Flash News

Norwegian Tax Update
New rules on the tax treatment of collective investment funds – A significant change to taxation and tax reporting for Norwegian investors

From 1 January 2016, new rules concerning the tax treatment of collective investment funds and investors entered into force in Norway. The regulation will also affect Norwegian investors making new investments in any collective investments fund from 7 October 2015 and onwards.

The new rules will
(a) change the taxation at the hand of the investors in global collective investment funds,
(b) require new tax reporting to Norwegian tax authorities and
(c) change the taxation for Norwegian tax resident funds.

11 January 2016

The most important changes

According to the new regulations, the split of portion of the fund's equity investments will determine the classification of the unit holder's type of income and tax liability. Accordingly, the total equity portion in the fund must be determined and reported annually in addition to other requirements.

The new regulations became effective on disposals of fund units after 1 January 2016. Units purchased on and after 7 October 2015 will also be comprised by the new tax rules.

Norwegian collective investment funds must report information for the investors' tax assessment directly to the tax authorities. Non-Norwegian funds are not obliged to provide such reporting, but may provide the reporting on a voluntary basis. If the required information is not reported neither by the fund nor the unit holders, all distributions and gains/losses will be treated as capital/interest income for the unit holders and taxed at 25% (2016). Accordingly, funds with a functioning reporting routine are likely to have a marketing advantage in the Norwegian market.

Taxation of the collective investment funds and unit holders

Taxation of Norwegian tax resident collective investment funds

Collective investment funds shall remain a separate tax subject and shall follow the tax rules applicable to companies including benefit of the tax exemption method.

The taxation of the fund's income will be based on the values of the underlying investments. If the value of the equity investments based on the total value of the fund less cash per 1 January each year exceeds 80% of the total investments, all net income will be regarded as equity income and comprised by the tax exemption method. If the equity portion is less than 20%, all of the fund's net income will be regarded as capital/interest income taxable at 25% tax rate (2016), with tax deduction for distribution to the investors. If the equity portion is between 20% and 80%, the net income will be divided accordingly.

This means that funds will be able to minimise or avoid tax leakage by making sufficient distribution of deductible interest income to the unit holders.

Taxation of the unit holders tax resident in Norway

Taxation of unit holders will depend on classification of income from the fund. The classification will be defined as follows:

- Distributions and gains/losses from collective investment funds where the underlying investments less cash exceed 80% equity portion; will be taxed as respectively as dividends and equity gain/losses.

- Distributions and gains/losses from collective investment funds where the underlying investments less cash are less than 20% equity portion will be taxed as respectively interest income and capital gain/losses.

- Distributions and gains/from collective investment funds where the underlying investments less cash have an equity portion between 20 and 80% will taxed accordingly be based on the split respectively as dividend and interest income calculated on a pro rata basis.

This means that unit holders mainly will be taxed as if they had made a direct investment in the same instruments.

It will however still be possible to achieve a shift from interest income to share income to a certain extent, by investing in collective investment funds with a portion of interest bearing securities less than 20%. Under the 2015 rules, the similar effect could however be achieved with interest income up to 99.9% for foreign share/combination investment funds. Share income taxed under the exemption method will be taxed as interest if the share portion is less than 20% of the fund. For investors comprised by the Norwegian participation exemption method, the tax rate on dividends is 0% while the rate is 25% on interest income (deduction for losses) in 2016. For personal investors the tax rate in 2016 is 28.75% on dividends and 25% on interest income (deduction for losses at the same rate).

Calculation of the equity portion of the underlying investments in the fund

The equity portion shall be calculated by the ratio between the value of all assets less cash divided by equity instruments (shares, participations in companies, partnerships, funds etc.) and other securities (bonds, derivatives and other debt instruments) at the beginning of the fiscal year (net asset value - NAV). The calculation shall be based on the figures on 1 January each fiscal/calendar year.

Investments in other investment funds ("fund-in-fund") are included in the calculation if these funds are reporting to the Norwegian tax authorities. However, if the underlying funds are not reported to the Norwegian tax authorities, the units held in underlying funds shall be included in the calculation only if they amount to more than 25% of the total value of the fund in question at the beginning of the fiscal year. The calculation includes investments that are owned directly by the underlying fund with a corresponding proportionate part. Investments that are owned by underlying funds further down than one level in the ownership chain are not taken into account.

Only the portion of the investment's input value corresponding to the equity portion in the acquisition year provides the basis for calculation of tax exempt income shield under the shareholder model for individual investors. Distributions that are taxed as interest income are not tax exempt or treated as shielded income under the participation exemption method and the shareholder model.

When an investment is realised, gains and losses are calculated under the ordinary tax rules based on a first-in-first-out principle. For unit holders investing in funds with other securities than shares, the tax exemption under the participation exemption method is reduced *pro rata* calculated, based on the share portion in the fund in year of realisation and the acquisition year. For shares acquired before 7 October 2015, the share portion for the acquisition year shall be calculated as 100% shares.

Reporting obligations for Norwegian funds

Norwegian tax resident funds must annually report information to the tax authorities that is necessary to determine the funds and the Norwegian tax resident investors tax positions and tax effects. The information needed for the tax assessment in Norway is very comprehensive and complex. Data must be collected based on the fund's investments on 1 January each year as well as each and every transaction between the investor and the fund.

The data should contain correct information regardless of the location of the fund for Norwegian tax resident investors:

(a) information about the fund in order to make the correct classification of the fund in accordance with the Norwegian tax law,

(b) identification of the investor in accordance with the necessary specifications, including classification as individual investor or corporate investor,

(c) calculation of the fund's equity portion of the underlying investments 1 January each year from 2016. For investments made before 7 October 2015, the equity portion shall be set to 100% at 1 January 2016. For investments made 7 October 2015 to 1 January 2016, the equity portion is set to the portion at 1 January 2016,

(d) for each purchase and disposal of units and each distribution, and the tax effects to the investors based on the classifications of the fund and investor, where a first-in-first-out principle applies, the effects of the relevant portion of the fund's equity portion of the underlying investments, and

(e) calculation of the participation units net asset value per 1 January each year.

Reporting obligations for Norwegian investors

Norwegian tax resident investors may rely on the reporting provided by the funds as mentioned above. The same applies normally for data reported by non-Norwegian funds.

In case the fund has failed to report to the Norwegian tax authorities, the investor is required to provide the tax reporting on his own within a deadline of 31 March. If the investor fails to report, the investment will be regarded as a bond investment. Penalty taxes may also apply in specific cases.

Investments in Non-Norwegian investment funds

The new rules will also apply to Non-Norwegian investment funds although the taxation in many cases will be different from Norwegian funds as this is Norwegian-specific tax rules.

Foreign funds do not have mandatory reporting obligations to the tax authorities in Norway, but the Norwegian investor market will expect that either the foreign fund provides voluntary reporting to the tax authorities or at least provides the correct and exhaustive information that the investor can file to the tax authorities to achieve a correct tax assessment.

In regards to the terms of reporting, it might be challenging to get access to sufficient information and documentation about the split between the funds' investments in shares and other securities at the correct time as mainly Norwegian unit holders will be interested in such information. However, for the Norwegian investors this information will be crucial to obtain either from the fund directly or by the fund reporting the information to the Norwegian tax authorities.

Differences between Norwegian and Non-Norwegian funds

The different situation between Norwegian and Non-Norwegian funds causes various differences and challenges. The foreign funds will, to a large extent, be exempt from tax liability (for instance in Sweden, Denmark, Ireland and Luxembourg); accordingly there will not be any tax consequences for the fund as a result of transactions or distributions. This in contrast to Norwegian collective investment funds with interest income where distributions to unit holders must be carried out to prevent taxable income in the fund.

This implies that there will still be a difference between Norwegian and foreign funds, where the Norwegian fund must make distributions, while the foreign fund may also accumulate interest income. This implies that certain foreign funds still will have a favourable tax effect compared to Norwegian funds as the taxation of interest income may be deferred when investing in foreign funds.

Conclusion

As a conclusion, the changes in the tax treatment of collective investment funds for Norway provides a need to have detailed information with regard to the type of investments made – equity or interest instruments – by funds having Norwegian investors.

Actions to be taken

The new legislation was put into force from 1 January 2016. However, the investors making new investments after 7 October 2015 will also need to have information from this day onwards in order to calculate the ratio between share and interest income at the time of the acquisition of the units.

Therefore, any action at fund or investor level should be evaluated as soon as possible. Further, the funds should certify that the information needed can be provided to the Norwegian tax authorities and/or its Norwegian investors.

For more information, please contact us:

Dag Saltnes	Partner	+47 9526 0632	dag.saltnes@no.pwc.com
Bodil Marie Myklebust	Senior Manager	+47 9526 1323	bodil.myklebust@no.pwc.com
Oliver Weber	Partner	+352 49 48 48 3175	oliver.weber@lu.pwc.com
Oliver Schachinger	Partner	+352 49 48 48 2027	schachinger.oliver@lu.pwc.com
Marc Schernberg	Partner	+352 49 48 48 2142	marc.s.schernberg@lu.pwc.com
Laurent Garzino	Partner	+352 49 48 48 2018	laurent.garzino@lu.pwc.com
Carsten Brengel	Partner	+352 49 48 48 2187	brengel.carsten@lu.pwc.com
Michael Frigo	Partner	+352 49 48 48 3332	m.frigo@lu.pwc.com

PwC Luxembourg (www.pwc.lu) is the largest professional services firm in Luxembourg with 2,600 people employed from 58 different countries. PwC Luxembourg provides audit, tax and advisory services including management consulting, transaction, financing and regulatory advice. The firm provides advice to a wide variety of clients from local and middle market entrepreneurs to large multinational companies operating from Luxembourg and the Greater Region. The firm helps its clients create the value they are looking for by contributing to the smooth operation of the capital markets and providing advice through an industry-focused approach.

The PwC global network is the largest provider of professional services in the audit, tax and management consultancy sectors. We are a network of independent firms based in 157 countries and employing over 208,000 people. Talk to us about your concerns and find out more by visiting us at www.pwc.com and www.pwc.lu.