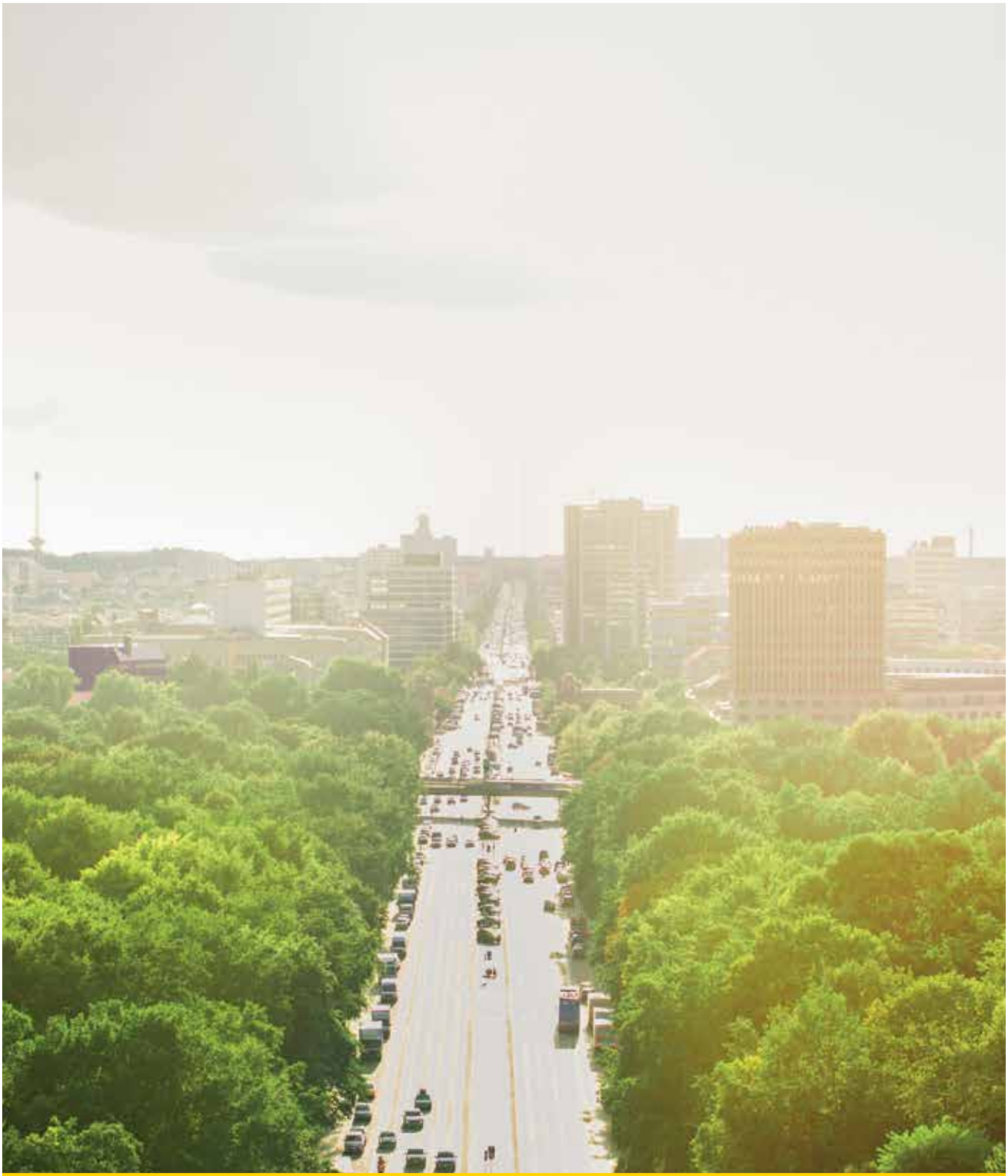

# Norway

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# Contacts

## Oslo

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# 1. Types of tax

The Norwegian unified inheritance and gift tax was terminated on 1 January 2014. The reason for this termination was to relieve the strain on liquidity in cases of generational changes of companies and transfer of family property.

## 1.1 Inheritance tax

The inheritance and gift tax was replaced with rules of continuity for tax purposes, meaning the heir or beneficiary is to assume the testator or benefactor's tax values and tax positions. The purpose of these rules is to secure latent profits occurring during the testator or benefactor's period of ownership. As the recipient is entitled and obligated to continue the tax values of the assets, such latent profits will become taxable when the recipient sells them.

The rules are neutral regarding transfer of privately operated businesses, registered shares and non-registered shares and assets. Furthermore, the rules are given a general application for assets owned within and outside of business, allowing all tax positions to be transferred with continuity.

### Exceptions regarding property

There is an important exception from the continuity rules with regard to transfers of residential property, holiday property and general farms and forestry, under the prerequisite that the testator or benefactor was in a position to sell such property tax-free. This makes the rule neutral for tax and inheritance tax purposes, as the seller is given the opportunity to sell the property without taxation, and transfer the proceeds without inheritance tax.

As such, when the exception applies, the recipient will be able to set the tax base of the property to the market value at the time of transfer. Future profits on the property will be taxable unless the recipient himself fulfills the requirements for tax-free profits when selling.

### Withdrawals of company assets for gift purposes

Withdrawals of company assets for gift purposes are subject to tax. In such cases, the recipient's tax base value shall be equal to the exit value applied when taxing the donor (market value).

However, there is an exception from such taxation when the recipient is entitled to succession by law and continues all or part of the business.

### Transfer against partial compensation

Transfers against partial compensation (gift sale) may trigger a profit tax for the donor.

When business assets are transferred by a gift sale and the recipient is entitled to succession by law, the donor may choose whether the profits are to be taxed, or whether the recipient shall continue the donor's tax positions. If the donor chooses profit taxation, the tax base of the assets for the recipient will be equal to the compensation. When assets transferred by a gift sale are not part of a business, profit taxation is mandatory.

### 1.2 Gift tax

As of 1 January 2014, Norway has terminated its gift tax.

### 1.3 Real estate transfer tax

This is not applicable in Norway.

### 1.4 Endowment tax

This is not applicable in Norway.

### 1.5 Transfer duty

Registration of transfer of title to property triggers a transfer duty of 2.5% of the fair market value (FMV) of the land and/or property being transferred. According to the general rules in the Norwegian Inheritance Act (*Arveloven*), heirs would normally be exempted from transfer duty of land and/or property. The exception for transfer duty covers only the FMV of the land and/or property of the ideal part the heirs are entitled to, according to the Norwegian Inheritance Act. Inheritance in advance and inheritance in testaments beyond the inheritance in law are not covered by the exception from transfer duty.

### 1.6 Net wealth tax

Inheritance and gifts will be added to the net wealth of the recipient. The basis for the net wealth tax is the FMV of the owner's assets, minus debt, as of 1 January in the year of tax assessment.

Net wealth is only taxed for the part that exceeds NOK1.5 million (2020), whereby 0.7% is payable to the municipality and 0.15% to the state.

## 2. Who is liable?

Inheritance and gift taxes were abolished effective as of 1 January 2014.

## 3. Rates

This is no longer applicable in Norway.

## 4. Exemptions and reliefs

This is no longer applicable in Norway.

## 5. Filing procedures

This is no longer applicable in Norway.

## 6. Assessments and valuations

This is no longer applicable in Norway.

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# 7. Trusts, foundations and private purpose funds

A trust may not be set up under the Norwegian civil law. As Norwegian law does not recognize the concept of a trust, Norway has not ratified the Hague Convention on the Recognition of Trusts dated 20 October 1984. Hence, settlors, trustees and beneficiaries of a foreign trust are not recognized as such.

Trusts formed under the law of a foreign jurisdiction will be assimilated to the legal entity under Norwegian civil law that most closely resembles the provision of trust (e.g., family foundations, aggregation of property, nominee agreement). Generally, the trust would be recognized for tax purposes, and beneficiaries resident in Norway could be liable to be taxed on the income and the value of the trust under the controlled foreign company (CFC) rule.

## 7.1 Gifts to a foreign trust

This is no longer applicable in Norway.

## 7.2 Inheritance to a foreign trust

This is no longer applicable in Norway.

## 7.3 Inheritance taxation at the time of the settlor's death

This is no longer applicable in Norway.

# 8. Grants

This is no longer applicable in Norway.

# 9. Life insurance

This is no longer applicable in Norway.

# 10. Civil law on succession

## 10.1 Estate planning

Generational changes of companies should take place when the parents are still alive, due to the fact that the rules on forced heirship are not applicable in such a situation. This allows for more flexibility.

If the grantor of shares in a non-listed company wishes to retain control of the company that he or she transfers to his or her children, he or she may divide the shares into A and B shares. Class B shares with less voting rights or dividend rights can be transferred to his or her children.

## 10.2 Succession

When a person dies, the estate will be distributed to the heirs according to specific rules in the Norwegian Inheritance Act (*Arveloven*). The distribution of the inheritance depends on the deceased's family relations. According to the Inheritance Act, the estate will be distributed as described in the table "Testamentary documents and intestacy" (see Section 10.4.3). If the deceased has prepared a will, then the distribution of the estate is carried out according to the will, provided the testator has legal capacity.

## 10.3 Forced heirship

The Inheritance Act provides a certain minimum inheritance for spouses and children. These regulations do not, however, apply to gifts.

For all the children jointly, the minimum inheritance is two-thirds of the parent's total estate, but this may be reduced in a testamentary document to NOK1 million per child.

For spouses, the law provides a minimum inheritance of one-quarter of the deceased's entire estate. This may be decreased by will, but only if the surviving spouse has been notified of this prior to the decedent's death.

Each year the Norwegian Parliament determines a National Insurance Amount (G); it is currently NOK96,883. The National Insurance Amount (G) is set on 1 May each year. Under no circumstances may the spouse's inheritance be reduced below four times the National Insurance Amount (NOK387,532) if there are lineal descendants.

If there are no lineal descendants, the minimum inheritance will be equivalent to six times the National Insurance Amount (NOK581,298).

### 10.3.1 Cohabitants

For cohabitants who have joint lineal descendants, the law provides a minimum inheritance of four times the National Insurance Amount (NOK387,532). The right to inherit up to four times the National Insurance Amount supersedes the right of inheritance to both the deceased cohabitant's children and joint lineal descendants.

## 10.4 Matrimonial regimes and civil partnerships

### 10.4.1 The asset arrangement

Co-ownership (of marital property) and separate property settlement are factors that will have an effect when a married person dies. Co-ownership is the description of the asset arrangement that arises automatically by virtue of marriage. If the spouses have not entered into a separate property settlement, they automatically have a co-ownership. Persons other than spouses can also create a separate property settlement by the donor, making his or her gift expressly subject to a separate property settlement in favor of the beneficiary.

A surviving spouse has the right to assume ownership of the co-owned assets. If the spouses had a partial separate property settlement, the co-owned assets can be taken outright, while the separate property settlement assets are divided among the heirs of the deceased. This applies as long as no modification has been made either by the provisions of a marriage settlement or with consent of the heirs.

### 10.4.2 Undivided estate

The right to outright ownership of the undivided estate applies to spouses who are still married at the time of death of the first deceased. The surviving spouse has the right to inherit such assets free from claims of other heirs according to law.

For cohabitants who have joint lineal descendants, the law provides a right to retain undivided possession of some assets of the estate. The right by law is limited to the following assets: property and furniture in joint ownership, recreational property and cars.

Undivided estate implies that the division of the inheritance is postponed and that the longest living spouse/cohabitant virtually has full disposal over the assets of the deceased. If the longest living spouse or cohabitant uses the right to retain undivided possession of the estate, the rights of the heirs will be reduced accordingly. They will not receive any inheritance until the undivided estate is distributed.

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The right for the longest living spouse/cohabitant to retain undivided possession of the estate can be limited by a will. However, a will reducing the extent of the right to the undivided estate is only valid if the longest living spouse/cohabitant was aware of it before the earlier death of the spouse/cohabitant.

There are also other limitations on the right for the longest living spouse or cohabitant to inherit. The limitations are connected to:

- The asset arrangement of the spouses
- The surviving heirs of the deceased
- Certain circumstances applicable to the survivor

### 10.4.3 Testamentary documents and intestacy

A will is a legal document that regulates an individual's estate after a person's death. Norway will normally accept the formal validity of a will drawn up in the deceased's domicile, nationality or place of residence at the time of making the will or at death. Whether he or she has the personal legal capacity to make the dispositions in the will is generally governed by the law of the deceased's domicile.

The distribution of a deceased person's estate depends on whether he or she has made a will. If there is no will, the estate will be distributed to the relatives and the spouse/cohabitant according to the Norwegian Inheritance Act. The parties are, however, free to agree on a distribution that deviates from the Act, but the Act will apply if such an agreement cannot be reached. Where there are cross-border issues, the conflicts-of-law provisions will be relevant. The following table sets out the current rules when there is no will.

| Spouses and children* survive the deceased | Spouse survives the deceased but no children or grandchildren* | No spouse or child survives the deceased |
|---|---|---|
| If the deceased leaves both a spouse and collective children, the estate must be divided between them. The spouse inherits one-quarter of the estate after the deceased, while the rest of the estate is divided equally between the children. The surviving spouse can usually choose to retain undivided possession of the estate. In this case, the children will inherit when the surviving spouse dies or if he or she marries again. | The spouse inherits half of the estate if the nearest living relatives of the deceased are their parents or their offspring.<br><br>If the deceased does not have such relatives, the spouse inherits the whole estate. | The inheritance goes to the parents of the deceased. If both parents are dead, the inheritance goes to the siblings of the deceased or their offspring. If the deceased has no siblings, then the inheritance goes to their grandparents. If both grandparents are dead, the inheritance goes to the aunts and uncles of the deceased or to their cousins. |

**Children of a predeceased child of the intestate parent take their parent's share.*

## 10.5 Probate

The administration of the deceased's estate may be private (the heirs themselves agree on who is to inherit what) or public. Private administration of the estate is the most common. However, the heirs may request that the public authorities carry out the administration.

# 11. Estate tax treaties

These are no longer applicable in Norway.