



BDO Seidman, LLP
Accountants and Consultants

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Issue:

Possible Refund of Dividend Withholding Tax in Norway

International Tax Alert

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Issue:

The Norwegian Ministry of Finance has withdrawn its appeal to the Supreme Court in the Fokus Bank case. Shareholders resident in other European Economic Area (EEA) countries may now be entitled to claim refunds of the withholding tax paid on dividends from Norwegian companies. The EEA includes the EU plus Liechtenstein, Norway and Iceland.

Affecting:

EEA shareholders of Norwegian corporations. Under the right circumstances, this should include EEA companies that are ultimately owned by U.S. persons.

Details:

On November 23, 2004, the European Free Trade Association (EFTA) Court issued an advisory opinion for the Fokus Bank case overturning a provision denying the foreign recipient of a dividend from a Norwegian company a tax credit for Norwegian withholding tax ("imputation credit"). The rule was found discriminatory (and in conflict with the principle of free movement of capital within the European Economic Area Agreement because domestic shareholders were eligible for the credit).

The Norwegian Ministry of Finance appealed against certain parts of this decision and hearings were scheduled for mid-February 2006. However, the Ministry of Finance has now suddenly withdrawn its appeal on January 27th. This means that a substantial number of foreign shareholders should be entitled to refunds of withholding taxes on dividends from Norwegian companies.

The statute of limitations is unclear. The Ministry of Finance maintains that refunds may be claimed for withholding taxes paid in the last three years. Some taxpayer advocates believe that the statute of limitations should be ten years.

How BDO can help:

If your group includes a Norwegian company held through an EEA holding, you may be entitled to claim a refund of withholding taxes. BDO Seidman, LLP and BDO Revico, BDO International's Norwegian member firm, can assist you in determining whether you are entitled to the refund. We can also help you file the necessary applications with the Norwegian tax authorities.