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**Dato:** 22. oktober 2019 kl. 11.28.41 CEST

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**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

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