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Brussels, 6 March 2003
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SAB
20030004-16
EFTA SURVEILLANCE
AUTHORITY

Dear Madam/Sir,

Subject: Tax deduction limited to donations to non-profit organisations seated in Norway – section 6-50 of the Tax Act

The Authority has taken note of Section 6-50 of the Tax Act (*lov 1999-03-26 nr 14 om skatt av formue og inntekt*) which appears to limit the deductibility of donations to non-profit organisations to cases in which the recipient organisation is seated within Norway.¹ Hence, the Norwegian Government is invited to comment on the following.

Section 6-50 of the Tax Act

According to section 6-50 of the Tax Act, deductions are granted for cash donations to companies, foundations and associations that have a non-commercial purpose and are seated in Norway, provided that they pursue one of the social activities listed under lit. a)-f) of that provision.² Section 6-50 paragraph 2 of the Tax Act provides that the right of deduction presupposes that the companies and associations operate on a national basis on the 1 January of the year of donation. As far as donations to foundations are concerned, the deductibility presupposes that the foundations fulfil the requirements of section 14 of the Act on Foundations (*lov 1983-05-23 nr 11 om stiftelser mm*). Pursuant to section 6-50 paragraph 4, a maximal deduction of 6 000 NOK can be granted with reference to this provision.

According to section 6-50 paragraph 5, the Ministry may issue further guidelines on the application of this provision and may hereby provide conditions with regard to statutes, accounting, auditing and registration of recipient organisation.

Assessment under EEA law

Under Article 4 of the EEA Agreement, any discrimination on grounds of nationality within the scope of application of the Agreement is prohibited. In the free movement

¹ It should be noted that the European Commission has sent Belgium a Reasoned Opinion regarding a similar matter in Belgian tax law, notably provisions which confine tax relief for gifts or legacies only to non-profit associations established in Belgium (see press release IP/02/1527 of 21 October 2002).

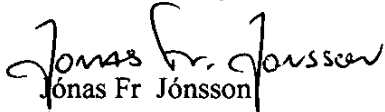
² E.g. work for the benefit of children, youth and elderly people, religious activities, charity work, activities connected to the promotion of culture and the protection of environment, nature and animals.

Norwegian Mission to the European Union
Rue Archimède, 17
1000 Brussels

With reference to the conclusions above, the Authority invites the Norwegian Government to submit observations on the content of this letter. The information should be submitted so that it reaches the Authority no later than *22 April 2003*

After that date, the Authority will proceed to consider, in light of any observations received from Norway, whether to initiate infringement proceedings under Article 31 of the Surveillance and Court Agreement.

Yours faithfully,



Jónas Fr Jónsson
Director

Internal Market Affairs Directorate