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Information to foreign shareholders in EU/EEA area

Supreme Court clarification on taxes paid contrary to EEA Agreement

As a result of a the EFTA Court ruling in the Fokus Bank case, the Norwegian tax authorities have opened up for repayment of previous paid withholding tax on dividends from Norwegian companies to shareholders in EU/EEA (and dividends tax on Norwegian shareholders' dividends from EU/EEA companies). The ruling in the Fokus Bank Case is relevant for withholding tax on dividends from Orkla ASA to shareholders in EU/EEA before the tax reform in effect from 2004 (companies) and 2006 (individuals). Due to a new Supreme Court decision shareholders in EU/EEA may claim a refund of withholding tax possible as far back as 1994.

The Norwegian tax authorities originally stated that a three year tax statute of limitation would apply to the repayment claims. With reference to a Supreme Court decision last week in the Canica case, the time limit for claiming compensation for taxes paid contrary to the EEA Agreement does not fall within the scope of the relevant tax statute of limitation. EU/EAA shareholders may claim a refund of withholding taxes on dividends from Norwegian Companies possible as far back as 1994. However, all tax compensation claims based on EEA arguments should be filed as soon as possible in order to avoid the claims being time-barred.

Unfortunately, Orkla does not have the capacity to assist shareholders with further information concerning tax compensation claims based on EEA arguments. We therefore kindly request that any questions concerning said claims to be addressed to tax consultants in Norway.