

Norway

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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 generation 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 regards to transfer 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 fulfils the requirements for tax-free profits when selling.



Withdrawals of company assets for gift purposes

In the case of withdrawals of company assets for gift purposes, there is an exception from the tax normally applicable to the donor when the recipient is entitled to succession by law, and continues all or part of the business.

Transfer against partial compensation

Cases of transfer against no or partial compensation is treated equally with regards to tax. Transfers against partial compensation may therefore trigger a profit tax for the donor. If a gift sale triggers such tax, the donor may choose whether the profits are to be cited. If the profits are not taxed for the donor, the recipient is obliged to assume the donor's tax bases with continuity. If the donor chooses profit taxation, the recipient is entitled to a proportional revaluation of the tax base on the acquired assets.

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.

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 NOK1.2 million (2015), 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.

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 in a foreign jurisdiction will be assimilated to the legal entity under Norwegian civil law, which 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

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.

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 descendant's death.

Each year the Norwegian Parliament determines a National Insurance Amount (G), now NOK88,370. Under no circumstances may the spouse's inheritance be reduced below four times the National Insurance Amount (NOK353,480) if there are lineal descendants.

If there are no lineal descendants, the minimum inheritance will be equivalent to six times the National Insurance Amount (NOK530,220).



10.3.1 Co-habitants

For cohabitants who have joint lineal descendants, the law provides a minimum inheritance of four times the National Insurance Amount (NOK353,480). 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.

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 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 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. 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 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

These are longer applicable in Norway.

Philippines

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1. Types of tax

1.1 Estate tax and tax on gifts during lifetime

There used to be both inheritance tax (tax on the right of heirs to inherit) and estate tax (tax on the net estate of the decedent) in the Philippines.

Now, the Philippines only imposes estate tax, which applies on the fair market value (FMV) of a decedent's estate at the time of the person's death. In determining the value of the gross estate, the FMV of all properties, real or personal, tangible or intangible, is included regardless of their location. With respect to nonresident aliens, only properties located in the Philippines are subject to estate tax.

The following should be included as part of gross estate:

- ▶ **Decedent's interest.** This refers to value of the decedent's right or expectation (short of naked title) on a property.
- ▶ **Transfers in contemplation of death.** This refers to the value of any disposition, whether by trust or otherwise, that is intended to take place only after the decedent's death (*donation mortis causa*).
- ▶ **Revocable transfers.** The value of any transferred property in which the decedent retained the power to amend, alter or revoke the transfer during the decedent's lifetime. This is regardless of whether the decedent actually exercised his or her power.