ROYAL NORWEGIAN
MINISTRY OF FINANCE

The Norwegian Ministry of Finance proposes to amend the VAT rules for internationally traded services for Multi Location Entities—English Summary of the consultation paper

*On 21 March 2025, the Ministry of Finance published a consultation paper addressing the VAT treatment of remotely deliverable services.[1] The proposed amendments affect international businesses. Thus, this document provides an **English summary** of the consultation paper, with the headlines below referencing the consultation paper's various sections.*

1. Background (Section 1 of the Consultation Paper)

The destination principle holds that internationally traded goods and services should be taxed according to the rules of the jurisdiction of consumption. In general, the destination principle is implemented by imposing VAT on imports while exports are zero-rated. The destination principle ensures neutrality in international trade, treating all providers competing in a given market equally in terms of taxation.

The consultation paper addresses cross-border service flows within legal entities that have establishments in more than one jurisdiction, for example a company with a headquarters in Sweden and a branch in Norway. In the consultation paper, "establishment" refers to any presence or activity qualifying as "domiciled in the [Norwegian] VAT area" under Norwegian VAT law. Legal entities with establishments in more than one country are referred to as "MLEs"—an abbreviation for Multi Location Entities, in line with OECD terminology.[2]

MLEs often structure the procurement of services so that one establishment—such as the company's headquarters in Sweden—purchases services, while other establishments—such as a Norwegian branch—wholly or partially use the services. Under the destination principle, Norway holds the taxing rights over services used within the Norwegian VAT area.[3] Consequently, Norwegian VAT should apply to externally acquired services that an MLE purchases, provided the services are used by an establishment located in Norway.

Norwegian VAT law currently includes a provision addressing cases where an MLE establishment located outside Norway purchases services and those services are used by an

[1] The Consultation Paper (Norwegian).
[2] International VAT/GST Guidelines.
[3] The term 'Norwegian VAT area' refers to the Norwegian mainland and all territories within Norway's territorial limits, excluding Svalbard, Jan Mayen, and the Norwegian dependencies. In this summary, "Norway" is occasionally used as a synonym for "the Norwegian VAT area".

MLE establishment in Norway. Pursuant to section 3-30, second paragraph of the Norwegian VAT Act remotely deliverable services used in Norway by an establishment domiciled in Norway are subject to VAT, even if the service is delivered to a recipient domiciled outside Norway. The Norwegian VAT act defines remotely deliverable services as services whose execution or delivery, by nature, cannot easily be linked to a specific physical location. Examples include IT, HR, consultancy and accounting services.

The current provision in the Norwegian VAT Act has been interpreted in ways that allow MLEs to circumvent VAT liability in Norway. In many cases, the MLEs incur no VAT abroad either, leading to unintended non-taxation. Hence, by utilizing the loophole MLEs engaged in VAT-exempt activities in Norway achieve cost savings, as VAT deductions are not granted for goods and services used in such activities. The Norwegian Tax Administration has noted a growing use of this loophole among MLEs in the financial sector.

The current system contradicts fundamental tax principles, leading to unequal tax burdens for MLEs and fully domestic businesses. Domestic businesses incur VAT on taxable services (such as IT services) used in VAT-exempt activities, while MLEs can often avoid the VAT burden on equal services.

On March 21, the Ministry of Finance published a consultation paper on proposed amendments to the Norwegian VAT Act concerning the VAT treatment of MLEs' purchase and use of remotely deliverable services.

The Ministry of Finance proposes two key changes:

I. An expanded VAT liability for remotely deliverable services used within the Norwegian VAT area.
II. An extended right to input VAT deduction (and reimbursement) on remotely deliverable services that are being used by the MLE outside the Norwegian VAT area.

These proposals align with the Recharge Method set out in the OECD International VAT/GST Guidelines. The proposed amendments are set to take effect on January 1, 2026.

Additionally, the Ministry suggests implementing a special rule to prevent adaptations to circumvent the main proposal. The special rule is set to take effect from a date determined by the King.

The deadline for submitting consultation feedback is June 21, 2025.

2. Current Legislation (Section 2 of the Consultation Paper)

2.1 MLEs' Purchases of Remotely Deliverable Services for Use in Norway

Under Section 3-30, first paragraph of the Norwegian VAT Act, VAT must be applied to remotely deliverable services purchased outside the VAT area if the recipient is domiciled within the VAT area and the service is VAT-liable when sold in Norway.

The Norwegian Tax Administration has stated that the key criteria for identifying the recipient of a service are who acts as the buyer and who receives the invoice. While this makes the VAT treatment predictable for the parties involved, it can lead to outcomes that are not in line with the destination principle.

For instance, an MLE may acquire services through a single establishment, such as its headquarters, while other establishments in different jurisdictions wholly or partially use these services. In such cases, the destination principle is not upheld if the purchasing establishment is considered the sole and final recipient of the services.

To address this issue, Section 3-30, second paragraph of the Norwegian VAT Act introduces a special rule requiring that VAT be charged on services used within the Norwegian VAT area by a business or public entity domiciled in Norway (such as a Norwegian branch)—even if the service is delivered to a recipient outside the VAT area (such as a headquarters in Sweden).

2.2 Limitations of Section 3-30, Second Paragraph

Two key factors limit the scope of this provision:

I. VAT liability is waived if documentation confirms that VAT has been charged on the service outside the VAT area. Administrative practice has established that simply charging VAT abroad is sufficient, regardless of whether the foreign establishment subsequently deducts the VAT incurred abroad.
II. The provision's applicability remains unclear when a purchased service is modified or processed before being transferred for use by the Norwegian establishment.

For example, consider an MLE headquarters in Sweden that develops and delivers a new IT system for a Norwegian branch—an internal transfer within the MLE. To build this system, the headquarters purchases software from an external provider. In this scenario, the externally acquired software serves as an input factor in the headquarters' production of the IT system.

In such cases, some argue that the externally purchased service (software) is not the relevant service used within the Norwegian VAT area—instead, the relevant service is the IT system itself.

In Norway, internal transfers within a legal entity are not considered as supplies for VAT purposes. This principle remains valid even when parts of the entity are established outside the VAT area, for example a headquarters abroad and a branch in Norway, aligning with the EU precedent set by the Court of Justice of the European Union (CJEU) in the FCE Bank-case (C-210/04).

However, unlike in the EU—see the CJEU rulings in Skandia America (C-7/13) and Danske Bank (C-812/19)—this principle applies regardless of whether any of the MLE establishments are part of a VAT group.

2.3 MLEs' Purchases of Remotely Deliverable Services for Use outside Norway

Under current regulations, VAT must be applied in Norway if the recipient of a remotely deliverable service is domiciled within the VAT area (Section 3-30, first paragraph, and Section 6-22, second paragraph of the VAT Act). This VAT liability applies even if the service is used outside the VAT area.

For example, an MLE establishment in Norway may purchase remotely deliverable IT services and be considered the service's recipient, even though the IT service is wholly or partially used by an MLE establishment domiciled outside the VAT area.

In such cases, MLEs today may ultimately face VAT costs in Norway for services that are used outside the Norwegian VAT area.

3. Proposed Amendments—Services for Use in Norway (Sections 3.2 and 4.3 of the Consultation Paper)

3.1 Overview

The consultation proposal is based on the Recharge Method set out in the OECD International VAT/GST Guidelines. The Recharge Method requires MLEs to internally recharge the cost of an externally acquired service or intangible to their establishments that use this service or intangible", and that "these internal recharges are used as a basis for allocating the taxing rights over the external service or intangible to the jurisdiction where the MLE's establishment using this service or intangible is located".

According to the OECD International VAT/GST Guidelines, the Recharge Method is particularly effective when an MLE establishment acquires a service from an external supplier for full or partial use by other establishments in different jurisdictions ('multiple use').

The OECD International VAT/GST Guidelines outline a two-step process for implementing the Recharge Method:

I. The first step follows the business agreement between the external supplier and the MLE. The taxing rights over the supply to the MLE are allocated to the jurisdiction of the customer establishment that represents the MLE in the business agreement with the supplier. This step reflects the general rule set out in the OECD Guidelines that taxation rights belong to the jurisdiction where the customer is located. This aligns with Section 3-30, first paragraph, and Section 6-22, second paragraph of the Norwegian VAT Act, after which tax liability depends on the location of the recipient (i.e. who or which acts as the buyer and receives the invoice).
II. The second step applies when the acquired service is wholly or partially used by one or more other establishments than the establishment that has represented the MLE in the business agreement with the external supplier ('multiple use'). The second step follows the internal recharge made by the MLE for allocating the external cost of the service to the establishment(s) using the service. This internal recharge is used as the basis for allocating the taxing rights. The second step thus ensures that the destination principle is upheld by allocating the taxing rights according to the service usage among the respective MLE establishments.

From the perspective of the jurisdiction of consumption, the second step of the Recharge Method requires legal provisions that establish VAT liability for services used by establishments domiciled within that jurisdiction, even if the customer establishment is located elsewhere. Such a provision already exists in Norwegian VAT (Section 3-30, second paragraph of the Norwegian VAT Act). However, as noted, this provision has been interpreted in ways that, in many cases, allow MLEs to circumvent VAT liability.

The proposed changes seek to adjust and clarify the current provision to better reflect the destination principle for remotely deliverable services used in Norway. The key elements of the proposal are commented in further detail below.

3.2 When an Externally Acquired Service Is Considered to Be Used in Norway

A key matter is how to assess and determine when a remotely deliverable service purchased by an MLE from an external provider should be considered as being used in Norway. The consultation paper provides guidance from the Ministry of Finance, listing several scenarios where a service should be classified as being used in Norway:

- Services purchased by an MLE establishment domiciled outside the VAT area but directly used by an establishment in Norway.
- Externally acquired services that are modified or processed internally within the MLE before being used in Norway.
    - Example: An MLE headquarters in Sweden develops and delivers a new IT system for a Norwegian establishment. To build this system, the headquarters purchases software from an external provider. Under the proposed amendment, the externally acquired service—the software—should be considered used within the VAT area.
    - This aligns with neutrality principles, as distinguishing between non-modified and modified externally acquired services would result in inconsistent VAT treatment for similar services used in VAT-exempt activities in Norway, depending on an MLE's internal structure.
- General business costs not directly linked to the production of a specific service or product but indirectly supporting operations.
    - Examples include IT licenses, financial and accounting services, and HR services. If these services benefit an establishment in Norway by supporting general business activities conducted there, the services should be considered being used in Norway.
    - This is also in line with neutrality principles, ensuring that MLEs face the same VAT burden as fully domestic companies for similar services.

In the consultation paper, the Ministry of Finance highlights that establishing exhaustive guidelines or criteria for determining whether an externally acquired service is used by an establishment domiciled in the VAT area is not feasible.

In addition to the scenarios outlined above, the accounting and income tax treatment of the service may offer further guidance. If an MLE allocates costs to its Norwegian establishment

for accounting or tax purposes, this strongly suggests that the MLE considers the service to be used by the Norwegian establishment.

3.3 Preventing Double Taxation

The Ministry of Finance proposes to amend the current provision, which waives VAT liability if documentation confirms that VAT has already been charged on the service abroad. Under the destination principle, Norway should retain its taxing rights for services used within the Norwegian VAT area. In principle, the export jurisdiction should mitigate the risk of double taxation in cross-border trade, as explicitly stated in paragraph 3.97 of the OECD guidelines.

At the same time, the Ministry acknowledges that an absolute requirement to charge VAT in Norway, regardless of the VAT treatment abroad, could lead to double taxation. This is because an MLE's deduction rights abroad do not necessarily fully align with the VAT obligation proposed under Section 3-30, second paragraph. Since avoiding double taxation is a key concern in international trade, the Ministry is considering retaining a rule to mitigate double taxation, though in a more limited form than the current provision.

Unlike the existing rule, simply documenting that VAT has been charged on the service abroad would no longer be sufficient. Instead, businesses must also demonstrate that no deduction rights exist for the VAT charged abroad. This requirement entails demonstrating both that VAT was not actually deducted and that the relevant foreign regulations do not permit VAT deductions.

3.4 No VAT Obligation for Services Fully Used in VAT-Liable Activities

The Ministry proposes that the provision in Section 3-30, second paragraph of the Norwegian VAT Act should not apply if the service is fully used in activities eligible for VAT deductions in Norway. In such cases, VAT calculation has no effect on the final tax burden. Therefore, to enhance administrative efficiency, businesses should be exempt from the obligation to apply VAT.

3.5 The Basis for VAT Calculation

The basis for VAT calculation is the purchase price for the externally acquired service. This means that any added value generated internally within the MLE should be excluded from the VAT base.

Where the externally acquired service is used by two or more MLE establishments, the VAT base in Norway corresponds to the portion of the purchase price attributable to the use by the establishment located in Norway.

Example**:**

- An MLE enters into an agreement with an external IT service provider. The MLE headquarters located in Sweden represents the MLE and acts as the customer ("the recipient" pursuant to the relevant provisions in the Norwegian VAT Act). The purchase price for the externally acquired service is 200 and is used as follows:
    - **30%** by an establishment in **Finland**,
    - **40%** by the headquarters in **Sweden**,

    - **30%** by an establishment in **Norway**,

- The establishment in Norway has to account for Norwegian VAT on 60, i.e. 30% of the purchase price, through the reverse charge mechanism. This applies even if the MLE adds value to the externally acquired service internally, for example that the headquarters in Sweden modifies or processes the externally acquired service before being used by the establishment in Norway.

However, the Ministry proposes to allow MLEs to choose to set the VAT base to the full value of the transfer from the foreign establishment to the establishment within the VAT area. This could be relevant if the added value internally within the MLE is minimal, and the administrative costs of identifying the externally acquired service's value are disproportionate.

This option is conditioned on ensuring that the selected value is not lower than what the VAT base would be under the standard rule—that is, the total value of taxable externally acquired services included in the MLE-internal transfer.

The Ministry of Finance acknowledges that, in some cases, conducting a detailed analysis of services and their use by respective MLE establishments is not straightforward. Therefore, the Ministry allows MLEs in such situations to apply cost allocation or apportionment methods to determine usage by the establishment in Norway.

However, the Ministry does not specify the exact circumstances in which these methods are acceptable or define which methods should be used. Instead, it provides examples such as the number of employees, computer usage, number of accounting entries, and number of invoices processed. The Ministry emphasizes that the cost allocation should be based on "fair and reasonable estimations".

3.6 Administrative Costs

A common concern about the Recharge Method is the potential complexity in identifying the VAT base. The Ministry of Finance has received feedback from both the Tax Administration and financial industry stakeholders. The general view is that MLEs are well-equipped to determine the VAT base without incurring disproportionate administrative costs—primarily because MLEs already allocate costs for accounting and income tax purposes.

In some cases, the purchase price of externally acquired services is allocated directly, without markups. In such instances, the Ministry assumes significant alignment between the cost allocated to the Norwegian establishment for tax and accounting purposes and the VAT base under Section 3-30, second paragraph.

However, if a foreign establishment modifies or processes an externally acquired service before transferring it for use in Norway, the arm's length price for income tax purposes will not align with the VAT base under Section 3-30, second paragraph, as the arm's length price for income tax purposes includes the added value created by the foreign establishment.

Nonetheless, externally acquired input factors will still indirectly form part of the arm's length price for tax purposes, and the feedback that the Ministry has received during the process suggests that the MLEs are able to accurately identify the value of externally acquired services, particularly when using a cost-based transfer pricing method.

4. Proposed Amendments—Services for Use Outside Norway (Section 4.4 of the Consultation Paper)

The proposed amendments aim to enhance VAT neutrality. In cases involving service exports, neutrality is strengthened by ensuring that MLEs do not incur a final VAT burden in Norway for services used outside the Norwegian VAT area.

In this context, 'export' refers to situations where an MLE establishment domiciled in Norway purchases a remotely deliverable service, which is then wholly or partially used by one or more MLE establishments domiciled outside the Norwegian VAT area.

Under existing rules, MLEs may ultimately face VAT costs in Norway for services used outside the country. If an MLE establishment within the VAT area qualifies as the recipient of a remotely deliverable service, VAT liability applies—even if the service is used outside the VAT area.

To ensure neutrality in export scenarios, OECD International VAT/GST Guidelines emphasize that the purchasing MLE establishment should receive a VAT deduction for the portion recharged to other MLE establishments (paragraph 3.97 of the guidelines).

Aligned with OECD guidance, the Ministry of Finance proposes measures to eliminate the final VAT burden in Norway on services used by MLE establishments located outside the Norwegian VAT area.

The proposal includes:

- A deduction rule for VAT-registered businesses.
- A reimbursement mechanism for non-registered businesses.

Both provisions will apply regardless of the type of business activity for which the service is used outside the VAT area, provided the service use occurs within the MLE and is business-related. Private use outside the VAT area would not qualify for deductions.

The right to input VAT deduction or reimbursement under these special provisions shall not influence the MLE's right to input VAT deduction in respect of purchases other than the service to which the special provision is applied. For example, if part of a remotely deliverable service purchased within the VAT area is used within the VAT area, VAT deduction for that portion would follow standard rules.

Example**:**
Consider an MLE with solely VAT-exempt activities in both Norway (headquarters) and Sweden (branch):

- The headquarters enters a contract for IT services and is classified as the recipient of the service, meaning that VAT is levied in Norway.
- The IT services are partially used by the headquarters and partially by the Swedish branch.

Under the proposed provisions, the MLE would be entitled to a reimbursement of input VAT for a portion of the purchase price corresponding to the service used by the Swedish branch. However, no input VAT deduction or reimbursement would apply to the portion used by the headquarters, as the services are used in VAT-exempt activities in Norway.

Summary of the Proposal's Implications

The proposed changes will:

1. Ensure that Norway exercises its taxing rights over externally supplied remotely deliverable services used within the Norwegian VAT area by MLEs.
2. Eliminate the Norwegian VAT burden on remotely deliverable services supplied to an MLE, provided that the services are used by the MLE outside the Norwegian VAT area.

This symmetry in VAT treatment aligns with the destination principle and enhances neutrality.

5. Proposed Amendments—Special Rule (Section 4.6 of the Consultation Paper)

One key objective of the proposal is to ensure that Norwegian VAT is paid on taxable inputs used to produce and supply VAT exempt services in Norway. The proposed amendments to section 3-30, second paragraph of the Norwegian VAT Act help achieve this objective.

However, under both the current legal provisions and the proposed amendments, tax liability for taxable remotely deliverable services requires that the services are either purchased (Section 3-30, first paragraph) or used (Section 3-30, second paragraph) by a business entity[4] domiciled in the Norwegian VAT area. Thus, one potential way to avoid a Norwegian VAT burden on inputs would be to supply VAT-exempt services directly to customers in Norway from a business that is not considered domiciled in the Norwegian VAT area.

The cross-border supply of VAT exempt services is particularly relevant for financial services within the EEA area, as most financial institutions operate under common EEA rules that permit cross-border supplies without requiring an establishment in the customer's country.[5]

If a financial institution also qualifies for input VAT deductions on relevant input factors abroad, it effectively pays no VAT on inputs used to produce and supply VAT-exempt services to customers in Norway. In many cases, this appears possible due to Article 169(c) of the VAT Directive. Under this provision, a financial institution has the right to deduct input VAT insofar as the services (or goods) are used for the purpose of transactions which are exempt

[4] Including an MLE establishment.

[5] Subject to a list of requirements, inter alia that the company's cross-border activities must fall within the scope of its authorized operations in its home state and be subject to supervision by the authorities there.

pursuant to points (a) to (f) of Article 135(1), when the customer is established outside the Community (for example customers in Norway).

A key objective of the legal reform is to enhance VAT neutrality among entities supplying VAT-exempt services to customers in Norway. However, the potential for cross-border sales of financial services could undermine this objective by creating a competitive disadvantage for businesses established in the Norwegian VAT area, including both domestic entities and MLEs.

Therefore, the Ministry proposes a special rule to support the objective of enhanced neutrality, cf. the proposed new section 3-30a in the Norwegian VAT Act. The Ministry suggests limiting the provision to cross-border sales of VAT-exempt financial services.

According to the proposal, VAT should be charged if:

i. The recipient of the remotely deliverable service is established outside the Norwegian VAT area.
ii. The service is used for the recipient's cross-border sale or brokerage of services that, by their nature, qualify for the VAT exemption for financial services set out in Section 3-6 of the Norwegian VAT Act.
iii. The financial services are supplied to buyers established in the Norwegian VAT area.

As noted above, the proposed special rule aims to counteract tax-motivated structures and adjustments while enhancing neutrality between entities supplying financial services *in* Norway—those domiciled in Norway, including MLEs operating from a Norwegian establishment—and entities supplying financial services *to* Norway from abroad.

The Ministry proposes that the tax liability under the special rule be limited to cases where the foreign business has not incurred any VAT burden on the relevant services abroad. Consequently, this tax liability will primarily apply to services for which financial institutions qualify for deductions under Article 169(c) of the VAT Directive. The Ministry of Finance therefore expects businesses to be capable of accurately identifying and valuing the services subject to Norwegian VAT under the special rule.

The proposal will impact businesses that are not domiciled in the VAT area. Imposing obligations on non-domiciled businesses is not a new concept in Norwegian or international VAT law—for example, the widespread simplified VAT registration and reporting schemes for foreign providers of electronic services and low-value goods.

Since these foreign businesses have a more distant connection to Norway than those based within the country, the Ministry emphasizes the need for sufficient lead time. Additionally, certain aspects of the special rule require further review, including whether the proposal raises issues under the EEA Agreement and whether the tax liability under the special rule should not apply to companies with low sales to customers in Norway.

On this background, the Ministry proposes that the special rule is set to take effect from a date determined by the King.