

## **EFTA COURT**

### **Request for an Advisory Opinion from the EFTA Court by Oslo tingrett, dated 30 August 2013, in the case of Fred. Olsen and others v Staten v/Skattedirektoratet**

**(Case E-20/13)**

A request has been made to the EFTA Court by a letter of 30 August 2013 from Oslo tingrett (Oslo District Court), which was received at the Court Registry on 30 August 2013, for an Advisory Opinion in the case of Fred. Olsen and others v Staten v/Skattedirektoratet, on the following questions:

1) Do trusts as a form of establishment fall within the scope of the freedom of establishment provided for in Article 31 of the EEA Agreement?

Supplementary question: If so, who holds rights pursuant to the provision of the EEA Agreement?

2) Provided that the first main question is answered in the affirmative: Does a trust meet the requirement of economic activity in Article 31 of the EEA Agreement?

3) Provided that the first main question is answered in the negative: Does a trust fall within the scope of the right to free movement of capital provided for in Article 40 of the EEA Agreement?

4) Provided that the first or third main question is answered in the affirmative: Do the Norwegian CFC rules involve one or more restrictions on the freedom of establishment or the right to free movement of capital?

5) Provided that the fourth main question is answered in the affirmative: Can the restrictions be regarded as justified by overriding reasons of public interest, and are the restrictions proportionate?

6) Does the continuous wealth taxation of the beneficiaries for the trust's assets and taxation at a rate of 1.1% constitute a restriction pursuant to Article 31 and/or Article 40 of the EEA Agreement – and can this be invoked by the beneficiaries in a trust as described in section 2 of the request for an advisory opinion?

If the question is answered in the affirmative:

- Can the restriction be regarded as justified by overriding reasons of public interest, and is the restriction proportionate?
- Is the taxation contrary to the requirement of respect for fundamental rights in the EEA Agreement?
- Will it be of importance whether the agreement on the exchange of information between Norway and Liechtenstein has entered into force?