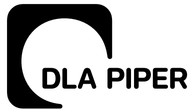

Nordic Tax Law Bulletin - June

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In our quarterly Nordic Tax Law bulletin our tax lawyers across the Nordic region highlight relevant news and trends on the Nordic Tax market scene. The bulletin intends to provide high-level knowledge and insight. Want to learn more? Our experts will be happy to hear from you.

Highlights from Norway

- **Proposed changes to the exit tax regime:** On 20 March 2024, the Norwegian government proposed changes to the current Norwegian exit tax regime (tax on unrealized gains on shares and ownership interests upon emigration from Norway).

Current rules

Under the current Norwegian exit tax rules, unrealized gains on shares and ownership interests in Norwegian companies are generally taxed upon emigration from Norway (either under domestic law or under the relevant tax treaty) as if the shares/ownership interest had been realized the day before emigration.

The taxpayer is entitled to a deferral in payment of the exit tax if satisfactory collateral is furnished (usually by pledging the shares). Currently, there is no time limit for the payment deferral if collateral is provided.

The tax liability lapses if the taxpayer again becomes a Norwegian tax resident and if the shares/ownership interest are not realized within five years from the date of emigration.

Proposed changes

Under the government's proposal, the unrealized gain would be payable in full after 12 years. The taxpayer can choose to pay the tax immediately, in instalments (interest-free) over a period of 12 years or in the 12th year with interest calculated from the date of emigration.

In addition to the fact that the tax is payable after 12 years, it is proposed that the exit tax is payable upon the taxpayer's death, upon transfer to a non-Norwegian tax resident or upon realization.

The government has also proposed to extend the rules to also cover shares held in security funds and fund accounts. Shares in securities funds and fund accounts are not covered by the current exit tax regime.

If the taxpayer relocates to Norway period (becomes a Norwegian tax resident again) within 12 years and the shares etc. have not been realized, the exit tax and any interest claim will lapse. In addition, any tax paid on the unrealized gain will be refunded to the taxpayer.

Only unrealized gains exceeding NOK 500 000 are taxable. If shares etc. are transferred to a non-Norwegian tax resident, the threshold is set at NOK 100 000.

In addition to the above, the government's proposal entails changes in the calculation of the exit tax.

The changes are proposed to take effect from 20 March 2024, the same day as the government's proposal.

The proposal has caused a stir in the Norwegian business community, and it is not certain that it will be passed by the Norwegian Parliament.

Highlights from Sweden

- **The Supreme Administrative Court allows VAT to be recovered on costs relating to the acquisition of shares, even where services are provided to the subsidiary of the acquired company:** A company acquired a group consisting of a holding company and its subsidiary. Only the latter was active. In connection with the acquisition, the parent company received consultancy services to assist with the transaction and claimed a right to recover the related VAT on the basis that it would provide management services to the acquired subsidiary.

The Court held that the right to deduct VAT on services in connection with the acquisition of a subsidiary could not be excluded solely on the basis that the acquirer did not provide any services to the company it was acquiring (i.e. the holding company).

The Court held that there was an objective link between the acquisition of the holding company and the supply of services to its subsidiary. It found that the costs in question had a direct and immediate link with the overall economic activity of the acquiring company and thus constituted a cost component of the services provided to the subsidiary of the acquired company. The Court therefore held that the company could recover the input VAT on its acquisition costs.

- **Sweden and Denmark have announced that they have agreed on changes to the Öresund Agreement.**

The Öresund Agreement of 2003 is of great importance for the taxation of people who commute between Sweden and Denmark each year. The governments of the two countries have now agreed to modernise several aspects of the agreement.

According to the Swedish Ministry of Finance and the Danish Ministry of Taxation, the changes will, among other things, make the conditions for telecommuting more flexible so that more people are taxed only in the country where they work. This includes extending the updated agreement to public sector employees.

The intention is for the agreement to be technically finalised and signed later this year, with the new rules coming into force in 2025. However, a draft agreement has not yet been published.

Highlights from Finland

- **The Finnish government has decided to take fiscal measures to strengthen public finances in the framework discussion on 16 April 2024.** The estimated impact of the tax measures on public finances would be EUR 1.4 billion/year. The key tax measures decided are as follows:

- General VAT rate (and insurance premium tax) increase from 24% to 25,5%.
  - Also VAT rate on sweets and chocolate to be increased from 14% to 25.5%.
  - The changes to VAT rate are expected to come into force already from the beginning of September 2024.

- The top two income brackets (those earning at least €88,000) will face higher income tax rates. Similarly, the taxation of pension income will be increased for those earning between €23,000 and €57,000.

- Other changes include a cut in the household tax deduction and increases in vehicle tax for electric cars and charging hybrids, tobacco tax and soft drinks tax.

- **The Finnish Parliament approved on 9 April 2024 the new double tax treaty signed between Finland and France in April 2023.**

The new double tax treaty will enter into force once both countries have finalized the ratification process. The double tax treaty will apply from the beginning of the year following its entry into force.

The new double tax treaty replaces the old 1970 double tax treaty and is based on the OECD model tax treaty and is in line with Finland's current double tax treaty policy.

The new double tax treaty updates the definition of a permanent establishment, allows the source state to levy a 15% withholding tax on portfolio dividends, extends the source state's right to tax private pensions and changes the method used to eliminate double taxation from the exemption method to the credit method.

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