NORWAY

PROPOSED LIMITATION FOR INTEREST DEDUCTIONS

The Ministry of Finance has proposed limiting interest deductions for loans from related parties.

The proposal

Currently all arm's length interest expenses are deductible. The Norwegian tax authorities wish to reduce the incentives for multinationals to place acquisition debts in Norway and thereby reduce Norwegian tax liabilities. Rules with the same aim have already been introduced in Denmark, Sweden, Finland and other European countries.

The proposal implies that deductions for interest payments to related parties over a threshold of 25% of the company's taxable income, plus the net interest cost and depreciations, would not be deductible for tax purposes.

The calculation can be shown in the following example:

	NOK	
Taxable income (before limitations)	200	Including group contributions
+ Tax depreciation	40	
+ Net interest costs	160	
=Basis of computation	400	
Limit for deductions 25%	100	

For companies with various levels of internal and external debts, the following examples show the effects:

Bank interest NOK	Related party debt interest NOK	Non-deductible amount NOK
0	160	60
100	60	60
110	50	50
120	40	40

The non-deductible amount can be carried forward for five years after the income year, but the carry forward will then cease.

The proposal would affect Norwegian companies with related party debts to foreign shareholders.

The rules would apply not only to corporations (AS/ASA), but also partnerships, CFCs (NOKUS-companies), branches and companies owned by government bodies.

Related parties

A related party loan is a loan where the lender and the debtor are directly or indirectly under the same ownership or control of at least 50% at any time in the income year. Accordingly, this includes not only loans from limited liability companies, but also from tax free institutions, funds, state and municipality owned bodies, as well as natural persons.

To avoid any discrimination issues under the EEA agreement with the EU, wholly Norwegian groups are also included.

External party loans

The rules would also cover the following types of external loans:

- Back-to-back arrangements;
- Cash pools; and
- Loans where a related party receives a commission or similar payment from the external lender.

What now?

Companies with a high degree of debt to a related party should undertake an analysis of the proposal and the effects it would have on the group.

The new rules would take effect from 1 January 2014, according to the proposal. Companies with a complicated financial structure may need time to adopt.

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