a copy of the accounting documents filed and made available for public inspection in its home country, including a translation of these documents into the Norwegian, Danish, Swedish or English language. Only the accounting documents made public in the home country are available for public inspection in Norway. The branch accounts will be made available for public inspection, however, if the foreign parent company refrains from filing its ordinary annual accounts in Norway. There is no public access to the corporate tax return.

E. Subsidiary vs. Branch

In general, there are no particular rules that make it more advantageous to run a business through a branch rather than a subsidiary or vice versa. From a purely Norwegian tax perspective, the only difference between the treatment of a branch and the treatment of a subsidiary relates to the availability of deductions for interest and royalties charged by the head office/parent (see A., above) and the taxation of the transfer of earnings to the head office/parent.

Profits transferred by a Norwegian subsidiary to its foreign parent company will constitute dividends and be subject to withholding tax at the rate of 25%.[296] There is no corresponding withholding tax on the transfer of profits by a branch to its foreign head office. However, this divergence in tax treatment is mitigated by the dividend withholding tax exemption that ap-

[289] Tax Act, Secs. 6-40, 4-31.
[290] OECD Model Convention, Art. 7.
[291] OECD Model Convention, Art. 24(3).
[292] Tax Act, Sec. 2-3.

[293] RF-1167 *Næringsoppgave* 2 for Norwegian companies or the simpler RF-1045 *Regnskapsutdrag.*
[294] RF-1267 *Spesifikasjon av forskjeller mellom regnskapsmessige og skattemessige verdier.* See V.B.2.a.
[295] For further information, see: Tax return for companies — The Norwegian Tax Administration (skatteetaten.no) at https://www.skatteetaten.no/en/business-and-organisation/tax-for-businesses/tax-return/companies/.
[296] Tax Act, Sec. 10-13.

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plies if the parent company is resident and incorporated in another EEA country, provided the parent company carries on genuine economic activities in that country.[297] Furthermore, the withholding tax rate on dividends paid to foreign shareholders is often reduced under the terms of an applicable tax treaty.

[297] Tax Act, Sec. 2-38.

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XI. Taxation of Partnerships

A partnership (including a limited partnership) is not recognized as a taxable entity. Instead, the net income accrued by such an entity is taxed at the level of its partners, irrespective of whether any distributions from the partnership are made to the partners.[298] The income determination is made as if a partnership were a taxable entity. The net taxable income attributable to a partnership is established by allowing deductions for expenses incurred for purposes of acquiring, maintaining, or protecting the partnership's taxable income. Amortization and depreciation of fixed assets is also taken at the partnership level. The same applies to the recognition and assessment of capital gains and losses on the sale of fixed and financial assets. The partnership's calculated net taxable profit or loss is then allocated to the partners for taxation.[299] Each partner's share is therefore necessarily determined by the partnership level depreciation and gain/loss recognition. The partnership's net profit or loss is divided among the partners and allocated to each partner in accordance with how the partners have decided to divide the partnership's profits. From 2015, however, limited partners are no longer allowed to deduct net losses allocated from a partnership against their other taxable income. Instead, net losses may be carried forward and set off against either future taxable profits of the partnership or gains on the realization of an ownership share in the partnership.

In a December 4, 2018, statement of principles, the Norwegian Directorate of Taxes stated that a foreign private equity fund that is established as a limited partnership is to be treated as a transparent entity for Norwegian tax purposes, i.e., in line with the principles accounted for above, if the general partner owns more than 0.1% of the limited partnership. If the general partner's ownership interest is less than 0.1%, the tax authorities will carry out a wider assessment to determine whether the limited partnership is to be treated as a transparent entity.

The participation exemption applies to partnerships in essentially the same manner as it applies to companies. (For further discussion, see V.B.3.b., c., and d., above).

The net wealth tax value of a partnership's assets and debts is divided among and allocated to the partners in accordance with their shares in the partnership.[300]

[298] Tax Act, Sec. 10-41.
[299] Tax Act, Sec. 10-41.
[300] Tax Act, Sec. 4-40.

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XII. Taxation of Other Business Entities

A. Cooperatives

A cooperative is a separate entity, established with the intention of furthering the economic interest of its members and making a profit. Apart from the contributed capital, the members of a cooperative are not personally liable for the debts and other obligations of the cooperative.

In general, a cooperative is taxed in the same manner as a limited liability company. The cooperative is subject to the same method of determining profits and the same corporate income tax rate (see V., above). A cooperative may also benefit from the participation exemption regime and the rules related to company group contributions.

However, some special tax rules concerning cooperatives apply. For certain kinds of cooperatives, repayments to cooperative members are deductible.[301] The deduction is only allowed in relation to income attributable to a trade between the cooperative and its members. Furthermore, unlike a limited liability company, a cooperative is also subject to net wealth tax at the rate of 0.15%.

B. Sole Proprietorships

A sole proprietorship is a private business, which is formed when an individual begins to carry on business activity on an independent and permanent basis. The conduct of a private business as such does not constitute a legal or taxable entity. Instead, the owner is fully liable for all the rights and obligations arising out of contracts entered into in the name of the business and is liable for the taxes on the business profits and losses.

Any profits and losses made by a private business are reported in the tax return of the individual proprietor. (For a discussion of the rules on the taxation of individuals, see XIII., below.)

[301] Tax Act, Sec. 10-50.

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XIII. Taxation of Resident Individuals

A. *Scope of Taxation*

A Norwegian resident individual is subject to Norwegian tax based on their worldwide income and wealth.[302] International double taxation is can be mitigated or eliminated pursuant to an applicable tax treaty or the domestic foreign tax credit provisions in cases where there is no applicable tax treaty (see XIX.A., below).

B. *Residents*

An individual is tax resident in Norway if he or she resides in Norway on more than a temporary basis. In any case, an individual who is present in Norway for more than 183 days during any 12-month period, or for more than 270 days during any 36-month period, is considered a resident of Norway for tax purposes.[303] It is not required that the individual reside continuously in Norway during such periods.

An individual is no longer considered resident in Norway for tax purposes if all the following conditions are fulfilled:

(i) The individual has his or her permanent residence in another country. This condition is fulfilled if the individual's proven intention is to reside in the other country for a period exceeding five years;[304]

(ii) The individual has not stayed in Norway for more than 61 days annually; and

(iii) Neither the individual nor his or her spouse, common-law spouse or child under 18 years of age has any kind of housing[305] at his or her disposal in Norway.

An individual who has been resident in Norway for 10 years or more will be considered resident in Norway for tax purposes until the expiration of the third year after an individual has taken up permanent residence in the other country. An individual's annual stay in Norway during this three-year period must not exceed 61 days and the individual or his or her spouse, common-law spouse or child under 18 years of age, must not have any kind of permanent housing at their disposal in Norway during this three-year period.

C. *Determination of Gross Income*

Norwegian tax law distinguishes three categories of income: earned income, business income, and capital income.[306]

1. Earned Income

Earned income comprises benefits in cash or in kind attributable to personal efforts within or outside the context of a contractual employment relationship.[307]

Benefits may take the form of cash payments, such as salary, vacation pay, commissions, fees and bonuses, or other types of remuneration attributable to personal efforts. Benefits may also take the form of virtual (or digital) assets. Some cash payments are, however, exempt, such as certain severance payments made according to the tariff in a contractual employment relationship and strike pay received from a trade organization.[308]

Reimbursements of work-related expenses are nontaxable to the extent they do not exceed tax deductible expenses. Reimbursements of non-work-related expenses are classified as taxable income.[309] Benefits-in-kind attributable to personal efforts, such as a free or subsidized car, newspapers, a telephone, or food and accommodation, are also considered taxable earned income.

As a rule, benefits-in-kind are valued at market value.[310] However, benefits-in-kind are in practice often valued in accordance with specific rules, which may result in a value lower than market value. For instance, the benefit of an employee's free private use of an employer's car is normally valued at a certain percentage (20% or 30%, depending on the price of the car) of the car's (new) listing price. Furthermore, if a taxpayer is provided with a low-interest loan in the context of an employment relationship, the value of the below-market interest is considered a taxable benefit attributable to the taxpayer's personal efforts. The benefit is valued based on the difference between a rate of interest determined by the Ministry of Finance and the interest rate on the loan.

Gains on share options provided by an employer are regarded as earned income. The taxable gain is assessed at the market value of the shares on the date of exercise or sale of the share option, less the exercise price and purchase price (if any). The benefit is taxed at the time of the exercise or sale of the share option, and not at the time of grant. Special provisions apply to gains on share options in small start-up companies, under which an employee may receive share options with a market value of up to NOK three million without taxation at the time of grant or the exercise of the option, including previously granted options.[311]

A number of benefits in-kind are tax-exempt. Subsidies in relation to kindergarten expenses for an employee's children are tax exempt, subject to certain limits.[312] Furthermore, the financing by an employer of costs connected with post-qualifying education, such as costs related to teaching, educational material, fees and travel, are generally tax-exempt in the hands of the employee, provided the education results in a competence that can be utilized during work performed for the employer.

Minor benefits-in-kind, such as gifts made by an employer (up to a certain value) and certain inexpensive welfare arrangements, such as subsidized canteen meals and staff discounts on goods that are produced or sold in the employer's business, are

[302] Tax Act, Sec. 2-1.

[303] Tax Act, Sec. 2-1.

[304] The "proven intention-test" is a "safe haven," not a minimum requirement. The permanent residence condition will most likely be regarded as fulfilled if the individual is able to prove a stronger connection to the other country than to Norway.

[305] Housing is defined as any housing used as an abode, or any housing property with a year-round water supply and sewage, unless government regulations state that the housing property may not be used as an abode.

[306] Tax Act, Sec. 5-1.

[307] Tax Act, Secs. 5-1, 5-10.

[308] Tax Act, Sec. 5-15.

[309] Tax Act, Sec. 5-11.

[310] Tax Act, Secs. 5-12, 5-3.

[311] Tax Act, Sec. 5-14.

[312] Tax Act, Sec. 5-15.

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also exempt.[313] Revised rules in force from 2019 make it clear that benefits-in-kind received from a party other than the employer are also taxable and that the value limits for tax-exemption purposes are related to the sale price in the end-user market. Special rules were introduced for staff discounts granted by transportation companies (bus, train, metro, airline, etc.) with effect from 2020.

Although the earned income of a resident taxpayer is generally taxed on a worldwide basis, income attributable to personal efforts performed in another country may be exempted from taxation in Norway if the individual has worked abroad for a period exceeding 12 months.[314] The main requirements for qualifying for the exemption are as follows:

(i) The primary reason for and purpose of the stay abroad must be to perform work;

(ii) The stay must be for an uninterrupted period of 12 months or more;

(iii) Short visits to Norway do not interrupt the stay abroad; the taxpayer has the right to stay for up to six days in Norway for each month spent abroad;

(iv) Norway may not have the exclusive right to tax earned income under the terms of an applicable tax treaty. The income does not need to be subject to taxation abroad;

(v) The work may not be performed primarily outside the other country's jurisdiction, for example, in international waters.

2. *Business Income*

Business income comprises all benefits in cash or in-kind attributable to business operations.[315] Typical forms of business income are remuneration from the provision of goods or services, capital income connected to a business operation and gains from the sale of fixed assets. A business activity must have attained a certain level and duration before the income from it is classified as business income. Occasional or incidental income or income derived from a hobby is not considered to be business income. Furthermore, the activity concerned must be suitable for producing a profit and the activity must be operated for the taxpayer's account and risk.

3. *Pension Income*

Payments under pension schemes are taxable income provided the corresponding pension premiums were tax-deductible.

4. *Income from Capital*

Income from capital comprises all economic benefits attributable to capital.[316] As in the case of earned income and business income, both cash payments and benefits-in-kind may be treated as taxable income. Income from capital comprises benefits from real property and intangible assets, such as rental income and the value of the taxpayer's private use of such assets. Benefits from financial assets, such as cash, shares, share options and claims, where the income typically is in the form of interest and dividends, are also covered. Income from virtual (or digital) assets is also taxable as income from capital. Income from virtual assets can be derived through various means, including staking, airdrops and yield farming.

The participation exemption rule does not apply to individuals. Dividends (i.e., distributions of current or retained profits after tax) are therefore considered taxable income from capital, but only to the extent they exceed a calculated tax-free allowance (*skjerming*) aimed at shielding an amount equal to a risk-free return on the invested capital.[317] The tax-free allowance is calculated as the acquisition cost of the share multiplied by an interest rate (*skjermingsrente*) equal to the average interest rate on Norwegian Treasury bills of three months duration and is fixed on an annual basis by the Ministry of Finance (3.2% in 2023). As of October 7, 2015, the granting of a loan and any increase of an existing loan to an individual shareholder is taxed as a dividend in the hands of the shareholder. Furthermore, from 2016 the taxable amount of the dividend must be multiplied by an annually specified factor as part of the tax assessment. The factor for 2023 is 1.72, thereby resulting in an effective tax rate of 37.84%. The rationale for this increase has mainly been the desire to maintain the combined tax burden on income from investments in companies at approximately the same level as in 2015, i.e., to counter the effect of the reduction in the tax rate from 27% to 22% (2021).

Some special rules apply to individuals who are partners in a partnership. As discussed in XI., above, the net income accrued by a partnership is taxed at the level of its partners, whether individuals or legal entities, and irrespective of whether the partnership makes any distributions to the partners.[318] Individuals are, however, subject to further taxation on receipt of a distribution from a partnership. Such a distribution is considered taxable income, subject to a tax-exempt threshold amount. A partner's already-taxed share in the partnership profits is deducted from the total taxable income of the partner. As of May 11, 2016, the granting of a loan and any increase of an existing loan to an individual partner is taxed as a distribution in the hands of the partner. Furthermore, the tax-free allowance rules (*skjerming*) for dividends also apply, so that the original cost of the partner's share in the partnership, multiplied by the annual risk-free return rate (3.2% in 2023), may be deducted.[319] If a dividend or partnership distribution for a particular year is less than the calculated risk-free interest, the surplus tax-free amount can be carried forward and set off against dividends distributed or partnership distributions made to the partner concerned in a subsequent year.

Example: A partnership, consisting of a limited company and a private individual each holding a 50% ownership interest for which they paid 500 each, makes a net profit of 100, of which 30 is distributed to each partner and 40 retained in the partnership. The partners are allocated 50 each of the net profit, subject to tax at the rate of 22%. The

[313] Tax Act, Sec. 5-15.
[314] Tax Act, Sec. 2-1.
[315] Tax Act, Secs. 5-1, 5-30.
[316] Tax Act, Secs. 5-1, 5-20.
[317] Tax Act, Sec. 10-11.
[318] Tax Act, Sec. 10-41.
[319] Tax Act, Sec. 10-42.

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corporate partner is not taxed on the distribution, but the individual partner is taxed on the distribution, minus the tax paid and the tax-exempt threshold amount based on the risk-free return on interest:

Amount received:	30
a. Tax paid (50 × 22%)	11
b. Tax exempt threshold amount (500 × 3.2%)	16
= Taxable amount to be multiplied by 1.72	3

As with distributions from a company, distributions from a partnership are also multiplied by a factor of 1.72 before the tax is calculated.

Income derived from intangible assets, such as copyrights, patent rights and design copyrights, is classified as income from capital.

Certain forms of income from capital are tax-exempt. Thus, the benefit derived by a taxpayer from using his or her own residential property is tax exempt,[320] as is certain rental income derived from renting out the taxpayer's own residential property.[321]

5. Capital Gains

As a rule, capital gains are taxable in the same manner as other income from capital.[322] The liability to tax on capital gains arises on the disposal, whether by the sale or destruction of, or any other form of abandonment of proprietary rights in, an asset, which may be a tangible asset, a financial instrument, a virtual (or digital) asset, an intangible asset or a right related to such an asset. Capital gains resulting from the disposal of assets connected to a business activity are classified as business income and taxed accordingly. From 2016, capital gains from the disposal of assets used in an agricultural or forestry business are taxed as income from capital, and no longer included in taxable business income.

The taxable capital gain is any positive difference between a asset's selling price, the amount of compensation received or the asset's market value (minus sales expenses) and the asset's original cost, minus deducted depreciation.

There are certain exemptions from capital gains tax. Gains on household goods utilized in the residence of a taxpayer or his or her family are exempted from taxation.[323] Along this line, non-fungible tokens (NFTs) may be exempt from capital gains tax if the NFT is considered a household good. However, this is only in the rarest of cases, as an NFT is considered a digital code and not the piece of art it might be connected to. For an NFT to be considered a household good, a prerequisite is that it is acquired to be used in the taxpayer's house. Furthermore, gains on the disposal of a taxpayer's residential property are also exempt provided the taxpayer has owned the residential property for a period of more than one year and the taxpayer has used the property as his or her residence for a minimum of one out of the two years immediately preceding the sale of, the destruction of or other form of abandonment of proprietary rights in, the property.[324] Gains on vacation homes are also exempt provided the taxpayer has owned the property for a period of more than five years and has used the property as his or her vacation home for a minimum of five out of the eight years immediately preceding the sale of, the destruction of or other form of abandonment of proprietary rights in, the property.

Exemptions also apply with respect to gains on agricultural and forestry property[325] provided: (i) the property is sold to the taxpayer's immediate family members; (ii) the remuneration received on the sale does not exceed 3/4 of the expected sales price; and (iii) the seller has owned the property for 10 years or more.

The participation exemption, under which capital gains and dividends of qualifying corporate shareholders are subject to very reduced taxation, does not apply to individuals. Thus, gains on shares are considered taxable income. However, unused surplus tax-free amounts of dividend payments made to an individual (see 4., above) may be deducted from the taxable gain on shares.[326] As for dividends, net taxable capital gains on shares are also multiplied by a factor, as illustrated below.

Example:

Original cost of share	5,000
Unused surplus tax-free amount	200
Share sale price	5,500
Gain	500
Deduction for unused surplus tax-free amount	200
Taxable gain to be multiplied by 1.72	300

D. Deductions and Credits

Expenses incurred by a taxpayer are generally deductible, provided they are incurred for purposes of acquiring, maintaining or protecting taxable income.[327] However, a tax allowance for accrued costs is available only if the taxpayer has a contractual obligation to pay the expenses at the end of the financial year concerned and only if the liability can be estimated accurately.

As regards expenses incurred for purposes of acquiring, maintaining or protecting earned income, a special standard deduction (*minstefradrag*) applies. The standard deduction amounts to 46% of the taxable earned income,[328] subject to a minimum of NOK 31,800 and a maximum of NOK 104,450 (2024). A taxpayer has a right to the further deduction of actual

[320] Tax Act, Sec. 7-1.
[321] Tax Act, Sec. 7-2.
[322] Tax Act, Secs. 5-1, 5-30.
[323] Tax Act, Sec. 9-3.
[324] Tax Act, Sec. 9-3.
[325] Tax Act, Secs. 9-3 and 9-13.
[326] Tax Act, Sec. 10-31.
[327] Tax Act, Sec. 6-1.
[328] Tax Act, Secs. 6-30–6-32.

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accrued expenses related to earned income that exceed NOK 104,450 (2024).

Expenses incurred for purposes of acquiring, maintaining or protecting taxable capital income, such as remuneration paid for the management of an investment portfolio, are deductible.

The acquisition cost of assets used for business purposes with a value exceeding NOK 30,000 and a useful life of more than three years is not considered an accrued expense in the year of acquisition and may not be deducted immediately. Instead, the acquisition cost of certain fixed assets may be deducted by way of depreciation (see V.B.4.f., above) or deducted when the assets are sold or destroyed, or the proprietary rights in them are otherwise abandoned.[329]

Expenses incurred for purposes of acquiring, maintaining or protecting business income, such as salaries, rental expenditures and other operating expenses, are deductible.

Nursery expenses and childcare expenses incurred in relation to children under the age of 12 are deductible up to NOK 25,000 annually for the first child and up to NOK 15,000 annually for each subsequent child.[330]

Labor union membership fees are deductible up to a maximum of NOK 8,000 (2024).[331] Furthermore, an allowance for the cost of commuting to work is available to the extent the travel expenses exceed NOK 14,950 (2024) annually. The allowance is based on the distance in kilometers between a taxpayer's home and his or her permanent workplace.[332]

Payments of pension premiums are tax-deductible, provided the pension scheme meets specific requirements, for example, that it is a collective scheme covering all the employees of a company. Payments to individual pension schemes that meet specific requirements are deductible up to a maximum of NOK 15,000.[333]

Donations to nonprofit entities that satisfy certain criteria are tax-deductible up to NOK 25,000 (2024) annually.[334]

Interest expenses are fully deductible for all types of debt provided the taxpayer is liable for the debt in the period in which the interest accrues.[335] All costs paid to a lender related to the obtaining and maintenance of debt capital are considered deductible interest. Debt interest is fully deductible even if the relevant loan is not related to the acquisition, maintenance or protection of taxable income.

Capital losses are deductible to the same extent as capital income is considered taxable income (see C.4., above).[336]

Married couples may elect for combined tax assessment. This is beneficial for couples where one of the individuals has high income while the other has little or no income. Net wealth tax is always assessed on a combined basis.

A tax credit of up to NOK 86,250 (2024) is available to individuals receiving pension income.

[329] Tax Act, Secs. 14-40–14-48.
[330] Tax Act, Sec. 6-48.
[331] Tax Act, Sec. 6-20.
[332] Tax Act, Sec. 6-44.
[333] Tax Act, Sec. 6-47.
[334] Tax Act, Sec. 6-50.
[335] Tax Act, Sec. 6-40.
[336] Tax Act, Sec. 9-4.

E. Tax Rates and Calculation of Taxable Income

1. In General

For purposes of individual taxation, the Tax Act distinguishes between two bases of calculation — one for ordinary income (*alminnelig inntekt*) and one for personal income (*personinntekt*):

- Ordinary income is calculated on a net income basis that comprises earned income, business income, pension income and capital income minus allowable deductions. National income tax, as well as municipal tax and county tax, are calculated based on ordinary income;

- Personal income is calculated on a gross income basis that comprises earned income, business income and pension income, but not income from capital. The "bracket tax" (*trinnsskatt*) and the social security contribution (*trygdeavgift*) are calculated based on personal income.

The base (or common) income tax rate (*Nw.: alminnelig inntektsskattesats*) consists of municipal tax, county tax, and national income tax at the combined rate of 22%. This rate applies to all three categories of income (earned/business/capital). The combined rate (2023) is comprised of municipal tax (*Nw.: kommuneskatt*) at the rate of 10.95%, county tax (*Nw.: fylkesskatt*) at the rate of 2.40% and national tax (*Nw.; fellesskatt*) at the rate of 8.65%. For residents of certain rural areas of northern Norway, the national tax rate is reduced to 5.15%, resulting in a combined rate of 18.50%

A progressive bracket tax applies only with respect to earned income and business income.

2. Earned Income

Earned income constitutes a part of ordinary income and, as such, is subject to municipal tax, county tax and national income tax at the combined rate of 22%. Furthermore, earned income constitutes a part of personal income[337] and, as such, is subject to bracket tax, which is levied on income in five brackets (2023) as follows:

- 1.7% on income of NOK 198,350 to 279,149;
- 4.0% on income of NOK 279,150 to 642,949;
- 13.5% on income of NOK 642,950 to 926,799 (a reduced rate of 11.5% applies in certain rural parts of northern Norway);
- 16.5% on income of NOK 926,800 to 1,499,999;
- 17.5% on income above NOK 1,500,000.

In addition, the social security contribution is levied on earned income at the rate of 7.9%; the rate is 11.1% for the self-employed.

The top combined marginal tax rate on earned income is 47.4% or 55.8% taking into account the employer's social security contribution.

[337] Tax Act, Sec. 12-2.

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3. Business Income

Business income constitutes a part of ordinary income and, as such, is subject to municipal, county and national tax at the combined rate of 22%. Furthermore, business income, as determined under Section 12-11 of the Tax Act, constitutes a part of personal income and, as such, is subject to surtax and the social security contribution.[338]

In brief, the business income that is included in personal income is the net profit from a business minus profits and gains on financial assets[339] minus an allowance equal to a risk-free return on the tax value of the business assets less debt assumed for business purposes. Bracket tax is levied on the same basis and at the same levels as for earned income (see 1., above). The social security contribution is levied on business income at the rate of 11.1%. This means that the top combined marginal tax rate on business income is 50.6% (2023).

4. Pension Income

Income from pension schemes constitutes a part of ordinary income and, as such, is subject to municipal, county and national income tax at the combined rate of 22%. Furthermore, pension income constitutes a part of personal income[340] and, as such, is subject to bracket tax, which is levied based on the same brackets as earned income (see above). In addition, the social security contribution is levied on pension income at the rate of 5.1% (2023). This means that the top combined marginal tax rate on pension income is 44.6% (2023).

5. Income from Capital

Income from capital, including capital gains (see XIII.C.5., above), constitutes part of ordinary income and, as such, is subject to municipal, county and national tax at the combined rate of 22% (2023). Income from capital does not constitute part of personal income and is not subject to the surtax or the social security contribution. Accordingly, the top combined marginal tax rate on capital income is 22%.

F. Assessment and Filing

The tax year reflects the calendar year. Tax returns may be filed in hard copy or via the Internet. Individuals with business income (see XIII.E.3 above) are required to file via the Internet. The annual tax return must be submitted by the end of April, or by the end of May if it includes business income and filed over the Internet. Extensions may be granted.

Every individual who is liable to Norwegian taxation receives a pre-completed tax return (see the Worksheets) including information from, among others, banks and the individual's employer. An individual is required to check that the information in the pre-completed tax return is correct and to rectify it if anything is incorrect or missing before submitting the return.

The filing of an incorrect or incomplete form may trigger penalties based on the amount of tax that was or could have been evaded as a result of the wrongful information. The basic penalty rate is 20% of the evaded tax. The rate may be reduced to 10% or even zero if the inadequate filing has its cause in excusable circumstances. On the other hand, the rate may be increased to 40% or 60% in cases of gross negligence or willful misconduct. Such cases may also be subject to criminal proceedings as constituting tax fraud, which is punishable by imprisonment for up to six years.

Provided the tax return is filed on time, the tax authorities will normally have finalized their assessment by early June of the same year, or alternatively by August (sometimes later). The tax authorities may, however, reopen and amend tax assessments. The basic statute of limitations period is five years from the end of the income year. The limitation period is extended to 10 years in cases of gross negligence or willful misconduct.

G. Audit Process and Statute of Limitations for Assessment and Collection of Taxes

The audit process and statute of limitations for domestic corporations (see V.B.10., above) also applies for individuals.

H. Exit Taxation

Exit tax rules apply to the total contingent gains on the shares and options of individual taxpayers exceeding NOK 500,000.[341] The calculation of the taxable benefit is based on the value of the shares and options as of the penultimate day before the day the individual is regarded as a non-resident according to the domestic rules or the day on which an individual is regarded as tax resident in another country according to an applicable tax treaty.

In recent years, in response to rising taxes on wealth and distributions, record numbers of wealthy Norwegians have either moved abroad to low-tax destinations or are considering to do so, particularly to Switzerland.

Comment: The tax treaty between Norway and Switzerland protects against Norwegian tax on wealth and reduces the tax on dividends to a maximum of 15% from the first day of Swiss tax residency.

To counter this trend, the exit tax rules have become more rigid. Previously, a five-year limit applied on any unrealized gains subject to the exit tax net, implying that the exit tax lapsed if the shares and options were owned continuously for more than five years from the date of exit from Norway. As of November 29, 2022, the five-year rule has been abolished. Furthermore, the exit tax rules were also broadened to cover instances involving transfers of shares to close family members living abroad. As of March 20, 2024, the possibility of deferring the payment of exit tax until the realization of shares and options has also been abolished. The taxpayer may choose to pay the full amount of exit tax immediately, in arrears over 12 years, or the full amount in year 12 with interest added. Note that the death of a taxpayer is viewed as realization event, thereby introducing a sort of death tax.

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[338] Tax Act, Sec. 12-10.

[339] Tax Act, Sec. 12-11. Gains and profits on financial assets will thereby be taxed separately and without the bracket tax and the social security (national insurance) contribution.

[340] Tax Act, Sec. 12-2.

[341] Tax Act, Sec. 10-70.

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XIV. Taxation of Nonresident Individuals

A. In General

As a rule, persons who are not considered resident in Norway for tax purposes are not subject to unlimited tax liability in Norway. Instead, they may be subject to limited tax liability in Norway to the extent they derive certain types of income from Norwegian sources.

Taxes imposed under the Norwegian domestic legislation applicable to nonresident individuals, however, may be subject to reduction, and in some cases even entirely waived, under the terms of an applicable tax treaty.

The Norwegian tax due on the income of a nonresident individual is determined in accordance with the general rules under the Norwegian tax legislation, including the rules on accrual, allowable deductions, etc.[342]

B. Business Income

The treatment of business income of a nonresident individual is similar to the treatment of business income of a nonresident corporate taxpayer (see IX., above). Assuming no applicable tax treaty limits his or her tax liability, a nonresident individual is liable to pay Norwegian tax on income from business activities that he or she performs or in which he or she participates and that are carried on in or managed from Norway. Business activities involving the hiring out of personnel to other parties in Norway are also included.[343]

For the tax liability to arise, a business activity of a certain level and duration must be performed in Norway — a single transaction or passive capital return is not sufficient. A business activity is considered to be carried on in Norway by a nonresident individual if the individual has a location for trade, a storehouse or an office situated in Norway. Solely contracting with Norwegian residents or making use of an independent agent in Norway does not automatically render a nonresident individual liable to tax in Norway. However, if the relationship with the independent agent is firm and lasting, and certain rights, such as signature rights and the authority to enter into agreements, are conferred on the agent, the latter might be classified as a business activity carried on in Norway resulting in limited tax liability for the nonresident individual.

The Tax Act has no "permanency test" that needs to be met with regard to the activities carried on in Norway by a nonresident individual engaged in business abroad for the individual to become taxable on income deriving from such business activity in Norway. A nonresident individual without tax treaty protection could therefore become taxable in Norway on business income even in the absence of a permanent establishment (PE) in Norway.[344] However, Norway has entered into tax treaties with approximately 80 countries and, consequently, most nonresident individuals doing business in Norway are protected under the terms of a treaty, which requires the existence of a Norwegian PE before Norwegian tax liability can arise.[345]

C. Investment Income

1. Income from Tangible Assets

Income derived from tangible property situated in Norway and owned or controlled by a nonresident individual is subject to taxation in Norway.[346] The tax liability comprises returns on capital as well as capital gains. Income from tangible property effectively connected to business activities in Norway is taxed as business income (see B., above).

Tangible property comprises real property as well as movable tangible property situated in Norway. Unless protected under a tax treaty, nonresident individuals, therefore, may be taxed in Norway on income, including gains, from movable property (including ships and aircraft) situated in Norway.

2. Income from Shares

In general, nonresident individual shareholders are subject to withholding tax at the rate of 25% on dividend payments from a company resident in Norway.[347] The withholding tax rate for nonresident shareholders is, however, often reduced under the terms of an applicable tax treaty.[348]

Under a specific rule, dividends are taxable only to the extent the amount of the dividend exceeds a risk-free return on the invested capital (see XIII.C.4., above, for details). However, this rule applies only with respect to individuals resident within the European Economic Area (EEA).

There is no tax liability on gains attributable to the sale by a nonresident individual of shares in a company resident in Norway, except gains from the sale of shares that are effectively connected to business activities that the nonresident individual performs or participates in, and that are carried on in or managed from Norway.

Note: Under Norwegian tax law, liquidation proceeds, i.e., the final distribution of a limited company upon its dissolution, are treated as remuneration for shares and not as dividends. This implies that such proceeds do not attract dividend withholding tax. However, a government committee has recently proposed that this rule be changed, so that liquidation proceeds would become subject to dividend withholding tax. As of this writing, the proposal has not yet been considered by Parliament.

3. Interest

Interest payments received from a Norwegian debtor by a nonresident individual are exempt from Norwegian taxation. However, if the income is effectively connected to business activities that the nonresident individual performs or participates in, and that are carried on in or managed from Norway, the income is subject to taxation in Norway.

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[342] Tax Act, Sec. 2-3.

[343] Tax Act, Sec. 2-3.

[344] The fact that the only requirement is for the taxpayer to be engaged in business somewhere and the lack of a permanency test with respect to business activities in Norway means that, if a foreign business is expanded to Norway even for just one day, the income derived from that one-day business activity in Norway would be taxable in Norway as business income.

[345] OECD Model Convention, Art. 5.

[346] Tax Act, Sec. 2-3.

[347] Tax Act, Secs. 2-3, 10-13.

[348] OECD Model Convention, Art. 10 prescribes withholding tax at the rate of 15%.

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4. Royalties

Royalty income from Norwegian sources paid to a nonresident individual is exempt from Norwegian taxation. However, if the income is effectively connected to business activities that the nonresident individual performs or participates in, and that are carried on in or managed from Norway, it is subject to taxation in Norway.

D. Employment Income and Director's Fees

A nonresident individual may be subject to Norwegian tax on benefits from personal endeavor exercised in Norway. This limited tax liability arises if:[349]

(i) The income is remuneration for work performed in Norway under the instructions, and for the benefit, of an employer that is taxable in Norway; or

(ii) The income comprises director's fees received from a company resident in Norway, regardless of where the director performs his or her duties.[350] Special rules apply for seamen and individuals employed by the Norwegian government.

Furthermore, a nonresident individual who is an employee of a nonresident employer but is hired out to another party to perform work in Norway is liable to pay Norwegian tax on income derived from the work performed in Norway.[351]

Note: The geographical jurisdiction of the Tax Act extends to the Norwegian territorial waters, i.e., 12 nautical miles from shore. The Petroleum Tax Act, however, has a geographical jurisdiction covering the Norwegian Continental Shelf.[352] Income from work performed within the geographical and functional jurisdiction of the Petroleum Tax Act, e.g., work performed on installations connected to the exploration or exploitation of petroleum, is thereby taxable to Norway.[353] Furthermore, on April 2, 2024, the Norwegian Government proposed the introduction of a tax liability for non-resident's income from work performed on the Norwegian Continental Shelf and within the 200 nautical mile Economic Zone of the North Sea, in so far as such work is related to the exploration and exploitation of minerals, renewable energy resources, carbon capture storage, or the exploration and production of aquatic organisms (aquaculture).

In general, nonresident individuals are liable to pay Norwegian tax on income from work performed in Norway even if protected under a tax treaty, unless certain conditions are fulfilled.[354] Under a Norwegian tax treaty based on the Organisation for Economic Cooperation and Development (OECD) Model Convention, a nonresident individual deriving income from work performed in Norway is not liable to pay Norwegian tax on such income provided:

(i) The individual stays in Norway for a period not exceeding in the aggregate 183 days[355] in any 12-month period commencing or ending in the fiscal year concerned;

(ii) The remuneration is paid by, or on behalf of, an employer that is not a Norwegian resident;[356] and

(iii) The remuneration is not borne by a PE that the employer has in Norway.[357]

This implies that, unlike a nonresident individual not protected under a tax treaty or an individual working for a Norwegian employer, a treaty-protected nonresident individual working for a nonresident employer is not liable to pay Norwegian tax provided his or her stay in Norway does not exceed 183 days.

Comment: Norway's tax treaties do not apply outside mainland Norway and only within its territorial waters. The tax treaties, therefore, do not apply to Norwegian overseas territories, such as Svalbard, and they also do not apply to the Norwegian Continental Shelf or the 200 nautical mile Economic Zone unless specifically included.[358]

From 2019, a new and simplified tax scheme for foreign workers in Norway was introduced. The scheme called PAYE (Pay As You Earn) is optional for workers who either have short stays in Norway or for whom the year concerned is their first year of residence for tax purposes in Norway. In short, under the scheme, the income is taxed at a rate of 25% when salary is received (i.e., the tax is deducted from gross earnings). The rate includes the 8.2% national insurance contribution. Under the scheme, there is no obligation to file a tax return and no tax settlement will be issued by the tax administration. The tax deducted by the employer is the final tax settlement.

A foreign individual satisfies the PAYE criteria if the individual:

(i) Is a foreign worker who works in Norway for short periods of time; or

(ii) Is a foreign worker who works in Norway and is in the first year of his or her residence in Norway for tax purposes; or

(iii) Lives abroad and receives director's fees and similar remuneration from Norwegian companies; and

(iv) Earns less than NOK 642,950 per year (applies to the 2023 tax year)

When applying the scheme, it is not possible to claim any deductions.

[349] Tax Act, Sec. 2-3.
[350] Tax Act, Sec. 2-3.
[351] Tax Act, Sec. 2-3.
[352] Petroleum Tax Act, Sec. 1.
[353] Petroleum Tax Act, Sec. 2.
[354] OECD Model Convention, Art. 15.

[355] Most Norwegian tax treaties, including the tax treaty with the United States, specify that income from work related to exploration or exploitation of petroleum and performed on the Norwegian Continental Shelf is taxable to Norway if the work period exceeds the aggregate of 30 days in any 12-month period.
[356] Some Norwegian tax treaties (e.g., the Norway-Netherlands and Norway-Germany tax treaties) have stricter standards by way of requiring that the employer be resident in the same state as the employee.
[357] OECD Model Convention, Art. 15.
[358] Most Norwegian tax treaties, including the treaty with the United States, specifically extend to the Continental Shelf, but the treaties with Switzerland and Italy do not.

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E. Pension Income

Pension payments are subject to withholding tax at the rate of 15% if the premium was tax-deductible for Norwegian income tax purposes.[359] This applies only if the individual in receipt of the payments:

(i) At some time was covered by the Norwegian social security scheme; and

(ii) Had a certain level of earned income and/or business income.[360]

The withholding tax may be reduced under an applicable tax treaty.

F. Special Income Tax for Artists, Sportsmen, etc.

Provided no applicable tax treaty limits taxation, nonresident individuals performing economic activities in Norway as artists, sportsmen, etc., or involved in the activities performed by such artists, are generally liable to pay Norwegian tax on income attributable to these activities.[361] The tax is imposed on gross income, without any deductions, at the rate of 15% (2024).

G. Allowable Deductions

Generally, the rules on deductions applicable to a resident individual are also applicable to a nonresident individual with limited tax liability in Norway. Expenses incurred by a nonresident taxpayer are generally deductible, provided they are incurred for the acquisition, maintenance or protection of income that is taxable in Norway.[362] However, some special rules apply to nonresident individuals.

As in the case of resident individuals, a special standard deduction applies in place of the deductibility of expenses actually incurred in relation to earned income. The standard deduction amounts to 40% of taxable earned income, subject to a minimum of NOK 31,800 and a maximum of NOK 104,450.[363] In the case of a nonresident individual, however, these limits are prorated depending on the length of time for which the individual stays in Norway during the year.[364] Notwithstanding this adjustment, the standard deduction may not amount to less than NOK 4,000. In the case of an individual resident in another EEA country, the standard deduction is not reduced in accordance with the length of the individual's stay in Norway, provided the total income or nearly the total income of the nonresident individual derives from Norway.[365]

A nonresident individual with earned income taxable in Norway may, in lieu of the ordinary deductions, opt for a flat deduction amounting to 10% of his or her taxable earned income in Norway. The deduction may not exceed NOK 40,000.[366]

[359] Tax Act Sec. 2-3.
[360] The minimum level is set annually (NOK 90,800 in 2022).
[361] Tax Act for Artists (*Artistskatteloven*, 1996-12-13-87), Sec. 3.
[362] Tax Act, Secs. 6-1, 6-92.
[363] Tax Act, Secs. 6-30–6-32.
[364] Tax Act, Sec. 6-32.
[365] Tax Act, Sec. 6-71. As a rule, the exemption applies if 90% of the nonresident individual's income derives from Norway.
[366] Tax Act, Sec. 6-70.

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XV. Estate/Inheritance Tax/Transfer and Gift Tax

See IV.C., above.

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XVI. Wealth Tax

See IV.G., above.

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XVII. Transfer Pricing

A. Adjustment of Inter-Company Prices

1. Scope of the Provision

Under specific regulations, the Norwegian tax authorities are empowered to adjust a taxpayer's taxable income if the taxpayer's income has been reduced as a consequence of a direct or an indirect common interest with another party. If the tax authorities find that commercial or financial conditions agreed to between the parties deviate from those independent parties would have agreed to, resulting in lower taxable profits than would have been obtained had the parties not been associated, the taxable income may be adjusted up to an arm's-length level. The regulations, which are in line with the Organisation for Economic Cooperation and Development's (OECD's) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, apply to domestic and international transactions undertaken between related parties.[367]

The regulations have a comprehensive scope: a common interest may be deemed established by personal as well as financial circumstances, such as a direct or indirect family relationship, ownership interests, debt liabilities or specific contractual obligations, security interests or guarantees.[368] Transactions and dealings between a branch and its head office fall outside the scope of the regulations as a branch is not a separate tax entity and hence cannot be regarded as a related party for purposes of the transfer pricing legislation.

For further discussion of Norway's transfer pricing system, see also Chapter 125 of 6965 T.M., Transfer Pricing: Rules and Practice in Selected Countries (M–P).

2. Determination of Arm's-Length Price

With regards to the sale of goods, the rendering of services, or the payment of interest, royalties or management fees, the determination of the arm's-length price is initially made by reference to the open market. If a comparable unrelated transaction cannot be established, the Norwegian tax authorities may establish a price by adding an appropriate mark-up or reducing profits at a later stage of the market. It is also possible to express certain fees in terms of a percentage of, for example, turnover. The Tax Act provides explicitly that the OECD Transfer Pricing Guidelines must be taken into consideration when applying the Norwegian arm's-length principle. Norway adheres to the methods and the hierarchy between methods described in these Guidelines.

The burden of proof as regards a readjustment lies with the Norwegian tax authorities. However, if the related party is situated in a country outside the European Economic Area (EEA), and the income or wealth of the Norwegian taxpayer is deemed to be reduced by its transactions with the related party, the burden of proof lies with the taxpayer.[369]

[367] OECD Model Convention, Art. 9(1).
[368] Tax Act, Sec. 13-1.
[369] Tax Act, Sec. 13-1.

3. Reporting and Documentation Requirements

Norway has introduced legislation entailing a filing requirement for Norwegian companies and Norwegian branches of foreign companies with transactions with associated parties. The relevant form must be submitted as an attachment to the tax return and must contain information about the type and extent of the company's or branch's transactions and accounts outstanding with related parties.[370] The requirement covers both cross-border transactions and domestic transactions. For this purpose, a company and a legal entity are considered to be related parties where the company owns or controls, directly or indirectly, and whether alone or together with a related party, 50% or more of that legal entity.[371]

A company/branch is exempted from the filing requirement if:

(i) The aggregate fair value of the company's or branch's transactions with related parties amounts to less than NOK 10 million in the financial year concerned; and

(ii) At the end of the financial year, the company's or branch's accounts outstanding with related parties have an aggregate fair market value of less than NOK 25 million.

Furthermore, a company or branch is required to prepare specific transfer pricing documentation if it has more than 250 employees and a turnover in excess of NOK 400 million or a balance sheet total in excess of NOK 350 million.

The documentation must contain, *inter alia*, the following information:

(i) A description of the entity concerned, and its organization and business operations;

(ii) The turnover and profits made by the entity and its related parties over the previous three years;

(iii) A description of the nature and the scope of the transactions with the related parties;

(iv) A function and risk analysis; and

(v) A description of the chosen transfer pricing method(s) and a comparative analysis.[372]

The duty to prepare documentation is subject to the principle of proportionality. Thus, the documentation does not need to contain more information than is necessary for the authorities to evaluate the price and conditions fixed in the agreement between the related parties.[373]

B. Competent Authority

The Ministry of Finance is the competent authority in Norway. The relevant articles in Norway's tax treaties stipulate, however, that the competence of the Ministry of Finance can be delegated to another authority. In practice, the tasks of the

[370] Tax Administration Act, Sec. 8-11.
[371] Tax Administration Act Sec. 8-11.
[372] Regulation to the Tax Administration Act 8-11-4 to 8-11-12.
[373] For more information on the current requirements, see the link at Transfer pricing — The Norwegian Tax Administration (skatteetaten.no) Country-by-Country-Reporting for large multinational enterprises — The Norwegian Tax Administration (skatteetaten.no).

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competent authority are carried out by both the Ministry of Finance and the Directorate of Taxes.

Norway's tax treaties correspond to a great extent to the OECD Model Convention and hence generally include a special provision under which any tax adjustments relating to alleged incorrect pricing will, if necessary, be subject to consultation between the competent authorities of the Contracting States.[374] A taxpayer impacted by such tax adjustments may present its case to the competent authority, which, under the relevant article in an applicable treaty will initiate a mutual agreement procedure (MAP) with a view to eliminating taxation that is not in accordance with the treaty concerned. The competent authorities may also consult each other in cases of taxation that are not covered by the treaty. It must be stressed, however, that the practice of the Norwegian competent authority is not to initiate any such proceedings if any possible judicial examinations are still pending in Norway, i.e., the MAP is only available once the reassessment decision, followed by a court judgment (if any), has been finally delivered and entered into force.

[374] OECD Model Convention, Art. 9(2).

The MAP, in the terms of Norway's tax treaties, imposes only an obligation to initiate negotiations and not a commitment actually to solve the dispute and eliminate the negative effects of double taxation.

For further discussion of the Norwegian competent authority functions and procedures, see also Chapter 125 of 6892 T.M., *Income Tax Treaties: Competent Authority Functions and Procedures of Selected Countries (L–N).*

C. Advance Pricing Agreements

Norway does not have an advance pricing agreement (APA), but a taxpayer may request an APA with the Norwegian tax authority and the competent authority of the other contracting state in accordance with the provisions of an applicable tax treaty. However, the Norwegian tax authority will enter into an APA only on a bilateral basis. Therefore, the other contracting state must also be in a position to provide taxpayers access to APAs.

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XVIII. Special Provisions Relating to Multinational Operations

A. In General

Norway applies a participation exemption regime, which makes it an attractive jurisdiction for multinational company groups.[375] The rules are applicable to all Norwegian limited liability companies, partnerships, Norwegian economic associations and similar foreign legal entities. The participation exemption applies irrespective of whether the objective of the company or economic association concerned is portfolio investment or business operations. The participation exemption applies automatically without any specific legal or administrative actions being required to be taken.

Besides benefitting from the participation exemption, multinational groups establishing a Norwegian subsidiary also benefit from a broad network of tax treaties (with more than 80 countries), no duties on capital injection and a generous withholding tax regime. Taken all together, as enumerated below, the Norwegian tax rules create an attractive environment for international operations in Norway. The main relevant features are as follows:

(i) Tax on dividends received at the rate of 0.66% (2022).[376]

(ii) No tax on the sale of shares;

(iii) The ability to pay dividends to foreign corporate shareholders free of dividend withholding tax or at a reduced rate of withholding tax under one of Norway's more than 80 tax treaties;

(iv) The possibility of entering into loan transactions (on normal commercial terms and as an interim measure) out of Norway until a dividend distribution is declared by the annual general meeting of the Norwegian holding company.

(v) Withholding tax on interest, royalties, etc. applied from July and October 2021 but only on payments to related parties in low-tax jurisdictions (see C.3., below);

(vi) Tax deductibility of interest costs, provided the company is adequately capitalized, the interest rate is on arm's-length terms and the interest costs do not exceed certain limitations (see V.B.4.e., above);

(vii) No tax on share capital (no capital tax or stamp duty);

(viii) No prohibition on transactions with tax haven jurisdictions (although certain limitations may apply, for example, in the case of interest and royalty payments to recipients that are tax haven residents).

Norway has introduced OECD-compliant country-by-country reporting (CbCR) rules.[377] This means that, from 2017, large multinational enterprises must file a report with aggregate information about the activity in all countries they do business in. Any Norwegian entity of a multinational enterprise (MNE) group must notify the Norwegian tax authorities of the identity and tax residence of the reporting entity. This notification is integrated with the tax return. The reports may be exchanged with other competent tax administrations across national borders.

B. Global Minimum Tax

1. Current Status of Legislation and Regulations

Effective for fiscal years beginning on or after January 1, 2024, Norway has introduced the OECD Pillar Two global minimum tax rules into its domestic law, aiming to ensure that certain large multinational enterprises with annual total income of at least 750 million euros are subject to a minimum corporate income tax rate of 15%. The Supplementary Tax Act[378] (also known as the Top-Up Tax Act) currently includes the Income Inclusion Rule (IIR) and the Qualified Domestic Minimum Top-Up Tax (QDMTT; also known as the Domestic Minimum Top-Up Tax (DMTT)). In April 2024, the supporting regulations on the implementation of the Supplementary Tax Act[379] were introduced, which set out the detailed rules.

Comment: The Government has deliberately phrased the Top-Up Tax Act using language that is similar to that of the OECD Model Rules. Therefore, the OECD's commentary is essential for the interpretation of the act and its regulations.

2. Application of the Minimum Top-Up Tax

The Top-Up Tax Act applies to companies, undertakings associations and units, both domestic and multinational groups, with an annual total income of at least 750 million euros.

Entities that are outside the scope of the Top-Up Tax Act are governmental and international organizations, non-profits, and pension funds, in addition to investment funds and real investment vehicles if these are ultimate parent entities in a group. Subsidiaries that are wholly owned or almost wholly owned (i.e., generally based on an ownership threshold of 95%, but for certain entities, the threshold is 85%) by the above entities are also excluded from the scope of the Top-Up Tax Act, subject to certain conditions.[380] The reporting group entity may, however, choose to include such entities, but the option to do so remains effective for five fiscal years.

Currently, the Norwegian Top-up Tax Act includes two different sets of rules concerning a Minimum Top-Up Tax (MTT): the QDMTT and the IIR. The Norwegian IIR implies that a Norwegian ultimate parent company with a low-taxed group entity, as a starting point will be liable to Norwegian Top-Up Tax. However, Norwegian Top-Up Tax will not accrue after all if the low-taxed entity has been subject to a QDMTT.

No Undertaxed Payment Rule (UTPR) has been introduced so far. The Government is, however, expecting to complete working on the UTPR during 2024 and introducing the rules with effect from 2025.

[375] The participation exemption regime was introduced in 2004.

[376] Dividends are tax-exempt if the recipient holds in excess of 90% of the shares and votes in the distributing company, provided that company is tax resident within the EEA.

[377] Introduced in 2017.

[378] Supplementary Tax Act (Suppleringsskatteloven (2024-01-12-1)).

[379] Top-Up Tax Act Regulation (*Forskrift til utfylling og gjennomføring mv. av suppleringsskatteloven av 12. januar 2024 nr. 1*)

[380] Section 1-3, second paragraph.

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The Top-Up Tax Act provides basis for a Minimum Top-Up Tax liability for Norwegian group entities if their effective tax rate (ETR) is lower than 15%. The Norwegian MTT is designed to be "qualified," i.e., a QDMTT under Pillar 2, meaning that it should qualify when a parent company in another country calculates whether the Norwegian ETR is lower than 15%.

The Norwegian Top-Up Tax Act further implements the Global Anti-Base Erosion (GloBE) model framework's IIR[381], where a Norwegian intermediary parent company of a group will be liable for Top-Up Tax unless the ultimate parent company (or another intermediary parent company) is tax resident in a country that has introduced the Pillar 2 rules and is liable for a qualified IIR.

3. *Computation of GloBE Income and Loss*

In order to determine whether entities are low-taxed, the group must calculate the adjusted profit and the adjusted tax in each group entity's jurisdiction.

The adjusted profit for an entity is calculated based on the profit (before tax) of the relevant entity, excluding consolidation entries. For this purpose, it is the accounting language used in the consolidated financial statements of the ultimate parent company that should be applied, even if the group entity prepares its annual accounts in another accounting language pursuant to local jurisdiction accounting legislation.

The accounting basis is adjusted for various items commonly adjusted in most tax systems to calculate taxable income. Examples of adjustments rules that may be relevant for Norwegian Top-Up Tax liabilities are dividends and gains and losses on equity and income from international shipping.

Comment: An issue that has raised some concern in Norway is that the Top-up Tax Act uses “exempt dividends” and “exempt equity gains” without further definition, thereby relying on the OECD Model Rules. The OECD Model Rules do here not fully align with the more generous Norwegian participation exemption rules (see V.B.3.b., above, implying that Norwegian MNEs may risk triggering DMTT).

The adjusted tax, similar to the adjusted profit, is based on the accounting tax expense and includes various income taxes. For Norwegian tax purposes, it will include tax on ordinary income, Resource Rent Tax, Petroleum Tax, and Tonnage Tax. Both payable and deferred tax expenses are considered, but the value of deferred tax is adjusted to 15% rather than reflecting the current tax rate in the jurisdiction. For Norwegian group entities, a tax-increasing temporary difference of 100 results in a deferred tax expense of 22 in the accounts, but only 15 is considered in the adjusted tax for calculating the ETR. Provisions for uncertain tax positions are not included in the adjusted tax.

Adjustments to the profit lead to corresponding adjustments in adjusted taxes. For example, tax on the notional income recording on dividends in Norwegian companies is excluded from adjusted tax if the dividend income is excluded from the adjusted result. Corresponding adjustments are made for both payable and deferred taxes.

If a group entity has included deferred tax expense related to temporary differences in its adjusted tax, and this tax liability does not reverse or lead to payable tax within five years, the tax expense should be reversed. However, there are some practical exceptions, including for physical assets.

For some companies, the tax expense will include taxes in other countries, e.g., tax on operations through a permanent establishment or income in a Norwegian controlled foreign company (in Norway, a CFC is referred to as *NOKUS*). Thus, when adjusted tax is calculated per jurisdiction, the Top-Up Tax Act sets out several guidelines with regards to allocation of tax expenses between the group entities.

The ETR is calculated by dividing the total adjusted tax from all group entities within a jurisdiction by the total adjusted result from all group entities in that jurisdiction. Adjusted tax and adjusted result are first calculated separately for each group entity, then aggregated to determine a collective ETR for all group entities in the jurisdiction. This rate then contributes to a total Top-Up Tax at the jurisdictional level. If the ETR is less than 15%, a Top-Up Tax will be calculated for the entities in the jurisdiction. The Top-Up Tax is calculated by multiplying the Top-Up Tax rate with a tax base, referred to in the regulations as the “excess tax base.” This is calculated from the total profit for the jurisdiction, minus the substance-based income deduction. The total profit consists of the positive sum of the group entities’ adjusted profits, subtracted by the sum of the group entities’ adjusted losses. If the group has a collective loss in the jurisdiction, there will be no basis for calculating Top-Up Tax for that particular year.

The substance-based income deduction is calculated based on a percentage of payroll costs and recorded physical assets. This deduction allows group entities with significant physical activity to avoid or substantially reduce their Top-Up Tax liability. The rates for 2024 are 9.8% for payroll costs and 7.8% for physical assets. These rates will gradually decrease to 5% by 2033.

4. *Qualified Refundable Tax Credits*

The Top-Up Tax Act, Section 3-2 (4), introduces QRTC rules, based on wording that mirrors the OECD model rules. In its presentation of the legislation, the Ministry of Finance stated that the Norwegian R&D incentive scheme “*SkatteFUNN*,” (see II.,F., above) will qualify as a QRTC.

Comment: At the time of writing, no specific guidance is available as to the qualification of other countries' tax incentives.

5. *Transitional Safe Harbor*

There are three Safe Harbor rules available under the Top-Up Tax Act regulations, whereby no Top-Up Tax liability accrues.

First, a temporary Safe Harbor applies to group entities with a total revenue per jurisdiction based on the country-by-country reporting (CbC) lower than 10 million euros and a profit before tax lower than 1 million euros and also lower than the substance-based income deduction. This Safe Harbor is available if the group has an ETR of at least 15% in 2023 and 2024, at least 16% in 2025 and at least 17% in 2026.

The second option is a permanent Safe Harbor, where the Norwegian DTT under the IIR is set to zero if a QDMTT has been imposed in the home jurisdiction of a group entity and QDMTT qualifies as a QMDTT Safe Harbor.

[381] Section 2-1 to 2-5.

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The third Safe Harbor applies to group entities that are excluded from the consolidation group financial statements solely due to reasons of size or materiality.

6. *Compliance Framework*

Any Norwegian qualifying entity is obligated to file with the Norwegian Tax Administration a GloBe Information Return (GIR). The GIR must be prepared in English and include information on all entities in the group and information necessary to calculate the Top-Up Tax. The obligation to file a GIR does not apply if a GIR has been filed either by a foreign ultimate parent entity or a reporting group entity in a country having an information exchange agreement with Norway. The deadline for filing the GIR is 18 months after the end of the first fiscal year, i.e., at the earliest June 30, 2026. After the second year qualifying, the deadline is 15 months of the end of the financial year. Entities exempted from filing a GIR because it will be filed by another group entity, must notify the Norwegian Tax Administration with information on the entity reporting and jurisdiction.

Furthermore, the entity that is liable for Top-Up Tax according to the Top-Up Tax Act must submit a tax return for the Top-Up Tax. The deadline for filing the tax return is one month after the deadline for filing the GIR.

Comment: The Top-Up Tax Act does not include rules on penalties for non-compliance. Accordingly, the Tax Administration Act (*Skatteforvaltningsloven*) will apply to the Top-Up Tax Act. However, the OECD has stressed that since the rules on the Top-Up Tax are complicated, national tax authorities should be reluctant to sanction violations of the rules, and Norway will adhere to these guidelines.

7. *Outlook*

Norwegian businesses are concerned about the costs of implementation, IT challenges, etc. At present, the Safe Harbor rules are a focus point, with concerns on whether foreign QDMTTs will qualify.

C. Norway as a Holding Company Jurisdiction

1. *Choice of Business Form*

The most important forms of commercial enterprise in Norway are private or public limited liability companies and general or limited partnerships. A private limited liability company is the business form most widely used by nonresidents of Norway, although some foreign businesses choose to establish local branches rather than subsidiaries, a decision that is sometimes influenced by the absence of withholding taxes on remittances of branch profits.

The following table provides a comparison of the features of the various forms of doing business:

	General Partnership	**Limited Partnership**	**Private LLC**	**Public LLC**
Liability for Company Debts	Joint and several, also personal liability	General partner: joint and several, also personal liability. Limited partner: for invested capital	No personal liability. Risk normally limited to capital invested.	No personal liability. Risk normally limited to capital invested.
Capital Requirements	None	Minimum NOK 22,223	Minimum NOK 30,000	Minimum NOK 1 million
Number of Owners or Members	At least two individuals or legal entities	At least two individuals or legal entities	Single shareholder, individual or legal entity	Single shareholder, individual or legal entity
Legal Authority to Act	The partners	The general partner	Board of Directors and Managing Director	Board of Directors and Managing Director
Compulsory Audits	Only if annual turnover exceeds NOK 7 million or all partners are legal persons where none of their owners have personal liability for the legal person's liabilities, and the annual number of person-years exceeds 10 or the balance sheet total exceeds NOK 27 million.	Only if annual turnover exceeds NOK 7 million or the general partner is a legal person where none of its owners have personal liability for the legal person's liabilities, and the annual number of person-years exceeds 10 or the balance sheet total exceeds NOK 27 million.	Only if annual turnover exceeds NOK 7 million, or the annual number of person-years exceeds 10 or the balance sheet total exceeds NOK 27 million.	Yes
Liability to Tax	The partners	The partners	The company	The company

Norwegian branches of foreign companies and all Norwegian companies must be registered with the Norwegian Register of Business Enterprises.

For a detailed discussion of the general considerations relevant to operating a business in Norway and the available forms of doing business, see II. and III., above. The following

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sections are of particular relevance to the establishment and operation of a holding company:

(i) Norway's currency (II.B., above);

(ii) Foreign investment regulations (II.A., above);

(iii) Foreign ownership of Norwegian companies (III.B.1.c., above);

(iv) Registration requirements (III.B.1.a., above);

(v) Subscription for shares (III.B.1.a., above); and

(vi) Maintenance of share capital (III.B.1.c., above).

2. *Participation Exemption*

a. *In General*

The Norwegian participation exemption applies with respect to both capital gains and dividends derived by corporate shareholders. Capital gains are fully exempted. Dividends from group companies are fully exempted, while only 3% of other dividends covered under the exemption is taxed at the rate of 22%, providing an effective tax rate of 0.66% (2024). The Norwegian participation exemption regime stands out as being more favorable than many foreign participation exemption regimes. In general, the Norwegian participation exemption does not prescribe requirements for a particular level of holding or length of holding period.

b. *General Requirements*

As indicated in V.B.3.c., above, the participation exemption rule applies only with respect to dividends from, and gains from the sale of shares in, a Norwegian public or private limited liability company, unit trust, association, savings bank or other independent financial institution, association, European Company (SE), municipality or state-owned company, and dividends and gains from the sale of shares in a limited or unlimited liability partnership. The participation exemption also applies to dividends from, and gains from the sale of shares in, similar foreign companies,[382] but some exceptions and special conditions apply in such cases.

If a country classifies a financial instrument or a legal entity differently from the way in which Norway classifies the instrument or entity (i.e., a hybrid situation), the exemption method will not apply to a distribution if the distributing company has been granted a deduction with respect to the distribution.

c. *Shares in European Economic Area Resident Companies*

The participation exemption covers dividends from, and gains from the sale of shares in, companies resident in the European Economic Area (EEA — i.e., the European Union (EU) plus Norway, Iceland and Liechtenstein). The application of the participation exemption rule assumes, however, that the form of the foreign entity in which the shares are held corresponds to that of a Norwegian public or private limited liability company, association, savings bank or other independent financial institution. The legislation governing the foreign entity must, therefore, be sufficiently similar to the corresponding Norwegian legislation. There have been a number of court cases on this requirement but its scope has yet to be clearly defined.

Special requirements apply to dividends from, and gains from the sale of shares in, a company resident in an EEA country in which the tax charge on corporate income is less than 2/3 of the amount of tax the company would have been charged had it been resident in Norway, i.e., a "low-tax country." To benefit from the participation exemption, the company must be actually established in the host country and must carry on genuine economic activities there.[383] Under current law, a company is considered to be "actually established" in a host EEA country when the company, through its mainstream business, participates in a firm and lasting way in the host country's economic life. Furthermore, a company is considered to carry on "genuine economic activities" if the company's activities have economic substance, including demonstrable income from the company's own business. Other relevant factors are the company's use of premises, equipment and permanent employees in the host country.

d. *Shares in Companies Resident Outside the European Economic Area*

As in the case of a foreign company resident in an EEA country, dividends from, and gains from the sale of shares in, a company resident in a non-EEA country may also qualify under the participation exemption, provided the form of the foreign company corresponds to that of a Norwegian public or private limited liability company, association, savings bank or other independent financial institution.

However, some special requirements apply in the case of non-EEA resident companies.[384] With respect to gains from the sale of shares in such a foreign company, the Norwegian resident corporate shareholder must hold at least 10% of the equity and a corresponding 10% of the voting rights in the foreign company for it to qualify under the participation exemption. Furthermore, these two conditions must have been fulfilled, continuously, over a two-year period prior to the sale.[385]

Similar conditions apply with respect to a dividend payment from a company resident in a non-EEA country, except that, for the two-year holding period requirement to be met, the holding period does not necessarily need to be completed prior to the dividend payment. Thus, the shareholder may acquire 10% of the equity and the corresponding 10% of the voting rights in the foreign company the day before the dividend payment and still qualify under the participation exemption, provided the ownership and voting right conditions are continuously fulfilled in the subsequent two years.[386]

Dividends from, and gains from the sale of shares in, a company resident in a non-EEA country in which the tax on corporate income is less than 2/3 of the amount the company would have been charged had it been resident in Norway, i.e., a "low-tax country," do not qualify for the participation exemption.

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[382] Tax Act, Sec. 2-38.

[383] Tax Act, Sec. 2-38.

[384] Tax Act, Sec. 2-38.

[385] Tax Act, Sec. 2-38.

[386] Tax Act, Sec. 2-38.

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e. Foreign Companies with a Norwegian Branch

As noted at a., above, a foreign company with a Norwegian branch may also benefit from the participation exemption. This, however, requires that the form of the foreign company is sufficiently similar to that of a Norwegian public or private limited liability company, savings bank or other independent financial institution, association, municipality or state-owned company.

The participation exemption applies to gains from the sale of shares and to dividends effectively connected with and attributable to business activities that the foreign corporation performs or participates in through the branch in Norway, where such business activities are carried on in or managed from Norway (see V.B., above).

3. Withholding Tax on Payments of Interest and Royalties

Interest income that is effectively connected with and therefore attributable to business activities that a foreign corporation performs or participates in through a branch in Norway, where the business activities are carried on in or managed from Norway, are taxable in Norway (see IX.B, above). Similarly, royalties with respect to intangible assets that are effectively connected to business activities that a foreign corporation performs or participates in through a branch in Norway, where the business activities are carried on in or managed from Norway, are taxable in Norway.

Until recently, the Norwegian Tax Act did not prescribe withholding tax on interest payments made by a Norwegian debtor to a foreign corporation in any circumstances. From July 1, 2021, a final withholding tax at the rate of 15% applies to interest paid by a Norwegian debtor to a related entity that is resident in low-tax jurisdictions (for a list of such jurisdictions, see 6., below).

Likewise, the Norwegian Tax Act did not until recently prescribe any withholding tax on royalties or other periodical payments for the use of an intangible asset or right made by a Norwegian licensee to a foreign corporation. From July 1, 2021, a royalty payment to a related entity that is resident in a low-tax jurisdiction is subject to a final withholding tax at the rate of 15%. From October 1, 2021, the same also applies to rentals paid for fixed assets, such as vessels, rigs, airplanes, etc.

4. Withholding Tax on Payments of Dividends

The general rule under domestic Norwegian tax law with respect to dividends distributed to a foreign corporate shareholder is that Norway imposes withholding tax on such dividends at the rate of 25%. In the majority of cases, however, corporate shareholders will benefit from a withholding tax exemption or a reduced withholding tax rate. In broad terms, tax exemption or reduction is achieved if the dividends are distributed to: (i) a corporate shareholder resident in the EEA; or (ii) a corporate shareholder resident in a tax treaty country.

a. Distributions to Companies Resident in the European Economic Area

Corporate shareholders that are resident and actually established in an EEA country and that carry on genuine economic activities there are exempt from withholding tax on dividends.[387] Under current law, a company is considered to be "actually established" in an EEA country when the company through its mainstream business participates in a firm and lasting way in that country's economic life. Furthermore, a company is deemed to carry on "genuine economic activities" if the company's activities have economic substance, including demonstrable income from the company's own business. Other relevant factors include the company's use of premises, equipment and permanent employees in the EEA country.

The withholding tax exemption assumes that the corporate shareholder resident in the EEA country is the true beneficial owner of the dividend distribution.[388]

b. Distributions to Shareholders Covered Under a Tax Treaty

Tax treaties often prescribe to the country in which the distributing company is resident a right to levy withholding tax on dividend distributions. However, the withholding tax rate is often reduced to 15% of the gross amount actually distributed.[389]

The reduced withholding tax rate under a tax treaty assumes that the recipient of the dividend distribution is "the beneficial owner of the dividends"[390] and, furthermore, that the recipient is entitled to benefits under the terms of the treaty concerned. For example, the Norway-United States tax treaty prescribes withholding tax at the rate of 15% for "dividends derived from sources within one of the contracting states by a resident of the other contracting state."[391]

5. Capital Gains on Shares

No withholding taxes apply to capital gains realized on shares in Norwegian companies.

Foreign corporate shareholders are, as a rule, not liable for any tax relating to capital gains on shares. Capital gains effectively connected with business activities that are carried on in or managed from Norway by a foreign corporation through a branch in Norway are taxed under the same set of rules as those applicable to resident corporate shareholders.

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[387] Tax Act, Secs. 10-13, 2-38. The withholding tax exemption for corporate shareholders resident in the EEA is a result of *Fokus Bank*, case E-1/04, decided by the EFTA Court on November 23, 2004.

[388] There is no statutory definition of beneficial owner. The issue was considered by the Borgarting Court of Appeals in a dividend withholding tax claim by the Norwegian tax authorities against the now U.S.-based company Transocean Inc. Transocean had interposed a Danish intermediary holding company between its then Cayman-resident holding companies and its Norwegian subsidiaries. A key issue in the case was whether the dividend for tax purposes should be assigned to the Danish intermediary or to the Cayman-resident holding companies. In its decision of January 9, 2017, the Court held that the tax treaty concept of "beneficial owner," as laid out by the OECD and interpreted by the Norwegian Ministry of Finance, Skaar and Vogel, would closely correspond to the principles in Norwegian tax law for the assigning of income. In its decision, however, the Court found in a 4-1 majority vote that the State had not provided sufficient evidence for it to reach a conclusion that for tax purposes the dividend income should be assigned to a party other than the formal shareholder. The Cayman-resident companies were therefore acquitted for the tax claim. The State appealed the decision, but in its decision of June 17, 2017, the Supreme Court declined to admit the case to trial.

[389] OECD Model Convention, Art. 10.

[390] OECD Model Convention, Art. 10.

[391] Convention Between the United States of America and the Kingdom of Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Property, signed on Dec. 3, 1971 (the "Norway-United States tax treaty"), Art. 8.

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Comment: A new proposition from a government committee suggests reclassifying liquidation payments from capital gains into dividends with regards to withholding tax. Such a change could have a major impact when closing businesses in Norway.

6. *Controlled Foreign Corporations*

To prevent tax avoidance, controlled foreign corporation (CFC) rules were introduced in Norway in 1992. In broad terms, the Norwegian CFC rules provide that if a company resident in a "low-tax country" is controlled by Norwegian shareholders, the shareholders will be currently taxed on their share of the foreign company's profit, regardless of whether dividends are distributed.[392] Losses may be carried forward and set off against future profits made by the same company, but only if the Norwegian taxpayer declares that all books and records pertaining to the annual accounts of the company will be made available for inspection at the request of the Norwegian tax authorities. The CFC rules apply to both direct and indirect investments in foreign limited liability companies and other independent entities, organizations, and estates. The rules have a wide scope and may include beneficiaries under a discretionary trust.[393]

A company resident in a low-tax country is considered to be controlled by Norwegian resident individuals or entities (whether taxpayers or not) if 50% or more of the company's shares or capital are directly or indirectly owned or controlled by Norwegian taxpayers.[394] It is the total control in the hands of Norwegian resident individuals or entities that is decisive — the law does not require any form of cooperation or contact among the Norwegian resident individuals or entities that own or control the foreign company.

The requirement of ownership or control must be met both at the beginning and at the end of the current financial year. If the ownership or control requirement was met in the previous financial year, the requirement will also be deemed to be met in the following financial year, unless the control requirement is not actually met at both the beginning and the end of the following financial year, in which case the CFC rules will not apply.

Furthermore, if Norwegian taxpayers own or control more than 60% of a foreign company's shares or capital at the end of a financial year, the company will be deemed to be controlled by Norwegian taxpayers irrespective of the ownership and control situation at the beginning of the financial year. Conversely, if Norwegian taxpayers own or control less than 40% of a foreign company's shares or capital at the end of a financial year, the company will not be deemed to be controlled by Norwegian taxpayers irrespective of the ownership and control situation at the beginning of the financial year.

When determining if a foreign company is controlled by Norwegian taxpayers, both direct and indirect control is taken into account. This means that shares or capital in company A that is owned or controlled by company B, that is in turn more than 50% owned or controlled by Norwegian taxpayers are taken into account in the calculation. In this case, all the owned or controlled shares or capital in company A would be included, irrespective of the percentage share of the Norwegian taxpayers in the direct control of company B.

To fall within the scope of the Norwegian CFC rules, a company controlled by Norwegian taxpayers must be resident in a "low-tax country," i.e., in a country in which tax charged on corporate income is less than two-thirds of the amount of tax the company would have been charged had it been resident in Norway. Wealth tax, real property tax and duties are not relevant for this purpose.

The Norwegian tax authorities have issued a black list of low-tax jurisdictions and a white list of jurisdictions that normally should not be treated as low-tax jurisdictions.

The Norwegian black list for 2023 includes the following jurisdictions:

- Andorra
- Anguilla
- Antigua and Barbuda
- The Bahamas
- Bahrain, except for companies taxable on income in the petroleum sector
- Belize
- Bermuda
- The British Virgin Islands
- The BES Islands (Bonaire, St. Eustatius and Saba)
- The Channel Islands (Jersey, Guernsey, Lihou, Jethou, Herm, Alderney, Great Sark, Little Sark and Brecqhou)
- The Cayman Islands
- The Isle of Man
- Kosovo
- Liberia
- Macao
- The Maldives
- The Marshall Islands
- Mauritius
- Moldova
- Monaco
- Montenegro
- North Macedonia
- Palau
- Paraguay
- Qatar, except for companies taxable on income from activities in the petroleum sector
- Saint Barthélemy (St. Barts, St. Barths)
- St. Kitts and Nevis

[392] Tax Act, Secs. 10-60–10-68.

[393] Norwegian Supreme Court ruling in *Ptarmigan Trust*, June 10, 2002 (Rt. 2002 p. 747), concerning a discretionary trust established under Liechtenstein law.

[394] Tax Act, Sec. 10-62.

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- St. Vincent and the Grenadines
- The Turks and Caicos Islands
- The United Arab Emirates
- The U.S. Virgin Islands
- Uzbekistan
- Vanuatu

The white list for 2023 includes the following jurisdictions:

- Australia
- Canada
- Chile
- China (PRC)
- India
- Japan
- New Zealand
- South Africa
- The United States

Even when all the conditions described above for the application of the Norwegian CFC regime are fulfilled, some exemptions exist:

(i) If the foreign company concerned is resident in a country that has concluded a tax treaty with Norway and the company's income is covered under the treaty, the CFC regulations do not apply unless the company's income is primarily of a passive nature.[395] Interest, dividends, rents and royalties are generally considered passive income.

(ii) If the Norwegian taxpayer can prove that the foreign company concerned is actually established in an EEA country and carries on genuine economic activities there, the CFC rules do not apply.[396] This exemption is a result of the decision in *Cadbury Schweppes*, in which the Court of Justice of the European Union (CJEU) emphasized that CFC rules can only be justified when they counteract "wholly artificial arrangements."[397] Under current law, a company is considered to be "actually established" in an EEA country if the company, through its mainstream business, participates in a firm and lasting way in the country's economic life. Furthermore, a company is deemed to carry on "genuine economic activities" if the company's activities have economic substance, including demonstrable income from the company's own business. Other relevant factors are the company's use of premises, equipment and permanent employees in the EEA country.

Comment (1): The way in which this exemption has been embodied in the Norwegian legislation is open to challenge. By requiring "an actual establishment from which a genuine economic activity is conducted," the Norwegian Government has established conditions that appear to be stricter than required under the *Cadbury Schweppes* decision.

Comment (2): The Ministry of Finance is considering amendments to the scope of the CFC rules in view of the policy considerations and building blocks described in the OECD's report on Base Erosion and Profit Shifting (BEPS) Action 3.

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[395] Tax Act, Sec. 10-64.
[396] Tax Act, Sec. 10-64.
[397] ECJ, C-196/04.

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XIX. Avoidance of Double Taxation

A. *Foreign Tax Credit*

To avoid double taxation of foreign-source income or foreign-situs wealth, Norwegian resident companies and individuals may claim a credit for income and wealth taxes paid in the foreign country in which the income has its source or the wealth is situated.[398] The Tax Act contains no specific provisions as to where income should be considered to have its source. This is to be determined on a case-by-case basis.

Foreign tax is available for credit only when it has been finally assessed by a foreign taxing authority and paid. Only direct taxes are covered — duties and other indirect taxes are not covered. The amount of foreign tax available for credit is limited to the ratio of foreign-source income to worldwide income, this limit being computed on an overall basis (i.e., rather than on a per-country basis), but with income in low-tax jurisdictions and other foreign jurisdictions divided into separate baskets.[399] The credit is also limited to the amount of tax allowed to be imposed under the relevant tax treaty (if any).[400]

No credit is available for foreign tax imposed on income that is exempted from Norwegian tax. This includes withholding tax on dividends covered by the participation exemption rules and income from the production of petroleum in a foreign jurisdiction.[401]

B. *Tax Treaties*

1. *In General*

The issue of cross-border taxation and the avoidance of double taxation has been of interest for a long time but has gained increased attention in recent years with the globalization of the economy and the expanded geographical mobility of persons. Three factors, in particular, have made the issue of cross-border taxation and the avoidance of double taxation relevant in Norway. First, since the 1970s, oil exploitation in Norway has required foreign labor and specialist qualifications and has attracted a huge amount of foreign investment and entrepreneurial activity in Norway. Second, the down-scaling of exchange control regulations and access to the European Union (EU) market through the European Economic Area (EEA) Agreement has further helped to internationalize the economy. Third, the expansion of information technology has simplified cross-border business.

Norway has entered into tax treaties with over 80 countries, and the number of such treaties is continually increasing. The majority of the treaties have been entered into within the last two decades. Most of Norway's treaties are based on the Organisation for Economic Cooperation and Development (OECD) Model Convention, subject to some adjustments and exceptions, in particular as regards the regulation of pensions and petroleum activities on the Norwegian continental shelf. Treaties between Norway and developing countries are to a large extent based on the United Nations Model Double Taxation Convention between Developed and Developing Countries (the "UN Model Convention").

Most of Norway's tax treaties are bilateral agreements. However, Norway is a party to a multilateral tax treaty for the avoidance of double taxation with Denmark, Iceland, Sweden and Finland (the "Nordic tax treaty"), which is an important agreement for Norway.[402]

While Norway's earlier tax treaties used the exemption method for avoiding double taxation, its most recent treaties have adopted the credit method.

For the texts and status of Norway's tax treaties, see International Tax Treaties.

2. *OECD Multilateral Instrument*

Norway was among the first 67 countries that signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS ("the MLI") on June 7, 2017. Norway has made certain selections in relation to the MLI. Specifically, Norway has made the following reservations:

(i) Article 3 (transparent units): Norway reserves the right to not apply number 1 for tax treaties which already contains a provision as described in the Article 3 number 4;

(ii) Article 4 (double residence for other than a natural persons): Norway reserves the right to not apply Article 4 to tax treaties that already regulate the cases where a person other than a natural person resides in more than one contractual jurisdiction;

(iii) Article 8 (transactions in order to distribute dividends): Norway reserves the right to not apply Article 8 for tax treaties which to the extent that the provisions described in Article 8(1) already contain a minimum period of ownership;

(iv) Article 9 (gain on shares or holdings in units that derive their value mainly from real estate): Norway reserves the right to not apply Article 9 for tax treaties covered by the agreement;

(v) Article 10 (rules against misuse of permanent establishments in third jurisdictions): Norway reserves the right to not apply Article 10 for tax treaties covered by the agreement;

(vi) Article 14 (split of contracts): Norway reserves the right to not apply Article 14 for tax treaties that covers the examination or utilization of natural resources;

(vii) Article 17 (correspondent adjustments): Norway reserves the right to not apply Article 17 for tax treaties that already regulate correspondent adjustments.

The MLI entered into force for Norway on November 1, 2019. The effective date of the individual tax agreement that is changed follows from Article 35. The MLI resulted in changes to 28 of Norway`s existing tax treaties.

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[398] Tax Act, Sec. 16-20.
[399] Tax Act, Sec. 16-21.
[400] Tax Act, Sec. 16-27.
[401] Tax Act, Sec. 2-39.

[402] Convention Between the Nordic Countries for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital, signed on Sept. 23, 1996.

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3. Tax Treaty Negotiation and Ratification Process

The negotiation process is led by the Ministry of Finance, on behalf of the Norwegian Government. The Parliament has to approve a treaty before the Government formally enters into the agreement. Under the Tax Treaty Act of 1949, such approval incorporates the treaty directly into Norwegian law.[403] A tax treaty, however, only has the power to limit taxation as such and cannot be used as a legal basis for imposing taxation.

4. Procedure to Claim Reduced Rate or Refund of Withholding Tax

Credit for income and wealth taxes paid in the foreign country in which the foreign-source income concerned has its source or the foreign-situs wealth is situated is normally claimed by filling in a specific credit form as an attachment to the tax return, and will be treated as part of the ordinary tax assessment (see V.B.9., IX.D. and XIII.F., above).

A claim for a refund of withholding tax paid on share dividends may be made by submitting a specific form (see the Worksheets) within the ordinary statute of limitation (five years). To avoid having to complete this refund procedure, i.e., to obtain reduced or no withholding tax on share dividends at the time the relevant payment is made, certain documentation must be submitted to the tax authorities up-front (see the Worksheets).

5. Taxation of Business Income

A great deal of the tax planning in connection with doing business in Norway has revolved around the definition of a permanent establishment (PE). Tax treaties typically require a foreign entity to have a PE in Norway before Norway has the right to tax its business profits derived from Norway.[404]

In principle, the definition of a PE in Norway's treaties corresponds to the definition in the OECD Model Convention.[405] However, Norway's tax treaties with developing countries that are based on the UN Model Convention may differ as regards the definition of a PE. Under the UN Model Convention, the "furnishing of services, including consultancy services within the country for a period or periods aggregating more than six months within any twelve-month period" is considered to give rise to a PE.[406] For example, such language is contained in the Norway-India and Norway-Thailand tax treaties.[407] Article 5(5) of the OECD Model Convention implies that a person that habitually exercises the authority to conclude contracts on behalf and in the name of a foreign enterprise may create a PE for that foreign enterprise.

In *Dell*,[408] the Norwegian tax authorities argued that, if an undisclosed commission agent, acting in his own name, enters into contracts that *in reality* are binding on the principal, the principal may have a Norwegian PE. The Norwegian Supreme Court ruled, however, that Article 5(5) requires the agent to conclude contracts that are *legally* binding on the principal. As the commission agent in this case entered into contracts in his own name, this requirement was not met and, consequently, the Court ruled that no PE was established. The OECD Model Convention was later changed (in 2017) 2017, so that Article 5 (5) and (6) now includes the following wording: "[where a person . . .] habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise . . . [that enterprise shall be deemed to have a permanent establishment . . .]" and "[w]here . . . a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise." The outcome of the *Dell* case could thus have been different had the PE definition in the relevant treaty been based on this updated wording.

As noted in 1., above, Norway's tax treaties often differ from the OECD Model Convention as regards petroleum activities carried on in the Norwegian continental shelf. For example, under the Nordic tax treaty and the Norway-U.S. tax treaty, the conditions for a PE to arise are reduced to a minimum — a PE is assumed to exist if the activity on the Norwegian shelf lasts for more than 30 days in any 12-month period.[409]

6. Taxation of Investment Income

Investment income is income from passive investments, such as dividends, interest and rental income. As discussed in IX.B., above, under Norwegian domestic law, interest and royalty payments from Norwegian sources received by a nonresident person are not subject to Norwegian tax, unless the income is attributable to a business activity that the recipient performs or participates in, and that is carried on in or managed from Norway (However, see the comments relating to the consultation paper issued on February 27, 2020, regarding withholding tax on interest and royalties, etc., in XVIII.C.3., above.)

Under Norway's tax treaties, income from capital and capital gains derived from real property are normally taxed in the country where the property concerned is situated.[410] In a number of Norway's tax treaties, gains from the sale of shares in a company more than 50% of whose value is directly or indirectly a result of investments in real property in the other Contracting State may be taxed in the state in which the real property is situated.[411] The corresponding rules under the Norway-United

[403] Tax Treaty Act, Sec 1. (1949-07-28-15)).

[404] OECD Model Convention, Art. 7; Norway-U.S. tax treaty, Art. 4.

[405] OECD Model Convention, Art. 5.

[406] UN Model Convention, Art. 5.

[407] Convention Between the Kingdom of Norway and the Republic of India for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital, signed on December 31, 1986 (the "Norway-India tax treaty"), Art. 5 (note that the new Norway-India tax treaty, which was signed on February 2, 2011, but which has yet to enter into force or effect, contains similar language); and Convention Between the Kingdom of Norway and Thailand for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital, signed on July 30, 2003 (the "Norway-Thailand tax treaty"), Art. 5.

[408] Rt. 2011, p. 1581.

[409] Norway-U.S. tax treaty, Art. 4A; Nordic tax treaty, Art. 21.

[410] For example, Nordic tax treaty, Arts. 6 and 13; Norway-United States tax treaty, Art. 11.

[411] OECD Model Convention, Art. 13; Nordic tax treaty, Art. 13 (the Nordic tax treaty requires, however, that 75% of the company's value result from investment in real property situated in the other Contracting State); Convention Between the Government of Norway and the Government of Spain for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital, signed on October 6, 1999 (the "Norway-Spain tax treaty"), Art. 13; and Convention Between the Government

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States tax treaty prescribe that gains from the sale of shares in such companies may be taxed in the country in which the real property is situated, provided the company's property "consists principally of real property situated within the other Contracting State."[412]

The normal rate of withholding tax on dividends (25%) is generally reduced under the terms of Norway's tax treaties, to 0% in some cases. However, the majority of Norway's treaties stipulate a 15% withholding tax on the gross amount of the dividends (see, for example, the Nordic tax treaty and the Norway-U.S. tax treaty).[413]

7. Mutual Agreement Procedure

Many of the Norwegian tax treaties contain a clause regarding the mutual agreement procedure (MAP). The MAP comes in effect if a taxpayer is taxed for the same income or wealth in Norway and in the treaty partner country. The taxpayer may then submit an application and ask the tax authorities in the two countries to agree on who has the taxation right.

The deadline for applying for a MAP procedure varies. Normally it is required to submit the application for a MAP within three years from the date of the situation that led to taxation in violation of the provisions of the applicable tax treaty. But the deadline varies from one tax treaty to another; in some tax treaties the deadline is only two years and in others no deadline is specified. It is therefore important to check the relevant tax treaty to assess the deadline on a case-by-case basis.

In Norway, the competent authority is not obliged to reach an agreement in any given MAP case. The duty of the competent authority is only to seek to reach an agreement. In some tax treaties, the MAP provision includes rules that for taxpayers to be able to claim that unresolved questions be settled by arbitration, but such arbitration rules are uncommon in Norwegian tax treaties.

The application for the MAP must be filed with the relevant authority in the country in which the taxpayer is assumed to be tax resident according to the tax treaty. In Norway, MAP applications should be submitted to the competent authority, which could be either the Ministry of Finance, Directorate of Taxes or the Tax Administration division for Large Enterprises and their section for the MAP/APAs, depending on the case. It must be assessed in each case which recipient is the competent authority.

8. Tax Treaty Interpretation

Tax treaties in Norway are interpreted in accordance with international law and principles on interpretation of treaties with the Vienna Convention as the starting point. The main rule is that the treaty must be interpreted in accordance with the wording of a provision. Accordingly, one must also look at the context of the wording and the purpose of the treaty. Context and purpose can be found by, for example, examining the preamble of an agreement and subsequent agreements between the states on the understanding of the treaty.

The OECDs commentary on the OECD Model tax convention also has a central role in the interpretation of Norway's tax treaties.

C. Tax Treaties with the United States

1. Income Tax Treaty

The Convention Between the United States of America and the Kingdom of Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Property was signed on December 3, 1971, and was later amended by a Protocol signed on December 19, 1980. The treaty is based on the OECD Model Convention.

Note: A new tax treaty between the United States and Norway is expected to be concluded and signed, but the timing is still unknown. The new treaty is expected to be similar to the tax treaties the United States has recently concluded with other developed countries, for example, the United States-Sweden tax treaty[414] and its 2005 Protocol, which contains, *inter alia*, a limitation on benefits clause. Furthermore, the new Norway-United States tax treaty is expected to include special rules concerning petroleum-related activities on the Norwegian continental shelf.

The key elements of the current treaty are summarized in a. to d., below.

a. Reduced Withholding Tax on Dividends

The withholding tax rate on dividends is restricted to 15% of the gross amount actually distributed. This applies to distributions made by a Norwegian resident corporation to a U.S. resident individual or company, and vice versa. There is no special (lower) reduced rate for a parent company or other company owning a higher percentage of shares or votes in the distributing company.

b. Tax-Free Interest and Royalty Payments

The Norway-U.S. tax treaty provides a full tax exemption for royalties paid by a Norwegian resident person to a U.S. person, and vice versa. The treaty allows either state to impose a withholding tax on interest at a rate not exceeding 10%, but only insofar as the other state does not exempt interest from sources within that state from taxation under its domestic law. Norway does not impose tax on interest paid to nonresident persons, and interest payments made to a U.S. person by a Norwegian person are therefore exempt from Norwegian tax under the treaty (However, see comments related to the consultation paper issued on February 27, 2020, regarding withholding tax on interest and royalties, etc., in XVIII.C.3.).

c. Branch Taxation — Definition of Permanent Establishment

The Norway-U.S. tax treaty is based on the 1963 OECD Model Convention, which differs slightly from the 1977 OECD

of the Kingdom of Norway and the Government of Germany for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital, signed on October 4, 1991 (the "Norway-Germany tax treaty"), Art. 13.

[412] Norway-U.S. tax treaty, Art. 12.

[413] Norway-U.S. tax treaty, Arts. 10 and 8.

[414] Convention Between the Government of Sweden and the Government of the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed on September 1, 1994 (the "United States-Sweden tax treaty").

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Model that most of Norway's more recent tax treaties are based on. Potentially, this might in some exceptional cases provide other outcomes than what ordinarily could be expected by a U.S. person doing business in a tax treaty country.

A U.S. person is exempt from Norwegian tax on business profits with a Norwegian source, unless the person is engaged in industrial or commercial activity through a PE in Norway. The term "permanent establishment" is defined in line with the OECD Model Convention.

d. Taxation of Offshore Activities

A 1980 Protocol added Article 4A to the Norway-United States tax treaty, introducing a specific definition of a PE as regards offshore activities. Article 4A provides that a U.S. resident person that carries on activities in Norway in connection with exploration for or the exploitation of the seabed and subsoil and their natural resources, i.e., petroleum, will be deemed to be carrying on a business through a PE if such activities are carried on for a period of a least 30 days in the aggregate in any 12-month period.

2. U.S. Foreign Account Tax Compliance

Norway has entered into a Model 1 Intergovernmental Agreement (IGA) with the U.S. tax authorities pursuant to the Foreign Account Tax Compliance Act of the United States (FATCA).[415]

The IGA involves obligations to obtain and exchange information on accounts in U.S. and Norwegian financial institutions held by Norwegian or U.S. persons.

According to the rules under FATCA, a Norwegian financial institution has the obligation to:

(i) Identify and provide financial account information with respect to U.S. account holders;

(ii) Register with the U.S. tax authorities so as to be assigned a Global Identification Number (GIIN) and be listed as a participating financial institution;

(iii) Provide information to the preceding financial institution in the payment chain when acting as an intermediary in a payment that is subject to withholding tax in the United States; and

(iv) Provide information on payments to non-participating financial institutions.

3. Social Security Treaty

The Agreement Between the United States of America and the Kingdom of Norway on Social Security was signed on November 30, 2001, and became effective on September 1, 2003.

An individual who is covered by the U.S. social security program and is seconded to Norway will also be covered by the Norwegian national insurance program. However, the employees' and employers' social security contributions will be imposed at reduced rates.[416]

4. Estate and Inheritance Tax Treaty

As stated at IV.C., above, Norway's inheritance tax was abolished with effect from January 1, 2014. Therefore, the existence of the Norway-U.S. estate and inheritance tax treaty is largely of only academic interest today. The treaty was signed on June 13, 1949, and became effective on December 11, 1951. The treaty covered the Norwegian tax on inheritance and the U.S. federal estate tax. This treaty was applicable to transfers *mortis causa*, where the relevant transfers were subject to both Norwegian inheritance tax and the U.S. federal estate tax. The treaty permitted the use of the credit method to avoid double taxation.

5. Mutual Administrative Assistance Treaty

The Convention on Mutual Administrative Assistance in Tax Matters, drawn up under the aegis of the Organisation for Economic Cooperation and Development (OECD) and the Council of Europe, as amended by a Protocol dated and signed by the United States, Norway, and 10 other countries on May 27, 2010, has as its objective the promotion of international cooperation for the better operation of national tax laws, while respecting the fundamental rights of taxpayers. The Convention provides for all possible forms of administrative cooperation between states in the assessment and collection of taxes, in particular with a view to combating tax avoidance and evasion. This cooperation ranges from the exchange of information to the recovery of foreign tax claims.

The effect of the 2010 Protocol is to align the Convention with the international standard on information exchange for tax purposes, in particular, by requiring the exchange of bank information on request.

[415] The Agreement Between the Government of the Kingdom of Norway and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA, signed on April 15, 2013, available at: https://home.treasury.gov/policy-issues/tax-policy/foreign-account-tax-compliance-act.

[416] The employees' social security contribution is 5.1% if the relevant income is subject to tax; otherwise, the rate is 6.8%. The employers' social security contribution is 7% (2021).

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