

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

IN THE MATTER OF THE TAX
LIABILITIES OF:

Civil Action No. _____

JOHN DOES, Norwegian taxpayers holding
P.N.C. Bank, N.A.
payment card XXXXXXXXXXXXX2075 and
RBS Citizens, N.A.
payment card XXXXXXXXXXXXX5082.

DECLARATION OF MICHAEL DANILACK

I, Michael Danilack, pursuant to 28 U.S.C. section 1746, declare and state:

1. I am the Deputy Commissioner (International) in the Large Business and International Division of the Internal Revenue Service ("IRS"), Washington, D.C. I have served as the Deputy Commissioner since January 20, 2010. In my capacity as Deputy Commissioner, I am authorized by Delegation Order No. 4-12 (rev. 2) to act as the Competent Authority for the purpose of administering all exchange-of-information programs under tax treaties and exchange-of-information agreements, including the Convention Between the Government of the United States of America and the Kingdom of Norway for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income and Property ("Convention"). Article 28 of the Convention provides for the exchange of information "as is pertinent to carrying out the provisions of this Convention."

2. Letters dated October 29, 2011, and July 6, 2012, requesting information pursuant to Article 28 of the Convention, have been received by my office from Lars Aarnes, Senior Advisor in the Directorate of Taxes of the Government of Norway, who is authorized to act as

Norwegian Competent Authority under the Convention. My office has recently confirmed with the Norwegian Competent Authority that the requested information is still needed by Norway.

3. The request from the Norwegian Competent Authority seeks IRS assistance in obtaining information to be used to determine the correct income tax liability of certain as-yet-identified taxpayers (hereinafter "John Does") under the laws of Norway. These unnamed parties, who have made substantial cash ATM withdrawals or PIN-authorized transactions in Norway, have been identified to my office by account numbers corresponding to payment cards issued by financial institutions located in the United States.

4. Upon reviewing the request from the Norwegian Competent Authority, I have determined, for the reasons stated in this Declaration, that the request is a proper request within the guidelines of the Convention and that the requested information may be relevant to the Norwegian tax authorities' determination of the proper income tax liabilities of the account holder(s) who have maintained accounts at eighteen (18) financial institutions located in the United States.

5. The request from the Norwegian Competent Authority states that the Norwegian Directorate of Taxes ("NDT") has established a Payment Card Project in which information on the use of payment cards (debit and credit cards) issued by foreign financial institutions has been used to identify non-compliant Norwegian taxpayers. The request indicates that the NDT has identified several payment cards that were issued by U.S. financial institutions and used in Norway over a period of time and in certain dollar volumes within certain geographic locations so that, in their totality, they are suggestive of taxable residence of the cardholders in Norway. Furthermore, the NDT has indicated that it cannot identify the cardholders from information

sources in Norway because such payment cards have been used only at automated-teller machines or in transactions where authorization is by PIN code and the cardholder need not identify himself or herself.

6. The request from the Norwegian Competent Authority also states that the NDT has reason to believe, based upon the use of payment cards issued by foreign banks to withdraw currency and/or to purchase goods and services without leaving an identifiable record of such transactions, that the holders of the payment cards may have failed to report foreign financial accounts or income on the tax returns they were required to file under the revenue laws of Norway.

7. The Norwegian Competent Authority has informed my office that information of the kind that it is requesting the IRS to obtain within the United States already has produced evidence of extensive income tax evasion in Norway. Although public details are limited, the Norwegian Competent Authority has advised that its Payment Card Project has produced evidence of foreign payment card usage in Norway showing that certain high-wealth persons claiming to be tax residents of other countries have in fact resided in Norway for sufficient periods to subject them to tax in Norway, resulting in fraud charges and additional tax assessments in the millions of dollars. In addition, Norway has advised that a similar list of account numbers presented to another jurisdiction produced account information that evidenced noncompliance with Norwegian tax filing obligations by each and every one of the holders of those payment cards.

8. The Norwegian Competent Authority has provided my office with specific examples of how the investigations of some other payment cards identified through its Payment

Card Project have already led to the discovery of violations of Norwegian tax laws, including the failure to report substantial amounts of income:

a. One person identified through the Payment Card Project had two credit cards issued in Great Britain. From March 2006 through October 2007, one of those cards had total transactions in Norway of approximately 800,000 NOK (\$136,000),¹ and the other card had total transactions in Norway of approximately 57,000 NOK (\$9,690). That person currently is the subject of a Norwegian court proceeding in which he is accused of failure to report income of approximately 177 million NOK (\$30,090,000) in Norway.

b. Another Norwegian taxpayer identified through the Payment Card Project had three payment cards issued in the United States with total transactions in Norway of approximately 3,1 million NOK (\$527,000) during 2005 through 2007 on the first card; approximately 1,64 million NOK (\$278,800) during 2004 through 2005 on the second card; and approximately 1,57 million NOK (\$266,900) during 2005 through 2008 on the third card. Although this taxpayer had registered as having immigrated to Great Britain and claimed to be a resident there, Norwegian authorities learned through their investigation that the taxpayer had remained in Norway during 2000 through 2008. The investigation also revealed that this taxpayer had performed business activities for a company in Norway whose ownership was hidden by a complex structure through companies in Great Britain, Panama and the British Virgin Islands. This taxpayer now faces a charge of tax fraud in Norway.

¹ All krone-to-dollar conversions herein are done using the average exchange rate of 17 cents over the relevant period involved in Norway's request for information.

c. A British citizen who resided in Norway from 1988 also was identified through the Payment Card Project. This person held a payment card issued in the Isle of Man with total transactions in Norway of approximately 1 million NOK (\$170,000) during 2005 through 2007. The investigation of the Norwegian authorities showed that this taxpayer failed to report income of approximately 8 million NOK (\$1,360,000) that he should have reported to Norway.

d. Another taxpayer identified through the Payment Card Project held a credit card issued in the United States with total transactions in Norway of approximately 631,000 NOK (\$107,270) during December 2004 through December 2007. The investigation by the Norwegian authorities showed that this taxpayer failed to report approximately 10 million NOK (\$1,700,000) in income that he should have reported to Norway.

9. IRS agent CHERYL KIGER has been directed by my office to obtain the information for Norway in furtherance of my determination to assist Norway under the Convention. In order to obtain the information requested by the Norwegian tax authorities and with regard to the investigation of the class of as-yet-unnamed taxpayers, the IRS proposes to issue administrative "John Doe" summonses to the eighteen (18) U.S. financial institutions identified in the request.

10. The Norwegian Competent Authority has advised my office that the same type of information described in the proposed John Doe summonses and requested by Norway from the IRS under the Convention can be obtained by the Norwegian tax authorities under Norwegian law and would be furnished to the United States upon proper request under similar circumstances.

11. Article 28 of the Convention provides that information exchanged “shall be treated as secret and shall not be disclosed to any persons other than those (including a court or administrative body) concerned with assessment, collection, enforcement, or prosecution in respect of the taxes which are the subject of this Convention.”

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 15th day of July, 2013.

A handwritten signature in black ink, appearing to read 'MDH', is written over a horizontal line.

MICHAEL DANILACK
United States Competent Authority
Deputy Commissioner (International)
Large Business & International Division
Internal Revenue Service