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Consultation paper – resource rent tax on onshore wind power

INTRODUCTION AND SUMMARY

1.1 Introduction

Norway has a number of industries that can give rise to extraordinary returns (resource rent), such as the hydropower, petroleum and aquaculture industries. The principle that the community should gain a share of the profits generated from the utilisation of society's natural resources has served Norway well.

Norway has particularly good wind resources.[1] By exploiting these resources, the wind power industry can achieve an extraordinary return (resource rent), partly because of the natural conditions that make some areas particularly suitable for onshore wind power and partly because the industry is licence-based. According to the Norwegian Water Resources and Energy Directorate (NVE), onshore wind power is now on average the most cost-effective power technology in Norway. Like petroleum resources, hydropower resources and aquaculture sites, onshore wind power is a tax object which cannot be moved and which should be exploited at a time when many tax bases are becoming more mobile as a result of internationalisation.

In line with the discussion in Parliamentary Bill 1 LS (2022–2023) point 5.4[2], the Government proposes in this consultation document that a resource rent tax is introduced on onshore wind power at an effective tax rate of 40 per cent, as of the fiscal year 2023. The resource rent tax is designed as a neutral cash flow tax, with immediate expensing of new investment costs. On a very uncertain basis, the resource rent tax was estimated to yield gross revenues of about NOK 2.5 billion accrued in 2023. The aim is to submit a proposal to the Storting during the spring session of 2023, as announced in Parliamentary Bill 1 LS.

Wind power production may come into conflict with important local environmental and social considerations. 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. This is followed up with a proposal that half of the resource rent tax is redistributed to the local government sector through production tax, the introduction of a natural resource tax and an additional grant.

1.2 Background

Resource rent taxes can be designed in a neutral manner, i.e. so that companies' investment incentives are not affected. By exploiting opportunities for neutral taxes, the need for other, more distorting taxes is reduced, so that overall a better tax system can be achieved. By means of a well-formulated resource rent tax, the Government takes the same proportion (corresponding to the tax rate) of costs and revenues, regardless of the profitability of the investment. Investments that are profitable before resource rent tax will continue to be profitable for companies after resource rent tax. Similarly,

[1] Source: https://www.nve.no/energi/energisystem/vindkraft/spoersmaal-og-svar-om-vindkraft/
[2] Norwegian version available at: Prop. 1 LS (2022–2023) Skatter, avgifter og toll 2023.

investments that are unprofitable before resource rent tax will still be unprofitable after resource rent tax.

With location-based resource rent industries, such as wind power, it is possible to have a high tax level without investments being moved to other industries or out of the country. This applies even if there are alternative production methods (such as hydropower or offshore wind power), and even if the companies face competition from companies based in other countries, with different framework conditions and tax regimes. The factors that give rise to resource rent have fixed locations in Norway. If a company were to close activities or move its operations to another country, another company could come in and use the same fixed location resources for power generation.

In NOU (Official Norwegian Report) 2019: 16 *Taxation of hydropower plants*, an expert committee assessed the extent to which different tax conditions may influence companies' choice of investments in hydropower projects. The committee pointed out that a neutral resource rent tax, where the Government takes a fixed share of the present value of the investment project through the tax rate, does not impede the companies' investments. The committee also recommended an assessment of whether a resource rent tax and natural resource tax should be introduced for wind farms.

For 2023, it has been decided to increase the production tax on onshore wind power from NOK 0.01 to 0.02 per kWh. A decision has also been made to introduce a high-price contribution (tax on power production), equivalent to 23 per cent of the price above NOK 0.7 per kWh. The Government proposed that the high-price contribution should apply from 1 January 2023 for wind farms that are subject to licensing pursuant to the Energy Act Regulations. See discussion in Parliamentary Bill 1 LS (2022–2023) point 5.2.2 and Parliamentary Bill 1 S Appendix 2 (2022–2023).

On behalf of the Ministry of Finance, Statistics Norway (SSB) has calculated the resource rent in the wind power industry for the years 2010–2021.[3] According to these calculations, resource rent was negative in the years up to 2020, but positive in 2021. The Ministry is of the view that expected developments in power prices and costs for onshore wind power indicate positive resource rent from now on. This means that there are now grounds for introducing a resource rent tax.

1.3 The main features of the consultation proposal

The proposed provisions on resource rent tax and natural resource tax in this consultation document have been based on the discussion in Parliamentary Bill 1 LS (2022–2023) point 5.4. Otherwise, the Ministry has largely based its work on the

[3] Statistics Norway (2022): "Ressursrenten i naturressursnæringene i Norge 1984-2021" (Resource rent in natural resource industries in Norway 1984-2021).

current statutory and regulatory provisions on resource rent tax on hydropower, but with adjustments for onshore wind power where appropriate.

It is proposed that the resource rent tax obligation for onshore wind power should apply to wind power plants that are subject to licensing. Pursuant to Section 3-1 of the Energy Act Regulations, facilities consisting of more than five turbines, or with a total installed capacity of 1 MW or higher, are subject to licensing.

As in the case of hydropower and petroleum, and as in the consultation proposal for resource rent tax on aquaculture, it is proposed that the resource rent tax on onshore wind power be designed as a cash flow tax with immediate deductions for new investments. It is proposed that the effective tax rate is set at 40 per cent. This corresponds to a formal tax rate of 51.3 per cent since a resource rent-related corporate tax is deductible in the resource rent tax. The total marginal tax is thus 62 per cent: 0.22 + (1-0.22) x 0.513 = 0.62.

The taxpayer for the new resource rent tax is proposed to be owners of onshore wind farms in Norway. It is proposed that the tax calculation unit is the individual wind power plant, based on the same factors as when assessing whether the plant is over or under the licence limit. A wind power plant usually includes several wind turbines.

It is proposed that resource rent income is determined on the basis of the value of the individual power plant's production in the income year, including income from the sale of guarantees of origin and electricity certificates. As a general rule, power production shall be valued at the spot market price in the corresponding time section, fixed hour by hour. Nevertheless, an exemption is proposed for power production that is linked to price hedging agreements in the form of physical delivery of power at a predetermined price, or in the case of financial hedging agreements, that have been entered into before 28 September 2022. This production is proposed to be valued at contract price or secured price.

In its deliberations on the national budget for 2023, the Storting adopted the proposal from Parliamentary Bill 1 LS (2022–2023) and Parliamentary Bill 1 S Appendix 2 (2022–2023) to introduce a temporary contract exemption in the resource rent tax for hydropower for standard fixed-price agreements in the end-user sector. The Ministry also proposes a contract exemption for similar agreements in the resource rent tax for onshore wind power. Apart from these, no other exceptions are proposed from the general rule of valuation at spot market prices.

Since a taxpayer may have several wind power plants, as well as hydropower plants etc., the delivered volume must be distributed among the various plants when determining the basis for resource rent tax.[4]

[4] A more detailed description is given in point 4.4.4 in the norwegian version of the consultation paper: Høring - Grunnrenteskatt på landbasert vindkraft - regjeringen.no

Deductions from resource rent income include costs related to the resource rent-taxable operation. Both operating costs and investments made after the entry into force of the resource rent tax may be deducted immediately. In line with the description in Parliamentary Bill 1 LS, it is proposed that for historical investments that are already capitalised, deductions may be made for the remaining taxable value in line with the reducing balance depreciation rules for ordinary income.

For fixed assets that have been or are subject to favourable depreciation rules (straight-line over five years), the remaining taxable value may be low. The Ministry asks for the consultative bodies' input on a more lenient solution, where the remaining taxable value for fixed assets covered by the favourable depreciation rules is determined as if they had been written off after ordinary balance depreciation.

Deductions are also granted for resource rent-related corporate tax and municipally levied property tax, while voluntary benefits to municipalities and communities will not be deductible. Nor are financial expenses and sales and marketing costs deductible. Benefits to landowners that compensate for the loss of income from activities other than wind power, and which must cease in whole or in part due to the establishment of the wind power plant, shall be deductible from the resource rent tax. In the case of shared activities, deductions must be distributed in a way that is likely to provide a correlation between the cost share and the benefits for power production and the taxpayer's other activities.

In its deliberations on the national budget for 2023, the Storting adopted the proposal in Parliamentary Bill 1 LS (2022–2023) point 8.7 on increasing the production tax on onshore wind power from NOK 0.01 to 0.02 per kWh. In line with the discussion in the bill, the consultation proposal is that the production tax is subtracted krone for krone in the stipulated resource rent tax.

The Ministry proposes to introduce a natural resource tax for resource rent-taxable wind farms of NOK 0.013 per kWh, of which NOK 0.011 goes to the municipalities and NOK 0.002 goes to the county authorities. This corresponds to the rates in the natural resource tax for hydropower. According to the proposal, the natural resource tax will also be subtracted krone for krone in the assessed resource rent tax. The natural resource tax will be included in income equalisation for the local government sector.

When new resource rent taxes are introduced, the Ministry is of the view that, among other things, control considerations indicate that experience must be gained of how the resource rent tax works before considering allowing the tax value of annual negative resource rent income to be paid out in connection with the tax assessment. The same applies to the coordination of negative resource rent income between wind farms and within the group company. Instead, it is proposed that negative resource rent income should be carried forward with addition of a risk-free interest rate and be deducted from future positive resource rent income for the individual wind power plant. If an operation is terminated, the Government will pay out the tax value of negative resource rent

income. This means that the investor has the security to be paid the full value of the tax deduction for the costs.

On a very uncertain basis, the gross revenues from the resource rent tax are estimated at about NOK 2.5 billion accrued in 2023; cf. Parliamentary Bill 1 LS (2022–2023) point 5.4. The Government conducts a consultation on a solution that entails that the local government sector will receive half of the revenues from the resource rent tax. This redistribution could take place through the production tax, a natural resource tax, as well as an additional grant to the local government sector. The additional grant is intended to ensure that the local government sector receives half of the revenues from the resource rent tax and is paid in arrears. Of the estimated gross revenues from the resource rent tax for the fiscal year 2023, local government revenues are estimated, on a very uncertain basis, at just under NOK 1.3 billion.[5] It is emphasised that the revenue calculations depend on the assumptions.

The introduction of resource rent tax on onshore wind power will entail increased costs for the Norwegian Tax Administration in 2023 to develop a system solution, prepare information and guidance material and train case officers. Furthermore, the Norwegian Tax Administration will have permanent costs for information and guidance, operation of the system solution and case processing, including tax determination and control. For wind power producers, systems will have to be adapted to ensure correct reporting of the necessary information in the tax return. This will incur costs for wind power producers.

[5] In addition, the municipalities have the opportunity to impose property tax on wind farms according to special rules.