PwC Nordic
FS Tax & VAT Event

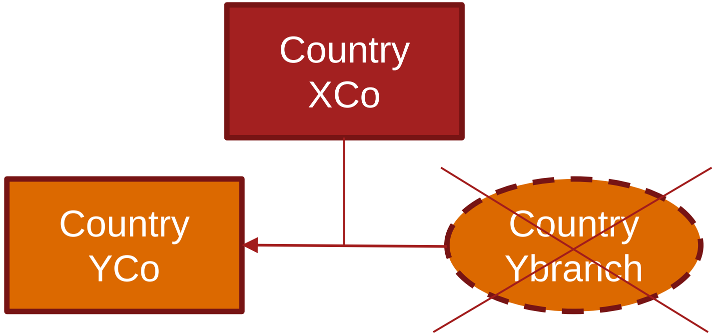
OSLO, 25-26 OCTOBER 2017

FS Restructuring

Cross-border

pwc

Scenario 1 – Branch to subsidiary



Transfer alternatives

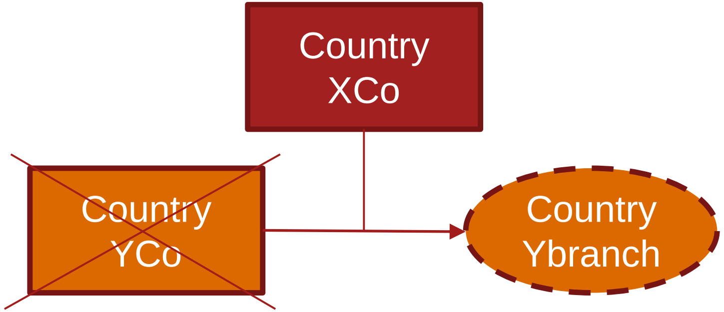
- Sale of assets at FMV against cash/debt
- Sale of assets at tax value against cash/debt
- Sale of assets against shares in Country YCo

To consider

- Exit taxation in Country XCo?
- Exit taxation in Country Ybranch?
- Acquisition value/cost of transferred assets in Country YCo

- VAT (transfer of going concern)
- Stamp/excise duties
- Employer/employee tax and social security liabilities
- Regulatory requirements

Scenario 2 – Subsidiary to branch

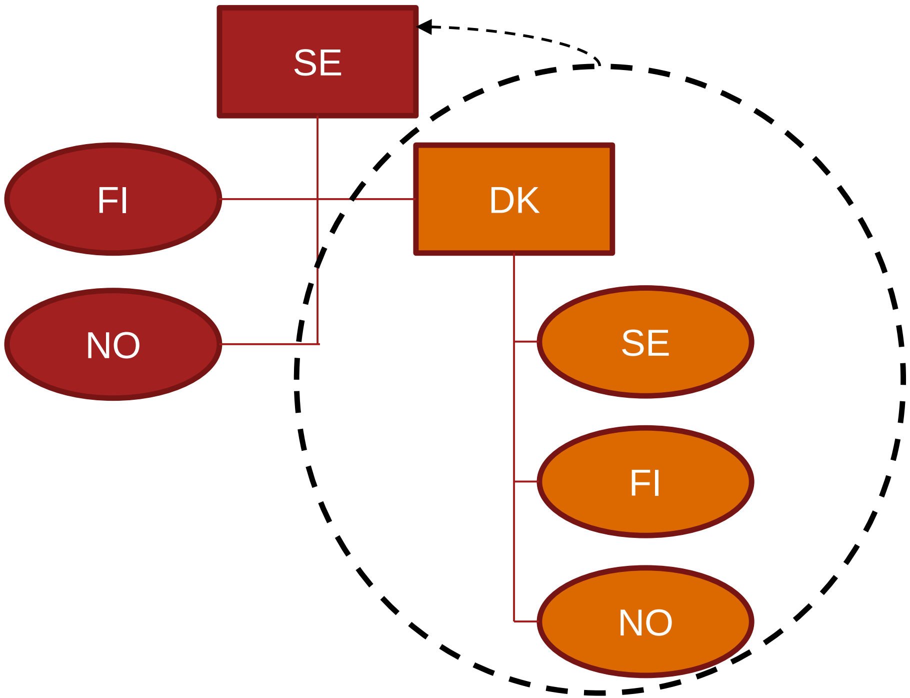


Transfer alternatives
- Liquidation
- Sale of assets at FMV against cash/debt
- Sale of assets at tax value against cash/debt
- Cross-border merger

To consider
- Exit taxation in Country YCo?
- Acquisition value/cost of transferred assets in Country XCo
- Acquisition value/cost of transferred assets in Country Ybranch

- VAT (transfer of going concern)
- Stamp/excise duties
- Employer/employee tax and social security liabilities
- Regulatory requirements

Scenario 3 – Cross-border merger



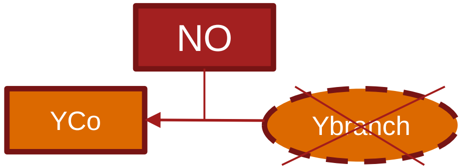
Applicable rules – exit taxation Sweden

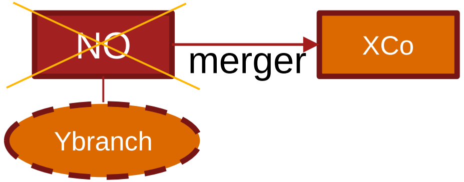
Main rule	Transfer of assets below FMV without sound business reasons triggers exit taxation
Sale	Transfer of assets without exit taxation may only be possible when all business or line of business is transferred and provided the assets will remain to be subject to Swedish income taxation, i.e. exit taxation triggered in Sweden
Transfer of branch against shares	Business that ceases to be subject to Swedish taxation will be subject to exit taxation. However, a credit for “fictive” foreign tax may be available
Merger (Nordic)	Business that ceases to be subject to Swedish taxation will be subject to exit taxation. However, a credit for “fictive” foreign tax may be available. For business remaining in Sweden the merger should be tax neutral

Applicable rules – exit taxation Sweden

Main rule	**Transfer of assets below FMV without sound business reasons triggers exit taxation**
Sale	Transfer of assets without exit taxation may be possible when all business or line of business is transferred and provided the assets will remain to be subject to Swedish income taxation
Transfer of branch against shares	Provided remuneration of shares at FMV the transfer should be tax neutral
Merger	Should be tax neutral
Liquidation	In principle the same situation as a sale but increased risk for that the sale is made via the parent company to the branch and therefore for that it triggers exit taxation

Applicable rules – exit taxation Norway



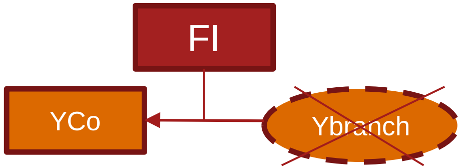


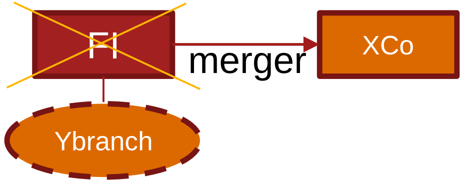
Main rule	**Exit taxation (GTA § 10-71) if assets cease to be included in the Norwegian tax base**
Sale	The main rule for exit tax applies for assets transferred from Norway
Transfer of branch against shares	If carried out as a merger/de-merger the transaction can be tax free. The main rule for exit tax applies
Merger/De-merger (Nordic)	Mergers and de-mergers are as a starting point tax free transactions, including cross-border with other EEA states (GTA § 11-11). However the main rule for exit tax applies

Applicable rules – exit taxation Norway

Main rule	**No exit taxation as a staring point as assets do not cease to be included in the Norwegian tax base**
Sale	Tax free within a tax group (>90% ownership on capital and votes). The main rule for exit tax (see prev. slide) applies for assets transferred from Norway
Transfer of branch against shares	If carried out as a merger/de-merger or within a tax group; the transaction can be tax free. The main rule for exit tax applies
Merger	Mergers and de-mergers are as a starting point tax free transactions, including cross border with other EEA states (GTA § 11-11). The main rule for exit tax applies
Liquidation	Same as sale above

Applicable rules – exit taxation Finland



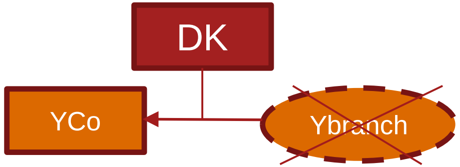


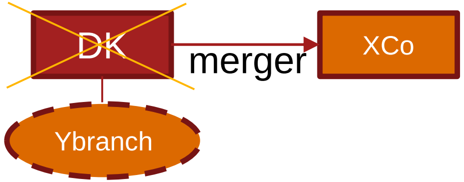
Main rule	**For tax purposes, assets are regarded as being transferred at FMV.**
Sale	For tax purposes, assets are regarded as being sold at FMV. Therefore, any unrealized gains / losses are triggered
Transfer of branch against shares	Business that ceases to be subject to Finnish taxation will be subject to exit taxation. However, a credit for "fictive" foreign tax may be available in case of transfer of independent line of business.
Merger (Nordic)	Business that ceases to be subject to Finnish taxation will be subject to exit taxation. However, a credit for "fictive" foreign tax may be available. For business remaining in Finland the merger should be tax neutral.

Applicable rules – exit taxation Finland

Main rule	For tax purposes, assets are regarded as being transferred at FMV.
Sale	For tax purposes, assets are regarded as being sold at FMV. Therefore, any unrealized gains / losses are triggered.
Transfer of branch against shares	Should be tax neutral assuming independent line of business is transferred.
Merger	Should be tax neutral.
Liquidation	For tax purposes, assets are regarded as being sold at FMV (excl. goodwill arising from own activities). Therefore, any unrealized gains / losses are triggered.

Applicable rules – exit taxation Denmark



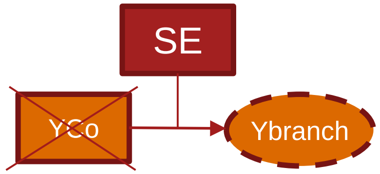


Main rule	**Participation exemption for branch and subsidiary (unless international joint taxation)**
Sale	No capital gains taxation in Denmark at sale at FMV
Transfer of branch against shares	No capital gains taxation in Denmark at sale at FMV
Merger (Nordic)	No capital gains taxation in Denmark on foreign branch assets at sale at FMV. Exit taxation on DK company's assets/liabilities if not allocated to Danish PE post merger

Applicable rules – exit taxation Denmark

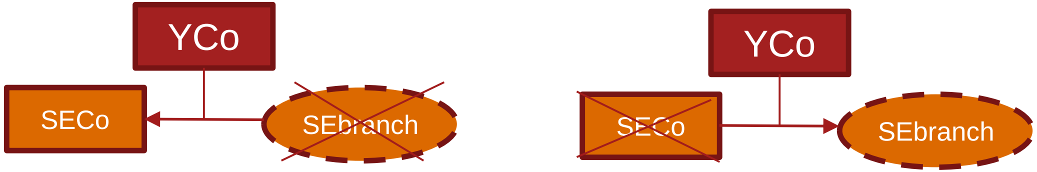
Main rule	
Sale	Sale of assets is taxed based on FMV.
Transfer of branch against shares	No taxation as long as all assets are transferred to the other entity at a FMV.
Merger	Should be tax neutral.
Liquidation	In principle the same situation as a sale.

Applicable rules – acquisition value/cost Sweden



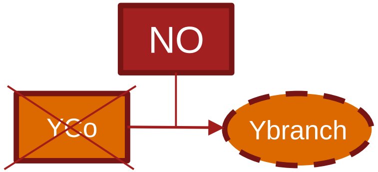
Sale at FMV	The acquisition cost should be the price paid
Sale at tax value	The acquisition cost should be the price paid. To be noted is that assets subject to depreciation gets new basis for the depreciations
Merger (Nordic)	• Inventory, work in progress, account receivables and similar assets - the lowest of acquisition value (in the transferring entity) and fair value • Financial instruments that are inventory for tax purposes – fair value • Certain other financial instruments – the taxed value if taxation occurred at the time of the merger or otherwise as if taxation occurred at that time • Assets subject to depreciation – acquisition value (in the transferring entity) plus improvement costs less certain deemed depreciations • Other assets – lowest of acquisition value (in the transferring entity) plus improvement costs and of the fair market value

Applicable rules – acquisition value/cost Sweden



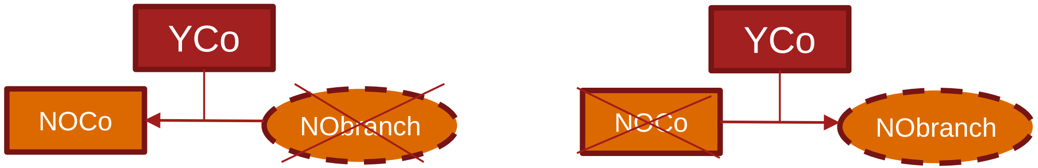
Sale at FMV	The acquisition cost should be the price paid
Sale at tax value	Assuming no exit taxation for seller, the acquisition cost should be the price paid. To be noted is that assets subject to depreciation gets new basis for the depreciations
Transfer of branch against shares	In principle takes over the tax values from SECo provided all assets remain in Sweden
Merger (Nordic)	In principle takes over the tax values from SECo provided all assets remain in Sweden
Liquidation	Depends on whether exit taxation occurs for SECo

Applicable rules – acquisition value/cost Norway



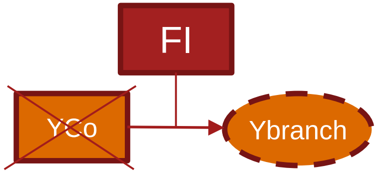
Sale at FMV	The acquisition cost should be the price paid
Sale at tax value	The acquisition cost should be the price paid/tax value (tax continuity)
Merger (Nordic)	Transfer at tax value/tax free transaction (tax continuity)

Applicable rules – acquisition value/cost Norway



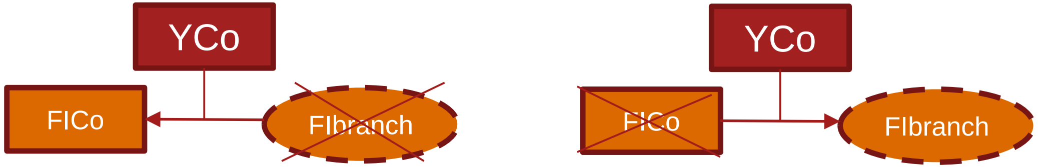
Sale at FMV	The acquisition cost should be the price paid
Sale at tax value	The acquisition cost should be the price paid/tax value (tax continuity)
Transfer of branch against shares	Could be carried out as a merger/de-merger: The acquisition cost should be the price paid/tax value (tax continuity)
Merger (Nordic)	The acquisition cost should be the price paid/tax value (tax continuity)
Liquidation	Same as Sale at FMV

Applicable rules – acquisition value/cost Finland



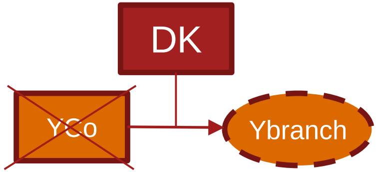
Sale at FMV	The acquisition cost should be the price paid at FMV
Sale at tax value	Acquisition cost should be the price paid
Merger (Nordic)	Roll-over of tax value

Applicable rules – acquisition value/cost Finland



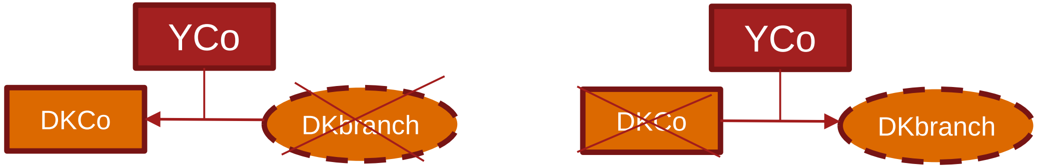
Sale at FMV	The acquisition cost should be the price paid at FMV
Sale at tax value	Not possible. Sales price should be FMV
Transfer of branch against shares	Roll-over of tax value
Merger (Nordic)	Roll-over of tax value
Liquidation	Treated as sale at FMV

Applicable rules – acquisition value/cost Denmark



Sale at FMV	No Danish acquisition due to participation exemption
Sale at tax value	No Danish acquisition due to participation exemption
Merger (Nordic)	No Danish acquisition due to participation exemption

Applicable rules – acquisition value/cost Denmark



Sale at FMV	The acquisition cost should be the price paid at FMV
Sale at tax value	Not possible. Sales price should be FMV
Transfer of branch against shares	Roll-over of tax value
Merger (Nordic)	Roll-over of tax value
Liquidation	Treated as sale at FMV

Employees (Sweden example)

- Employees in foreign subsidiary working in Sweden
  - 183 days rule in tax treaty
  - As long as no cost is charged to Sweden no taxation in Sweden

- Employees in foreign branch working in Sweden
  - Taxation in Sweden as from day 1 (SINK)
  - A1 certificate to be collected

- Economic employer
  - For which entity is the work performed

VAT to consider

Most important factor to consider - the limited right to deduct input VAT within the FS sector!

1. The actual transfer of the business

    - Sale of shares = non-VATable
    - Sale of assets = out of scope from VAT if TOGC, otherwise assessment asset per asset
    - Possibility to make the transfer within a VAT group?
    - Input VAT on transaction-/advisory costs deductible?
    - Should the transfer affect the pro rata calculation for input VAT?
    - Adjustments according to capital goods scheme?

2. Also important to take the future/ongoing business into regard

    - Procurement of goods/services from external suppliers?
    - Internal costs/resources to be shared within the group?
    - Local VAT groups? However, will this lead to VAT costs cross border (Skandia)?

[Image]

Thank you