



## 1. Types of tax

Norway has a unified inheritance and gift tax, called Arveavgift (IHT). IHT applies to certain transfers of property at death or gifts made during the donor's lifetime. The value of the inheritance or gift is normally fair market value at the time when the beneficiary takes possession of the estate/gift. IHT is levied on the net amount of the inheritance or gift. Special favorable valuation provisions apply to unlisted shares and participations in partnerships, etc.

### 1.1 Inheritance tax

Taxation of inheritance is based on the taxation of the estate after the deceased. The basis for the calculation of inheritance tax is the total assets that are passed on to the heirs of the deceased. The inheritance tax is paid by the heirs. For the closest relatives (parents and children), the tax rate is 0% for estate value up to NOK470,000, 6% from NOK470,000 to NOK800,000 and 10% for NOK800,000 and above. For others, the rates are 0%, 8% and 15%, respectively.

Estate tax is levied when a person dies. Taxation can be deferred if the surviving spouse chooses to retain undivided possession of the estate. In this case, the estate is taxed when the estate after the first deceased is transferred to the heirs. The estate after the first deceased spouse must be transferred to the heirs if the surviving spouse dies or if the surviving spouse, who retained undivided possession of the estate, chooses to get married again.

### 1.2 Gift tax

From a Norwegian perspective, a gift is given when a living person (donor) transfers property or economic benefit of any kind to another person without full consideration. Gifts are taxable only in the following cases:

1. Gifts to persons who at the time of the gifts are the nearest heirs or foster children of the donor or his or her spouse or cohabitant.
2. Gifts to any persons provided for in the donor's will at the time of the gift.
3. Gifts to linear descendants of persons mentioned above.
4. Gifts to spouses or cohabitants of persons mentioned above.
5. Gifts to entities, foundations, etc., in which any person mentioned above has an interest comparable to that of an owner or participant and where distributions by these bodies mainly benefit members of certain families.
6. Gifts to any persons made within six months prior to the donor's death.
7. Gifts to any persons provided for in the donor's will at the time of death or to a spouse of such person, if such gifts are made within five years prior to the donor's death.

### 1.3 Real estate transfer tax

This is not applicable in Norway.

### 1.4 Endowment tax

Grants from endowments or foundations raised or increased by gifts from donors shall be subject to inheritance tax if the endowment is not IHT liable, provided that the gift would have been subject to IHT, had the gift been given directly from the donor to the recipient.

### 1.5 Transfer duty

Registration of transfer of title to property triggers a transfer duty of 2.5% of the fair market value of the land and/or property being transferred.

### 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 fair market value 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 NOK700,000, whereby 0.7% is payable to the municipality and 0.4% to the state.

## 2. Who is liable?

According to the Norwegian Inheritance and Gift Duties Act (Arveavgiftsloven), tax is levied if the deceased/donor, at the time of death/transfer of gift, was either resident in or a citizen of Norway.

On the other hand, if the deceased was a citizen of Norway, but domiciled in another country, and there is documentary proof that IHT has been paid in the country he or she was domiciled at the time of death, IHT will not be levied on the inheritance (exemption method). The exemption applies only to inheritance, not to gifts.

When a Norwegian citizen domiciled outside Norway gives a gift, any foreign gift tax, which the recipient has to pay in another country, will be deducted from the IHT in Norway.

If the recipient inherits or receives business or real estate, and related assets in Norway, the inheritance/gift will be subject to IHT, regardless of the donor's residence, domicile or citizenship. If the real estate lies abroad, the inheritance/gift will, on the other hand, not be subject to IHT in Norway, provided that the transfer of the real estate to the recipient is subject to inheritance or gift tax in the country where the real estate lies.

The recipient of the inheritance/gift will be liable to pay IHT, regardless of the recipient's residence, domicile or citizenship.

### 2.1 Residency

An individual having his or her habitual residence in Norway would normally be considered as resident in Norway.

### 2.2 Domicile

The question of where a person is domiciled only applies to situations where the inheritance/gift comes from a Norwegian citizen, and there is an issue whether the inheritance shall be exempt from IHT in Norway or whether IHT paid abroad shall be deducted.



Under Norwegian law, an individual's domicile is the country in which he or she is considered to have his or her permanent home, even though he or she may be resident in another country. The basis for an interpretation of an individual's domicile is based on the intention of the individual, according to Norwegian legal principles. The manifested intention of the individual to remain in, or leave, Norway must be accepted, unless this intention is inconsistent with the factual circumstances.

### 3. Rates

IHT is calculated pursuant to a progressive scale depending on the relationship between the deceased/donor and the recipient. The rates are also progressive based on the amount received. The Norwegian parliament determines the rates in the annual IHT decree.

Values up to NOK470,000 may be received tax-free from each donor. Married couples are considered as separate donors. Gifts received over several years, and any inheritance received, are aggregated to determine the tax-free portion and the progressive rates.

The following rates apply:

	To parents, children, foster children and stepchildren that the deceased/donor has raised	Other recipients
Of the first NOK470,000	0%	0%
Of the next NOK330,000	6 %	8 %
Of the excess amount	10 %	15 %

When calculating the IHT, the basis for the valuation will be rounded off to the nearest thousand kroner (TNOK).

IHT is levied on the net amount of the inheritance or gift.

An heir may waive inheritance. The waiver may apply to the entire inheritance or part thereof. An inheritance that has been waived shall devolve as if the heir had died prior to the person who leaves the inheritance. The inheritance may then go directly to the heir's children without first being subject to IHT on the heir's hand.

### 4. Exemptions and reliefs

Any inheritance or gift received from one's spouse or cohabitant will be exempt from IHT.

Other exemptions also exist, such as the following:

- ▶ Each year the National Assembly determines a National Insurance Amount (G), now NOK79,216. Gifts with a total value below ½ G each year are exempt from IHT. The exemption does not apply when the gift consists of unlisted shares, participation in partnerships, other types of unlisted securities, real estate and insurance policy or payment of premium to such insurance policies.
- ▶ Periodical gifts for support or educational purposes as long as the gifts have been used before the donor's death.
- ▶ Testamentary donations in favor of institutions and foundations, whose purpose is considered to be charitable or of public interest, are exempt, provided certain criteria are met. For other donations, the Ministry of Finance may grant an exemption, provided it may be proved that the assets are "used for charitable purposes." If the criteria to grant an exemption are not available for all of the assets, the department may grant a partial relief.



## 5. Filing procedures and date for payment of tax

When receiving an inheritance or gift subject to IHT, one is required to notify the tax office in the region where the deceased person or donor resides. If the deceased or the donor is resident abroad, the notification must be sent to the tax office, Skatt Øst – Oslo.

In cases of inheritance, the time limit for the notification is six months after the death occurs. If there has been public administration of an estate, the payment of taxes should be made as soon as the estate is settled.

Extension of the time frame for the filing is generally possible upon request.

In the case of gifts, the time limit is one month after receiving the gift. A gift where the donor has reserved or retained some comprehensive rights of use, i.e., of the property given away, is treated as being within the donor's estate for tax purposes, until the reservation is lifted (notwithstanding there may have been tax effects/IHT of the gift itself).

The IHT will be due for payment 12 months after the death occurred and three months after the gift was given. Should the tax office take more time to process the notification, the payment will be due one month after the tax office has computed the IHT.

When the recipient receives inheritance or gifts in the form of business activity, shares or participation in partnerships, he or she may, if certain conditions are met, demand that the payment of IHT is done, interest free, after an installment plan for a period of maximum 12 years.

## 6. Assessments and valuations

### 6.1 Valuation

The value of inheritance or gift is normally stipulated as the estimated market value. Special favorable valuation provisions apply to unlisted shares, participations in partnerships, and farming and foresting properties.

### 6.2 Unlisted shares and participation in partnerships

The basis for the valuation of unlisted shares and participation in partnerships is 60% or 100% of the shares' part of the company's total taxable property value per January 1 in the year of death or the year the beneficiary takes possession of the gift.

The opportunity to choose between 60% or 100% of the taxable property value per share is limited to NOK10 million per beneficiary. When receiving values that exceed this limit, the basis for the valuation will be 100% of the shares' part of the company's taxable property.

In addition, a deduction of 20% of potential gain is made when deciding the value of shares and participation in partnerships. Potential gain is calculated as the difference between the tax input value of the shares and 100% of the shares' part of the company's taxable property, if the shares' part of the company's taxable property is higher than the shares' tax input value.

### 6.3 Farming and foresting properties

When farming and foresting properties (real estate that is subject to qualified right of inheritance of agricultural land) are transferred to relatives in a straight descending line, the value of the property will be set to  $\frac{3}{4}$  of the market value. A recipient may only demand a valuation in accordance with this set of rules, for one property or the assets he or she receives in connection to one property.



## 6.4 Deductions

From the gross fortune received, the recipient may deduct the following costs:

- ▶ The debts and obligations of the deceased, including debt interest until the time of death, should the recipient be obliged to cover these.
- ▶ Debt to the heir if the reality of the debt can be documented.
- ▶ Tax assessed on the deceased.
- ▶ Funeral and grave site costs.
- ▶ Costs that have been necessary to carry out the administration of an estate.
- ▶ Stamp duty regarding the transfer of commercial property.

### Deductions made for minor heirs

If an heir is less than 21 years, and he or she inherits from his or her previous provider, he or she can deduct an amount equivalent to the National Insurance Amount for each year (NOK79,216 as per 1 May 2011) that he or she has not turned 21 years.

The deduction is only available for inheritance and not for gifts.

### Financial commitments imposed by the donor

When receiving gifts or inheritance from an undivided estate, a deduction can be made for financial commitments imposed by the donor as a condition to receive the gift or inheritance.

### Gifts with reservation

If the donor has reserved or retained some rights of use, e.g., over the property given away, this will lead to a reduction of the fair market value.

Should the rights of use be comprehensive, the gift may be treated as being within the donor's estate for tax purposes until the reservation is lifted (notwithstanding there may have been tax effects of the gift itself).

### Real estate abroad

Real estate and related assets abroad are not liable to IHT in Norway when tax is paid in the country where it is situated.

## 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, settlers, trustees and beneficiaries of a foreign trust are not recognized as such.

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

### 7.1 Gifts to a foreign trust

A gift to a foreign trust will normally not be subject to IHT.



IHT will, however, be imposed if it is expected that the trust will make distributions to persons who would have had to pay IHT if the gift was given to them directly. Should that be the case, the entire gift will be subject to IHT and not only the part that goes to the person in question.

Furthermore, gifts to foreign trust may be subject to IHT if the trust was provided for in the donor's will at the time of the gift, and the assets may be considered to have been acquired by the trust.

Whether or not the settler's estate will be considered to have been acquired by the trust will depend on whether an actual transfer of the ownership of the assets has been done. If the donor maintains control over the assets or may retrieve the assets at any future point of time, the estate will, for Norwegian taxation purposes, be considered as being within the donor's estate. In that case, no inheritance tax will be imposed.

## 7.2 Inheritance to a foreign trust

If a foreign trust inherits estate according to the deceased's will, the inheritance will be subject to IHT.

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

If the settler maintained control of the assets that was transferred to the trust, the assets will, for Norwegian taxation purposes, be considered to have been transferred from the settler's estate to the heir's estate at the time of the settler's death. IHT will then be imposed on the heirs based on the value of the assets at the time of death. Should the trust for Norwegian tax purposes be considered as a Norwegian controlled foreign company, the favorable valuation provisions of shares or participations in partnerships may apply, depending on what kind of company the trust most closely resembles.

# 8. Grants

See section 1.4.

# 9. Life insurance

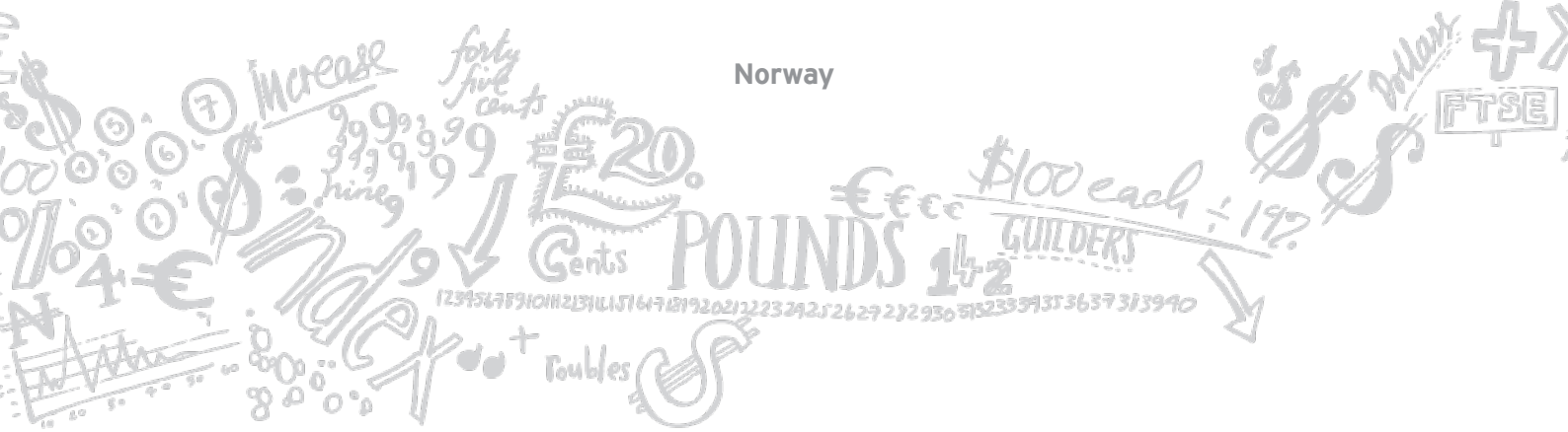
Gifts in the form of designation as beneficiary of life insurance will not be deemed as a gift, as long as the insured is entitled to withdraw the nomination, or to draw the insurance sum upon a given age or other condition or, in any other way, may master the value of the insurance policy.

IHT applies to payments from insurance companies upon death to the heirs of the deceased, or anyone appointed as beneficiaries pursuant to the insurance policy. This does not apply to payments that cover economic loss that the recipient incurs due to the death.

# 10. Civil law on succession

## 10.1 Estate planning

1. Half of the National Insurance Amount, namely NOK39,608 may be given tax free every year. This allows for estate planning in that loans can be given to children, and then a yearly sum, of NOK39,608 may be released from the debt. If the loan is free of interest, then the interest rate element will be added to the IHT basis. The interest rate should be at least 2.75% as per July 2011, in order to avoid taxation.
2. Spouses and cohabitants are not subject to IHT on gifts or inheritance.
3. Treats are not subject to IHT as opposed to gifts.



4. If a gift is given from one of the parents, the parent may choose that half the gift is from each parent, so that two allowance amounts of NOK470,000 are deducted from the total amount of the gift, when assessing the IHT base. This is only possible if the parents have co-ownership.
5. A donor who has children may give IHT exempted gifts to his or her parents or siblings, if these are not beneficiaries of the will at the time of the transfer.
6. Shares in non-listed companies or partnerships may be valued at 60% of fair market value at the hand of the recipient for transfers up to MNOK10, thus reducing the basis for IHT accordingly. (Note that the reduction in value increases the capital gain upon disposal of the shares.) If the grantor 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. He or she may make whatever clauses he or she desires for the class B shares (for instance, less voting rights or dividend rights) and then transfer the class B shares to his or her children.
7. Generation 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.

## 10.2 Succession

When a person dies, the estate will be distributed to the heirs according to specific rules in the Inheritance Act. 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 under 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 Norwegian Inheritance Act (Arveloven) 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 NOK1,000,000 per child.

For spouses, the law provides a minimum inheritance of a 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 descendant's death. Under no circumstances can the spouse's inheritance be reduced below four times the National Insurance Amount (NOK316,864) if there are lineal descendants. If there are no lineal descendants, the minimum inheritance will be equivalent to six times the National Insurance Amount (NOK475,296).

### 10.3.1 Cohabitants

For cohabitants who have joint lineal descendants, the law provides a minimum inheritance of four times the National Insurance Amount (NOK316,864). 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 donee.

A surviving spouse has the right to assume ownership of the co-owned assets. If the spouses have had a partial separate property settlement, the co-owned assets can be taken outright, whilst the separate property settlement assets are divided amongst the heirs of the deceased. This applies insofar 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 the complete right of disposal over the assets of the deceased. If the longest living uses the right to retain undivided possession of the estate, the rights of the heirs abate. They will not receive any inheritance until the undivided estate is distributed.

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 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 death. Norway will normally accept the formal validity of a will drawn of 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 or not he or she has made a will. If there is no will, then 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 if such an agreement cannot be reached, the act will apply. 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 survives the deceased
If the deceased leaves both a spouse and collective children, the estate must be divided between them. The spouse inherits ¼ 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.  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.  If the deceased has no such heirs, then the inheritance goes to the state.

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

## 10.5 Probate

The administration of the estate after the deceased may be private or public. Private administration of the estate is the main rule. However, the heirs may request the public authorities to carry out the administration.



## 11. Estate tax treaties

### 11.1 Unilateral rules

### 11.2 Double taxation treaties

Norway has concluded estate tax treaties with the following countries: Switzerland, the United States of America and the Nordic countries, except for Sweden.

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### Additional reading materials

Larsen, Tom. Busvold, Børge (2009) *Arv og generasjonsskifte.*, 5. Utg.

Borge, Trond. (2008) *Generasjonsskifte: skatt, arveavgift, mva.* Oslo: Ernst & Young

Harboe, Einar. (2000) *Arveavgift.*, 2. Utg.

Hellevik, Mikael. (1998) *Arveavgiftsloven.*, 4. Utg.