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2016 budget and white paper presented

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On 7 October 2015, the Norwegian government presented the 2016 budget to parliament that includes several important tax proposals, and the Ministry of Finance issued a "white paper" on other potential tax changes, including the introduction of rules that would implement measures under the OECD's base erosion and profit shifting (BEPS) project.

The key proposals in the 2016 budget that are relevant to foreign corporate investors are as follows:

- The corporate tax rate would be reduced from 27% to 25%;
- The net interest deduction limitation rules that were introduced with effect as from 2014 would be amended so that net interest paid to related parties would not be deductible to the extent the total net interest expense exceeds 25% (currently 30%) of earnings before interest, taxes, depreciation and amortization (EBITDA);
- One element of the OECD's BEPS action 2 (neutralizing the effects of hybrid mismatch arrangements) would be adopted—the Norwegian exemption for dividends would not apply to the extent the distributing entity is entitled to a deduction for the distribution; and
- The treatment of certain acquisition and sales costs would be clarified. According to Norwegian tax law, acquisition costs must be capitalized. To the extent the costs relate to shares covered by the Norwegian "exemption method," the costs never will be deductible; the same is the case for costs incurred by the seller in connection with the sale of such shares. It has been unclear whether costs incurred to acquire or sell such shares should be treated the same way in cases where the acquisition/sale fails. It is proposed that such costs would be nondeductible (to the extent they relate to shares covered by the Norwegian exemption method).

The white paper presented by the Ministry of Finance is a follow-up to an advisory panel's report described in the alert dated 2 December 2014. The white paper does not contain any proposed wording to specific sections in the Tax Act, but rather discusses what the main content should cover. Public consultation will be held on the proposals before a concrete law is presented to parliament, and tax law changes would not be implemented before 2017 at the earliest. The main proposals are the following:

- The corporate tax rate would be further reduced to 22% by 2018;
- The domestic interest deduction limitation rules would be extended to apply to interest paid to third parties. The related commentary is in line with the recently published final report on BEPS action 4 (interest deductions and other financial payments) (for prior coverage, see the tax alert dated 6 October 2015);
- The introduction of a withholding tax on interest and royalties would be considered; and
- Rules implementing a number of other measures in line with BEPS actions would be introduced.