

International Tax News*

Revised National Budget for 2009

Norway

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Background

The Norwegian Government proposed a revised National Budget for 2009 on 15 May 2009. The budget proposal includes a few amendments to Norwegian tax rules. As the Government has the majority in the Parliament, we expect that these changes will be enacted shortly.

Credit not allowed against Norwegian tax on 3% of income that is covered by the Tax Exemption Method

Under the Tax Exemption Method ("TEM"), corporate shareholders are as the main rule exempt from tax on income from shares.

All expenses related to exempt income from shares are fully tax deductible (to the extent the expenses should not be capitalised). In order to limit the benefit of these deductions, the tax exemption method is limited to 97 percent of the relevant income, with the remaining 3 percent taxable for Norwegian corporate shareholders (resulting in a 0.84% effective tax rate). The 3 percent taxable income is calculated on dividends and net gains/losses in the income year.

The Ministry of Finance states in the proposition issued on 15 May 2009 that foreign taxes cannot be credited against Norwegian tax on the 3 percent income. The Ministry of Finance argues that since this income represents a fixed estimate of non-deductible costs, the income must be considered Norwegian sourced and hence foreign taxes should not be creditable against Norwegian tax on this income.

It is proposed that this should be explicitly stated in the legislation that foreign taxes are not creditable against the three percent income. The amendment is proposed to be effective from 1 January 2009.

Prohibition against furnishing security in favour of related parties relaxed

Under the current rules, tonnage taxed companies that defer tax liabilities from the old tonnage tax system may not grant loans or security in favour of related parties outside the tonnage tax system.

The Government has proposed that the prohibition against granting security to related parties should be abolished on the condition that the security is granted towards a Norwegian or foreign financial institution licensed to grant credit. Further it is a condition that the security should be granted in favour of a related company (i.e. security in favour of physical persons is still not permitted).

The prohibition against granting loans to related parties will still apply. However, the prohibition will not apply to a possible recourse claim against the tonnage taxed company in case the security is enforced by a creditor.

The amendment is proposed to be effective from the income year 2009.

Group contributions to and from companies subject to surtax according to the Petroleum Tax Act

Taxpayers who are involved in extraction, processing and pipeline transportation within the areas covered by the Petroleum Tax Act pay a special tax on income from such activities at 50% in addition to ordinary corporate tax at 28%.

Companies that are subject to the surtax tax may not deduct group contributions for tax purposes. Further ordinary taxed companies may not deduct group contributions that are offset against losses in a group company that is subject to surtax.

According to present legislation a group contribution will be taxable for the receiver even if it is not deductible for the company that makes the contribution. In practice, this implies that groups of companies that include companies that are subject to surtax can only make intra-group transfer of funds through distribution of dividends which will be subject to the 0,84 percent tax.

It is proposed to amend the rules related to companies that are subject to surtax to ensure that non deductible group contributions between companies that are subject to surtax and ordinary taxed companies and vice versa should not be taxable. This will enable companies that are subject to surtax to make group contributions and thus eliminate the 0,84 percent tax that would arise in case of a dividend distribution.

The amendment is proposed to be effective with effect from the income year 2009.

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