

## Taxation and Inequalities – Norway

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### Section 1: Constitutional underpinnings

#### (1) Equality and Non-Discrimination Legislation

Norway's Constitution declares in sec. 98:

“Everybody is equal under the law.

No individual must be exposed to biased or disproportional discrimination.”<sup>1</sup>

This text was included in the written Constitution only in 2014. It is assumed that unwritten constitutional norms to some extent defended against discrimination also before this inclusion but section 98 provided a clearer constitutional basis for the principle of equality. The practical significance of including the written rule remains to be seen, however. As far as taxes are concerned, there is no tradition in Norway for taxpayers to argue that tax rules are contrary to the Constitution (except in cases of retroactivity and where the principle of legality is involved). In particular, there is probably no example that arguing before the Supreme Court on the basis of a constitutional principle of equality has succeeded. So far, there seems that this practice have not changed with the inclusion of the written rule in sec. 98.

Section 98 does not list specific types of inequalities and this means that it applies to all types of inequalities.

It is assumed that the two paragraphs of section 98 express the same rule. Since the second paragraph is more precise this means that the first paragraph is in fact superfluous.

It follows from the second paragraph of section 98 that not all discrimination is contrary to the Constitution, only discrimination that are biased or disproportional. It is assumed that these requirements can vary according to the kind of discrimination; for instance, the requirements may be easier met if the discrimination is based on gender than if it based on age.

Section 98 applies only to individuals, not companies or other juridical bodies.<sup>2</sup>

Moving from the constitutional level to the level of statutory law the protection against discrimination is more specific. First of all, Act no. 51 of 2017 relating to equality and a prohibition against discrimination (Equality and Anti-Discrimination Act)<sup>3</sup> provides more

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<sup>1</sup> Our translation. The reference and text in Norwegian is: Kongeriket Norges Grunnlov of 17 May 1814, section 98. This section reads in Norwegian:

“Alle er like for loven.

Intet menneske må utsettes for usaklig eller diskriminerende forskjellsbehandling.»

<sup>2</sup> On the interpretation of section 98 of the Constitution, see J. Bull in O. Mestad and D. Michalsen (eds.): *Grunnloven. Historisk kommentarutgave 1814-2020* (2021) pp. 1040-1046.

<sup>3</sup> Lov av 16. juni 2017 nr. 51 om likestilling og forbud mot diskriminering (likestillings- og diskrimineringsloven). A translation into English is available at Lovdata.no.

detailed protection against discrimination than the constitutional rule. This Act applies to all sectors of society, which means that it also applies for taxation. Contrary to the section 98 in the Constitution, the Act in sec. 1 list a lot of types of inequalities; however, the list ends with the phrase “other significant characteristics of a person” which means that all kinds of discrimination are covered. However, according to section 1 par. 3 the Act has the particular objective of improving the position of women and minorities, which reflects that the rules against discrimination of women and minorities historically was more advanced than rules against other types of discrimination. The Act, in section 5 also incorporates The United Nations International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965 into Norwegian law.

Section 6 par. 1 provides a main rule:

“Discrimination on the basis of gender, pregnancy, leave in connection with childbirth or adoption, care responsibilities, ethnicity, religion, belief, disability, sexual orientation, gender identity, gender expression, age or combinations of these factors is prohibited. ‘Ethnicity’ includes national origin, descent, skin colour and language.”

The Act applies both to direct and indirect discrimination, the latter being defined in section 8

«’Indirect differential treatment’ means any apparently neutral provision, condition, practice, act or omission that results in persons being put in a worse position than others on the basis of factors specified in section 6, first paragraph.”

This is important for taxation because direct discrimination probably no longer exists in Norwegian tax acts.

The Act imposes obligations on employers and public administrative bodies in order to support efficient practice of the substantial rules of the Act. A companion Act establishes an Anti-Discrimination Ombud and an Anti-Discrimination Tribunal.<sup>4</sup>

Further, the Supreme Court has over the years developed a doctrine of prohibition of biased decisions in administrative law, which applies also in tax law. However, this doctrine applies first and foremost to discretionary decision, of which there are rather few in tax law. However, in the later years the Supreme Court have dealt with the question of whether and to what extent this doctrine applies to the interpretation of tax rules as well. However, the Supreme Court has made clear that the fact that one taxpayer has been taxed too leniently, does not generally mean that other taxpayers can demand to be taxed the same way.<sup>5</sup>

## (2) Constitutional links between Equality and Taxation

Under the Constitution, the Parliament has the right to levy taxes. The Parliament is free to introduce the taxes that it finds appropriate and there are few restrictions on how the various taxes shall be spelled out in detail. In particular, there is no reference to the ability to pay-principle or to horizontal or vertical equity in the Constitution. Also, the question of progressiveness is left to the Parliament without restrictions.

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<sup>4</sup> Lov av 16. juni 2017 nr. 50 om Likestillings- og Diskrimineringsombudet og Diskrimineringsnemnda (diskrimineringsombudsloven).

<sup>5</sup> HR-2019-273-A.

There is no formal Bill of Rights in taxation matters in Norway. However, constitutional principles, as the principle of legality, prohibition of retroactive legislation and equality applies also in tax law. In practice, the rules on the administrative handling of tax cases in the law of tax administration<sup>6</sup> are far more important. This law lays down the rights, but also obligations, on taxpayers connected with the levying of taxes. The principle of treating taxpayers on a non-discriminatory bases also follow from general administrative law principles.

## **Section II. National Tax Policy and Inequality**

### **(1) Tax Policy and Income Inequality**

a. The Norwegian personal income tax has always had an important function in the income distribution. Ever since the beginning of the 1920-ies, the tax rates has been markedly progressive, in periods very progressive. However, an important feature under current law is that the progressive tax rates apply only to earned income. Since a tax reform in 1992, capital income, also when earned by individuals, are taxed with a proportional tax rate (the so-called Dual Nordic Model).

For individuals there is a basic personal allowance which in 2023 amounts ot NOK 79 600.<sup>7</sup> The tax rate for capital income is in 2023 22 per cent.<sup>8</sup> The tax base is a traditional net income concept, referred to as “general income”.

The tax rate structure for earned income, as mentioned, progressive, with the following brackets in 2023 (1 Euro equals NOK 11,50 medio October 2023):

At the bottom, the tax rate is 22 per cent above the personal allowance.<sup>9</sup> The tax base is general income for salaries as well as for income of self-employed individuals.

Above this, a tax is levied on the so-called personal income, which is first and foremost gross salary income, that is without any deductions. The tax base for the self-employed is a complicated hybrid. Financial income and costs are excluded but that does not apply to debt interest on loans from banks and other financial institutions, within certain limits. In addition, a so-called shielding allowance, reflecting the normal yield of the assets of the business, can be deducted; but that normally is a rather small amount.

On personal income, income tax is levied according to the following:<sup>10</sup>

- 1,7 per cent for income above NOK 198 350
- 4,0 per cent for income above NOK 279 150
- 13,5 per cent for income above NOK 642 950

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<sup>6</sup> Lov 27 mai 2016 om skatteforvaltning (skatteforvaltningsloven) (Law 27 May 2016 no. 14 on tax administration).

<sup>7</sup> Lov om skatt på formue og inntekt sec. 15-4 and Stortingetsvedtak 13 des 2022 nr. 2199 om skatt av inntekt og formue mv. for inntektsåret 2023 (Stortingets skattevedtak) – herinafter Stortingets skattevedtak – sec. 6-3.

<sup>8</sup> Stortingets skattevedtak sec. 3-2 and sec. 3-8 (the sum of 8,4 per cent state tax, 2,45 per cent tax to the regions and 11,15 per cent tax to the municipalities. In 1992, the tax rate for capital income was 28 per cent. The tax rate was reduced in the years 2013 – 2019 to 22 per cent as a parallel to the lowering of the company tax rate during those years.

<sup>9</sup> The legal basis is the same as for capital income, see preceeding footnote.

<sup>10</sup> Stortingets skattevedtak sec. 3-1. In parts of Northern Norway the tax rates are somewhat lower.

- 16,5 per cent for income above NOK 926 800
- 17,5 per cent for income above NOK 1 500 000.

In addition, a proportional social security contribution is levied on earned income. The rate is (2023) 7,9 per cent for salary come and 11,1 per cent on income of the self-employed.<sup>11</sup> The base for this calculation is personal income, as explained above. The rate is higher for the self-employed than on salaries mainly because a pay-roll tax is levied on salaries but not on income of the self-employed. The pay roll tax is geographically differentiated; the top rate is 14,1 per cent.<sup>12</sup>

In Norwegian political debate the social security contribution is normally added to income tax rates. Following this, the top tax rate on earned income is 47,4 per cent (22 + 17,5 + 7,9). It is often assumed that the payroll tax on employers is shifted to the employee through tax incidence. On this assumption, the top marginal tax rate on salary (in 2023) is 55,8 per cent. The top rates for income of the self-employed is 50,6 per cent (22 + 17,5 + 11,1).

As mentioned above, the tax rate for capital income is 22 per cent. However, the tax rate on share dividends and capital gains, after a deduction of a (normally rather low) so-called shielding allowance, is in fact 37,84 per cent (2023).<sup>13</sup> Taking into regard that the company tax rate is 22 per cent, the combination of the company tax rate and the tax rate on distributions and share capital is 51,5 per cent.

This shows that the difference between the top salary tax rate and the tax rate for capital income is very large and this is part of the reason why Norway still has a wealth tax (see below). The large difference between the ordinary capital tax rate and the tax rate for share income is a consequence of the lowering of the company tax rate from 28 to 22 per cent during 2013–2019: In order to keep the sum of company and share income tax at the same level as before, the tax on share income was increased as the company tax was lowered.

b. The company tax rate in Norway is proportional, at 22 per cent (2023).<sup>14</sup> The company tax as such is not considered to have a distributional purpose. However, the combined effect of the company tax and shareholders tax on dividends and capital gains should, according to legislative purpose, approximate the highest tax rate on salary income, that is (in 2023) ca. 47 per cent or ca. 55 per cent if the payroll tax is included. Admittedly, the prime reason for this is to avoid profit shifting from salary to dividend income but the rules also have a certain distributional effect because most shares are owned by individuals in the upper part of the distributon.

On some companies, higher tax rate are levied. However, this is not based on distributional considerations. The higher tax rates on oil and gas, hydroelectric power and seafarms (and a

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<sup>11</sup> Stortingsvedtak 13. des. 2022 nr. 2200 om fastsetting av avgifter mv. til folketrygden for 2023 sec. 7 and sec. 8.

<sup>12</sup> Stortingsvedtak 13. des. 2022 nr. 2200 om fastsetting av avgifter mv. til folketrygden for 2023 sec. 3.

<sup>13</sup> This follows indirectly because the share income shall be multiplied with 1,72 (2023) before applying the tax rates of 22 per cent, see Lov om skatt av formue og inntekt sec. 10-11 (dividends) and sec. 10-31 (capital gains and losses).

<sup>14</sup> Stortingets skattevedtak sec. 3-3.

proposal for wind power on land) are all based on the theory of taxing the economic rent.<sup>15</sup> A somewhat higher tax rate (25 per cent in 2023) for banks and other companies carrying out financial activities is considered (together with a higher payroll tax) as a substitute for services of such company being exempted from VAT.<sup>16</sup>

The value added tax is not considered to have a distributional purpose. The lower tax rates on some goods and services are based on other considerations.<sup>17</sup> A possible exception is the lower tax rate on food, the main purpose of which is to ease the burden for families with children. However, empirical experience suggests that this exception as such is regressive, because rich people use more money on food than those in the lower part of the distribution.<sup>18</sup>

c. Norway levies a wealth tax on individuals but not on companies. The tax rate is 1 per cent for wealth exceeding NOK 1,7 million.<sup>19</sup> For wealth exceeding NOK 20 millions, the tax rate is 1,1 per cent. For spouses who are taxed jointly (which is still the main rule), the brackets are doubled, that is to NOK 3,4 millions and NOK 40 millions. This means that the joint taxation of wealth has no adverse effects for spouses.

The tax base is the net wealth, which means that debts are deductible.<sup>20</sup> The point of departure is that all assets are included whether tangible, intangible or financial. However, there are important exceptions, in particular for intangible assets, most of which are excluded for practical reasons. The value of future pension rights are also excluded.

Assets should be valued at its sales price. However, this object is notoriously difficult to achieve in practice. Thus, non-listed shares tax are generally valued below their sales price, partly due the fact that intangible assets are no to a large extent not taken into consideration. Earlier, also real estate was valued far below sales prices but rules and practice have been amended in recent year with the effect that valuations are now much closer to the sales price. This also has an indirect effect on the valuation of non-listed shares. A very important exception applies for dwelling-houses used by the taxpayer him- or herself: Such estate is valued to 25 per cent of the assumed sales price.

In addition, there are exceptions often referred to as “rebates”: Shares, both listed and non-listed, and real estate used in business is valued at 80 per cent of the sales price (as calculated according to the ordinary rules). Business assets except real estate is valued at 70 per cent of the assumed sales price. There is a parallel reduction of the deductible debt. The (controversial) rationale behind these rebates is that the wealth tax should not be levied on

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<sup>15</sup> Stortingets skattevedtak sec. 3-4 (hydroelectric power), sec. 3-5 (sea farms) and sec. 4-2 (oil and gas).

<sup>16</sup> Stortingets skattevedtak sec. 3-3 and Stortingsvedtak 13. des. 2022 nr. 2201 om fastsetting av finansskatt på lønn sec. 3.

<sup>17</sup> The general VAT rate is 25 per cent, Stortingsvedtak 13. des. 2022 nr. 2204 om merverdiavgift for 2023 sec. 2. However, the tax rate for food is 15 per cent and several services has a tax rate of 12 per cent, mainly transport of persons, letting out room in hotels and certain cultural and sports related services. Book, newspapers etc. are zero-rated, Stortingsvedtak 13. des. 2022 nr. 2204 om merverdiavgift for 2023 sec. 3 (food) and sec. 4.

<sup>18</sup> NOU 2022: 20 p. 333 referring to an examination carried out by Statistics Norway showing that the 10 per cent of households with the highest income uses approximately four times more money on food than do the 10 per cent of households with the lowest income.

<sup>19</sup> Stortingets skattevedtak sec. 2-1 and sec. 2-3. Of this 0,7 per cent is wealth tax to the municipality. A municipality can decide to set tax rate lower and that has happened a few times in recent years as a part of kind of domestic tax competition.

<sup>20</sup> The rules on the tax base for the wealth tax is found in Lov om formue og inntekt chapter 4.

business assets but only on private assets (thus, the rebate is only a start). In addition, and not least, owner-occupied dwelling-houses are valued at only 25 per cent of the assumed sales price.

The main reason why the wealth tax is still levied, is its distributional effects. Wealth is more unequally distributed than income and that applies in particular to financial income and assets. Experience shows that the wealth tax is the main tax which the very rich people pays. The existence of the wealth tax should also be seen in connection with the fact the capital income (except share income) is taxed at a low rate (22 per cent).

Norway abolished the inheritance tax as from 2014.

The municipalities can decide to levy a property tax, and most municipalities do this.<sup>21</sup> Generally, a property tax is not well suited for distributional purposes since it is not based on the ability pay. Nevertheless, the municipalities can decide that there shall be a tax free amount for dwelling houses and the wording of the statute text do not set any upper amount limit for this amount. The rationale is to give municipalities some possibility to take distribution into account (however, the tax free amount is granted also for dwelling-houses not used by the owner but let out to others). The municipality of Oslo decided some years ago to introduce a very high tax free amount of NOK 4 millions, the result of which was that ca. 80 per cent of the dwelling-houses in Oslo was under this amount and, thus, did not qualify for the tax. Some homeowners contended that the effect of the decision was that rule were given the character of a tax freedom rule whereas its intention was only to reduce the liability. The Supreme Court decided that the rule in the law implied an upper limit for the tax free amount and wrote the Oslo rule was close to that limit but decided that was sufficiently general to pass.<sup>22</sup>

d. The inheritance tax was abolished in 2013 and not reintroduced by the labour-lead Government first and foremost because it was easy to circumvent. Also, earlier it was rather easy to reduce wealth taxes through tax planning mainly because of deficiencies in the rules and practice of valuation. As mentioned, the valuation rules for real estate in particular have been tightened up in later years. However, equalities in valuations are probably an inherent problem with wealth taxes. Income taxes cannot be said to be particularly easy to circumvent, even if tax planning is a continuing challenge. Norway has a statute based GAAR as from 2020<sup>23</sup> and before that for several decades a court-based GAAR developed by the Supreme Court.

e. The Government publishes a list of assumed tax expenditures every year.<sup>24</sup> By far the most important expenditure is the non-taxation of imputed income of using one's own dwelling-house combined with an unrestricted right to deduct debt interest, and the low valuation of the

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<sup>21</sup> Lov 6 juni 1975 nr. 29 om egedomsskatt til kommunane (Law 6th June 1975 no. 20 on property tax to the municipalities).

<sup>22</sup> HR-2019-1198-A.

<sup>23</sup> Lov om formue og inntekt sec. 13-2.

<sup>24</sup> See Prop. 1 LS (2023-2024) Annex 1 at p. 265.

taxpayers own dwelling house for wealth tax purposes. There is no doubt that these expenditures have important regressive effect.

The general policy in Norway is to avoid tax expenditures as far as possible. This implies that tax expenditures are generally not used as a tool for limiting inequalities. Thus, there is no deduction for education and healthcare cost, except for an exception for employer-paid education on certain conditions. An earlier deduction for extraordinary costs connected with decease has been phased out, based on the view that public support to health care should be paid over the health budget and not as tax expenditures. In this connection, it should be remembered that in Norway, education – also at university level – and public health care is almost free of charge.

f. The wealth tax in particular has been heavily debated lately. Since few countries have this tax, it is argued that the tax discriminates investors resident in Norway compared to non-resident investors (who are not subject to wealth tax in Norway on shares, not even shares in Norwegian companies and are normally not taxed in their resident state either). It has also been argued that majority shareholders may be forced to decide on the distribution of dividends – and thus weakening the company – in order to have money to pay the wealth tax on the shares; however, it is not clear how important this effect is. The combination of the wealth tax and the tax on dividends (which have both increased in recent years) is probably a main reason why quite a lot of rich people have moved to Switzerland the last year or so. On the other hand, it is argued that the wealth tax is the only tax that really hits the very rich and that is therefore very important for distributional purposes. This view is supported by the political majority at the moment.

As far as inheritance tax is concerned, some left leaning politicians and think tanks have argued for the reintroduction of the inheritance tax for distributive reasons. However, most people seem to be against, for instance arguing that is a particularly “unpopular” tax.

The recent tax commission proposed to reintroduce the inheritance tax combined with a substantial reduction of the wealth tax, as the inheritance tax was considered to be a better tax than wealth tax.<sup>25</sup> The same committee also proposed to increase the general tax rate for capital income outside companies.<sup>26</sup>

As far as income tax is concerned, the principle of progressive taxation on earned income seems to be generally accepted. The degree of progressivity is of course debated, generally following political lines. Interestingly, there seems to be little public support in moving from a proportional to a progressive tax on capital income.

g. Cuts or reductions of the VAT is often proposed in public debate as a remedy to relieve the hardship of relatively poor people resulting from increased cost (on food, electricity, interest etc.). However, the Government has been reluctant to use the VAT system for such purposes and have instead relied on direct support to vulnerable groups (the support for electricity costs is for everyone, however). No products or services have been moved to lower VAT rates

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<sup>25</sup> NOU 2022: 20 chapter 10. The committee’s report has been shelved by the Government for the time being.

<sup>26</sup> NOU 2022: 20 chapter 9.

recently. On the other hand, there seems to be little political and public support for abolishing the low VAT rate for food.

h. Equality in and distributional effects of taxation is of course on the agenda almost continuously. However, the debate mostly has an *ad hoc* character and is most often not well-informed and evidence based. For instance, it is almost impossible to convince the public and also politicians on the logic of taxing home owners for their imputed income. The battle cry of taxing the rich harder is often heard from the political left. On the other hand, the ultimate argument is often that a reform will have some losers and should therefore not be supported.

## (2) Tax Policy and Other Inequalities

a. Gender equality has been an important element in political debate in decades, mainly concerning the question of the taxation spouses. Norway has moved from mandatory joint taxation of spouses in the middle of the last century, through separate taxation of earned income from about 1970 and separate taxation of capital income in 1992 to full separate taxation as from 2019 (with the imposition of the same tax free amount for each spouse as for single persons and no possibility to refer unused tax free amount to the other spouse).

Parents are entitled to a standard deduction for costs relating to child support. On paper the rule is gender neutral. The deduction is divided equally between spouses. The situation after a divorce is not specifically dealt with in the statute text. In earlier practice, the right to deduction was in such cases allocated to the parent who had the daily responsibility for the child. Interestingly, a couple of decades ago this practice was challenged on the basis that the parent with the daily responsibility for a child after divorce was most often the mother. In a decision of the claims board for equality, this was supposed to amount to a discrimination of fathers who also took part in the support of the child.<sup>27</sup> The practice was subsequently changed, now giving each parent a right to claim that the deduction shall be allocated between the parents according their economic support of the child.

It should be mentioned that support for children is otherwise not taken care of through the tax system but by a direct grant from the state through the social security system.<sup>28</sup> This grant replaced a system with a deduction in the income tax base for each child around 1970. Interestingly, this grant is paid out to the mother. One reason why this support still has the character of a grant and not a tax credit is that the grant is received by the mother while a tax credit would most often go to the father as the main earner.

Since 2022 there are no special rules for single parents. Earlier single parents were entitled to a special standard income deduction. However, single parents are entitled to a larger direct child grant.

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<sup>27</sup> Case LKN-2003-11 before the claim board of equality.

<sup>28</sup> Lov 8. mars 2002 no. 3 om barnetrygd (barnetrygdloven).

b. There are no exclusion or otherwise special rules for female sanitary products. There has been some debate on this in Norway.<sup>29</sup> However, no proposal has been forwarded to the Parliament to change the law.

c. The general rules on the taxation of spouses is dealt with under subsection (2) a above. These rules applies also for partners of same sex marriage. However, cohabiting persons who are not married are taxed under same rulse as spouses only on certain occasions where one of the partners or both are retired.<sup>30</sup>

Children are taxed together with their parents up to and including the year they turn 16 years of age.<sup>31</sup> However, the child is taxed separately on salary income from the year the child turns 13 years. These rules apply regardless of whether the parents are married or not; thus, they apply also for LTBTQ families. There are some technical difference in the rules depending on whether the parents live together or not.

d. The general policy in Norway is that support for people with disabilities etc. shall be granted through the health- and social security system and not through tax rules. Such tax rules have therefore been phased out of the tax law. The only rule of this kind which is left is a deduction – capped at NOK 9 180 yearly (2023) – for individuals who have reduced possibility to work because of illness or disabilities but not to such a degree that they are entitled to social security grant or other public support.<sup>32</sup>

e. Tax rules in Norway generally applies to individuals resident in Norway, regardless of their nationality or where they are born.<sup>33</sup>

f. Pension income is taxed more leniently than labor income; this applies in particular to low and middle pension income. This is due to a special tax credit, which is phased out with increasing income,<sup>34</sup> and a somewhat lower social security contribution.<sup>35</sup> The recent tax committee report argued that there are few arguments to support such lenient taxation of pension income compared to labor income and proposed that the favorable rules should apply only to low pensions.<sup>36</sup> According to the report, the taxation of pensions should also induce individuals to stay in the workforce for more years.

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<sup>29</sup> See for instance [man-skal-ikke-profitere-av-mensen-eller-legeprodukter \(fagforbundet.no\)](https://www.fagforbundet.no/nyheter/man-skal-ikke-profitere-av-mensen-eller-legeprodukter), [- Staten tjener penger på at vi blør - DNB Nyheter](https://www.dnb.no/nyheter/staten-tjener-penger-pa-at-vi-blor)

<sup>30</sup> See Lov om skatt av formue og inntekt sec. 2-16.

<sup>31</sup> Lov om skatt av formue og inntekt sec. 2-14.

<sup>32</sup> Lov om skatt av formue og inntekt sec. § 6-82.

<sup>33</sup> Lov om skatt av formue og inntekt sec. 2-1 and sec. 2-2.

<sup>34</sup> Lov om skatt av formue og inntekt sec. 16-1.

<sup>35</sup> Stortingsvedtak om fastsetting av avgifter mv. til folketrygden 2023 sec. 6: The rate is 5,1 per cent, compared to 7,9 per cent for labor income. The difference is mainly due to the fact that pension income – as opposed to labor income – does increase the taxpayer's rights in the social security system.

<sup>36</sup> NOU 2022: 20 chapter 6.7. However, also this part of the report has been shelved for the time being.

There are no rules in the Constitution relevant for the taxation of pensions.

Inter-generational equity has been an argument in favor of retaining the wealth tax because wealth tax is mainly paid by the middle aged and the old and not by the young.

g. There is not much debate in Norway on indirect discrimination through tax rules, and using tax rules a positive discrimination does not seem to have much support.

### (3) Tax Competition and Inequality

Even if Norway has rather high taxes on high labor income, there are no rules on an “expert tax” with the purpose of attracting highly paid experts to Norway. In the 1970-ies, in connection the development of oil fields at that time, a special deduction was introduced which significantly reduced the progressive income tax on labor income for non-residents. Even if the rule is formally still in the law its range of application has be very reduced.<sup>37</sup> It now applies only to non-resident sailors and is capped at 10 per cent of the income and NOK 40 000.

Special rules on withholding tax on labor income to non-residents employees in Norway may be profitable because the tax rate is proportional and 25 per cent (2023).<sup>38</sup> However, the rules do not apply if the income exceeds NOK 642 950.<sup>39</sup> The rationale of these rules is mainly to establish an efficient way of collecting the tax for short time workers in Norway.

## Section III. Tax Enforcement and Inequality

### (1) Tax Enforcement and Income Inequality

a. In Norway, there is generally no widespread belief among the general public that the tax authorities disproportionately target the poor or minority groups. However, it is possible that certain sectors or groups may perceive this differently. The tax authorities do employ specific control parameters that guide their selection of audits based on risk factors, and they claim that these parameters are designed to exclude discriminatory factors such as ethnic background. Nonetheless, there remains a possibility that risk-based selection criteria may lead to increased scrutiny of certain industries, sectors, or workgroups with a higher representation of specific genders, age groups, minorities, or individuals with lower income. Obtaining investigations on this matter has proven to be unfeasible.

An additional point to consider is the cost barrier in challenging the tax authorities. In both the tax community and the media, there have been debates about how individuals with lower income often face substantial financial hurdles when contesting tax decisions. While legal costs may be reimbursed in cases of successful disputes, the initial risk and

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<sup>37</sup> Lov om skatt av formue og inntekt sec. 6-70.

<sup>38</sup> Lov om skatt av formue og inntekt chapter 20.

<sup>39</sup> Lov om skatt av formue og inntekt sec. 20-3 cf. Forskrift 19. nov. 1999 fastsatt av Finansdepartementet til utfylling og gjennomføring mv. av skatteloven a 26. mars 1999 nr. 14 (the Ministry of Finance’s regulations to the tax law) sec. 20-3-1 cf. Stortingets skattevedtak 2023 sec. 3-1.

upfront expenses can pose substantial challenges for them, and Norway has not implemented specific support mechanisms to counteract this.

- b. Norway has had arrangements for what is known as "voluntary correction" for many years, which constitute a form of tax amnesty for all taxpayers. It allows a taxpayer, as long as the reporting has not been triggered by control measures that are currently in progress or will be initiated, or by information obtained by the tax authorities from other sources, to amend their reporting for previous income years without risking fines or additional taxes.<sup>40</sup> However, any tax that should have been paid must be paid in accordance with the corrected reporting.

The experiences of the Norwegian Tax Authorities with cases of voluntary correction have shown changes in the profile of taxpayers in recent years. The Tax Authorities' analysis in 2017<sup>41</sup> revealed that there were a lot of cases of voluntary correction involving significant wealth and income. Many of these cases involved income and wealth from countries such as Switzerland, Luxembourg, the United Kingdom, and the Isle of Man. This indicated that the scheme was largely used by individuals with relatively substantial wealth and mainly pertained to countries with limited information exchange.

However, an analysis provided by the Tax Authorities in 2022,<sup>42</sup> shows that there has been a shift in the group utilizing the voluntary correction scheme since 2017, with a greater number of individuals without significant income or wealth now seeking corrections. Documentation from the Tax Authorities shows that the voluntary correction scheme primarily involves small tax amounts today. From January 1, 2019, to May 2021, approximately 35 percent of all cases involved amounts under NOK 5,000 per taxpayer (500 euros). For nearly 85 percent of taxpayers, the increase in taxes was under NOK 50,000. The average increase in accumulated income per person for each completed case was approximately NOK 421,000. These figures are cumulative for each completed case, which may span multiple income years per taxpayer. According to The Authorities, a substantial portion of those currently requesting voluntary correction are taxpayers who have moved to Norway and were not aware of global tax obligations. Additionally, some Norwegian citizens who have moved abroad or own vacation properties abroad are also using the scheme.

- c. In Norway, prosecutions for tax fraud often occur, and they encompass a range of offenses. The most common types of tax fraud cases typically involve undeclared work and undeclared income and sales in small businesses in certain industries. Additionally, there have been occasional prosecutions targeting wealthy individuals and corporations. Over the past decade, there have been several high-profile cases involving allegations of tax evasion in the billion-class range. However, it's worth noting that in some of these instances, the state has faced challenges in securing convictions, resulting in the acquittal of the individuals involved. These cases have often sparked extensive debates, with some

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<sup>40</sup> The Tax Administration Act § 14-4 d (Lov 27 mai 2016 om skatteforvaltning).

<sup>41</sup> This is an internal analysis that is not publicly available, but we have received the information from the Norwegian Tax Authorities.

<sup>42</sup> Neither is this analysis publicly available, but we have been presented with it in connection with the writing of this report.

questioning the effectiveness of tax fraud prosecutions, while others argue that there may be insufficient legal safeguards and a risk of witch-hunting against entrepreneurs.

## (2) Tax Enforcement and Other Inequalities

- a. Tax compliance and administration in Norway have undergone significant digitalization. Tax processes have been highly automated, extending beyond online tax returns and electronic invoices, with third-party reporting systems from employers, banks, and other sources. This comprehensive automation ensures that many taxpayers automatically receive their income and deduction information pre-filled in their tax returns. Norway has transitioned to a self-assessment system, where taxpayers themselves determine their tax base within the tax return (tax authorities no longer make ordinary assessments). This process is typically carried out electronically and relies on a multitude of pre-filled details. Taxpayers have the ability to modify entries that they find to be incorrect or incomplete, while tax authorities conduct post-submission audits based on various selection criteria and risk factors.

Furthermore, the Norwegian Tax Authorities state that they have introduced 10 predictive AI models for various purposes. These models are used for nudging taxpayers (such as sending letters to taxpayers in risk groups to encourage accurate reporting), selecting cases for audit, and assisting in the assessments of taxpayers who have not fulfilled their reporting obligations.

- b. The Norwegian Tax Authorities employs AI technology in the selection of taxpayers for audits and also as an aid in assessing taxpayers who have not reported their income. According to the Tax Authorities they have recently adopted an overarching AI policy that dictates AI usage within the bounds of existing legislation, including legislation that prohibits discrimination. Furthermore, they have developed a more comprehensive set of documents concerning various AI systems. These documents outline what factors that should be considered, by whom, and how, with the objective of ensuring the correct legal application of automated decision-making processes. This includes the agency's practice of avoiding the use of variables that could lead to discrimination. While these documents contain sensitive information about the variables and, therefore, could not be shared with us, the agency highlights that there is a strong focus on excluding discriminatory variables, such as a taxpayer's ethnic background and sex.
- c. There have been debates in the media concerning the challenges faced by the elderly in adapting to digitalization and the difficulties they encounter in seeking assistance from tax offices. It is possible to submit paper tax returns, and appointments can be scheduled with tax authorities across the country, so it is not without options, but there have been complaints. There have also been reported issues with long waiting times on the phone and difficulty in getting follow-up on non-traditional inquiries. Furthermore, there have been complaints that when individuals seek assistance on more complex tax matters, it can be challenging to communicate with case handlers or the tax authorities responsible for specific issues. These issues have raised concerns about accessibility and support, which can disproportionately affect certain groups, such as the elderly or those with limited resources who may not have the means to seek legal assistance elsewhere.

- d. There is a provision in the Norwegian Tax Administration Act, which deals with payment reduction and deferment.<sup>43</sup> According to this provision, the tax authorities can reduce or waive the determined tax if, for specific reasons related to the assessment, it appears particularly unreasonable to enforce the full claim. The extent to which this provision is utilized is not known, but it does provide room for discretion, such as in cases involving elderly taxpayers. Additionally, there are provisions in place that offer grounds for leniency when imposing penalties for violations of reporting obligations.<sup>44</sup> These grounds can also be invoked in cases where reporting inaccuracies result from disabilities, health issues, and similar circumstances.

While there isn't a simplified tax return especially targeting the elderly or those with lower income, the general reporting system is usually straightforward for regular taxpayers, such as employees and pensioners. They typically have their income and common deductions, such as pension payments and interest expenses to banks, prefilled in the tax return due to third-party reporting, which significantly reduces the complexity of the process for them.

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<sup>43</sup> The Tax Administration Act § 9-9.

<sup>44</sup> The Tax Administration Act § 14-3 (2).