

Fra: "Rose Bjare, Peter" <peter.bjare@kpmg.com>

Dato: 22. oktober 2019 kl. 11.28.41 CEST

Til: "lovgivningogoekonomi@skm.dk" <lovgivningogoekonomi@skm.dk>

Cc: "SPL@skm.dk" <SPL@skm.dk>, Tina Grønlund <Tina.Gronlund@ft.dk>, Mads Fallesen <Mads.Fallesen@ft.dk>

Emne: Spørgsmål til L22 (Ophævelse af visse regler om beskatning af renter og kursgevinster og -tab på hybrid kernekapital)

TIL SKATTEMINISTERIET

FSR anmoder Skatteministeren i et høringsspørgsmål af 14. oktober 2019 at uddybe, i hvilke situationer udstedelse af hybrid kernekapital kan beskattes som tilskud/gave. Spørgsmålet er afledt af, at det er anført i det offentliggjorte høringsskema, at udstedelse af hybrid kernekapital som udgangspunkt ikke udløser beskatning hos udsteder, men at det ikke kan udelukkes, at der efter en konkret vurdering kan foreligge et skattepligtigt tilskud/gave i forhold til en finansiel udsteder af hybrid kernekapital.

Kan Skatteministeren i den forbindelse bekræfte, at den situation, hvor der kan foreligge et skattepligtigt tilskud/gave vil være en situation, hvor der ikke foreligger nogen modydelse for udsteder men ikke en situation, hvor der foreligger modydelse i form af løbende betalinger, hvor investor har en berettiget forventning om at få tilbagebetalt sit kapitalindskud plus en forrentning gennem de løbende betalinger?

Og udgør denne forudsætning/forventning hos investor om løbende betalinger til gengæld for indbetaling af hybrid kernekapital eller køb af et eksisterende kapitalbevis (der hverken er gæld eller aktier) ikke netop kernen i enten en udbyttekontrakt omfattet af afskrivningslovens § 40 eller finansiel kontrakt omfattet af kursgevinstloven jf. også SKM2012.370.SR?

Med venlig hilsen / Kind regards

Peter Rose Bjare

Partner

Corporate Tax, Financial Services

KPMG ACOR TAX

Tuborg Havnevej 18

DK-2900 Hellerup, Copenhagen

Tel: +45 3945 1700

Mob: +45 5374 7025

peter.bjare@kpmg.com

www.kpmgacor.dk

TAX NAVIGATION 2019

Our new series of seminars provides you with hot topics and international perspectives across different areas of tax. Read more and sign up [here](#)

Privacy

In circumstances where KPMG Acor Tax is Data Controller, we will use collected Personal Data in the manner and for the purpose set out in our privacy notice available at <https://home.kpmg.com/dk/en/home/misc/privacy.html>. Clients of KPMG must bring this to the attention of its staff.

The information in this e-mail is confidential and may be legally privileged. It is intended solely for

the addressee. Access to this e-mail by anyone else is unauthorized. If you have received this communication in error, please address with the subject heading "Received in error," send to the original sender , then delete the e-mail and destroy any copies of it. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. Any opinions or advice contained in this e-mail are subject to the terms and conditions expressed in the governing KPMG client engagement letter. Opinions, conclusions and other information in this e-mail and any attachments that do not relate to the official business of the firm are neither given nor endorsed by it.

KPMG cannot guarantee that e-mail communications are secure or error-free, as information could be intercepted, corrupted, amended, lost, destroyed, arrive late or incomplete, or contain viruses.

This email is being sent out by KPMG International on behalf of the local KPMG member firm providing services to you. KPMG International Cooperative ("KPMG International") is a Swiss entity that serves as a coordinating entity for a network of independent firms operating under the KPMG name. KPMG International provides no services to clients. Each member firm of KPMG International is a legally distinct and separate entity and each describes itself as such. Information about the structure and jurisdiction of your local KPMG member firm can be obtained from your KPMG representative.

This footnote also confirms that this e-mail message has been swept by AntiVirus software.
