Proposition to the Storting 78 LS

(2022–2023)

Proposition to the Storting (Bill and Draft Resolution)

Resource rent tax on aquaculture

Recommendation from the Ministry of Finance of 28 March 2023,
approved in the Council of State on the same date.
(Støre Government)

1 Introduction and summary

1.1 Introduction

The Government made it clear in the Hurdal Platform that local communities and society as a whole should receive a fair share of the value created from the utilisation of society's natural resources. In line with this, in the National Budget for 2023 the Government proposed to increase the rate of resource rent tax on hydropower, tighten the temporary rules for the petroleum tax and send proposals for new resource rent taxes on aquaculture and onshore wind power for consultation.

A proposal for a cash-flow-based resource rent tax on the farming of salmon, trout and rainbow trout was sent for consultation on 28 September 2022. The deadline for consultation submissions was set at 4 January 2023. The purpose of a resource rent tax is to collect part of the expected, extraordinary profits generated by the aquaculture industry. It was proposed that the effective tax rate be set at 40 per cent. A standard deduction shall ensure that only the companies with the highest profits will have to pay resource rent tax. A key element of the proposal is that local communities which make natural resources available are guaranteed a share of the resource rent. The Ministry received approximately 420 submissions during the consultation process.

The Ministry has evaluated the proposal in light of the consultation submissions and, among other things, proposes that the effective tax rate be set at 35 per cent. It is proposed that the standard deduction be effectively set at NOK 70 million.

The principle that society as a whole should receive a share of the profits generated from the utilisation of society's natural resources has served Norway well. Without this, we would not now have the Government Pension Fund Global. The taxation of power plants has also contributed to significant tax revenues for the central government and municipal sector, not least in recent times. There has been a broad consensus that a large share of the resource rent from the petroleum and energy sectors should accrue to society as a whole.

Extraordinarily high profits (resource rent) generate the ability to contribute tax, and taxation of resource rent therefore has distributional effects. A correctly structured resource rent tax will have a neutral effect on the investments that are made. This will then enable other, distorting taxes to be reduced. A feature of a correctly structured resource rent tax is that the central government takes an equally large share of all of the revenues as what it covers from all of the costs, including investment costs. Investments that are profitable for society before the resource rent tax will therefore be profitable for the taxpayer after tax. Correspondingly, investments that are not profitable for society before the resource rent tax, will also not be profitable for the taxpayer after tax.

For location-specific resource rent industries it is possible to have a high level of tax without investments being moved abroad. This applies even if there are alternative means of production, and even if the companies face international competition from actors based in other countries with different framework conditions and tax regimes. Increased globalisation means that a larger share of the tax burden has to be borne by a tax base that is less mobile, such as natural resources. Like petroleum and hydropower resources, maritime resources are a tax object that cannot be moved. In the case of aquaculture, favourable production conditions in the fjords and restricted market access through licences are particular reasons for the excess returns that are generated. These factors are location-specific in Norway. If an actor transfers investments abroad or onshore to operate activities there instead, the actor loses its access to the location-specific factors in Norway, and other actors can then enter the market and utilise these factors.

A committee (Aquaculture Tax Committee) was appointed in September 2018 that was tasked with assessing various forms of taxation of resource rent in the aquaculture industry, including a neutral resource rent tax and a production tax. The Committee submitted its report, (Norwegian Official Report (NOU) 2019:18 *Taxation on the fish farming industry*) on 4 November 2019. A majority of the Aquaculture Tax Committee recommended introducing a profit-based resource rent tax with depreciation for investments. The Committee also assessed a cash-flow-based resource rent tax and a model for a production tax.

The Aquaculture Tax Committee's assessments of the extent of resource rent in the aquaculture industry were supported by a number of analyses. The size of the resource rent has varied over time, however, irrespective of the methodology used, the analyses confirmed significant resource rent in the industry. The Ministry has obtained an updated analysis which confirms the significant resource rent in the industry, see the report "*The resource rent in the natural resource-based industries in Norway in the period 1984-2021*" from Statistics Norway.

In *NOU 2022: 20 A Comprehensive Tax System,* the Tax Committee supported the recommendation from the majority of the Aquaculture Tax Committee that a neutral resource rent tax on aquaculture should be introduced. The Tax Committee noted that this type of tax should be able to be introduced relatively quickly because it had already been assessed by the Aquaculture Tax Committee. The majority of the Tax Committee (ten of the eleven members) proposed that a resource rent tax with a tax rate of 40 per cent be introduced, however with no standard deduction.

The consultation proposal was based on the report from the Aquaculture Tax Committee. The Government proposes to maintain the primary features of the consultation proposal, albeit with certain adjustments, including that the tax rate be set at 35 per cent. It is the Government's opinion that good reasons have been presented for a share of the resource rent from aquaculture to accrue to society as a whole through a neutral resource rent tax. The proposal balances important considerations. The tax proposal is therefore well-suited for an industry with high but varying profits, in that the tax adapts to the profitability of the industry. The small and medium-sized actors will also be shielded through a proposed standard deduction. The Government has also placed particular emphasis on local communities deriving greater benefit. The Government will ensure that the municipal sector receives a share of the resource rent revenues, while it is also desirable that the municipalities have stable revenues. The intention is that the gross proceeds from the resource rent tax will be divided equally between the central government and municipal sector.

1.2 Background

Norway has some of the world's best climatic conditions for farming salmon. Norwegian waters have good current conditions, are rich in oxygen, and have favourable temperatures. The fjords also provide shelter from inclement weather. Production can take place at lower costs than in most other parts of the world. Aquaculture licences are issued by the central government and grant a protected right to engage in business activities for an indefinite period of time.

Aquaculture activities generate extraordinary profits. These extraordinary profits are often referred to as resource rent, monopoly rent or regulation rent. This proposition uses resource rent as a collective term for extraordinary profits from various sources. Resource rent in aquaculture partly arises as a result of favourable production conditions for aquaculture activities, and partly as a result of restrictions on the number of licences that can be issued due to environmental considerations.

The profitability of the aquaculture industry has been gradually improving, and in recent years the industry has had consistent extraordinary profits. The average return on capital and operating margins have been three to four times higher than what the industry has experienced over the past decade. In the report entitled "*The resource rent in the natural resource-based industries in Norway in the period 1984-2021*" Statistics Norway (2022) demonstrated significant resource rent in the industry over several years.

The central government has generally issued aquaculture licences cheaply or for free. The licences grant access to finite natural resources that belong to society as a whole. According to the Aquaculture Tax Committee, the licences had a market value of around NOK 200 billion in 2019. This value is created both through the use of our shared natural resources and by a skilful industry. The resources are used in a manner that has continually increased the value. The industry has paid just under NOK 7 billion of the present value for licences that were issued as of 2019. This entails that approximately 3 per cent of the value of the licences as of 2019 has accrued to society as a whole. Since 2019, approximately NOK 10.9 billion has been paid in connection with the awarding of new capacity.

The fish farming industry has gone from being a "sideline business" to one of Norway's largest and most profitable industries, that supplies products to a global market. Ownership has also become increasingly more concentrated. More than half of the production licences are held by a small number of ownership groups. According to Memorandum 05/19 "*Ownership in the Norwegian Fish Farming Industry*" from the Institute for Research in Economics and Business Administration, more than one-third consists of foreign ownership. Licences to utilise society's resources have created some of the largest private fortunes in Norway.

The majority of the Aquaculture Tax Committee proposed a profit-based resource rent tax to bring some of the industry's extraordinary profits back to society as a whole. The Solberg Government instead proposed a production tax that is not based on the profitability of the individual company. All of the proceeds from the tax go to the municipal sector and are distributed between municipalities and county authorities that have aquaculture activities through the Aquaculture Fund (Havbruksfondet).

1.3 The specifics of the proposal

The Ministry proposes that the obligation to pay resource rent tax shall apply to the holders of licences to engage in commercial fish farming production in coastal waters. A well-functioning resource rent tax requires a relatively accurate prediction of the profits from the activity that generates resource rent. Activities that take place before and after the sea phase, for example, the production of brood stock and smolt, slaughter and processing, should fall outside the scope of a resource rent tax. Value created from activities that result from these phases will therefore be subject to normal corporate tax.

It is proposed that the resource rent tax is structured in the form of a cash-flow-tax in the same manner as the taxation of petroleum and power plants. This entails that investments in the sea phase can be deducted immediately. It is proposed that the effective tax rate be set at 35 per cent, and the formal tax rate at 44.9 per cent. The cash-flow-tax has the same features as a passive state partnership in the enterprise, where the state takes/covers an equal share of all future revenues and costs.

The Ministry proposes that any negative resource rent income can be carried forward with interest and deducted from future resource rent income. The deduction will then retain its value. Disbursement arrangements require that the tax authorities have the ability to conduct adequate checks of the costs to ensure that only the tax value of relevant incurred costs is disbursed. Furthermore, a disbursement arrangement would not be adapted to the solution in which smaller actors are shielded from resource rent tax through a high standard deduction. Annual disbursement of the tax value of negative resource rent would therefore function as a subsidy. The Ministry would emphasise that being able to carry the amount forward with interest ensures that the present value of the deductions is the same as for a disbursement arrangement. Disbursement of the tax value of negative resource rent income if the taxpayer's activities cease.

It is proposed that the resource rent tax is restricted to standard, commercial fish farming licences relating to the production of salmon, trout and rainbow trout.

In line with the proposal from the Aquaculture Tax Committee, the Government proposed in the consultation memorandum that revenues from salmon be determined using norm prices that are based on prices from Nasdaq. Norm prices prevent tax-motivated adjustments between companies with common interests. However, in the press release of 18 November 2022, it was announced that the Government would instead consider establishing an independent body for setting prices as the starting point for the tax. The press release stated that: *"The principle that actual revenues shall constitute the basis for the resource rent tax remains unchanged."* The Government will now follow up on this.

The Government proposes that statutory authority is granted to base gross income from the sale of salmon, trout, and rainbow trout on tax calculation prices that are determined by an independent price board. The task of the independent price board will be to set market prices for tax purposes, i.e. the price that could have been agreed to between independent parties in a free market. The objective is that the tax calculation price shall be equivalent to the market value of the fish when the fish is removed from the pen, irrespective of the point of the value chain at which the sale takes place.

During the consultation, several companies have expressed their concern that billed prices for fish sold on long-term fixed-price contracts will not serve as basis for the assessment of the indivdual company's resource rent tax. The Ministry will propose that long-term fixed-price contracts should be able to be basis of the tax assessment of the resource rent income. The fixed-price contracts must be entered into by an independent buyer and the taxpayer or a company in the taxpayer's group, and be of a certain volume and duration. The tax calculation price shall mirror the market value of the fish at the edge of the pen for these contracts as well.

Further provisions concerning the organisation of a price board and the setting of tax calculation prices should be subject to regulatory provisions after a consultation process.

For sales which, for various reasons, the price board will not set tax calculation prices, the companies must determine the tax calculation price at the edge of the pen themselves, which shall serve as basis for the tax statement. The same will apply in 2023 and in the period up until the price board sets the tax calculation price.

Income from the realisation of operating assets linked to the sea phase must be included in income that is subject to resource rent tax. The general rules in the Norwegian Tax Act for the transfer of undertakings with tax continuity will still apply within the aquaculture activity. A collected transfer of operating assets, including the fish farming licence, can take place with tax continuity.

In terms of deductions, the costs in connection with the sea phase are generally used as a basis as reported by the companies. The Norwegian Tax Administration checks the amounts reported by the companies in the normal manner. Costs of operations incurred and operating assets acquired following the entry into force of the resource rent tax will be deductible immediately. The deduction of investments as expenses is limited to operating assets that are exclusively used in the sea phase. Other operating assets with a partial connection as input factors for the sea phase can be depreciated in accordance with the common rules for depreciation. The Ministry proposes that deductions are granted through depreciation of the residual tax value of investments made prior to entry into force on 1 January 2023 and which are linked to the aquaculture activity. The general rule is that deductions are not granted for licences. However, for capacity sold at the auctions in 2018 and 2020, and the fixed-price allocation in 2020, a template deduction is permitted that is 40 per cent of the actual remuneration paid to the central government, which is divided over five years.

The Ministry proposes that a standard deduction be granted in the resource rent tax. This will contribute to only the companies with the largest profit pay resource rent tax. The Ministry proposes an effective standard deduction of NOK 70 million.

An advantage with a resource rent tax is that it automatically adjusts to the profits in the industry. The aim is not to collect a certain amount in revenues, but to collect a share of the annual value added. The resource rent in the aquaculture industry has fluctuated significantly over time. In years with high sales prices and high resource rent the tax revenue will also be high. On the other hand, in years with low resource rent the tax revenue will be low. There is a large uncertainty concerning the tax revenue as it, among other things, will depend on the development of prices and costs. The Ministry will produce a revenue estimate for 2023 in the National Budget for 2024.

There are several means by which the municipalities will receive revenues from aquaculture activities. Host municipalities and counties will receive revenues from the production tax, which was increased from around NOK 500 million to around NOK 750 million in the budget for 2023. The tax is distributed directly to host municipalities and counties through the Aquaculture Fund.

Following the consultation process, the Government proposes that the production tax be further increased by approximately NOK 450 million, i.e. from 56 to 90 øre per kg. The production tax cannot be deducted from ordinary income or the resource rent tax. However, it can be deducted krone for krone in the assessed resource rent tax and will therefore not normally be an additional charge for fish farming companies that pay resource rent tax. The production tax therefore functions as a redistribution of revenues from resource rent tax to aquaculture municipalities and county authorities. For fish farming companies that do not pay resource rent tax, the production tax will function as a gross tax and may influence the companies' production and investment decisions.

The Government will ensure that host municipalities derive greater benefit from the introduction of resource rent tax. The local community thereby receive a larger and fairer share of the value that is created from the natural resources found in these local communities. The Government therefore proposes to not uphold the proposal in the consultation memorandum to introduce a natural resource tax that is equalised between the municipalities. This must be viewed in the context of the proposal to further increase the production tax by approximately NOK 450 million. At the same time, the municipal sector's share of the revenues from the sale of new capacity shall be increased from 40 per cent to 55 per cent. Compared with the consultation memorandum, this generates relatively higher revenues directly to the host municipalities, and somewhat less tax for the companies that are not in a position to pay resource rent tax. In order to avoid major disparities between host municipalities and other municipalities in the region, the Government proposes that the county authorities' share of the Aquaculture Fund is increased from 12.5 per cent to 20 per cent.

The Government wants to ensure that the municipal sector receives a specific share of the revenues from resource rent, while it is also desirable that the municipal sector has stable revenues. The production tax will provide stable revenues for municipalities and county authorities. Furthermore, the Government proposes to grant an additional appropriation to the municipal sector in years when the resource rent is high. The additional appropriation will be distributed to the municipalities according to the cost distribution key in the framework grant, and will also be distributed to the counties. The calculation is based on the resource rent from the previous year.

Revenues from the production tax in 2023 will be distributed to the municipal sector in 2024, which is the same year in which the revenues from the resource rent tax will be recorded. There will also be the additional appropriation to the municipal sector in 2024.

The Government also proposes the introduction of a valuation discount in the wealth tax for aquaculture licences. The proposal will be addressed in its entirety in Chapter 9.