

# **NORWEGIAN TAXATION OF INDIVIDUALS AND GOODS UPON CROSS BORDER MOBILITY**

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THE MAIN OBJECTIVE OF THE NORWEGIAN TAXATION RULES IS TO RAISE REVENUE TO THE NORWEGIAN PUBLIC SECTOR. ONE OF MANY UNDERLYING AIMS OF THE RULES IS TO AVOID DOUBLE TAXATION AND NON-TAXATION IN CROSS BORDER SITUATIONS. THE RELATIVELY HIGH TAX LEVEL IN NORWAY CREATES CERTAIN TAX INCENTIVES, THUS THE LEGISLATION ALSO HAS TO SECURE THE NORWEGIAN TAX BASE. THIS CONSIDERATION MAY LEAD TO DOUBLE TAXATION, E.G. ON IMPORTED MOTOR VEHICLES, SEE ITEM B.2.1.2.2. ON THE OTHER HAND, THE LEGISLATION CREATES OBVIOUS SITUATIONS OF NON-TAXATION, E.G. THE OPPORTUNITY TO TAX FREE IMPORT, SEE ITEM B.2.1.2.1. IN CERTAIN SITUATIONS MIGRANT WORKERS MAY GET ADVANTAGES COMPARED TO SEDENTARY WORKERS, SEE ITEM A.1.2.2.

## **A TAXATION OF INDIVIDUALS**

### **A.1 INCOME TAXES**

#### **A.1.1 TAX LIABILITY**

**A.1.1.1 UNDER WHICH CONDITIONS ARE NON-RESIDENT WORKERS LIABLE TO TAX?**

##### **A.1.1.1.1 DOMESTIC LAW**

ACCORDING TO THE TAX ACT<sup>1</sup> SECTION 2-3 (1) (D) A PERSON STAYING TEMPORARY IN NORWAY WORKING AS AN EMPLOYEE IS LIABLE TO TAX TO NORWAY ON REMUNERATION WHICH DERIVES FROM SOURCES HERE. IN THIS CONTEXT, THERE IS A NORWEGIAN SOURCE IF THE LABOUR IS PERFORMED FOR AN EMPLOYER WHO IS LIABLE TO TAX TO NORWAY.

NON-RESIDENT EMPLOYEES WHO ARE PLACED AT THE DISPOSAL OF OTHERS TO CARRY OUT WORK IN NORWAY (HIRING IN OF LABOUR) ARE LIABLE TO TAX ON INCOME FROM SUCH WORK, CF. SECTION 2-3 (2) OF THE TAX ACT.

THE NORWEGIAN CONTINENTAL SHELF IS NOT CONSIDERED A PART OF NORWAY ACCORDING TO THE TAX ACT. THERE THE PETROLEUM TAX ACT<sup>2</sup> APPLIES AND INCLUDES INCOME FROM LABOUR PERFORMED IN CONNECTION WITH THE EXPLORATION OR EXPLOITATION OF THE SEABED OR SUBSOIL OR THEIR NATURAL RESOURCES.

##### **A.1.1.1.2 SPECIFIC TOPICS ARISING FROM COMMUNITY LAW/THE NORDIC TAX TREATY**

NORWAY HAS BEEN THE INITIATOR AMONG THE NORDIC COUNTRIES REGARDING TAXATION OF HIRED OUT LABOUR<sup>3</sup>. THE NORWEGIAN POINT OF VIEW IS THAT THE 183-DAYS RULE DESCRIBED IN ITEM A.1.1.2.1 DOES NOT APPLY IN SUCH SITUATIONS, IRRESPECTIVE OF WHETHER THE INDIVIDUAL CASE CAN BE DESCRIBED AS ABUSIVE OR NOT, CF. NORWAY'S RESERVATION TO ARTICLE 15 OF THE OECD MODEL TAX CONVENTION.

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<sup>1</sup> Act No. 14 of 26 March 1999.

<sup>2</sup> Act No. 35 of 13 June 1975.

<sup>3</sup> Andersson et al.: Det nordiska skatteavtalet med kommentarer (1991).

**A.1.1.2 UNDER WHICH CONDITIONS DO MIGRANT WORKERS BECOME TAX RESIDENTS – A BRIEF DESCRIPTION**

**A.1.1.2.1 DOMESTIC LAW**

AS OF THE INCOME YEAR 2004, AN IMMIGRANT WORKER BECOMES A TAX RESIDENT OF NORWAY IF HE/SHE HAS BEEN PRESENT IN NORWAY FOR ONE OR MORE PERIODS EXCEEDING IN THE AGGREGATE 183 DAYS DURING A 12-MONTH PERIOD, CF. THE TAX ACT SECTION 2-1 (2) (A). THE SAME APPLIES FOR A PERSON WHO HAS BEEN PRESENT IN NORWAY FOR ONE OR MORE PERIODS EXCEEDING IN THE AGGREGATE 270 DAYS DURING A 36-MONTH PERIOD, CF. SECTION 2-1 (2) (B).

THE AIM OF THE NEW RULES WAS TO DRAW UP CRITERIA THAT ARE MORE PRECISE FOR TAX RESIDENCY THAN THE FORMER RULES. THUS THE TAX LIABILITY HAS BECOME MORE PREDICTABLE, BUT LESS FLEXIBLE.

**A.1.1.2.2 SPECIFIC TOPICS ARISING FROM COMMUNITY LAW/THE NORDIC TAX TREATY**

ACCORDING TO THE EARLIER BILATERAL TAX TREATIES BETWEEN NORWAY AND DENMARK AND NORWAY AND SWEDEN, MIGRANT WORKERS WERE NOT DEEMED RESIDENTS OF THE IMMIGRANT COUNTRY FOR STAYS OF SHORTER DURATION THAN 12 AND 10 MONTHS RESPECTIVELY<sup>4</sup>.

IN A CASE RAISED BY A NORWEGIAN RESIDING IN SWEDEN, THE PARLIAMENTARY OMBUDSMAN HAS CONCLUDED THAT HE WILL NOT LOOK INTO THE SUBSTANCE OF COMPLAINTS AGAINST NORWEGIAN TAX AUTHORITIES' DENIAL OF DEEMING THE TAXPAYER TO BE RESIDENT OF ANOTHER STATE ACCORDING TO THE TAX TREATY, IF THE TAXPAYER'S DOCUMENTATION DOES SHOW THAT HE HAS ACTED AS A TAX RESIDENT IN THE OTHER STATE BY REPORTING INCOME WHICH IS TAXABLE FOR RESIDENTS THERE, CF. UTV. 2005 PAGE 856.

**A.1.1.3 UNDER WHICH CONDITIONS DOES TAX RESIDENCY CEASE TO EXIST – A BRIEF DESCRIPTION**

**A.1.1.3.1 DOMESTIC LAW**

AS OF THE INCOME YEAR 2004, TAX RESIDENCY IN NORWAY CEASES TO EXIST WHEN A PERSON SUBSTANTIATES THAT SHE/HE

- HAS MOVED ABROAD PERMANENTLY,
- HAS NOT STAYED IN NORWAY FOR ONE OR MORE PERIODS EXCEEDING IN THE AGGREGATE 61 DAYS DURING THE INCOME YEAR, AND
- NEITHER SHE/HE NOR ANY CLOSELY RELATED PERSON HAS A HOME IN NORWAY AT THEIR DISPOSAL, CF. THE TAX ACT SECTION 2-1 (3) (A).

THE RESIDENCE IN NORWAY CEASES WHEN ALL THE CONDITIONS ARE FULFILLED. HOWEVER, IF THE PERSON HAS BEEN A RESIDENT OF NORWAY FOR AT LEAST TEN YEARS, THE TWO LATTER CONDITIONS MUST BE FULFILLED ALSO THE THREE INCOME YEARS FOLLOWING THE INCOME YEAR IN WHICH THE PERSON MOVED ABROAD PERMANENTLY, CF. SECTION 2-1 (3) (B). THE TAX RESIDENCY IN NORWAY WILL THEN CEASE FOR THE NEXT INCOME YEAR AND ON.

THE TAX ACT SECTION 2-1 (4) TO (6) DEFINES THE TERMS "CLOSELY RELATED PERSON", "HOME" AND "HOME AT DISPOSAL", THE LATTER INCLUDING ANY OWNERSHIP OF A HOME.

**A.1.1.3.2 SPECIFIC TOPICS ARISING FROM COMMUNITY LAW/THE NORDIC TAX TREATY**

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<sup>4</sup> Bugge og Ajer: Skattelovene bind III (1976) pages 324 and 351.

THE APPLICATION OF THE CRITERIA OF ARTICLE 4, PARAGRAPH 2 OF THE NORDIC TAX TREATY FOR WHERE A DUAL RESIDENT IS TO BE DEEMED TO BE A RESIDENT HAVE GAINED IMPORTANCE DUE TO THE ABOVEMENTIONED RULE IN THE TAX ACT SECTION 2-1 (3)-(6). A SUPREME COURT DECISION 24 APRIL 2008 (*SØLVIK*) REGARDING THE TAX TREATY WITH THE UNITED STATES, WHICH THE TAXPAYER WON, HAS LEAD TO NEW GUIDELINES FROM THE TAX DIRECTORATE REGARDING THE CRITERION "PERMANENT HOME AVAILABLE". THE GUIDELINES IMPLY THAT A TAXPAYER WHO RENTS OUT HIS HOME TO AN INDEPENDENT THIRD PARTY DURING A STAY ABROAD THAT LASTS 2 ½ YEARS, DOES NOT HAVE A PERMANENT HOME AVAILABLE TO HIM IN NORWAY DURING THE STAY.

## **A.1.2 TAXATION**

### **A.1.2.1 WHAT ARE THE GENERAL TAX RATES ON EMPLOYMENT INCOME – A BRIEF DESCRIPTION**

NORWAY HAS A DUAL INCOME TAX SYSTEM UNDER WHICH THERE IS A NET AND A GROSS TAX BASE, REFERRED TO AS GENERAL AND PERSONAL INCOME RESPECTIVELY. INCOME FROM EMPLOYMENT FALLS WITHIN BOTH TAX BASES. THE TAX RATE ON THE GENERAL INCOME IS 28 PERCENT, CF. PARLIAMENTARY DECISION ON TAX FOR THE INCOME YEAR 2009 SECTIONS 3-2 AND 3-8. THE PERSONAL INCOME IS SUBJECT TO 9 PERCENT TAX ON INCOME ABOVE 441 000 NOK AND 12 PERCENT ON INCOME ABOVE 716 600 NOK, CF. SECTION 3-1 (1).

### **A.1.2.2 WHICH RULES APPLY SPECIFICALLY FOR WORKERS MIGRATING TO YOUR COUNTRY?**

IT IS A GENERAL CONDITION FOR *DEDUCTIONS* IN THE GENERAL INCOME THAT THE RELEVANT EXPENSE IS RELATED TO INCOME TAXABLE IN NORWAY, CF. THE TAX ACT SECTION 6-1 (1) AND SECTION 6-3 (5).

IN ADDITION COME THE PERSONAL DEDUCTION ("PERSONFRADRAG") AND OTHER DEDUCTIONS WHICH ARE NOT INCOME RELATED (BASIC ALLOWANCE IN WAGES, DEDUCTION FOR EXCEPTIONALLY LARGE EXPENSES RELATED TO ILLNESS, DEDUCTION FOR CHILD CARE, DEDUCTION FOR YOUNG PEOPLES SAVING FOR A HOME, DEDUCTION FOR CONTRIBUTIONS TO CHARITIES AND THE DEDUCTION FOR INTEREST EXPENSES), CF. THE TAX ACT SECTIONS 15-4, 6-30 ET SEQ, 6-83 ET SEQ, 6-48, 16-10, 6-50 AND 6-40 RESPECTIVELY. THESE ARE ALL AVAILABLE TO PERSONS BEING RESIDENTS OF NORWAY. THE PERSONAL DEDUCTION AND THE BASIC ALLOWANCE IN WAGES ARE ALSO AVAILABLE TO NON-RESIDENTS, CF. THE TAX ACT SECTION 15-4 (7) (B) LAST SENTENCE AND 6-32 (4) THIRD SENTENCE.

RESIDENTS WHO OWN PROPERTY OR ENTERPRISES WHICH ARE EXEMPT FROM TAXATION IN NORWAY ACCORDING TO TAX TREATY, GET THEIR INTEREST DEDUCTION REDUCED PROPORTIONAL TO HOW MUCH OF THE TOTAL FORTUNE OF THE TAXPAYER THE EXEMPT PROPERTY OR ENTERPRISE AMOUNTS TO. FOR NON-RESIDENTS INTEREST EXPENSES ARE ONLY DEDUCTABLE IF THEY ARE RELATED TO INCOME TAXABLE IN NORWAY, CF. THE TAX ACT SECTION 6-40 (4) AND 4-31 (5). EXCEPT FOR THE DEDUCTIONS FOR YOUNG PEOPLES' SAVING FOR A HOME, CF. UTV. 1977 PAGE 445, THE REST OF THE MENTIONED DEDUCTIONS AND ALLOWANCES ARE REDUCED ACCORDING TO HOW MUCH OF THE INCOME YEAR THE RESIDENCY/STAY HAS LASTED, CF. THE TAX ACT SECTIONS 15-4 (8), 6-32 (4), 6-85 AND 6-92 . THE SAME PRINCIPLES APPLY FOR NON-RESIDENTS AND FOR PERSONS WHO HAVE BEEN RESIDENT PART OF THE YEAR REGARDING THE THRESHOLDS MENTIONED IN ITEM A.1.2.1 FOR TAX ON *PERSONAL INCOME*, CF. THE PARLIAMENTARY DECISION ON TAX FOR THE INCOME YEAR 2009 SECTION 3-1 (3).

AS OF THE INCOME YEAR 2006 AND AS OF THE INCOME YEAR 2009 REGARDING INTEREST DEDUCTIONS, THE TAX ACT SECTION 6-71 GIVES RESIDENTS OF THE OTHER EEA MEMBER STATES RIGHT TO THE SAME BASIC ALLOWANCES AND DEDUCTIONS AS RESIDENTS OF NORWAY IF ALL OR ALMOST ALL THEIR INCOME IS TAXABLE IN NORWAY.

THE TAXATION ACT HAS FEW PROVISIONS ON DEDUCTIONS AVAILABLE FOR NON-RESIDENTS OR OTHER IMMIGRANT WORKERS ONLY. THE ONLY EXAMPLE IS THE STANDARD DEDUCTION FOR FOREIGN WORKERS IN THE TAX ACT SECTION 6-70. THE PROVISION GIVES TAXPAYERS THE OPPORTUNITY TO CHOOSE BETWEEN A STANDARD DEDUCTION AND THE REGULAR DEDUCTIONS. THIS OPTIONAL DEDUCTION APPLIES FOR THE TWO FIRST INCOME YEARS FOR TAXPAYERS WHO ESTABLISHES TAX RESIDENCY TO NORWAY AND FOR TAXPAYERS WITH LIMITED TAX LIABILITY TO NORWAY ACCORDING TO TAX ACT SECTION 2-3 (1) (D) AND (2), CF. ITEM A.1.1.1.1. THE STANDARD DEDUCTION IS 10 PERCENT OF THE BASIS OF CALCULATION OF THE BASIC ALLOWANCES IN WAGES, LIMITED TO NOK 40,000. THE STANDARD DEDUCTION DOES NOT REPLACE ALL OTHER DEDUCTIONS, E.G. NOT THE BASIC ALLOWANCES IN WAGES OR DEDUCTION FOR TRADE UNION DUES.

THERE ARE NO SPECIAL *TAX RATES* OR *TAX REGIMES* FOR WORKERS MIGRATING TO NORWAY.

AS DESCRIBED ABOVE THE NORWEGIAN INCOME TAX SYSTEM FORMALLY IS VERY NEUTRAL FOR FOREIGN WORKERS, NEITHER DISCRIMINATING THEM NOR GIVING THEM PRIVILEGES TO ATTRACT THEM. NEVERTHELESS, BEHIND THE FORMAL NEUTRALITY LIES AN ADVANTAGE FOR PERSONS BECOMING RESIDENTS ACCORDING TO THE TAX ACT, BUT REMAINING RESIDENTS OF THE COUNTRY OF ORIGIN ACCORDING TO THE TAX TREATY. THEY GET THE FULL BASIC ALLOWANCES AND DEDUCTIONS OF THE NORWEGIAN TAX SYSTEM AND CAN THUS OBTAIN AN INCOME FROM NORWAY THAT IS NOT INSIGNIFICANT WITHOUT PAYING TAX HERE. COMBINED WITH THE USE OF EXEMPTION METHODS FOR WAGES IN THE COUNTRY OF RESIDENCE ACCORDING TO THE NORDIC TAX TREATY, THIS TAX EXEMPTION BECOMES FINAL.

THERE HAVE BEEN SEVERAL AMENDMENTS DONE IN NATIONAL LAW BASED ON COMMUNITY LAW, THE TAX ACT SECTION 6-71 BEING ONE OF THEM. THE OTHER MOST RELEVANT IN THIS CONTEXT IS THE TAX ACT SECTION 6-13 (3), CF. THE TAX REGULATION<sup>5</sup> SECTION 6-13-10, WHICH GIVE PERSONS WHO, DUE TO THEIR EMPLOYMENT, HAVE TO LIVE OUTSIDE THEIR HOME IN ANOTHER EEA MEMBER STATE, A RIGHT TO DEDUCT EXPENSES IN CONNECTION WITH STAYING AWAY FROM HOME.

OTHER AMENDMENTS ARE NOT DIRECTLY RELATED TO EMPLOYMENT INCOME, BUT ARE OF RELEVANCE TO MIGRANT WORKERS, AND ESTABLISH MORE EQUAL TREATMENT OF CROSS BORDER AND DOMESTIC PENSION SAVINGS, YOUNG PEOPLE'S SAVING FOR A HOME, DIVIDENDS AND LOTTERY WINNINGS. IN ITS LETTER OF FORMAL NOTICE OF 19 DECEMBER 2003, ESA CONCLUDED PRELIMINARY THAT THE RULES REGARDING CONTRIBUTIONS TO CHARITIES, WHICH ARE RESTRICTED TO DOMESTIC CHARITIES, ARE IN CONTRAVENTION TO ARTICLE 28 AND 40 OF THE EEA AGREEMENT. THE LETTER HAS NEITHER BEEN FOLLOWED UP ON THE NORWEGIAN SIDE BY AMENDMENTS TO THE RULES WITHIN THE THREE-MONTH'S LIMIT SET BY ESA, NOR ON ESA'S SIDE BY LETTER OF FORMAL NOTICE OR CLOSURE OF THE CASE.

#### A.1.2.3 WHICH RULES APPLY TO WORKERS MIGRATING FROM YOUR COUNTRY?

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<sup>5</sup> Regulation No. 1158 of 19 November 1999.

#### **A.1.2.3.1 RULES FOR THE AVOIDANCE OF DOUBLE TAXATION**

THE TAX ACT USES *THE CREDIT METHOD* FOR THE AVOIDANCE OF DOUBLE TAXATION, CF. SECTIONS 16-20 TO 16-28. THE METHOD IMPLIES THAT FOR INCOME WHICH IS TAXED BOTH IN NORWAY AND ABROAD, A DEDUCTION (CREDIT) IS GRANTED IN ASSESSED NORWEGIAN TAX FOR FINALLY ASSESSED AND PAID TAX ON FOREIGN INCOME (LIMITED UPWARDS TO THE NORWEGIAN TAX ON THE FOREIGN INCOME).

ALMOST ALL NORWEGIAN TAX TREATIES SINCE 1992 USE THE CREDIT METHOD. THE USE OF THE ALTERNATIVE EXEMPTION METHOD FOR WAGES IN THE FIFTH PARAGRAPH LITRA C OF ARTICLE 25 IN THE NORDIC TAX TREATY OF 1996 IS THUS AN EXCEPTION. ACCORDING TO THIS METHOD, NORWAY INCLUDES THE INCOME ABROAD IN THE TAX BASIS BUT THE TAX ON THE OVERALL INCOME IS REDUCED BY THAT PART OF THE TAX THAT IS TAX ON THE INCOME COVERED BY THE ALTERNATIVE EXEMPTION METHOD.

ALTHOUGH THE NORDIC TAX TREATY IS AN ANOMALY AMONG THE NORWEGIAN TAX TREATIES AFTER 1992, THE RESULT IS MUCH IN LINE WITH DOMESTIC LAW. THIS IS BECAUSE THE ALTERNATIVE EXEMPTION METHOD IS ALSO USED ACCORDING TO DOMESTIC LAW ON PERSONS WHO ARE TAX RESIDENTS OF NORWAY, BUT WORK ABROAD FOR A PERIOD THAT LASTS FOR AT LEAST 12 MONTHS. THEY CAN DEMAND A REDUCTION IN TAX ACCORDING TO THE ALTERNATIVE EXEMPTION METHOD ON WAGE EARNINGS FROM ABROAD (THE ONE-YEAR RULE), CF. TAX ACT SECTION 2-1 (10) (A). FOR THE RULE TO APPLY THE MAIN RULE IS THAT THE PERSON'S STAYS IN NORWAY MUST BE LIMITED TO AN AVERAGE OF SIX DAYS A MONTH. THERE IS NO REQUIREMENT THAT THE INCOME IS TAXED ABROAD, BUT A REDUCTION IN TAX IS NOT GRANTED WHEN NORWAY, PURSUANT TO A TAX TREATY OR OTHER AGREEMENT IN INTERNATIONAL LAW, HAS AN EXCLUSIVE RIGHT TO TAX THE INCOME, CF. SECTION 2-1 (10) (C).

#### **A.1.2.3.2 EXIT TAXES**

WHEN A PERSON IS MOVING FROM NORWAY, THE CEASE OF TAX RESIDENCY DOES NOT ITSELF RESULT IN LIABILITY TO PAY INCOME TAX. HOWEVER WHILE THE MAIN RULE IS THAT INCOME FROM EMPLOYMENT IS TAXED THE YEAR IT IS PAID TO THE EMPLOYEE, CF. TAX ACT SECTION 14-3 (1), EARNED REMUNERATION IN NORWAY WILL BE TAXED AT THE TIME THE PERSON IS MOVING EVEN IF THE REMUNERATION HAS NOT YET BEEN PAID OUT, CF. SECTION 14-3 (3) (B).

FOR PERSONAL TAXPAYERS, NEW RULES APPLY FROM 2007 CONCERNING THE TAXATION OF *LATENT SHARE GAINS* ETC. ON MOVING FROM NORWAY. A PERSON WHO CEASES TO BE TAX RESIDENT IN NORWAY IS LIABLE TO TAX ON THE INCREASE IN VALUE OF SHARES ETC. UP UNTIL THE DATE SHE OR HE MOVES FROM NORWAY, CF. TAX ACT SECTION 10-70 (1). THE AMOUNT SUBJECT TO TAX IS THE GAIN THAT WOULD HAVE BEEN LIABLE TO TAX IF THE SHARES ETC. HAD BEEN SOLD THE DAY BEFORE THE CESSATION OF GENERAL TAX LIABILITY. THE TAX LIABILITY ALSO APPLY TO THE TRANSFER OF SHARES ETC. TO A SPOUSE WHO IS TAX RESIDENT ABROAD.

THE AIM OF THE TAX LIABILITY OF LATENT SHARE GAINS ETC. IS TO SECURE A NEUTRAL TAXATION OF THE INCREASE IN VALUE THAT HAS TAKEN PLACE WHILE THE TAXPAYER HAS BEEN RESIDENT IN NORWAY. SUCH A TAXATION WILL NEUTRALIZE ANY MOTIVATION TO MOVE TO A STATE WITH NO OR LOW TAXATION OF GAINS BEFORE REALIZING THE BUILT UP GAINS. NOT EVERY POSSIBLE GAIN WILL HOWEVER LEAD TO A WISH TO EMIGRATE. TO PROTECT TAXPAYERS WITH ONLY MINOR GAIN SHARES, AND FOR ADMINISTRATIVE REASONS, A THRESHOLD IS ESTABLISHED. WHEN THE TOTAL NET GAIN (AFTER ANY DEDUCTIBLE LOSS) DOES NOT EXCEED NOK 500,000, THE LATENT GAIN IS NOT LIABLE TO TAX, CF. SECTION 10-70 (4). IF THE TOTAL NET

GAIN EXCEEDS NOK 500,000, THE ENTIRE GAIN IS LIABLE TO TAX. THE THRESHOLD HAS BEEN CRITICIZED FOR BEING TOO LOW – NO ONE WOULD EMIGRATE TO SAVE 140,000 IN TAX<sup>6</sup>.

LATENT LOSSES ARE ONLY DEDUCTIBLE WHEN MOVING TO ANOTHER EEA COUNTRY AND ONLY WHEN A DEDUCTION IS NOT GRANTED IN THE OTHER COUNTRY, CF. SECTION 10-70 (3).

A DEFERMENT CAN BE GRANTED FOR PAYMENT OF THE TAX ON THE LATENT GAIN UNTIL IT IS ACTUALLY REALISED, IF ADEQUATE SECURITY IS FURNISHED FOR THE TAX, CF. SECTION 10-70 (7). A DEFERMENT WITHOUT SECURITY HAVING TO BE FURNISHED IS GRANTED ON MOVING TO AN EEA COUNTRY IF NORWAY HAS A TREATY THAT OBLIGES THE COUNTRY IN QUESTION TO ASSIST IN THE RECOVERY OF TAX CLAIMS.

THE CALCULATED GAIN THAT IS SUBJECT TO TAX IN NORWAY CAN BE REDUCED IF THE SHARES ETC. ARE REALISED AT A VALUE LOWER THAN THE CLOSING VALUE STIPULATED IN CONNECTION WITH THE MOVE, CF. SECTION 10-70 (9) (A).

ACCORDING TO SECTION 10-70 (9) (C) AND (D) THE CALCULATED TAX LAPSES IF:

- THE SHARES ETC. HAVE NOT BEEN REALISED FIVE YEARS AFTER THE CESSATION OF TAX RESIDENCE PURSUANT TO DOMESTIC LAW OR A TAX TREATY, OR
- THE TAXPAYER MOVES BACK TO NORWAY AND BECOMES TAX RESIDENT HERE PURSUANT TO DOMESTIC LAW BEFORE SHE OR HE SELLS THE SHARES ETC., OR
- THE TAXPAYER BECOMES RESIDENT FOR TAX PURPOSES IN NORWAY PURSUANT TO A TAX TREATY BEFORE SHE OR HE SELLS THE SHARES ETC.

IF THE GAIN IS SUBJECT TO TAX IN ANOTHER STATE, A DEDUCTION IS GRANTED ACCORDING TO THE PROVISIONS IN TAX ACT SECTION 10-20 TO 16-28 (THE CREDIT RULES, SEE ITEM A.1.2.3.1), CF. SECTION 10-70 (9) (B).

THE EXIT TAX RULES ARE BASED ON AN ASSESSMENT OF THE EEA OBLIGATIONS FOLLOWING FROM THE *DE LASTEYRIE* AND *N* CASES, BUT HAVE BEEN CRITICISED FOR NOT FULFILLING THE CRITERIA OF *DE LASTEYRIE*<sup>7</sup>.

### **A.1.3 DEVIATIONS BETWEEN THE RULES APPLICABLE BETWEEN THE NORDIC COUNTRIES AND THE RULES APPLICABLE VERSUS OTHER COUNTRIES**

THERE ARE NO DEVIATIONS BETWEEN THE RULES APPLICABLE BETWEEN THE NORDIC COUNTRIES AND THE RULES APPLICABLE VERSUS OTHER COUNTRIES, EXCEPT THE USE OF THE ALTERNATIVE EXEMPTION METHOD FOR WAGES IN THE NORDIC TAX TREATY. THIS REDUCES THE IMPORTANCE OF THE ONE-YEAR RULE IN A NORDIC CONTEXT. THE RULES ONLY APPLICABLE FOR PERSONS RESIDENT IN EEA MEMBER STATES, HOWEVER, APPLY FOR ALL THE NORDIC COUNTRIES.

## **A.2 NET WEALTH TAX**

### **A.2.1 TAX LIABILITY**

#### **A.2.1.1 UNDER WHICH CONDITIONS IS NET WEALTH OF MIGRANT WORKERS TAXED?**

##### **A.2.1.1.1 DOMESTIC LAW**

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<sup>6</sup> Ole Gjems-Onstad "Norsk bedriftsskatterett" 2008 page 993.

<sup>7</sup> Fredrik Zimmer: Internasjonal inntektsskatterett (2009) page 316.

PERSONS WHO ARE NOT TAX RESIDENTS OF NORWAY ARE LIABLE TO NET WEALTH TAX FOR MOVABLE AND IMMOVABLE PROPERTY HERE, CF. TAX ACT SECTION 2-3 (1) (A).

PERSONS WHO ARE TAX RESIDENTS OF NORWAY ARE LIABLE TO PAY NET WEALTH TAX HERE REGARDLESS OF WHETHER THE NET WEALTH IS IN NORWAY OR ABROAD, CF. TAX ACT SECTION 2-1 (9) AND (1). THE RULES DESCRIBED IN ITEM A.1.1 DETERMINING TAX RESIDENCY ALSO APPLY FOR NET WEALTH TAX. THE LIABILITY TO PAY NET WEALTH TAX IS HOWEVER RESERVED FOR PERSONS WHO ARE TAX RESIDENT AT THE TURN OF THE YEAR, CF. SECTION 2-1 (7).

#### **A.2.1.1.2 SPECIFIC TOPICS ARISING FROM THE NORDIC TAX TREATY**

TAKEN THAT ALL THE OTHER NORDIC COUNTRIES HAVE ABOLISHED NET WEALTH TAXES, IT IS SOMEWHAT SURPRISING THAT NORWAY DID NOT SEE TO IT THAT THE PROVISIONS REGARDING TAXATION OF CAPITAL WERE DELETED FROM THE NORDIC TAX TREATY WHEN THE PROTOCOL OF 4 APRIL 2008 WAS NEGOTIATED. THIS IS MORE OF A DRAFTING PROBLEM THAN A LEGAL PROBLEM, DUE TO THE SUBJECT TO TAX CLAUSE OF ARTICLE 26.

### **A.2.2 TAXATION**

**A.2.2.1** WHAT ARE THE GENERAL CAPITAL TAX RATES – A BRIEF DESCRIPTION  
THE GENERAL NET WEALTH TAX IS 0.4 PERCENT OF THE TOTAL NET WEALTH ABOVE 470,000 NOK TO THE STATE AND 0.7 PERCENT TO THE MUNICIPALITIES, ALTOGETHER 1.1 PERCENT OF THE NET WEALTH ABOVE THE THRESHOLD, CF. PARLIAMENTARY DECISION ON TAX FOR THE INCOME YEAR 2009 SECTIONS 2-1 AND 2-3.

**A.2.2.2** WHICH RULES APPLY FOR WORKERS MIGRATING TO NORWAY?  
GENERALLY, IMMIGRANT WORKERS POSSESS FOREIGN SHARES TO A LARGER EXTENT THAN SEDENTARY WORKERS DO. SHARES IN UNQUOTED NORWEGIAN COMPANIES ARE ASSESSED ACCORDING TO THE TAX VALUE OF THE COMPANY, WHICH CAN BE FAR LOWER THAN THE MARKET VALUE, WHILST SHARES IN UNQUOTED FOREIGN COMPANIES ARE ASSESSED ACCORDING TO THE MARKET VALUE OF THE COMPANY, CF. THE TAX ACT SECTION 4-12 (2) AND (3). AFTER THE EFTA SURVEILLANCE AUTHORITY STARTED EXAMINING THE RULES, THEY WERE AMENDED IN 2001, GIVING THE TAXPAYERS WHO CAN SUBSTANTIATE THE TAX VALUE OF A FOREIGN COMPANY IN WHICH THEY HAVE SHARES, A RIGHT TO BE TAXED ACCORDING TO THIS VALUE.

**A.2.2.3** WHICH RULES APPLY FOR WORKERS MIGRATING FROM NORWAY?  
THE RULES REGARDING CEASE OF TAX RESIDENCY DESCRIBED IN ITEM A.1.1.3 ALSO APPLY FOR NET WEALTH TAX. THE CREDIT RULES DESCRIBED IN A.1.2.3.1 ALSO APPLY FOR PERSONS TAX RESIDENT IN NORWAY WHO HAVE PAID NET WEALTH TAX TO ANOTHER STATE, CF. TAX ACT SECTION 16-20 (1) (B).

### **A.2.3 DEVIATIONS BETWEEN THE RULES APPLICABLE BETWEEN THE NORDIC COUNTRIES AND THE RULES APPLICABLE VERSUS OTHER COUNTRIES**

IN MOST TAX TREATIES NORWAY ENTERS INTO WITH COUNTRIES THAT DO NOT HAVE NET WEALTH TAX, THE TAX TREATY IS RESTRICTED TO TAX ON INCOME. THIS HAS NOT BEEN DONE IN THE NORDIC TAX TREATY, EVEN THOUGH NORWAY IS THE ONLY NORDIC COUNTRY WITH NET WEALTH TAX, CF. ITEM A.2.1.1.2.

## **A.3 SOCIAL SECURITY CONTRIBUTIONS**

### **A.3.1 LIABILITY TO PAY**

#### **A.3.1.1 UNDER WHICH CONDITIONS IS THERE A LIABILITY TO PAY FOR EMPLOYMENT EXERCISED BY MIGRANT WORKERS?**

EMPLOYERS HAVE TO PAY SOCIAL SECURITY CONTRIBUTION ON WAGES AND OTHER REMUNERATION THAT THE EMPLOYERS HAVE TO REPORT, CF. THE SOCIAL SECURITY ACT<sup>8</sup> SECTION 23-2 (1) AND THE TAX ASSESSMENT ACT<sup>9</sup> SECTION 6-2. THE OBLIGATION TO PAY EMPLOYER'S SOCIAL SECURITY CONTRIBUTIONS DOES NOT FOLLOW THE MEMBERSHIP OF THE EMPLOYEE AND CAN APPLY EVEN IF THE EMPLOYER IS NOT ENGAGED IN ACTIVITY IN NORWAY AND EVEN IF THE EMPLOYEE IS NOT LIABLE TO TAX IN NORWAY. HOWEVER, THE OBLIGATION TO PAY CONTRIBUTIONS DOES NOT APPLY FOR REMUNERATION FOR LABOUR ABROAD WHEN THE EMPLOYEE IS A FOREIGN CITIZEN NOT A MEMBER OF THE NORWEGIAN SOCIAL SECURITY, OR THE WORK IS PERFORMED FOR A PERMANENT ESTABLISHMENT ABROAD OF A NORWEGIAN ENTERPRISE BY AN EMPLOYEE WHO IS NOT A TAX RESIDENT OF NORWAY, CF. THE SOCIAL SECURITY ACT SECTION 23-2 (9).

IF THE EMPLOYEES ARE EXEMPT FROM THE NORWEGIAN SOCIAL SECURITY SCHEME PURSUANT TO A NATIONAL INSURANCE AGREEMENT OR PURSUANT TO THE EEA AGREEMENT, CF. REGULATION (EEC) No 1408/71, THE EMPLOYER IS EXEMPT FROM THE OBLIGATION TO PAY EMPLOYER'S SOCIAL SECURITY CONTRIBUTIONS. EMPLOYEES CAN ALSO BE EXEMPTED FROM THE NORWEGIAN SOCIAL SECURITY SCHEME BASED ON THE SOCIAL SECURITY ACT (SEE BELOW).

PERSONS WHO ARE RESIDENT IN NORWAY ARE AS A RULE OBLIGED TO BE MEMBERS OF AND TO PAY CONTRIBUTIONS TO THE SOCIAL SECURITY SCHEME, CF. THE SOCIAL SECURITY ACT SECTION 2-1 (1). A PERSON IS RESIDENT IF HIS/HER STAY IN NORWAY IS INTENDED TO LAST OR HAS BEEN LASTING FOR MORE THAN 12 MONTHS, CF. SECTION 2-1 (2). IN ADDITION, A PERSON HAVING A WORK PERMIT AND EXERCISING EMPLOYMENT IN NORWAY BECOMES A MEMBER IRRESPECTIVE OF WHETHER HE/SHE IS LIABLE FOR TAX, CF. SECTION 2-2. SUCH MEMBERSHIP LASTS UP TO 1 MONTH AFTER THE EMPLOYMENT HAS ENDED, CF. SECTION 2-14 (2).

IN GENERAL, THE MEMBERSHIP CEASES IF THE MEMBER MOVES ABROAD AND THE STAY IS INTENDED TO LAST OR LASTS MORE THAN 12 MONTHS OR IS INTENDED TO OR HAS LASTED MORE THAN 6 MONTHS A YEAR FOR TWO OR MORE SUBSEQUENT YEARS OR THE MEMBER STARTS WORKING ABROAD, UNLESS THE EMPLOYEE HAS TO PAY SOCIAL SECURITY CONTRIBUTION ON THE REMUNERATION, CF. SECTION 2-14 (1) AND (4) AND 2-1 (3).

NORWEGIAN CITIZENS ARE OBLIGATORY MEMBERS DURING STAYS ABROAD IN CERTAIN SITUATIONS, E.G. IF THEY WORK FOR THE NORWEGIAN STATE OR ARE STUDENTS, CF. SECTION 2-5. PERSONS STAYING IN NORWAY WHO ARE NOT OBLIGATORY MEMBERS OF THE SOCIAL SECURITY SCHEME, AND PERSONS STAYING ABROAD, CAN APPLY FOR MEMBERSHIP, CF. SECTION 2-7 AND 2-8.

SOME EMPLOYEES MAY BE EXEMPTED FROM COMPULSORY MEMBERSHIP OF THE NORWEGIAN SOCIAL SECURITY SCHEME. THIS APPLIES, AMONG OTHERS, TO SO-CALLED POSTED WORKERS COVERED BY THE EEA AGREEMENT OR BY A NATIONAL INSURANCE AGREEMENT ENTERED INTO BY NORWAY, CF. THE SOCIAL SECURITY ACT SECTION 1-3 AND REGULATION (EEC) No 1408/71. FOREIGN EMPLOYEES FROM COUNTRIES OUTSIDE THE EEA AREA CAN APPLY FOR EXEMPTION FROM THE SOCIAL SECURITY SCHEME IF THE EMPLOYEE IS INSURED IN HIS OR HER HOME COUNTRY,

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<sup>8</sup> Act No. 19 of 28 February 1997.

<sup>9</sup> Act No. 24 of 13 June 1980.

CF. SECTION 2-13 (2). ALL EMPLOYEES THAT ARE INSURED IN THEIR HOME COUNTRY, ARE EXEMPT FROM THE SOCIAL SECURITY SCHEME IF THEY ARE NOT TAXABLE TO NORWAY ACCORDING TO THE TAX LAWS OR TAX TREATY IF THE STAY IS NOT TO LAST MORE THAN THREE MONTHS.

### **A.3.2 CONTRIBUTIONS PAID**

#### **A.3.2.1 WHAT ARE THE GENERAL SOCIAL SECURITY CONTRIBUTION RATES – A BRIEF DESCRIPTION**

*EMPLOYER'S* SOCIAL SECURITY CONTRIBUTIONS ARE STIPULATED AS A PERCENTAGE OF THE REPORTED AMOUNT, CF. THE SOCIAL SECURITY ACT SECTION 23-2 (1). THE CONTRIBUTIONS ARE DIFFERENTIATED, WITH RATES THAT VARY BETWEEN DIFFERENT GEOGRAPHICAL ZONES. THE HIGHEST RATE APPLIES TO ZONE 1, WHICH INCLUDES LARGE AREAS OF SOUTHERN NORWAY. THE RATE FOR ZONE 1 IS 14.1 PERCENT, CF. PARLIAMANTARY DECISION ON SOCIAL SECURITY CONTRIBUTION FOR 2009 SECTION 1 (H). THERE ARE SEVERAL, LOWER RATES FOR RURAL AREAS. FOR THE NORTHERNMOST MUNICIPALITIES OF NORWAY THE RATE IS 0.

*EMPLOYEE'S* SOCIAL SECURITY CONTRIBUTIONS ARE STIPULATED AS A PERCENTAGE OF PERSONAL INCOME PURSUANT TO THE TAXATION ACT SECTION 12-2, CF. SOCIAL SECURITY ACT SECTION 23-3 (2). FOR PAY AND OTHER PERSONAL INCOME THE RATE IS 7.8 PERCENT, CF. PARLIAMANTARY DECISION ON SOCIAL SECURITY CONTRIBUTION FOR 2009 SECTION 2 (B). IF THE INCOME IS NOK 39,600 OR LESS, IT IS EXEMPT FROM SOCIAL SECURITY CONTRIBUTIONS, CF. THE SOCIAL SECURITY ACT SECTION 23-3 (4). THE CONTRIBUTION MAY NOT EXCEED 25 PERCENT OF INCOME ABOVE 39,600.

**A.3.2.2 DO ANY RULES APPLY SPECIFICALLY FOR IMMIGRANT WORKERS?**  
IMMIGRANT WORKERS FOLLOW THE SAME RULES AS SEDENTARY WORKERS. FOR BOTH GROUPS THE BASE FOR THE SOCIAL SECURITY CONTRIBUTION IS THE PERSONAL INCOME, CF. ITEM A.1.2.1. NO SOCIAL SECURITY CONTRIBUTION IS PAID IF THE INCOME IS 39 600 NOK OR LESS, CF. THE SOCIAL SECURITY ACT SECTION 23-3 (3).

#### **A.3.3 DEVIATIONS BETWEEN THE RULES APPLICABLE BETWEEN THE NORDIC COUNTRIES AND THE RULES APPLICABLE VERSUS OTHER COUNTRIES**

THERE ARE NO DEVIATIONS BETWEEN THE RULES APPLICABLE BETWEEN THE NORDIC COUNTRIES AND THE RULES APPLICABLE VERSUS OTHER COUNTRIES (EXCEPT FOR THE NORDIC SOCIAL CONVENTION).

## **B TAXATION OF GOODS**

### **B.2 THE NORWEGIAN RULES REGARDING TAXES ON GOODS**

#### **B.2.1 IMPORTS**

##### **B.2.1.1 MAIN RULES**

AS A STARTING POINT ALL IMPORTS OF GOODS TO NORWAY RESULT IN LIABILITY TO PAY VAT AND POSSIBLE EXCISE DUTIES, CF. VAT ACT SECTION<sup>10</sup> 62 AND EXCISE DUTIES REGULATION<sup>11</sup> SECTION 2-1. SINCE NORWAY IS NOT A MEMBER OF THE EU,

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<sup>10</sup> ACT No. 66 OF 19 JUNE 1969.

<sup>11</sup> REGULATION No. 1451 OF 11 DECEMBER 2001.

IMPORTS FROM EU COUNTRIES WILL GENERALLY BE TREATED LIKE IMPORTS FROM COUNTRIES OUTSIDE THE UNION.

THE REGULAR VAT RATE IS 25 PERCENT, FOR FOODSTUFFS 14 PERCENT. THE LEVEL OF THE EXCISE DUTIES VARIES, BUT IS IN GENERAL HIGH, ESPECIALLY FOR MOTOR VEHICLES, ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS. FOR FURTHER DETAILS ABOUT THE LEVEL OF THE EXCISE DUTIES, SEE PARLIAMENTARY DECISION ON EXCISE DUTIES FOR 2009 ON [HTTP://WWW.LOVDATA.NO/CGI-WIFT/LDLES?DOC=/SF/SF/SF-20081127-1295.HTML](http://www.lovdatab.no/cgi-wift/ldles?doc=/sf/sf/sf-20081127-1295.html).

THERE ARE SEVERAL EXEMPTIONS FROM TAX LIABILITY, AND THE EXEMPTIONS PARTICULARLY RELEVANT FOR INDIVIDUALS ARRIVING NORWAY ARE DESCRIBED BELOW. THE PERMANENT EXEMPTIONS ARE TO BE FOUND IN THE NORWEGIAN CUSTOMS ACT<sup>12</sup> CHAPTER V, AND THE TEMPORARY IN CHAPTER VI. THE DESCRIBED EXEMPTIONS ALL APPLY FOR BOTH VAT<sup>13</sup> AND EXCISE DUTIES<sup>14</sup>.

## **B.2.1.2 EXEMPTIONS**

### ***B.2.1.2.1 PERMANENT***

IMPORTATION OF *REMOVAL GOODS* IS TAX FREE, CF. CUSTOMS ACT SECTION 5-1 (1) (C). THE EXEMPTION IS CONDITIONAL ON THE GOODS BEING USED ONLY FOR PERSONAL PURPOSES, CF. SECTION 5-1 (2). THESE ARE ITEMS THAT HAVE BEEN PURCHASED AND PAID DUTIES FOR IN ANOTHER COUNTRY, THUS THE EXEMPTION IS NECESSARY TO AVOID DOUBLE TAXATION. NEW ITEMS CANNOT BE IMPORTED DUTY FREE AS REMOVAL GOODS, MEANING THE OBJECTS MUST HAVE THE APPEARANCE OF BEING USED. OTHER CONDITIONS ARE THAT THE GOODS ARE IMPORTED BY AND FOR THE USE OF A PERSON WHO HAS LIVED ABROAD CONTINUOUSLY FOR AT LEAST A YEAR, AND THAT THE PERSON HAVE OWNED AND USED THE OBJECTS DURING THE STAY ABROAD, SEE CUSTOM REGULATION SECTION 5-1-10 SUBSECTION (2).

THE EXEMPTION DOES NOT APPLY FOR MOTOR VEHICLES, AIRCRAFTS, PROFESSIONAL EQUIPMENT, FOODSTUFFS, ALCOHOL BEVERAGES OR TOBACCO PRODUCTS, SEE CUSTOM REGULATION<sup>15</sup> SECTION 5-1-10 (1).

*LUGGAGE FOR PERSONAL USE* MAY BE IMPORTED TAX FREE, CF. CUSTOMS ACT SECTION 5-1 (1) (A). THE EXEMPTION IS CONDITIONAL ON THE GOODS BEING USED ONLY FOR PERSONAL PURPOSES, CF. SECTION 5-1 (2). LIKE REMOVAL GOODS, THESE ITEMS HAVE BEEN TAXED IN ANOTHER COUNTRY. TYPICAL ITEMS THAT ARE CONSIDERED AS LUGGAGE FOR PERSONAL USE ARE CLOTHING AND LEISURE TIME GOODS.

IN ADDITION PERSONS WHO HAVE BEEN OUTSIDE NORWAY FOR AT LEAST 24 HOURS, MAY BRING GOODS REPRESENTING A TOTAL VALUE OF NOK 6000 DUTY FREE (*TRAVELER'S ALLOWANCES*), SEE CUSTOMS REGULATION SECTION 5-1-1 (1). IF THE DURATION OF THE STAY OUTSIDE NORWAY HAS BEEN LESS THAN 24 HOURS THE MONETARY THRESHOLD IS NOK 3000, CF. SECTION 5-1-1 (2).

IF THE VALUE OF ONE SINGLE ITEM EXCEEDS THE THRESHOLDS, DUTY HAS TO BE PAID ON THE ENTIRE PRICE. REPAIRS DONE ABROAD, INCLUDING VEHICLE REPAIRS, ARE ALSO SUBJECT TO THE MONETARY THRESHOLDS. GOODS THAT FORM A UNIT AND EXCEEDS THE THRESHOLDS MAY NOT BE SPLIT UP INTO INDIVIDUAL PARTS. IF ONE

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<sup>12</sup> Act No. 119 of 21. December 2007.

<sup>13</sup> Regulation No. 2 of 12 December 1975 Section 4.

<sup>14</sup> Regulation No. 1451 of 11 December 2001 Section 2-6.

<sup>15</sup> Regulation No. 1502 of 17 December 2008.

IS UNABLE TO PRODUCE PROOF OF VALUE, A RECEIPT FOR EXAMPLE, THE CUSTOMS AUTHORITIES WILL DETERMINE THE VALUE AT THEIR DISCRETION.

WITHIN THE MONETARY THRESHOLDS, THERE ARE ALSO QUANTITATIVE LIMITS FOR ALCOHOLIC BEVERAGES, TOBACCO PRODUCTS, FUEL, MEAT, MEAT PRODUCTS AND CHEESE, CF. CUSTOM REGULATION SECTION 5-1-2 (1) AND (2).

THE TRAVELER'S ALLOWANCES MAY EITHER BE BOUGHT IN AN ORDINARY SHOP IN ANOTHER COUNTRY OR IN A TAX FREE SHOP. HOWEVER, PERSONS WHO HAVE BEEN OUTSIDE NORWAY FOR LESS THAN 24 HOURS MAY NOT IMPORT ALCOHOL OR TOBACCO PRODUCTS DUTY FREE UNLESS THESE PRODUCTS HAVE BEEN PURCHASED INCLUDING TAX IN AN EEA COUNTRY, SEE CUSTOM REGULATION SECTION 5-1-1 (2).

NORWAY IS ONE OF FEW COUNTRIES THAT ALLOW THE TAX FREE QUOTA TO BE BOUGHT AT ARRIVAL AT THE MAIN AIRPORTS, CF. CUSTOM REGULATION SECTION 5-1-2 (4). THIS IS CONSIDERED AS AN ADVANTAGE FOR THE NORWEGIAN TAX FREE SHOPS.

THE MONETARY THRESHOLD FOR TAX LIABILITY FOR IMPORT BY TRAVELERS IS AN ADMINISTRATIVE SIMPLIFICATION. THE HIGH LEVEL OF THE THRESHOLD CAN HOWEVER NOT BE JUSTIFIED BY ADMINISTRATIVE PURPOSES ONLY, BUT HAS THE CHARACTER OF A PRIVILEGE GRANTED TO TRAVELERS (FOR TAX FREE IMPORT OF ITEMS THROUGH INTERNET, THE TAX FREE THRESHOLD IS 200 NOK). TOGETHER WITH THE SYSTEM OF VAT REFUND WHICH EXISTS IN MANY COUNTRIES, SEE ITEM B.2.2, THE EXEMPTION OFTEN WILL RESULT IN TAXATION NEITHER IN THE EXPORTING NOR THE IMPORTING COUNTRY. THUS, IT CREATES INCENTIVES FOR TRAVELERS TO BUY GOODS ABROAD (LACK OF NEUTRALITY). FROM A FISCAL POINT OF VIEW, THE NORWEGIAN TAX FREE ALLOWANCES SHOULD BE ABOLISHED LIKE WHAT HAS HAPPENED WITHIN THE EU. THE RIGHT TO IMPORT GOODS TAX FREE SEEMS HOWEVER TO HAVE THE STATUS OF A HUMAN RIGHT IN NORWAY, PROBABLY PARTLY CAUSED BY THE HIGH LEVEL OF EXCISE DUTIES. FOR POLITICAL REASONS THE TAX FREE QUOTAS THEREFORE PROBABLY ARE IMPOSSIBLE TO ALTER.

A SPECIAL REGIME APPLIES FOR THE NORWEGIAN *FRONTIER ZONE WHERE INHABITANTS*. THEY CAN IMPORT HOUSEHOLD USE PRODUCTS TAX FREE FROM SWEDEN AND FINLAND AFTER PROCESSING OR REPAIR, CF. CUSTOMS ACT SECTION 5-4 (1) (F) AND CUSTOMS REGULATION SECTION 5-4-4 (3), MEANING THE SERVICE IS NOT TAXED. INHABITANTS IN THE SWEDISH AND FINISH FRONTIER ZONE MAY LIKEWISE IMPORT HOUSEHOLD USE PRODUCTS TAX FREE TO NORWAY FOR PROCESSING OR REPAIR IF THE PRODUCTS ARE MEANT TO BE RE-EXPORTED TO SWEDEN AND FINLAND.

#### ***B.2.1.2.2 TEMPORARY IMPORTATION***

AS STATED IN ITEM B.2.1.2.1, MOTOR VEHICLES CANNOT BE IMPORTED TAX FREE AS REMOVAL GOODS. A REGULATION EXEMPTING SUCH VEHICLES FROM TAXATION EXPIRED 1 JUNE 2003. THUS WHEN IMPORTING A VEHICLE, ONE HAS TO PAY 25 PERCENT OF THE CUSTOMS VALUE OF THE VEHICLE AS VAT. FURTHERMORE, A MOTOR VEHICLE TAX FALLS DUE UPON REGISTRATION IN THE NORWEGIAN VEHICLE REGISTER.

ACCORDING TO THE CUSTOMS ACT SECTION 6-1 (2) (A) A PERSON MAY HOWEVER, ON CERTAIN CONDITIONS, IMPORT AND USE *TEMPORARILY* ONE FOREIGN-REGISTERED VEHICLE FREE OF TAX. SINCE THE LEVEL OF THE EXCISE DUTIES FOR MOTOR VEHICLES IN NORWAY IS HIGH, E.G. COMPARED TO SWEDEN, IT IS IMPORTANT TO SECURE THAT MOTOR VEHICLES THAT ARE PREDOMINANTLY USED IN

NORWAY ALSO ARE TAXED HERE. THE CONDITIONS FOR SUCH TEMPORARILY USE THEREFORE ARE RATHER STRINGENT.

TAX FREE IMPORTATION AND TEMPORARY USE OF A FOREIGN-REGISTERED MOTOR VEHICLE IN NORWAY IS PERMITTED IN THREE TYPES OF CASES, CF. THE TEMPORARY-USE REGULATION<sup>16</sup> SECTION 2 (1) AND (2):

- PERSONS WHO HAVE A PERMANENT PLACE OF RESIDENCE OUTSIDE NORWAY
- PERSONS STAYING TEMPORARILY IN NORWAY
- DRIVING PERMITS FOR PERSONS WITH PERMANENT RESIDENCE IN NORWAY

IN ORDER TO BE DEEMED A PERSON WITH PERMANENT RESIDENCE ABROAD, ONE OF THE FOLLOWING CONDITIONS MUST BE SATISFIED, SEE THE TEMPORARY-USE REGULATION SECTION 3:

- THE FAMILY, OCCUPATIONAL AND PERSONAL TIES ARE ABROAD. THIS APPLIES, FOR EXAMPLE, TO TOURISTS.
- THE FAMILY TIES ARE ABROAD. THE PROVISION PRIMARILY CONCERNS CASES WHERE THE PERSON IN QUESTION COMMUTES (DAILY, WEEKLY, AND MONTHLY) BETWEEN HIS OR HER FAMILY ABROAD AND WORK IN NORWAY.
- THE OCCUPATIONAL TIES ARE ABROAD. THE PERSON MUST HOWEVER NOT HAVE FAMILY TIES TO NORWAY OR BE REGISTERED IN THE NORWEGIAN POPULATION REGISTER.
- THE OCCUPATIONAL TIES ARE TO NORWAY BUT THE PERSONAL TIES ARE ABROAD. THE PERSON MUST HOWEVER NOT HAVE FAMILY TIES TO NORWAY OR BE REGISTERED IN THE NORWEGIAN POPULATION REGISTER. MOREOVER, HE/SHE MUST EITHER COMMUTE DAILY OR INTEND TO STAY OUTSIDE NORWAY FOR MORE THAN 185 DAYS DURING A 12-MONTH PERIOD.

THE TERMS “FAMILY TIES”, “OCCUPATIONAL TIES” AND “PERSONAL TIES” ARE DEFINED FURTHER IN SECTION 3 (2) TO (4). IF A PERSON IS CONSIDERED TO HAVE A PERMANENT RESIDENCE IN MORE THAN ONE COUNTRY ACCORDING TO THE NORDIC COUNTRIES LEGISLATION, THE DISPUTE MAY BE SOLVED THROUGH A CONSULTATION PROCEDURE BETWEEN THE CUSTOMS AUTHORITIES, CF. SECTION 3 (5).

A PERSON HAS TEMPORARY RESIDENCE IN NORWAY IF HIS/HER STAY IS NOT PLANNED TO LAST FOR MORE THAN ONE YEAR FROM THE DATE OF ENTRY, SEE SECTION 4 (1). PURSUANT TO SECTION 4 (2), IT IS POSSIBLE TO APPLY FOR A DRIVING PERMIT IF THE STAY IS EXTENDED BY A YEAR. IN PRACTICE, IT IS POSSIBLE FOR A PERSON WHO CAN DOCUMENT ON THE ENTRY DATE THAT THE STAY WILL LAST FOR BETWEEN ONE AND TWO YEARS TO APPLY FOR A DRIVING PERMIT FOR THE WHOLE PERIOD. IN PRINCIPLE, SUCH SITUATIONS FALL OUTSIDE THE SCOPE OF THE TEMPORARY-USE REGULATION. A PERSON IS NOT REGARDED AS TEMPORARY RESIDENT IF HE/SHE HAS STAYED HERE OR BEEN REGISTERED IN THE NORWEGIAN POPULATION REGISTER FOR MORE THAN 365 DAYS DURING THE LAST TWO YEARS PRIOR TO THE ENTRY DATE, CF. SECTION 4 (5).

THE TEMPORARY-USE REGULATION SECTION 5 REGULATES PARTICULAR SITUATIONS WHERE PERSONS CONSIDERED AS RESIDENT IN NORWAY CAN IMPORT AND TEMPORARY USE A FOREIGN-REGISTERED MOTOR VEHICLE. OF INTEREST IS SECTION 5 (C) WHICH PROVIDES THAT IN CONNECTION WITH A JOURNEY FROM ABROAD, THE NORWEGIAN AUTHORITIES MAY GRANT PERMISSION TO IMPORT AND TEMPORARILY USE A FOREIGN-REGISTERED *RENTAL CAR*. THE VEHICLE HAS TO BE RE-EXPORTED OR DELIVERED PROMPTLY TO THE CAR RENTAL FIRM'S LOCAL REPRESENTATIVE. ALTERNATIVELY, PERSONS CONSIDERED AS PERMANENTLY RESIDENT IN NORWAY

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<sup>16</sup> Regulation no. 381 of 20 June 1991.

MAY, UNDER SECTION 5 (G), IN "PARTICULAR CASES" APPLY FOR A PERMISSION TO TEMPORARILY IMPORT AND USE A FOREIGN-REGISTERED CAR, INCLUDING A RENTAL CAR, IN NORWAY FOR A *SHORT PERIOD*.

THERE HAS BEEN A COMPLAINT AGAINST NORWAY TO THE EFTA SURVEILLANCE AUTHORITY CONCERNING THE TEMPORARY-USE REGULATION. THE QUESTION IS WHETHER THE RULES CONSTITUTE A RESTRICTION OF THE FREEDOM TO PROVIDE SERVICES AS PROVIDED FOR IN ARTICLE 36 OF THE EEA AGREEMENT. THE AUTHORITY HAS STATED IN A REASONED OPINION OF 16 JULY 2008 THAT NORWAY HAS FAILED TO FULFILL ITS OBLIGATIONS UNDER ARTICLE 36 OF THE EEA AGREEMENT. THE NORWEGIAN MINISTRY OF FINANCE HAS RESPONDED THAT THE POSSIBILITY FOR NORWEGIAN NATIONALS TO USE MOTOR VEHICLES REGISTERED ABROAD WILL BE EXTENDED FOR THE TEMPORARY-USE REGULATION TO BE IN ACCORDANCE TO ARTICLE 36.

### **B.2.2 EXPORTS**

IF A BUSINESS EXPORTS GOODS, THE SALE IS EXEMPT FROM VAT<sup>17</sup> AND EXCISE DUTIES<sup>18</sup>. THE POSSIBILITY FOR PRIVATE PERSONS TO BUY ITEMS IN NORWAY TAX FREE FOR EXPORT IS LIMITED TO EITHER TAX FREE SHOPS OR THE VAT REFUND SYSTEM:

THE MAIN AIRPORTS OF NORWAY HAVE *TAX FREE SHOPS* FOR INTERNATIONAL TRAVELLERS. THE AMOUNTS EACH PERSON CAN BUY AND EXPORT TAX FREE, IS NOT LIMITED BY THE CUSTOMS ACT, BUT IS RESTRICTED BY THE DESTINATION (IMPORTING) COUNTRY. THE CUSTOMS ACT HOWEVER CONTAINS LIMITATIONS TO WHAT KIND OF GOODS THE SHOPS MAY SELL TAX FREE. AS DESCRIBED IN THE GUIDELINES ITEM B, PERSONS WHO ARE RESIDENTS OF DENMARK, FINLAND, NORWAY AND SWEDEN CAN ONLY PURCHASE ALCOHOL AND TOBACCO PRODUCTS TAX FREE, SEE ARTICLE 3 OF THE AGREEMENT CONCERNING TAXATION OF BAGGAGE IN PASSENGER TRAFFIC BETWEEN DENMARK, FINLAND, NORWAY AND SWEDEN AND CONCERNING DUTY-FREE SALES AT AIRPORTS IN THOSE COUNTRIES.

PERSONS RESIDENT ABROAD MAY CLAIM A *REFUND OF VAT* PAID ON GOODS PURCHASED IN NORWAY WHEN THEY EXPORT THE GOODS, CF. REGULATION ON SALE OF GOODS AND SERVICES FOR USE ABROAD, AT SVALBARD AND JAN MAYEN<sup>19</sup> SECTION 16 TO 19. THE MINIMUM PURCHASE AMOUNT AND OTHER QUALIFYING TERMS DEPEND ON WHERE HE/SHE IS RESIDENT. FOR SALES TO RESIDENTS OF SWEDEN, DENMARK AND FINLAND, I REFER TO ARTICLE 1 OF THE ABOVEMENTIONED AGREEMENT, WHICH IS DESCRIBED IN THE GUIDELINES. FOR SALES TO RESIDENTS OF OTHER COUNTRIES, THE CONDITIONS ARE MORE LIBERAL. THE PURCHASE PRICE OF INDIVIDUAL ITEMS MUST BE AT LEAST NOK 250, EXCLUSIVE OF VAT, CF. SECTION 19 (2). THE ITEM MUST BE EXPORTED TO THE CUSTOMER'S HOME COUNTRY WITHIN A MONTH FROM THE TIME IT WAS DELIVERED. THE VAT CAN BE REFUNDED BY THE SELLER (WHICH ENQUIRES A CERTIFICATION OF EXPORT BY CUSTOMS) OR BY SPECIAL REFUND OFFICES LOCATED AT MOST AIRPORTS, FERRY TERMINALS AND MAJOR BORDER CROSSINGS.

THE AGREEMENT BETWEEN DENMARK, FINLAND, NORWAY AND SWEDEN HAS THE AIM TO ENSURE THAT RESIDENTS OF DENMARK, FINLAND, AND SWEDEN PAY VAT EITHER IN THE COUNTRY WHERE THE GOODS ARE BOUGHT OR IN THE IMPORTING COUNTRY. FOR RESIDENTS OF OTHER COUNTRIES IT IS NOT A CONDITION FOR VAT

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<sup>17</sup> Act No. 66 of 19 June 1969 Section 16 No. 1.

<sup>18</sup> Regulation No. 1451 of 11 December 2001 Section 2-7.

<sup>19</sup> REGULATION No. 1 OF 23 FEBRUARY 1970.

REFUND THAT VAT IS PAID IN THE CUSTOMER'S HOME COUNTRY. IT IS THEREFORE THE MONETARY THRESHOLD FOR TAX FREE IMPORT FOR TRAVELLERS IN THE IMPORTING COUNTRY THAT DETERMINES WHETHER THE GOODS ARE TAXED OR NOT.

**B.2.3            DEVIATIONS BETWEEN THE RULES APPLICABLE BETWEEN THE NORDIC COUNTRIES AND THE RULES APPLICABLE VERSUS OTHER COUNTRIES**

THE RULES REGARDING IMPORTS AND EXPORTS ARE IN GENERAL IDENTICAL INDEPENDENT OF WHAT COUNTRY THE GOODS ARE IMPORTED FROM/EXPORTED TO; SEE HOWEVER THE SPECIAL REGIME FOR FRONTIER ZONE INHABITANTS OF SWEDEN, DENMARK AND FINLAND DESCRIBED IN ITEM B.2.1.2.1. THE NORDIC COUNCIL HAS BEEN FOCUSING ON SIMPLIFYING BORDER CROSSING FOR FRONTIER ZONE INHABITANTS, INCLUDING MODIFYING THE TAX RULES. THE MAIN CHALLENGE FOR THIS WORK TODAY RELATES TO NORWAY BEING OUTSIDE THE EU, A FACT THAT HAS FUNDAMENTAL IMPLICATIONS FOR THE TAXATION OF GOODS CROSSING THE BORDERS BETWEEN NORWAY AND THE NORDIC COUNTRIES BEING MEMBERS OF THE EU.