



International tax

Denmark Highlights 2012

Investment basics:

Currency – Danske Kroner (DKK)

Foreign exchange control – No

Accounting principles/financial statements – IAS/IFRS/Danish GAAP. Financial statements must be prepared annually.

Principal business entities – These are the public limited company, private limited company, partnership, sole proprietorship and branch of a foreign company.

Corporate taxation:

Residence – A corporation is resident if it is incorporated in Denmark or its day-to-day management is in Denmark.

Basis – Residents are taxed on a worldwide basis, although profits and losses from foreign permanent establishments and real estate are exempt. Nonresidents are taxed on Danish-source income. Branches are taxed the same as subsidiaries.

Taxable income – Corporation tax is imposed on a company's profits, which consist of business/trading income, passive income and capital gains. Normal business expenses may be deducted in computing taxable income.

Taxation of dividends – Dividends received by a Danish company on subsidiary shares and group shares generally are tax-exempt, whereas dividends on portfolio shares are subject to taxation.

"Subsidiary shares" are shares where (1) the shareholder owns directly at least 10% of the nominal share capital of the company; and (2) the company is Danish, or the company is foreign and the EU parent-subsidiary directive applies or the subsidiary is resident in a country that has concluded a tax treaty with Denmark. "Group shares" are those where the shareholder and the payer company are subject to mandatory Danish tax consolidation, voluntary Danish international tax consolidation or qualify for voluntary Danish international tax consolidation but have not elected such

taxation. "Portfolio shares" are shares that do not qualify as subsidiary shares or group shares.

Capital gains – Capital gains are normally included in taxable income and are subject to the corporate tax rate of 25%. However, gains derived from subsidiary shares or group shares generally are exempt (and any losses are nondeductible).

Losses – Losses normally may be carried forward without limit. The carryback of losses is not permitted.

Rate – 25%

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Foreign tax paid may be credited against Danish tax on the same profits, but the credit is limited to the amount of Danish tax payable on the foreign net income.

Participation exemption – See "Taxation of dividends" and "Capital gains."

Holding company regime – See "Taxation of dividends" and "Capital gains."

Incentives – Patents and know-how may be fully deducted in the year of acquisition.

Withholding tax:

Dividends – Dividends paid to a nonresident company are exempt from withholding tax if either of the following requirements are met:

- The shares are "subsidiary shares": No tax will be withheld if Danish taxation of the dividends should be reduced under the parent-subsidiary directive or a tax treaty.
- The shares are "group shares": No tax will be withheld if the shareholder is resident in the EU/EEA and Danish taxation of the dividends would have been reduced under the parent-subsidiary directive or a tax treaty had the shares been subsidiary shares.

Shares are subsidiary shares where the shareholder owns at least 10% of the share capital of the payer. Shares will qualify as

group shares, however, where the shareholder and the Danish company qualify for Danish cross-border tax consolidation, which usually requires that they are controlled by the same ultimate parent company holding more than 50% of the voting power. The rate is 15% where the recipient holds less than 10% of the company distributing the dividends and the tax authorities in the state where the recipient is resident are obliged to exchange information with the Danish tax authorities either under a tax treaty or other international treaty or convention, or according to an administrative assistance agreement in tax cases. The withholding tax rate on dividends paid to a nonresident in other cases is 27%.

Interest – Interest paid to a nonresident is generally exempt from withholding tax, although a 25% withholding tax applies to interest paid to foreign related entities in certain situations.

Royalties – Royalties paid to a nonresident are subject to a 25% withholding tax unless the rate is reduced under a tax treaty or the EU interest and royalties directive applies.

Technical service fees – No

Branch remittance tax – No

Other – No

Other taxes on corporations:

Capital duty – Denmark does not levy tax on the issue of shares, the increase of share capital or the transfer of shares.

Payroll tax – No, but persons carrying out certain activities exempt from VAT are liable to payroll tax.

Real property tax – A property value tax is levied on real estate. The basis is 1% of the value up to DKK 3,040,000, and 3% of the value exceeding that amount.

Social security – No

Stamp duty – Registration of the transfer of certain assets is subject to stamp duty of 0.1%-1.5%, plus DKK 1,400.

Transfer tax – No

Other – Shipping companies may opt to pay tonnage tax in lieu of the normal corporate income tax. Activities carried out in connection with the extraction of hydrocarbons are subject to hydrocarbon taxation.

Anti-avoidance rules:

Transfer pricing – The transfer pricing rules apply to transactions with affiliated companies. Controlled transactions are subject to the arm's length principle. Denmark generally follows the OECD transfer pricing guidelines. Transfer pricing documentation must be prepared.

Thin capitalization – Interest deductions may be limited by 3 sets of rules (but the disallowed expense is not recharacterized as a dividend). The thin capitalization test imposes a debt-to-equity ratio of 4:1. The asset test limits the deduction of interest expense to 3.5% (2012) of the tax basis in the assets. The EBIT test limits the deduction of interest expense to 80% of earnings before interest and tax.

Controlled foreign companies – The CFC rules apply where a Danish company controls more than 50% of the voting power of another company (Danish or foreign), more than 50% of the income of the subsidiary is of a financial nature and more than 10% of the assets of the subsidiary are of a financial nature. In such a case, the entire income of the subsidiary is subject to taxation at the level of the Danish parent company, with a tax credit granted for taxes paid by the subsidiary.

Other – Corporations that are treated as transparent entities for foreign tax purposes may be disregarded for Danish tax purposes. Danish branch offices and partnerships that are treated as corporations for foreign tax purposes may also be taxed as corporations for Danish tax purposes.

Disclosure requirements – Transfer pricing documentation must be prepared.

Administration and compliance:

Tax year – The tax year is the calendar year or another period if the taxpayer so elects. The tax year normally may not exceed 12 months.

Consolidated returns – Tax consolidation is mandatory between affiliated Danish companies, branches of foreign companies and Danish real estate owned by nonresidents. International tax consolidation is optional for affiliated companies.

Filing requirements – The tax return must be filed within 6 months of the end of the fiscal year. Advance payments of tax generally must be made by 20 March and 20 November of the tax year.

Penalties – Late filing and failure to file penalties apply. A transfer pricing penalty applies for failure to comply with the documentation requirements.

Rulings – Advance rulings may be requested on the tax consequences of specific transactions. Rulings are binding on the tax authorities for 5 years.

Personal taxation:

Basis – Resident individuals are taxed on their worldwide income; nonresidents are taxed only on Danish-source income.

Residence – An individual is resident if he/she has a permanent residence and a "qualifying" stay in Denmark, or spends more than 6 months in Denmark.

Filing status – A married couple may file a joint assessment.

Taxable income – Taxable income comprises employment income, including employment benefits, income from self-employment, directors' fees, interest income, dividends, etc. Income derived from self-employment can be taxed in the same way as income derived by a company.

Income up to DKK 40,000 for single taxpayers and DKK 80,000 for married couples are taxed as capital income at a maximum tax rate of approximately 36.5%. Income exceeding DKK 40,000/DKK 80,000 is taxed at progressive rates up to 45.5%.

Capital gains – Capital gains on shares and dividends are taxed progressively as share income at 27% for income up to DKK 48,300, and 42% thereafter.

Deductions and allowances – A personal allowance of DKK 42,900, as well as an employment allowance, are available to most taxpayers. Deductions include interest expense, child maintenance payments, pension contributions up to a maximum of DKK 100,000 per year, trade union fees up to a maximum of DKK 3,000, unemployment fund fees and expenditure in connection with transport between home and work. The self-employed can deduct most business-related expenses.

Rates – Taxable income is taxed at various progressive rates up to 56%. The income tax consists of the AM-tax of 8%, municipal tax, church tax and state tax. The AM-tax is

calculated and deducted before calculating other taxes. The municipal taxes are determined by each county and range from 22.8% to 27.8% and the church tax, which is optional, ranges from 0.44% to 1.5%. The state tax consists of a bottom bracket tax of 3.64%, a health care tax of 8% and a top bracket tax of 15% for income exceeding DKK 389,900.

A special 26% taxation scheme may be available for approved scientists or employees/individuals that meet the high salary qualification.

Other taxes on individuals:

Capital duty – No

Stamp duty – Stamp duty is levied at rates of 0.6% -1.5%, plus a fee of DKK 1,400.

Capital acquisitions tax – No

Real property tax – A property value tax is levied on real estate. The basis is 1% of the value up to DKK 3,040,000, and 3% of the value exceeding that amount.

Inheritance/estate tax – Inheritance received by a spouse is not taxed. A 15% tax is imposed on inheritance by the closest family members (children, children in law, grandchildren and parents). Inheritance by others is subject to a 36.25% tax.

Net wealth/net worth tax – No

Social security – Individuals pay a monthly fixed contribution of DKK 90. The former 8% social security contribution is a tax (AM-tax).

Administration and compliance:

Tax year – The tax year is generally the calendar year.

Filing and payment – The return must be filed by 1 May or 1 July of the year after the tax year.

Penalties – The main penalty is a variable interest charge due on tax underpayments (approximately 6.6%).

Value added tax:

Taxable transactions – VAT is imposed on the sale of most goods and the provision of most services.

Businesses registered for VAT can deduct the VAT on most purchases.

Rates – The standard VAT rate is 25%. The transport of persons, education, insurance business, financial activities and other services are VAT exempt. If a business sells VAT exempt services, it may be liable to pay a tax on labor costs instead. The rate varies

depending on the nature of the supply of services.

Registration – The registration threshold for VAT purposes is EUR 6,720. Nonresidents that make taxable supplies of goods or certain services in Denmark are required to register; there is no threshold in such cases.

Filing and payment – The standard VAT period is quarterly, alternatively monthly for

business with a turnover exceeding EUR 1.3 million. Newly registered businesses are normally liable to account for VAT quarterly.

Source of tax law: Corporation Tax Act and Personal Tax Act, among others

Tax treaties: Denmark has over 60 income tax treaties.

Tax authorities: SKAT

International organizations: WTO
EU, EFTA, OECD

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