

GMS Flash Alert



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Norway - Fate of Foreign Employee/Contractor Reporting to Be Determined

The European Free Trade Association Surveillance Authority (“ESA”) has alleged that the current regulations in Norway are in breach of the European Economic Area (EEA) regulations with respect to the reporting of foreign employees and contractors.¹ This has prompted the Norwegian authorities to assess their current regulations.

WHY THIS MATTERS

Any changes decided may require employers to modify their administrative procedures and policies regarding information disclosure and reporting of foreign employees and contractors working in Norway.

Background

For many years, Norway has had regulations in place for the reporting of foreign employees and contractors.² The regulations include:

- What shall be reported;
- Who shall report;
- When shall it be reported; and
- Consequences of not reporting.

Steps Currently Being Taken

Norway's Ministry of Finance has asked the Directorate of Taxes³ to suggest whether the current regulations should be altered. If new regulations are deemed to be necessary, their commencement date would be 1 January 2018.

Proposal: Limitation of the Disclosure Requirements for Foreign Employees and Contractors

- The disclosure requirements for foreign contractors shall apply for two links downwards and one link upwards in the contract chain.
- The disclosure requirements of foreign employees merely apply to the foreign contractor's own employees. In other words, the foreign contractor shall not be obliged to disclose information regarding employees from subcontractors engaged in the contract chain.
- The limit for exceptions from the disclosure requirements for smaller assignments ("contacts") is raised from NOK 10,000 to NOK 20,000 of the contract value, i.e., contacts involving foreign contractors do not have to be disclosed, as long as the contract value does not exceed NOK 20,000.

Proposal: Expansion of the Disclosure Requirements

One of the previous conditions for reporting contracts with foreign contractors electronically to the Central Office-Foreign Tax Affairs (COFTA) has been that the contracted services be performed on a site which is under the client's control in Norway. However, according to the proposed changes, **all** contracts must now be reported, independent of where they are taking place. The exception for reporting contracts that are carried out in places that are not under the contractors' control is therefore cancelled.

Proposal: Annulment of Joint and Several Liability Regulations for Certain Tax Claims

The current regulations are such that the principal and the foreign contractor, that are obliged to disclose certain information to COFTA, have a "joint and several liability" to settle any tax claims, such as payroll tax, advance tax payments, social security contributions, etc. Thus, if the foreign contractor failed to properly report (whether intentional or due to negligence) to the tax authorities, the principal could be held responsible for any settlement of any claims on the foreign contractor.

Under the proposals, these rules are repealed – given the understanding that the rules of the Tax Administration Act on compulsory fines and violation charges can be applied accordingly. However, it is important to note that how to apply the sanctions under the Tax Administration Act remains to be clarified.

FOOTNOTES:

1 For "Complaints against Norway relating to reporting obligations when contracts are given to non-resident contractors," on the Government of Norway's Web site, click [here](#). Also see from ESA "[Complaints against Norway relating to the reporting obligations when contracts are awarded to non-Norwegian contractors](#)" (dated 13 January 2016).

2 For information on the reporting obligation, click [here](#).

3 For Prop.1 LS (2017 –2018) *Proposisjon til Stortinget (forslag til lovvedtak og stortingsvedtak)*, click [here](#).

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2018 U.S. Taxation of Americans Abroad and U.S. Taxation of Foreign Citizens Now Available!

The 2018 versions of [*U.S. Taxation of Americans Abroad*](#) and [*U.S. Taxation of Foreign Citizens*](#) are now available in .pdf format through the external U.S. GMS homepage at:

<https://home.kpmg.com/us/en/home/services/tax/global-mobility-services.html> .

Please note that these annually-published GMS publications for the United States have been updated to account for changes to U.S. tax law and are current as of November 30, 2017.

Contact us

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