

# Participation Exemption Methods -a comparative study.



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- A comparative study between the Nordic countries (special focus on Norway, Sweden and Denmark) and Germany. The aim of the thesis is to find the answer to the following three main questions;
- 1; What is there general consensus on regarding the participation exemption methods in the examined countries after the most recent tax reforms? →
- Related issues: →
- Ownership test (direct versus portfolio investment and business connected shares versus capital placement shares) →
- Debt and Equity (classification as qualifying income under the participation exemption) →
- 2; EEA/EU PERSPECTIVES
- EU-implications of having a participation exemption method in domestic law; when are the participation exemption methods non-discriminatory? →
- 3; Do the examined countries rely on GAARs or SAARs in order to avoid abuse of the participation exemption and which SAARs and delimitations exist?
- Related issues: →
- The problem of flow-through companies
- Sale of shares versus sale of assets(packaging) →

Corporations are qualifying tax subjects under the Participation Exemption in all examined countries. A question is how classification problems are solved regarding foreign entities. Another question is what types of income is qualified except dividends.

In Norway, dividend distributions and capital gains on portfolio investments are considered as qualifying income under the participation exemption within the EEA/EU.

In Norway it is decisive whether there is a legal obligation to repay the received capital. This aspect raises classification issues in a cross border perspective.

Does the differences in legal context between EEA member states and EU member states make the EEA-member States less obliged to make their tax-exemptions applicable to resident shareholders also applicable to non-resident shareholders than the EU Member States?

Allocation of income principle/Limitation of Benefit Clause/ Real Owner requirement/ Real economic activity(not a wholly artificial arrangement)

Norway rely on the General Anti Avoidance Rule in regard to this problem.