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Norway Tax Alert

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Financial activities tax proposed, along with reduction in corporate rate

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Norway's budget proposal for FY2017, announced on 6 October 2016, includes few measures that will be particularly relevant for foreign investors, except for a proposed reduction in the corporate tax rate and the introduction of a "financial activities tax." The financial activities tax could have an impact on both Norwegian and foreign companies. Contrary to expectations, no BEPS-related measures were included in the budget measures.

The general corporate tax rate is proposed to be reduced from 25% to 24% as from fiscal years ending during calendar year 2017.

Under current rules, financial services generally are exempt from VAT in Norway. To reduce the government's revenue "loss" caused by the exemption, it is proposing to introduce a financial activities tax that would have two components:

1) Entities engaged in financial activities would be subject to a 5% tax based on compensation paid to employees. Financial activities would include the activities covered by the definition of Financial and Insurance Activities in Eurostat's NACE Rev.2 (different groups of activities made for statistical purposes by Eurostat). Employee compensation would be the same as that used for the Norwegian social security contribution levied on employers. The 5% tax would be deductible in computing the entities' corporate income tax due.
2) The corporate tax for entities subject to the 5% tax would remain at 25% (i.e. it would not be reduced to 24%).

An exemption from the above rules would apply in the following cases:

- If the compensation paid to employees engaged in financial activities is less than 30% of the total compensation paid by the entity; or
- If the compensation relating to financial activities that *are* subject to Norwegian VAT (e.g. administrative and legal

services, technical services in connection with claim settlements, etc.) is at least 70% of the total compensation paid by the entity.

An entity-by-entity approach would be used to determine whether the financial activities tax applies, and both Norwegian and foreign entities could be caught by the rules. Foreign entities potentially could be subject to the 5% tax even if they do not have a corporate taxable presence in Norway (typically because the activities in Norway are exempt in accordance with article 7 of an applicable tax treaty), since the 5% tax would be based on payroll rather than income.

Although the tax rate may differ between companies within a group, no measures are proposed that would restrict the ability to make group contributions.

The Ministry of Finance would be authorized to issue regulations on the implementation and operation of the proposed rules.

Comments

The Norwegian parliament now must debate the bill. Although Norway has a minority government (and a parliamentary system), it is likely that the general corporate tax rate reduction will be approved by parliament, and it also is more likely than not that the financial activities tax will be approved before the end of December 2016.