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International Tax

Norway Tax Alert

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New government makes minor change to interest deduction limit proposal

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Norway's budget for 2014, presented by the resigning government on 14 October 2013, included a limit on the deduction of interest on related party debt to prevent earnings stripping via intercompany debt financing (click here for an alert on the October budget proposals). The new government that took office on 16 October released one proposed amendment to the budget on 8 November: the net interest expense threshold for the interest deduction limitation to apply would be increased from NOK 3 million to NOK 5 million.

The main features of the October version of the proposed limit on the deduction of interest on related party debt are as follows:

- Net interest expense paid to a related party would not be deductible in a year to the extent the expense exceeded 30% of earnings before interest, tax depreciation and amortization (EBITDA), subject to certain adjustments.
- The limit would be calculated separately on an entity-by-entity basis, so no consolidated group approach would be available.
- The threshold for the limitation to apply would be set at NOK 3 million.
- Net interest expense in excess of the limitation would be available for a 10-year carryforward, provided the expense fell within the 30% limitation for those years.
- External debt for which a related party provided security would be considered internal debt and, therefore, would fall within the scope of the rules.
- Tax losses carried forward and group contributions would not be deductible if the tax base before the limitation for deducting net interest expense was negative or zero. If an interest deduction were disallowed, the taxpayer could thus have a positive tax base and tax payable even though it has tax losses carried forward.
- The new legislation would apply from fiscal year 2014.

There had been expectations that the new government would propose changes to the measure that would classify external debt where security has been provided as internal debt, but no modifications have been made to this proposal. However, a consultation paper will be drafted that will recommend an exemption from the internal debt classification for certain types of security on external loans, such as security from a company where the lender has a certain amount of ownership. It currently is unclear which types of loans would be included within the scope of the exemption.

Also contrary to expectations, no changes have been proposed to the regulation which provides for the conclusion that disallowed interest deduction results in a positive tax base even though the taxpayer has tax loss carried forward or may utilize group contributions.

The new rules still would apply as from fiscal year 2014. The proposed legislation now will be debated by parliament, but since all parties are in agreement, approval is likely.

Because the measures would apply to both Norwegian and cross-border groups, they may create challenges and could require certain groups to reorganize.

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