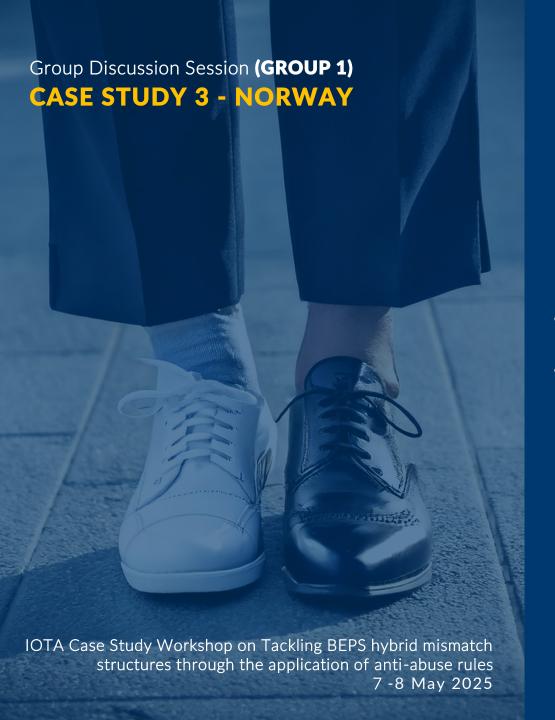


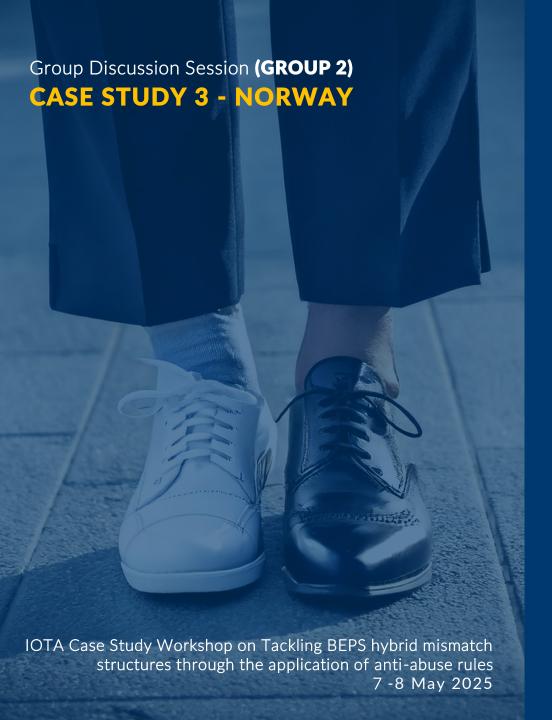


Group Discussion Session CASE STUDY 3 - NORWAY

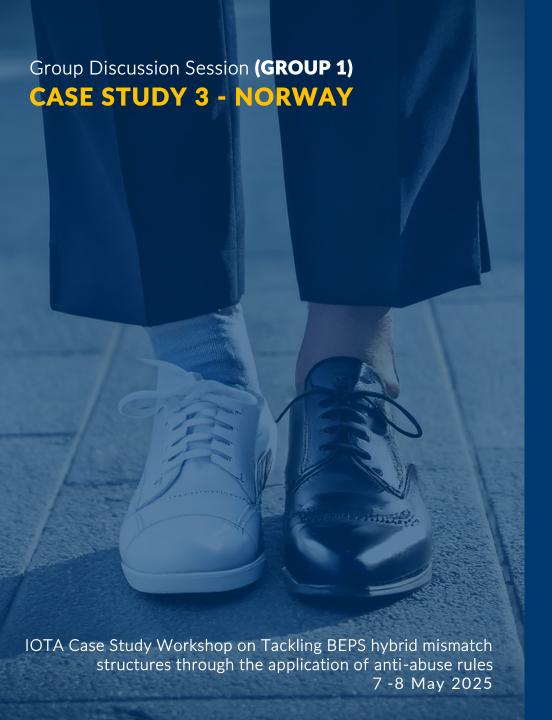
IOTA Case Study Workshop on Tackling BEPS hybrid mismatch structures through the application of anti-abuse rules 7 -8 May 2025



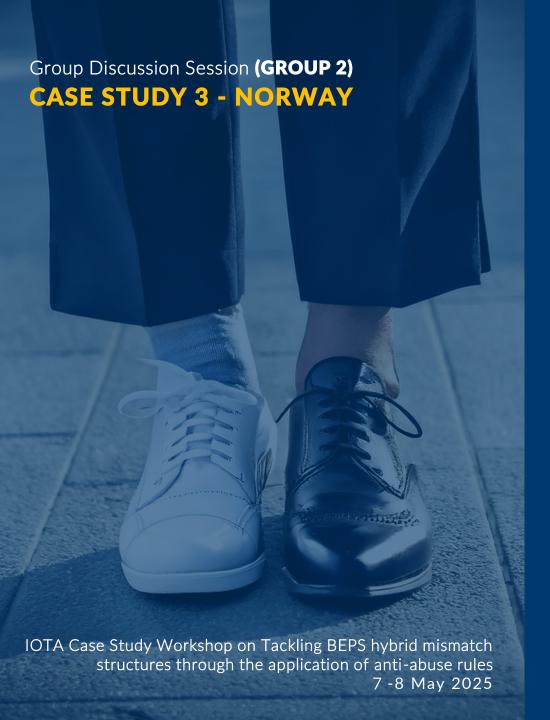
- 1. Provided that the Norwegian Tax Administration conclude that the dividends are received from a fund inside the EEA (UK). Does the transfer of principal place of business, and the fact that the managing GP is based on Guernsey entail that the fund is not pursuing a genuine economic activity in the UK (wholly artificial)?
- From what we can see the fund is not pursuing a genuine economic activity in the UK
- However
 - We may need to understand the reason for the move from the UK to Guernsey
 - What is the exact role of the GP? What instructions do they give to the manager?



- 1. Provided that the Norwegian Tax Administration conclude that the dividends are received from a fund inside the EEA (UK). Does the transfer of principal place of business, and the fact that the managing GP is based on Guernsey entail that the fund is not pursuing a genuine economic activity in the UK (wholly artificial)?
- When the company was located in the UK, the dividends were already exempted under EU law
- The transfer of the principal place of business to Guernsey does not result in an tax advantage related to the dividends. So there is no abuse.
- On the basis of the DTT UK-Guernsey, we have to look where the place of effective management is located. If the POEM is located in Guernsey, dividend exemption can be denied (without an abuse argumentation is necessary).



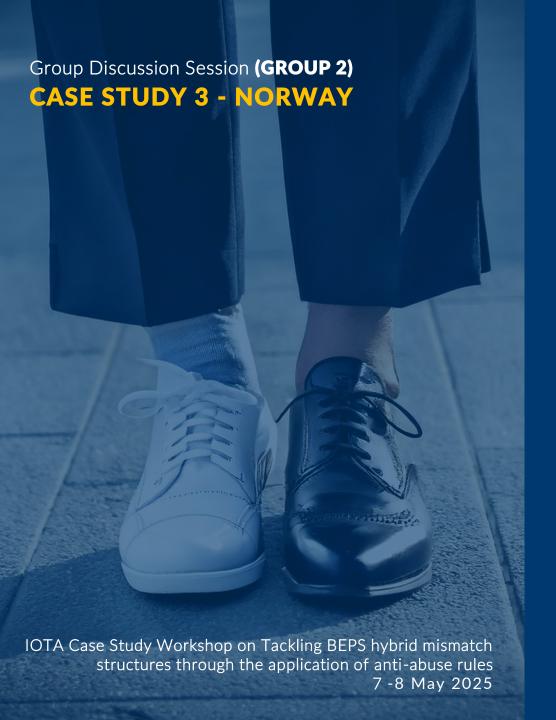
- Provided that the Norwegian Tax Administration conclude that the dividends are received from a fund outside the EEA (Guernsey). Does the funds connection to the UK render the Norwegian legislation contrary to the taxpayers right of free movement of capital? Specifically, is the funds connection to the UK, such that taxpayers can argue that the distribution of dividends is a capital movement within the EEA (free movement of capital only applies within the EEA according to the EEA Agreement)?
- It depends on the funds' actual connection to the UK (looking at the full picture). If it is, for example, sufficient to be incorporated in the UK to claim the protection of the free movement of capital then there probably is an issue at hand.



- 2. Provided that the Norwegian Tax Administration conclude that the dividends are received from a fund outside the EEA (Guernsey). Does the funds connection to the UK render the Norwegian legislation contrary to the taxpayers right of free movement of capital? Specifically, is the funds connection to the UK, such that taxpayers can argue that the distribution of dividends is a capital movement within the EEA (free movement of capital only applies within the EEA according to the EEA Agreement)?
- No, formal presence is not enough.
- We have to look at the effective transaction (Guernsey Norway)
- Tax treaty exemption for dividends may be denied



- 3. Norway does not have hybrid mismatch rules like the ATAD or BEPS Action 2 rules: Would these rules apply to the case at hand? Possibly the ATAD GAAR?
- There seems to be a hybrid entity but no mismatch situation.



- 3. Norway does not have hybrid mismatch rules like the ATAD or BEPS Action 2 rules: Would these rules apply to the case at hand? Possibly the ATAD GAAR?
- In relation to the dividends, no.