

TAXATION FOR NON-FISCAL PURPOSES

BY ANNE GRO ENGER¹

1. INTRODUCTION

TAXATION IS MOST OF ALL CONNECTED TO THE IDEA OF PROVIDING REVENUE, BUT IS ACTUALLY COMPOSED BY TWO MAIN PURPOSES: TAXATION FOR FISCAL PURPOSES AND TAXATION FOR NON-FISCAL PURPOSES.

TAXATION FOR FISCAL PURPOSES MEANS TAXATION FOR RAISING REVENUE TO PROVIDE PUBLIC SPENDING, WHILE TAXATION FOR NON-FISCAL PURPOSES IS TAXATION NOT TO PROVIDE REVENUE, BUT TO REACH CERTAIN ECONOMIC OR SOCIAL EFFECTS IRRESPECTIVE OF WHETHER REVENUE IS ACTUALLY RAISED OR NOT.

THE NON-FISCAL PURPOSES OF TAXATION ARE NORMALLY DIVIDED IN THREE CATEGORIES: (RE-)DISTRIBUTIONAL PURPOSES, BEHAVIOURAL PURPOSES (I.E. ENCOURAGING OR DISCOURAGING BEHAVIOUR WITH TAX INCENTIVES AND THUS EXPLOITING THE RESOURCES EFFICIENTLY) AND FINALLY PURPOSES WHERE THE OBJECTIVE IS TO MAKE AN INFLUENCE ON THE TRADE CYCLES.

TO SOME EXTENT, THE ABOVE-MENTIONED PURPOSES REFLECT CERTAIN BASIC ELEMENTS IN A TAX SYSTEM, OR IN OTHER WORDS: ASPECTS THAT SHOULD BE TAKEN INTO CONSIDERATION WHEN DECIDING THE BASIS FOR TAX COMPUTATION AND THE TAX RATES. WHEN DESIGNING A TAX SYSTEM, IT IS CONSIDERED IMPORTANT TO CREATE A SYSTEM THAT IS ABLE TO CREATE FAIRNESS. ANOTHER IMPORTANT ELEMENT IS THE SYSTEM'S ABILITY TO ENSURE EFFICIENCY (NEUTRALITY). THE LATTER IS BASED ON THE ACKNOWLEDGEMENT THAT ANY TAXATION WILL HAVE AN IMPACT ON THE TAXPAYERS' ECONOMICAL BEHAVIOUR. THIS BEHAVIOUR MAY NOT BE OPTIMAL FROM A SOCIO-ECONOMIC POINT OF VIEW AND MAY THUS IMPLY AN EFFICIENCY LOSS. IT IS THEREFORE IMPORTANT TO CREATE A SYSTEM THAT MINIMIZES THIS EFFICIENCY LOSS. IN LINE WITH THIS, THE TAX SYSTEM SHOULD AIM FOR NEUTRAL TAXATION OF INCOME, IRRESPECTIVE OF SOURCE, INDUSTRIES, TYPE OF INVESTMENT OR ORGANIZATIONAL STRUCTURE.

THE OBJECTIVE OF THIS NATIONAL REPORT IS TO DESCRIBE HOW THE NORWEGIAN TAX SYSTEM SEEMS TO HAVE WEIGHTED NON-FISCAL PURPOSES. THAT IS HOW NON-FISCAL PURPOSES HAVE BEEN WEIGHTED TOWARDS OTHER PURPOSES, BUT ALSO HOW DIFFERENT NON-FISCAL PURPOSES HAVE BEEN WEIGHTED AGAINST EACH OTHER. IN SECTION 2 ADDRESS WILL BE MADE TO CONSTITUTIONAL ELEMENTS REGARDING TAX LEGISLATION WITH NON-FISCAL PURPOSES. SECTION 3 DEALS WITH A CONSIDERATION OF WHETHER THERE IS AN EXPLICIT OR IMPLICIT PRINCIPAL NORM OF DISTRIBUTION OF THE TAX BURDEN. SECTION 4 CONTAINS A PRESENTATION OF EXAMPLES OF TAX LEGISLATION WITH NON-FISCAL PURPOSES. EMPHASIS WILL BE GIVEN TO RULES REGARDING INCOME TAX AND VALUE ADDED TAX. HOWEVER, THE GOVERNMENT IN OFFICE HAS CLAIMED THAT THE TAX SYSTEM SHOULD PROMOTE ENVIRONMENTAL FRIENDLY BEHAVIOUR. THUS, TO SOME EXTENT, A SAMPLE OF GREEN TAXES WILL BE MENTIONED.

2. CONSTITUTIONAL PRINCIPLES OR RULES WITH INFLUENCE ON THE LEGISLATIVE PROCEDURE REGARDING NON-FISCAL PURPOSED TAX RULES

THE NORWEGIAN CONSTITUTION DOES NOT CONTAIN SPECIFIC PRINCIPLES OR RULES REGARDING THE LEGISLATIVE PROCEDURE WHEN ADOPTING TAX LEGISLATION WITH NON-FISCAL PURPOSES. HOWEVER, THE NORWEGIAN CONSTITUTION DOES LAY DOWN PRINCIPLES AND RULES THAT MUST BE TAKEN INTO ACCOUNT WHEN ADOPTING (TAX) LEGISLATION. IN GENERAL, THE SAME PRINCIPLES AND PRACTICE APPLY, WITHOUT REGARD TO THE PURPOSE OF THE TAX LEGISLATION.

THE CONSTITUTION ENSURES THE PEOPLE'S FUNDAMENTAL RIGHT TO IMPOSE IT'S OWN TAXES. IT IS LAID DOWN IN SECTION 75 A THAT TAXES, REGARDLESS OF PURPOSE, ONLY MAY BE IMPOSED BY THE PARLIAMENT. IMPOSITION OF TAXES COMPRISES BOTH MATERIAL TAX LAWS AS WELL AS TAXATION PROCEDURES.

THE PRINCIPLE OF LEGACY HOLDS A STRONG POSITION IN THE FIELD OF TAX LEGISLATION. THE LEGACY PRINCIPLE IS A FUNDAMENTAL PART OF PUBLIC LAW, AND IS CONSIDERED A PRINCIPLE OF CONSTITUTIONAL RANK. IT DECLARES THAT THE GOVERNMENT MAY ONLY INTERFERE WITH THE CITIZENS IN INDIVIDUAL CASES WHEN SUCH INTERFERENCE IS AUTHORIZED IN STATUTORY LAW. INTERFERING IN PEOPLES LIVES BY TAXING THEIR INCOME AND ASSETS DEFINITELY NEEDS LEGAL BASIS.

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BASIS IN STATUTORY LAW IS NORMALLY NOT NECESSARY IF THE INTERFERENCE IS IN ADVANTAGE OF THE CITIZENS. HOWEVER, TAX LEGISLATION USUALLY IMPLIES A TAX BURDEN. ACCORDING TO LEGAL PRACTICE, THE LEGACY PRINCIPLE SEEMS TO HOLD AN EVEN STRONGER POSITION WHEN CONSIDERING IF A RULE THAT IMPLIES A TAX BURDEN HAS THE NECESSARY BASIS IN STATUTORY LAW COMPARED TO RULES IMPLYING TAX ALLOWANCES AND RELIEVES².

THE NORWEGIAN TAX LEGISLATION DOES NOT GIVE GROUNDS TO SAY THAT THE POSITION OF THE LEGACY PRINCIPLE DEPENDS UPON WHETHER THE PURPOSE OF THE TAX LEGISLATION IS FISCAL OR NOT. IT SEEMS THAT THE LEGACY PRINCIPLE HAS THE SAME IMPACT ON THE LEGISLATIVE PROCEDURE WHEN ADOPTING TAX LEGISLATION WITHOUT REGARD TO THE PURPOSE OF THE LEGISLATION.

ANOTHER PRINCIPLE LAID DOWN IN THE CONSTITUTION WITH IMPACT ON TAX LEGISLATION, IS THE PROHIBITION OF RETROACTIVE LAWS, CF. SECTION 97. THE QUESTION OF WHETHER TAX LEGISLATION HAS BEEN IN CONFLICT WITH THIS PROHIBITION HAS BEEN THE SUBJECT OF SEVERAL COURT CASES. THE SUPREME COURT HAS DEVELOPED A DOCTRINE IMPLYING THAT THE TAXPAYERS' ANNUAL NET INCOME IS SUBJECT TO TAXATION IRRESPECTIVE OF WHEN (DURING THE SAME YEAR) THE EVENT THAT RESULTED IN THE INCOME HAS TAKEN PLACE. IN LINE WITH THIS, THE PARLIAMENT MAY ADOPT TAX LEGISLATION WITH EFFECT FOR EVENTS THAT TOOK PLACE EARLIER THE SAME YEAR, WITHOUT THIS BEING IN CONFLICT WITH SECTION 97 IN THE CONSTITUTION. THE SUPREME COURT'S PRACTICE HAS BEEN STRONGLY CRITICISED. THE CRITICS CLAIM THAT THIS CASE LAW MAKES THE TAX SYSTEM LESS PREDICTABLE FOR THE TAXPAYERS, AND THUS MIGHT UNDERMINE THE TAX SYSTEM. THE PRACTICE DESCRIBED ABOVE DOES NOT COMPRISE INDIRECT TAXATION. INDIRECT TAXES CANNOT BE IMPOSED ON EVENTS AND TRANSACTIONS PRIOR TO THE PARLIAMENT'S ADOPTION OF THE RULE.

IN SOME COUNTRIES, THE PARITY PRINCIPLE HAS BEEN GIVEN CONSTITUTIONAL RANK. THE PARITY PRINCIPLE MEANS THAT ALL CITIZENS SHALL BE TREATED EQUAL, I.E. DISCRIMINATION (DE JURE AS WELL AS DE FACTO) IS PROHIBITED. IN ACCORDANCE WITH THIS, A CONSTITUTIONAL COURT MAKES A CONSTITUTIONAL REVIEW OF WHETHER TAX LEGISLATION IS IN LINE WITH THIS PRINCIPLE OR NOT. THE PARITY PRINCIPLE IS NOT SPECIFICALLY LAID DOWN IN THE NORWEGIAN CONSTITUTION, AND THE TAX LEGISLATION IS THEREFORE NOT REVIEWED IN ORDER TO BE IN LINE WITH THE PRINCIPLE. ALTHOUGH THERE IS NOT A CONSTITUTIONAL PARITY PRINCIPLE IN NORWAY, THE PROHIBITION AGAINST DISCRIMINATION IS UNQUESTIONABLY A FUNDAMENTAL PRINCIPLE IN NORWEGIAN LAW.

THE PRINCIPLE IS ALSO SIGNIFICANT FOR TAXATION PURPOSES. IN A DECISION BY THE SUPREME COURT REFERRED IN THE SUPREME COURT REPORT 2007 PAGE 302, THE COURT HELD IT AS AN "IMPORTANT PRINCIPLE IN TAXATION, THAT WHAT IS SIMILAR SHALL BE TREATED SIMILARLY." IN THE CASE AT PRESENT, THE SUBJECT WAS WHETHER A LONG-LASTING PRACTICE IMPLYING THAT GOVERNMENT EMPLOYEES STATIONED ABROAD WERE NOT TAXED FOR FREE ACCOMMODATION (NOR WERE PAY-ROLL TAXES LEVIED), SHOULD APPLY CORRESPONDINGLY TO PRIVATE-SECTOR EMPLOYEES STATIONED ABROAD. EVEN THOUGH THE PRACTICE WAS FOUND TO BE CONTRARY TO THE LAW, THE SUPREME COURT HELD THAT THE SAME FAVOURABLE PRACTICE SHOULD APPLY FOR BOTH GROUPS OF TAXPAYERS SINCE THERE WERE NO REASONS FOR TREATING THE TWO GROUPS DIFFERENTLY.

3. THE DISTRIBUTION OF THE TAX BURDEN

DEPENDING ON THE PURPOSE OF TAXATION, THE TAX BURDEN CAN BE DISTRIBUTED ON THE TAXPAYERS IN SEVERAL WAYS. THE FISCAL PURPOSE IS PROBABLY THE MOST IMPORTANT TASK FOR THE TAX SYSTEM. NEVERTHELESS, CERTAIN NON-FISCAL PURPOSES OR ELEMENTS OF DISTRIBUTIONAL CHARACTER MUST BE TAKEN INTO ACCOUNT WHEN TAXING FOR FISCAL PURPOSES IN ORDER TO ACHIEVE A MINIMUM OF FAIRNESS. A TAX SYSTEM WILL NOT BE PERCEIVED AS LEGITIMATE IF THE PRINCIPLES UNDERLYING IT DO NOT HAVE A GENERAL SUPPORT IN THE PUBLIC.

THE DISTRIBUTION OF THE TAX BURDEN WHEN TAXING FOR NON-FISCAL PURPOSES DEPENDS UPON THE EXACT NON-FISCAL PURPOSE. THE NORWEGIAN TAX SYSTEM DOES NOT HAVE A STATUTORY PRINCIPLE LAID DOWN IN THE TAX ACT (OR IN COMMON LAW) IMPLYING THAT THE TAX BURDEN SHOULD BE DISTRIBUTED BASED ON THE ABILITY-TO-PAY PRINCIPLE OF TAXATION OR BASED ON THE TAXPAYER'S INDIVIDUAL INTEREST.

THE TAX BURDEN MAY BE DISTRIBUTED IN ORDER TO ACHIEVE FAIRNESS. IN THIS RESPECT, THE ABILITY-TO-PAY PRINCIPLE IS OF GREAT IMPORTANCE. THIS PRINCIPLE UNDERPINS THAT THE TAX BURDEN SHOULD INCREASE IN LINE WITH INCREASED INCOME, WHICH ALSO MAY LEAD TO PROGRESSIVE TAXATION. ANOTHER ARGUMENT THAT SUBSTANTIATES PROGRESSIVE TAXATION IS THE OBJECTIVE TO RE-DISTRIBUTE INCOME AND THUS CREATE FAIRNESS AFTER TAX.

² Conf. Zimmer "Lærebok i skatterett" 5th edition page 46.

THE AIM TO PURSUE INCOME DISTRIBUTION MAY CONFLICT WITH THE AIM OF NOT (OR AT LEAST AS LITTLE AS POSSIBLE), LETTING THE TAXES INFLUENCE ON THE MANNER OF OPERATION OF THE ECONOMY. THE NEUTRALITY AIM CALLS FOR KEEPING THE TAX RATE RELATIVELY LOW AND EQUAL FOR ALL TAXPAYERS, WHEREAS THE DISTRIBUTION AIM CALLS FOR A PROGRESSIVE TAX RATE SYSTEM WITH HIGH MARGINAL TAX RATES FOR HIGH INCOME.

THE NORWEGIAN TAX SYSTEM STRONGLY EMPHASISES THE ABILITY TO BE EFFICIENT. THE 1992 TAX REFORM IN NORWAY INVOLVED A SIGNIFICANT STEP TOWARDS A MORE NEUTRAL TAX SYSTEM, AND THE NEUTRALITY MOTIVE IS CLEARLY STRESSED IN THE PREPARATORY WORKS OF THE 1992 TAX AMENDMENT ACT. FURTHERMORE, IT WAS A BASIC GUIDELINE FOR THE EXPERT COMMITTEE THAT WAS APPOINTED 2002 IN ORDER TO EVALUATE AND POSSIBLY REFORM THE NORWEGIAN TAX SYSTEM, THAT THE PRINCIPLES OF TAX NEUTRALITY UNDERLYING THE 1992 REFORM WERE STRENGTHENED. THE COMMITTEE'S RECOMMENDATIONS IN THE GREEN PAPER NOU 2003:9, AS WELL AS THE FOLLOWING WHITE PAPER (ST. MELD. NR. 29 (2003-2004)), SHOW THAT THE NEUTRALITY MOTIVE WAS MUCH EMPHASISED.

EVEN THOUGH INDIRECT TAXES MAY HAVE A RE-DISTRIBUTIONAL EFFECT, SUCH TAXES ARE IN GENERAL NOT SUITABLE FOR ACHIEVING NON-FISCAL PURPOSES OF RE-DISTRIBUTIONAL CHARACTER. THE MAIN PURPOSE OF INDIRECT TAXATION IS TO PROVIDE REVENUE. THE SKAUGE COMMITTEE EXPRESSED THIS CLEARLY, AND CONCLUDED THAT THE INDIRECT TAX SYSTEM IN THE LEAST POSSIBLE MANNER SHOULD HAVE SUCH TASKS.³

DESPITE THE LIMITATIONS OF THE INDIRECT TAX SYSTEM WHEN IT COMES TO NON-FISCAL PURPOSES, INDIRECT TAXATION, OR MORE LIKELY AN EXEMPTION FROM INDIRECT TAXATION AS WELL AS A REDUCED VAT RATE, HAS BEEN USED FOR ACHIEVING SUCH PURPOSES. AN EXAMPLE IS THE REDUCTION OF THE VALUE ADDED TAX RATE ON FOODSTUFFS. WITH EFFECT FROM 1 JULY 2001 THE RATE WAS REDUCED FROM 24 PERCENT TO 12 PERCENT. THE PURPOSE WAS TO EASE THE BURDEN FOR LOW-INCOME FAMILIES⁴

4. EXAMPLES OF TAXATION FOR NON-FISCAL PURPOSES

IN THE FOLLOWING, ADDRESS WILL BE GIVEN TO A SELECTION OF TAX RULES WHERE THE OBJECTIVES ARE NON-FISCAL. I HAVE CONSIDERED IT SUITABLE TO DIVIDE THE EXAMPLES INTO THREE DIFFERENT CATEGORIES: DIRECT TAXES WITH NON-FISCAL PURPOSES, INDIRECT TAXES WITH NON-FISCAL PURPOSES AND FINALLY GREEN TAXES.

DIRECT TAXES WITH NON-FISCAL PURPOSES

THE SKATTEFUNN DEDUCTION SCHEME

WITH EFFECT FROM THE INCOME YEAR 2002, AN AMENDMENT TO THE NORWEGIAN TAX ACT (§ 16-40) IMPLIES THAT ALL ENTERPRISES SUBJECT TO TAXATION IN NORWAY ARE ELIGIBLE FOR A TAX DEDUCTION FOR R&D EXPENSES IN APPROVED PROJECTS.

THE OBJECTIVE OF THE SKATTEFUNN TAX DEDUCTION SCHEME IS TO INCREASE INNOVATION AND ENHANCE VALUE CREATION IN TRADE AND INDUSTRY, AS WELL AS TO BOOST R&D ACTIVITY IN NORWEGIAN INDUSTRY. THUS, THE NON-FISCAL PURPOSE IS SEEMINGLY EXPLAINED BY EFFICIENCY MOTIVES.

IN ORDER TO QUALIFY UNDER THE SCHEME, A PROJECT MUST BE LIMITED AND FOCUSED, AND MUST BE AIMED AT GENERATING NEW KNOWLEDGE, INFORMATION OR EXPERIENCE WHICH IS PRESUMED TO BE OF USE FOR THE ENTERPRISE IN DEVELOPING NEW OR IMPROVED PRODUCTS, SERVICES OR MANUFACTURING/PROCESSING METHODS. THE MAXIMUM ALLOWABLE SUM FOR R&D PROJECTS CONDUCTED BY THE ENTERPRISE ITSELF, IS NOK 4 MILLIONS. IN CASES WHERE ENTERPRISES COLLABORATE WITH AN APPROVED R&D INSTITUTION, THE MAXIMUM SUM IS NOK 8 MILLIONS.

ALSO ENTERPRISES THAT ARE NOT CURRENTLY LIABLE FOR TAXATION ARE ELIGIBLE UNDER THE SCHEME. THESE ENTERPRISES WILL BE PAID AN AMOUNT CORRESPONDING TO THE TAX DEDUCTION DIRECTLY FROM THE TAX AUTHORITIES.

³ Cf. The Green Paper NOU 2003:9 section 5 and 14

⁴ Cf. Section 4.2.2.

ACCORDING TO THE RESEARCH COUNCIL OF NORWAY, ON AVERAGE, NOK 1 FROM THE GOVERNMENT TRIGGERS NOK 2 OF INVESTMENT FROM INDUSTRY. IN THE STATE BUDGET FOR 2008, THE TOTAL TAX EXPENDITURE RELATED TO THE SCHEME IS ESTIMATED TO NOK 900 MILLIONS.

WHEN THE AMNENDMENT WAS ADOPTED, THE GOVERNMENT ANNOUNCED IN THE WHITE PAPER (OT. PRP. NR. 1 (2001-2002)), THAT THE SCHEME IN REALITY IMPLIED A SUBSIDY SCHEME ADMINSTRATED BY THE TAX SYSTEM. FROM THE GOVERNMENT'S POINT OF VIEW, A SUBSIDY SCHEME WOULD BE A BETTER SOLUTION IN ORDER TO ENSURE THE INTENTIONS OF THE SCHEME. A SUBSIDY SCHEME WAS CONSIDERED EASIER TO ADMINISTRATE AS WELL AS MORE CAPABLE OF SAFEGUARDING THE ENTERPRISES' NEED OF LIQUIDITY. DESPITE THE OBJECTIONS, THE GOVERNMENT PRESENTED A PROPOSITION IN LINE WITH THE VOTE OF THE MAJORITY IN THE PARLIAMENT. HOWEVER, AN ALTERNATIVE TO THE PROPOSAL, IN SHAPE OF A SUBSIDY SCHEME, WAS PRESENTED SIMULTANEOUSLY, BUT NOT ADPOTED.

SPECIAL TAX ALLOWANCES

THE NORWEGIAN TAX ACT HAS CERTAIN WELFARE ASPECTS. ACCORDING TO §§ 6-81, 6-82 AND 6-83 SPECIAL TAX ALLOWANCES ARE GIVEN TO TAXPAYERS THAT PRESUMABLY HAVE A LOWER INCOME DUE TO HIGH AGE, DISABILITY, SLIGHTLY REDUCED EARNING CAPACITY OR UNUSUAL HIGH MEDICAL COSTS.

§ 6-81 GIVES A SPECIAL TAX ALLOWANCE TO ALL RETIREMENT PENSIONERS. FOR PEOPLE WHO RETIRE AT THE AGE OF 67, A REDUCED ALLOWANCE IS GIVEN IF THE TAXPAYER RECEIVES A REDUCED PENSION. TAXPAYERS OLDER THAN 70 YEARS GET A FULL ALLOWANCE. AT PRESENT THE ALLOWANCE FOR HIGH AGE IS NOK 19 368 PER ANNUM, AND IS GIVEN IN THE TAXPAYER'S ORDINARY INCOME.

AN EQUIVALENT TAX ALLOWANCE IS GIVEN TO TAXPAYERS THAT ARE RECIPIENTS OF DISABILITY BENEFITS.

ACCORDING TO THE PROVISIONS OF § 6-82 IN THE TAX ACT, TAXPAYERS THAT DUE TO AN ILLNESS OR ANOTHER PERMANENT WEAKNESS HAVE A REDUCED EARNING CAPACITY, BUT ARE NOT ENTITLED TO DISABILITY BENEFITS OR OTHER PENSIONS, MAY CLAIM A TAX ALLOWANCE IN THEIR INCOME. THE ALLOWANCE IS A MEANS-TESTED BENEFIT AND IS LIMITED TO NOK 9 180 PER ANNUM.

FINALLY, TAXPAYERS WITH UNUSUAL HIGH MEDICAL COSTS, MAY REQUEST FOR A SPECIAL TAX ALLOWANCE UNDER THE PROVISIONS OF § 6-83 IN THE NORWEGIAN TAX ACT. THE TERMS IMPLY THAT THE COSTS MUST EXCEED A CERTAIN AMOUNT, AT PRESENT NOK 9 180 AS WELL AS A DOCUMENTATION REQUIREMENT.

THE ABOVE-MENTIONED TAX ALLOWANCES ARE MOTIVATED IN THE REDISTRIBUTION OF INCOME BY TAXATION. IN LEGAL TAX LITERATURE⁵, IT IS ARGUED THAT IT IS MORE ADVISABLE TO GIVE WELFARE RIGHTS THROUGH THE WELFARE SYSTEM, I.E. AS A SUBSIDY SCHEME, INSTEAD OF USING THE TAX SYSTEM. USING THE TAX SYSTEM SEEMS TO BE INCONVENIENT DUE TO SEVERAL REASONS. FIRSTLY, A TAX ALLOWANCE WILL ONLY BENEFIT THOSE WITH A TAXABLE INCOME. SECONDLY, IT IS DIFFICULT FOR THE TAX AUTHORITIES TO ENFORCE TAX LEGISLATION THAT INVOLVES MAKING DECISIONS REGARDING WELFARE RIGHTS.

THE TAX HOME SAVING SCHEME FOR YOUNG PEOPLE (BSU)

ACCORDING TO SECTION 16-10 IN THE TAX ACT, PEOPLE UNDER THE AGE OF 34 YEARS, ARE OFFERED SAVERS TAX RELIEF AND THE RIGHT TO A MORTGAGE SUBJECT TO CERTAIN CONDITIONS. THE ANNUAL MAXIMUM SAVING AMOUNT IS LIMITED TO NOK 15 000 (THE TOTAL SAVING AMOUNT IS NOK 100 000). A TAX RELIEF WITH 20 PER CENT OF THE ANNUAL SAVED AMOUNT IS GIVEN IN THE ASSESSED TAX.

THE BSU HOME SAVING SCHEME WAS INTRODUCED AS A PART OF THE 1992 TAX REFORM. THE OBJECT OF THE TAX RELIEF SCHEME WAS TO MOTIVATE YOUNG PEOPLE, ESPECIALLY FIRST TIME BUYERS, TO SAVE UP FOR THEIR OWN HOME. IN THE PREPARATORY WORKS (FOR DETAILS SEE THE

⁵ Zimmer, Lærebok i skatterett , 5th edition, page 39

WHITE PAPER, OT. PRP. NR. 35 (1990-91) IT IS PRONOUNCED THAT THE BSU SAVING SCHEME SHOULD REPLACE A FORMER SAVING SCHEME FOR YOUNG PEOPLE, THE SO-CALLED SMS-SCHEME. THE BSU SCHEME DIFFERED FROM THE SMS-SCHEME BY IMPLYING A STRONGER FOCUS ON SAVING, AND NOT ONLY ON THE TAX RELIEF. NEVERTHELESS, THE BSU REPRESENTED AN EXCEPTION TO THE NEUTRALITY PRINCIPLE THAT FORMED THE BASIS OF THE 1992 TAX REFORM. IN THE ABOVE-MENTIONED WHITE PAPER THE MAJORITY OF THE STANDING COMMITTEE ON FINANCE IS QUOTED AS DECLARING THAT "THE MINISTRY SHOULD EMPHASISE THE PRINCIPLE OF EQUAL TAXATION OF DIFFERENT SAVING FORMS. HOWEVER, THE MAJORITY (OF THE STANDING COMMITTEE ON FINANCE) IS OF THE OPINION THAT THE GENERAL PROFILE OF THE TAX REFORM CALLS FOR SPECIAL SAVING STIMULATING MEASURES FOR YOUNG PEOPLE IN THE ESTABLISHING PHASE. "

IN THE STATE BUDGET FOR 2008, THE TOTAL TAX EXPENDITURE RELATED TO THE BSU TAX SAVING SCHEME IS ESTIMATED TO NOK 410 MILLIONS

INDIRECT TAXES WITH NON-FISCAL PURPOSES

INDIRECT TAXES COVER VALUE ADDED TAX, EXCISES AND IMPORT DUTIES. IN THIS ARTICLE, I WILL FOCUS ON THE TWO FIRST CATEGORIES. THE EXCISES THAT WILL BE MENTIONED ARE MOTIVATED BY ENVIRONMENTAL OBJECTIVES, AND ARE OFTEN DENOTED AS GREEN TAXES. SUCH TAXES WILL BE TREATED IN SECTION 4.3. IN THIS SECTION, I WILL ADDRESS THE USE OF THE VAT SYSTEM FOR ACHIEVING NON-FISCAL PURPOSES.

AS A STARTING POINT, VALUE ADDED TAX IS MEANT TO BE A GENERAL CONSUMPTION TAX AND SHOULD BASICALLY COMPRISE ALL CONSUMPTION IN SOCIETY. IN THE 2001 VAT REFORM, IT IS CLEARLY EXPRESSED IN THE WHITE PAPER OT. PRP. NR. 2 (2000-2001) THAT SUBSIDY SCHEMES NORMALLY IS A BETTER WAY TO SUPPORT SPECIFIC NON-FISCAL OBJECTIVES RATHER THAN USING THE VAT SYSTEM BY OFFERING VAT EXEMPTIONS OR SPECIAL VAT ARRANGEMENTS. IN LINE WITH THIS, ANY VAT EXEMPTION MUST BE JUSTIFIED AND BASED ON CLEAR AND FUNDAMENTAL PRINCIPLES.

THIS VIEW IS SHARED BY THE SKAUGE COMMITTEE, WHICH IN THE GREEN PAPER NOU 2003:9 EMPHASISES THAT EVEN IF THE INDIRECT TAX SYSTEM MAY HAVE RE-DISTRIBUTIONAL AND TRADE POLITICAL IMPACTS, INDIRECT TAXES ARE IN GENERAL UNSUITABLE FOR ACHIEVING SUCH PURPOSES.

THE VAT MAINLY HAS A FISCAL PURPOSE AND IS ONE OF THE MOST IMPORTANT SOURCES OF REVENUE. DESPITE THIS, AND THE ACKNOWLEDGEMENT OF THE INDIRECT TAXES' LACK OF ABILITY TO REACH NON-FISCAL OBJECTIVES, THE SYSTEM HAS BEEN USED FOR ACHIEVING NON-FISCAL PURPOSES. IN THE FOLLOWING ADDRESS WILL BE GIVEN TO TWO SPECIFIC EXAMPLES, NAMELY THE EXCEPTION OF VAT ON THE WRITTEN WORD AND THE REDUCED VAT ON FOODSTUFF.

EXEMPTION OF VAT ON THE WRITTEN WORD

EVER SINCE 1970, WHEN THE VAT WAS INTRODUCED IN NORWAY, THERE HAS BEEN AN EXEMPTION FROM VAT FOR CERTAIN PUBLICATIONS IN ORDER TO PROTECT THE WRITTEN WORD. IN LINE WITH THIS, NEWSPAPERS THAT ARE PUBLISHED AT LEAST WEEKLY, BOOKS AND SOME PERIODICALS ARE LEVIED VALUE ADDED TAX WITH A RATE OF 0 PERCENT. THIS IMPLIES THAT THE PUBLISHER MAY DEDUCT INPUT VAT, BUT IS EXEMPT OUTPUT VAT.

THE EXEMPTION WAS BASED ON THE DESIRABILITY TO MAINTAIN A VARIED DAILY PRESS AND THEREBY ENSURE A FREE AND WIDE-RANGED CREATION OF THE PUBLIC OPINION, FOR DETAILS SEE THE WHITE PAPER OT. PRP. NR. 17 (1968-69)). FURTHERMORE, THE EXEMPTION WAS JUSTIFIED BY A PRESUMPTION THAT CULTURAL ASPECTS MIGHT SUFFER IF THE WRITTEN WORD WAS FULLY LIABLE TO VAT.

HOWEVER, SEVERAL OBJECTIONS HAVE BEEN RAISED AGAINST THE VAT EXEMPTION FOR THE WRITTEN WORD. THE MOST IMPORTANT OBJECTION COMES FROM CRITICS CLAIMING THAT THE EXEMPTION INVOLVES DISCRIMINATION SINCE THE WEEKLY PRESS (MAGAZINES ETC) DOES NOT BENEFIT FROM THE SAME EXEMPTION. THEY ARGUE THAT THE DIFFERENCES BETWEEN SINGLE-COPY-SALE NEWSPAPERS AND THE WEEKLY PRESS ARE INSIGNIFICANT, WITH REGARD TO TOPICS AS WELL AS CONTENTS. THE NORWEGIAN COMPETITION AUTHORITY HAS EVALUATED THE EXEMPTION SCHEME TWICE, AND CONCLUDED IN FAVOUR OF THE WEEKLY PRESS BOTH TIMES. THE COMPETITION AUTHORITY HELD THAT MAGAZINES AND SINGLE-COPY-SALE NEWSPAPERS COMPETE FOR THE SAME ADVERTISERS AND READERS, AND THEREFORE SHOULD BE TREATED EQUALLY WITH RESPECT TO VAT

LIABILITY. IN THE GREEN PAPER NOU 2003:9 THE SKAUGE COMMITTEE ARGUES THAT THE EXEMPTION FOR VAT ON THE WRITTEN WORD SHOULD BE ABOLISHED. ACCORDING TO THE COMMITTEE, THERE ARE NO GOOD REASONS FOR MAINTAINING THE SCHEME, THUS ANY SUPPORT SHOULD BE GIVEN AS A SUBSIDY SCHEME INSTEAD. NEVERTHELESS, THE EXEMPTION SCHEME IS STILL APPLICABLE.

IN THE STATE BUDGET FOR 2008, THE TOTAL TAX EXPENDITURE RELATED TO THE EXEMPTION FROM VAT ON THE WRITTEN WORD IS ESTIMATED TO A TOTAL MNOK 2 560.

REDUCED VAT ON FOODSTUFF

WITH EFFECT FROM 1 JULY 2001, THE VAT RATE ON FOODSTUFF WAS REDUCED FROM 24 PERCENT TO 12 PERCENT. WITH EFFECT FROM 1 JANUARY 2007, THE RATE IS 14 PERCENT.

IN THE FINANCE BILL, THE MAJORITY OF THE STANDING COMMITTEE ON FINANCE ARGUED THAT THE REDUCTION OF THE VAT RATE ON FOODSTUFF WAS A MEASURE IN ORDER TO EVEN OUT DIFFERENCES. THE COMMITTEE HELD THE REDUCTION AS A SUITABLE MEASURE FOR STRENGTHENING LOW-INCOME HOUSEHOLDS AND THE ECONOMY TO FAMILIES WITH SMALL CHILDREN.

IN THE GREEN PAPER NOU 2003:9, THE SKAUGE COMMITTEE ARGUED THAT A REDUCED VAT RATE ON FOODSTUFF SHOULD BE ABOLISHED. THIS WAS BASED ON THE ACKNOWLEDGEMENT THAT A REDUCED RATE IS AN EXPENSIVE AND LESS ACCURATE MEASURE FOR RE-DISTRIBUTING INCOME OR SUPPORTING FAMILIES WITH YOUNG CHILDREN. THIS AIM COULD BE ACHIEVED MORE EFFICIENTLY BY INCREASING THE PERSONAL ALLOWANCES IN THE INCOME TAX SYSTEM OR BY INCREASING THE CHILDREN'S ALLOWANCE. HOWEVER, THE AGRICULTURAL INDUSTRY AND FOOD INDUSTRY STRONGLY SUPPORT A REDUCED VAT RATE ON FOODSTUFF AND SO FAR, NO CHANGES HAVE BEEN MADE.

IN THE STATE BUDGET FOR 2008, THE TOTAL TAX EXPENDITURE RELATED TO THE REDUCED VAT RATE ON FOODSTUFF IS ESTIMATED TO A TOTAL MNOK 7 500.

4.3 "GREEN" TAXES

EXCISES MAY BE DIVIDED IN TWO DIFFERENT CATEGORIES: SPECIAL TAXES WITH A FISCAL PURPOSE AND "GREEN" TAXES. THUS, THE NON-FISCAL PURPOSE OF THE "GREEN" TAXES IS OBVIOUS. THE PURPOSE OF THE GREEN TAXES IS TO ESTIMATE THE EXACT COSTS OF THE ENVIRONMENTAL CONSEQUENCES OF PRODUCTION AND CONSUMPTION (WHERE THE OBJECT OF TAXATION IS INVOLVED). WELL-DESIGNED GREEN TAXES WILL BENEFIT THE ENVIRONMENT AND REDUCE ENVIRONMENTAL POLLUTION. IN ADDITION, THE GREEN TAXES PROVIDE REVENUE.

GREEN TAXES ARE FREQUENTLY USED IN NORWAY. IN THE GREEN PAPER NOU 1996:9 "GREEN TAXATION – A POLICY FOR A BETTER ENVIRONMENT AND INCREASED EMPLOYMENT", IT IS ARGUED THAT GREEN TAXES SHOULD HAVE A STRONGER EMPHASIS IN TAXATION, AND SEVERAL OF THE COMMITTEE'S PROPOSALS HAVE BEEN IMPLEMENTED. THE SKAUGE COMMITTEE SHARED THE SAME VIEWS, AND DECLARED THAT GREEN TAXES SHOULD BE USED TO THE LARGEST EXTENT AS AN INSTRUMENT IN ORDER TO REDUCE POLLUTION. WHEN THE REVENUE IS TAKEN INTO CONSIDERATION, THE GREEN TAXES IMPLY A DOUBLE PROFIT.

GREEN TAXES CONSTITUTE A VERSATILE GROUP OF TAXES, AND THE TAXATION RATES VARY LARGELY, DEPENDING ON PRODUCTS, USERS ETC.

4.3.1 TAX ON CO₂ EMISSIONS

IN ORDER TO REDUCE THE EMISSIONS OF GREEN HOUSE GASES, TAX ON CO₂ EMISSIONS WAS INTRODUCED IN NORWAY IN 1991. THIS TAX IS CONSIDERED NORWAY'S MAJOR MEASURE IN THE CLIMATE POLICY. THIS GREEN TAX IMPLIES TAXATION OF 68 PERCENT OF THE TOTAL CARBON DIOXIDE EMISSIONS OR 58 PERCENT OF THE TOTAL EMISSIONS OF GREEN HOUSE GASES.

CO₂ EMISSIONS DERIVE FROM COMBUSTION OF FOSSIL FUELS, AND THE TAX IS LEVIED ON PETROL AND DIFFERENT TYPES OF MINERAL OILS AS WELL AS ON COMBUSTION OF OIL AND GAS ON THE CONTINENTAL SHELF. THE RATES VARY, AND THE DIFFERENCES ARE EXPLAINED IN VARIOUS REASONS, FOR INSTANCE ENVIRONMENTAL ASPECTS AND COMPETITIVE CONDITIONS. THE ENVIRONMENTAL ASPECT IS CLEARLY EXPRESSED IN THE EXCISES ON FOSSIL FUELS; EVEN THOUGH

NORWAY IS A MAJOR OIL EXPORTER, THE EXCISE IMPOSITION IS ONE OF THE WORLD'S HIGHEST. IN THE STATE BUDGET FOR 2007 THE REVENUE FROM TAXATION ON CO₂ EMISSIONS WAS ESTIMATED TO A TOTAL MNOK 8 056.

4.3.2 TAX ON NO_x EMISSIONS

THE LATEST INTRODUCED GREEN TAX IN NORWAY IS THE TAX ON NO_x-EMISSIONS. THIS GREEN TAX WAS INTRODUCED 1 JANUARY 2007 AND AIMS (TOGETHER WITH OTHER MEASURES) TO FULFIL NORWAY'S OBLIGATIONS UNDER THE GOTHENBURG PROTOCOL. THE GREEN TAX SEEKS TO MOTIVATE THE USERS TO ADJUST THEIR BEHAVIOUR IN ORDER TO REDUCE THE EMISSIONS TO THE LOWEST NECESSARY LEVEL. AN EXAMPLE IS TO ENCOURAGE INVESTMENTS IN CLEANING EQUIPMENT. THE TOTAL REVENUE FROM THE GREEN TAX ON NO_x EMISSIONS WAS ESTIMATED TO MNOK 1 475 IN THE STATE BUDGET FOR 2007.