International Tax

Denmark Highlights 2017

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 if 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 in the same way 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 paying company are subject to mandatory Danish tax consolidation or 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. Dividends from unlisted portfolio shares are taxable on 70% of the dividend amount.

Capital gains – Capital gains are included in taxable income and subject to the corporate tax rate of 22%. However, gains derived from subsidiary shares, group shares or unlisted portfolio shares are exempt (and losses are nondeductible).

Losses – Losses from previous years are fully deductible against taxable income that does not exceed a base amount of DKK 8.025 million (to be adjusted annually), with any remaining losses available to reduce remaining income by only 60%. For jointly taxed companies, the restriction on the use of losses takes place at the level of joint taxation. The carryback of losses is not permitted.

Rate – 22%. Entities in the oil and gas industry are taxed at 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.

Tax losses relating to development costs may be refunded in cash up to DKK 5.5 million.

Withholding tax:

Dividends – Dividends paid to a nonresident are, as a general rule, subject to a 27% withholding tax. For companies, the final rate is 22%, i.e. 5% can be reclaimed.

If 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 required to exchange information with the Danish tax authorities under an applicable tax treaty or other international treaty or convention, or according to an administrative assistance agreement in tax cases, the rate is 15%.

Dividends paid to a nonresident company are exempt from withholding tax if the shareholder is the beneficial owner of the dividends and owns at least 10% of the share capital of the payer, and the withholding tax would be reduced or eliminated under the EU parent-subsidiary directive or an applicable tax treaty.

Certain group-related transfers of shares, where the remuneration is fully or partly not in the form of shares, may trigger Danish withholding tax.

General anti-avoidance rules (GAARs) have been introduced to target arrangements where taxpayers aim to achieve the benefits of an EU directive or a relevant tax treaty through one or more artificial arrangements.

Interest – Interest paid to a nonresident generally is exempt from withholding tax, although a 22% withholding tax applies to interest paid to foreign related entities in certain situations.

Royalties – Royalties paid to a nonresident are subject to a 22% 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 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 businesses (taxable persons) carrying out certain activities exempt from VAT are liable to payroll tax.

Real property tax – Some business property is subject to a building tax, at a maximum of 1% of the building's value.

Social security – The employer's liability for social security contributions amounts to about DKK 10,000-DKK 12,000 per year per employee.

Stamp duty – Registration of the transfer of certain assets is subject to stamp duty of 0.6%-1.5%, plus a fee of DKK 1,660.

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. The Danish tax authorities can require certain businesses that are obliged to prepare transfer pricing documentation to obtain an assurance report from an independent auditor.

Multinational groups with a consolidated turnover of at least DKK 5.6 billion must prepare and submit a country-by-country (CbC) report to the Danish tax authorities.

Thin capitalization – Interest deductions may be limited by three sets of rules (but the disallowed expense is not recharacterized as a dividend): (1) the thin capitalization test imposes a debt-to-equity ratio of 4:1; (2) the asset test limits the deduction of interest expense to 3.2% of the tax basis in the assets; and (3) 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, directly or indirectly, 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 the foreign tax paid by the subsidiary.

Disclosure requirements – Transfer pricing documentation must be prepared, as well as a CbC report (where required).

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 also may be taxed as corporations for Danish tax purposes.

GAARs target arrangements where taxpayers aim to achieve the benefits of an EU directive or a relevant tax treaty through one or more artificial arrangements.

Compliance for corporations:

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 electronically within six months of the end of the fiscal year. For income years ending between 1 February and 31 March, the tax return must be filed by 1 August. Advance payments of tax generally must be made by 20 March and 20 November in the tax year. It is possible to make a voluntary payment in the period from 21 November in the tax year to 1 February in the year following 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 normally are binding on the tax authorities for five 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 six months in Denmark.

Filing status – Spouses must file separately, although various elements of joint taxation exist.

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.

Capital gains – Capital gains on shares are taxed as share income. Gains derived from the sale of an owner-occupied dwelling normally are exempt.

Deductions and allowances – A personal allowance of DKK 45,000, as well as an employment allowance, are available to most taxpayers. Deductions include interest expenses, child support payments, pension contributions with a ceiling for certain types of pensions of DKK 53,500 per year, trade union fees up to a maximum of DKK 6,000, 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 approximately 55.8% (excluding the church tax). 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 22.5% to 27.8% and the church tax, which is optional, ranges from 0.41% to 1.30%. The state tax consists of a bottom bracket tax of 10.08%, a health care tax of 2% and a top bracket tax of 15% for income exceeding DKK 479,600 (after deduction of the 8% AM-tax).

Capital income (interest income, etc.) up to DKK 42,800 for single taxpayers (DKK 85,600 for married couples) is taxed at a maximum tax rate of about 36.5%. Income exceeding DKK 42,800/DKK 85,600 is taxed at progressive rates up to 42%.

Capital gains on shares and dividends are taxed progressively as share income at 27% for income up to DKK 51,700 (DKK 103,400 for married couples), and 42% thereafter.

A special 31.92% expatriate taxation scheme may be available for approved scientists or employees 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 1,660.

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 – An inheritance received by a spouse is not taxed. A 15% tax is imposed on an 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 94.65.

Compliance for individuals:

Tax year – The tax year is the calendar year.

Filing and payment – The tax return must be filed by 1 May or 1 July of the year after the tax year. Additional reporting requirements apply for, e.g. shares and foreign bank accounts.

Penalties – The main penalty is a variable increasing interest charge due on tax underpayments. Penalties also apply for later filing.

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 certain other services are exempt. If a business sells VAT-exempt services, it cannot deduct VAT on purchases related to such sales and the business 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 DKK 50,000. 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 – Businesses are obliged to file VAT returns—and pay the VAT—on a monthly basis if the annual turnover exceeds DKK 50 million; on a quarterly basis if the annual turnover is between DKK 5 million and DKK 50 million; and on a biannual basis if the turnover does not exceed DKK 5 million.

Newly registered businesses are liable to account for VAT quarterly, unless their expected annual turnover exceeds DKK 55 million.

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

Tax treaties: Denmark has 75 income tax treaties.

Tax authorities: SKAT

Contact:

Søren Reinhold Andersen
(soeandersen@deloitte.dk)

Lars Rasmussen
(larrasmussen@deloitte.dk)