TAXATION

The Danish tax system has many attractive elements for foreign investors:

- Low corporate tax
- Low social costs for employees
- Competitive, effective taxation through flexible depreciation and amortization methods and financing
- Special low tax expatriate regime
- Attractive holding company tax regime

This fact sheet contains information on:

- Corporate taxation
- Holding company taxation
- Property taxation
- Personal taxation
- Expatriate taxation.

Please note that the information is not comprehensive and more detailed information is available on the homepage of the Danish Ministry of Taxation: www.skatteministeriet.dk. The rules described apply as of 1 July 2009.

CORPORATE TAXATION

Taxes on corporate income

The low corporate tax rate of 25 per cent places Denmark below the average OECD and European level. Observe following table for a comparison of tax regimes in selected European countries.

COMPARISON OF TAX REGIMES IN EUROPEAN COUNTRIES

Country	Corporate income tax (%)*	Special expatriate tax regime
Denmark	**25**	**Yes**
Sweden	26,3	Yes
France	33.33	Yes
United Kingdom	28	No
Netherlands	25.5	Yes
Germany	29,44	No
Spain	30	No
Italy	31,4	No
Poland	19	No
Czech Republic	20	No
Belgium	33,99	Yes
Ireland	12.50	No

Source: KPMG, July 2009
* All rates are maximum rates

No local tax, franchise tax or net wealth tax is levied in Denmark. The 25 per cent corporate tax is paid after deduction of expenses, etc. See below.

Taxes on different types of business entities

Corporate taxation in Denmark is levied irrespective of how the business is established. The calculation of profits and allowances and deductions in the taxable income is also made irrespective of the business type.

Public limited liability companies (aktieselskab or A/S), private limited liability companies (anpartsselskab or ApS), branch offices, other entities with limited liability, and co-operative societies and associations are all subject to corporate tax.

However, corporate tax is not levied on representation offices if the activities are exclusively of a so-called auxiliary and preparatory nature and do not include any kind of sales activities. As an alternative to establishing a branch, auxiliary and preparatory work may be carried out via an agent in Denmark.

Regarding the legal formalities surrounding the business and different types of business entities, we refer to the fact sheet: Types of business entities.

Corporate residence and territoriality

A corporation is resident in Denmark for tax purposes and subject to unlimited tax liability if it is incorporated in Denmark and has its statutory seat in Denmark. If a corporation is incorporated outside Denmark, it is also considered resident for tax purposes in Denmark if the effective management and day-to-day decisions are made in Denmark.

Resident companies are taxed on a territorial principle implying that income from foreign branches and real estate is not included in the Danish income.

Foreign corporations can be subject to limited tax liability either through a branch office, a permanent establishment, or through withholding taxes on certain types of Danish source income.

Mandatory national joint taxation

All Danish entities under common control are subject to mandatory national tax consolidation. Entities are considered to be under common control if, inter alia, a company controls more than 50 per cent of the voting power of another entity. Danish companies as well as foreign companies with a permanent establishment or real estate in Denmark qualify for mandatory national tax consolidation; and mandatory consolidation is applicable even if the various entities belong to different business divisions within a multinational group.

The ultimate Danish or foreign parent company of a group may elect international tax consolidation. However, such an election implies that all group companies worldwide under common control (including a foreign parent company and foreign sister companies) will be subject to the Danish international tax consolidation rules.

Accounting period

The primary accounting period is 12 months. On formation of the company and when the accounting year is changed, e.g. in connection with the establishment of a group based on an acquisition, the period may be shorter or longer, but it can never exceed 18 months.

Accounting methods and business profits

Accounting rules apply for ordinary corporations. Special rules may apply for businesses engaged in banking, insurance, investment funds, real estate, and offshore activities.

The determination of a corporation's taxable income is based upon the accounts prepared on a historical cost basis and in accordance with generally accepted accounting principles.

In calculating taxable income, all income should be included. Certain types of income are tax free, e.g. dividends which a Danish company receives, provided that the share holding amounts to at least 10 per cent of the share capital, the shares are held for at least one year and the company is either located in a state with which Denmark has a tax treaty or the Danish company has a shareholding which exceeds 50 per cent. Capital gains on shares are tax exempt for Danish corporate shareholders if the shares have been held for at least three years. New rules on sale of shares and dividend distribution will be introduced as of 1 January 2010.

There are usually numerous adjustments between the accounting profit and taxable income, including different depreciation periods, non-taxable income, non-deductible expenses, provisions for doubtful accounts or obsolescence, and provisions made for guarantee purposes.

CFC taxation regime

Denmark has a so-called Controlled Financial Corporation (CFC) taxation regime which applies to Foreign and Danish subsidiaries, but this rarely has any practical effect for Danish subsidiaries due to the mandatory national tax consolidation (described above).

If a set of conditions is met, a resident parent company is taxed on the part of the subsidiary's income which is proportional to the total average (during the income year) direct or indirect shareholding in the subsidiary, with credit for taxes paid by the subsidiary. The income is proportionally adjusted if the holding period is less than a full year.

CFC taxation will only be triggered if:

- more than 50 per cent of the taxable income in the subsidiary is considered as financial income (i.e. more than 50 per cent of the income consists of dividends, interests, capital gains, royalties, financial leasing income or insurance premiums), and

- more than 10 per cent of the assets in the subsidiary is considered as financial assets (i.e. more than 10 per cent of the accounting value of the assets in the subsidiary are shares, claims and receivables, financial leasing assets, insurance contracts or intangible assets), and

- the resident company controls a non-resident company directly or indirectly (i.e. the resident company directly or indirectly owns at least 50 per cent of the share capital or has direct or indirect control of more than 50 per cent of the voting power).

Please note that the above is an overall description of the CFC regime and further advice should be obtained before any structures are put in place.

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Deductions

Business expenses are generally deductible if they are incurred in order to ”obtain, secure and maintain” the income. See below table.

DEDUCTION RULES	
Expenses	Deduction rules
Capital expenditure	Generally not deductible
Research and development	Normally fully tax deductible. Amortization may be apportioned in equal instalments over a period of four years. Capital expenditure related to machinery and equipment used exclusively for research and development purposes can be fully deducted in the year in which it is acquired.
Computer software	Fully deductible in the year in which the software is acquired
Entertainment	25% is deductible
Losses on debtor accounts	Deductible
Pension schemes	Deductible
Royalties	Royalties paid at arm's length are deductible
Interest	Interest paid at arm's length is generally deductible, but can be restricted by three separate tests: **Thin capitalisation** Interest payments to affiliated companies are restricted if the company is considered to be thinly capitalised. Safe haven for thin capitalisation exists if the debt-to-equity ratio does not exceed 4:1. Non-booked goodwill can be included in the calculation of equity. **Interest ceiling** Net financial expenses exceeding DKK 21.3 mill. are restricted if they exceed 6.5% (variable) of the tax value of assets in the company. The tax value of assets does not include shares in Danish subsidiaries, since the calculation is made on a consolidated basis for the joint taxation group. 20% of the original purchase value of shares in foreign subsidiaries may with certain adjustments be included in the asset base. The 20 % rule will decrease over time. **Ebit-rule** The allowed net financial expenses (allowed according to the interest ceiling) can only reduce the taxable income by 80%. Additional unused allowed financial expenses can be carried forward.
Dividends	Dividends are not deductible
Intercompany transactions	
Intercompany transactions	Normally deductible for tax purposes, provided that they are charged in accordance with the ”arm's length principle", i.e. on market conditions.
Management charges etc.	Generally deductible if based on ”arm's length” principle.
Intercompany loans	Generally deductible if based on ”arm's length” principle.
Insurance premiums	Generally deductible if based on ”arm's length” principle.

Source: KPMG, August 2009

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Depreciation and amortization

In general, the concept of tax depreciation differs entirely from the concept applied for accounting purposes. Depreciation charges made in the annual statutory accounts are normally based on historic cost values using the straight-line method over the expected useful life of the assets. Tax depreciation – especially with respect to machinery and equipment – is accelerated. The depreciation rules are summarized below.

DEPRICIATION RULES

Depriciation	Rules
Machinery and equipment	Included in one single depreciation balance. Depreciation calculated at between 0 and 25% of the balance.
Ships exceeding 20 tons, airplanes, trains, oil rigs, and power plants	These assets are depreciated on a separate balance. Depreciations are calculated at between 0 and 15% of the balance from 2016 and onwards. Until then depreciations are calculated at: 0 - 23% in 2008 - 2009 0 - 21% in 2010 - 2011 0 - 19% in 2012 - 2013 0 - 17% in 2014 - 2015
Railroads, radio and tv communication facilities, facilities to the storage of electricity, heat, oil, and gas	These assets are depreciated on a separate balance. Depreciations are calculated at between 0 and 7%
Real property	Can be depreciated on an individual basis. The depreciations are calculated at between 0 and 4% of the original purchase price. Important exceptions are among others office buildings, residential property, and the value of land.
Amortization	
Goodwill	Amortized over 7 years
Know-how, patents, and copyrights	Know-how and patents may be fully deducted for tax purposes in the year they are purchased. Alternatively, along with copyrights they may be amortized over 7 years or amortized over the useful life of the asset.
Compensation relating to distribution agreements and non-competition clauses	Certain compensation schemes can be amortized over 7 years
Leasehold improvements	Amortized over the period

Source: KPMG, August 2009

HOLDING COMPANY TAX REGIME

Compared to most other countries, Denmark is a unique European holding company location, in particular for non EU-investors.

Dividends received by a Danish company are tax exempt, provided that the Danish company holds at least 10 per cent of the share capital of the foreign company or 50 per cent if the subsidiary is located in a country with which Denmark does not have a double tax treaty.

Also, there is no withholding tax on dividends distributed from a Danish company to a foreign parent company, provided that the foreign parent company holds at least 10 per cent of the share capital of the Danish company for a period of at least one year during which the dividend is distributed and the foreign company is located in a country with which Denmark has a tax treaty.

Denmark is one of the countries in the world which has concluded most bilateral tax treaties.

Furthermore, Danish domestic law does not impose withholding tax on outbound payments of certain royalties, including software royalties, equipment leasing or management fees. The withholding tax on other types of royalties and interest is 25 per cent or the rate agreed upon in the applicable double tax treaty.

Of interest to a foreign investor may also be that Denmark has abolished virtually all exchange regulations, which means that there are no restrictions on the cross border transfer of capital.

In practice, a large number of international companies take advantage of the favourable Danish international tax rules.

Danish Tax Reform

The above is based on the legislation in force in 2009. A major tax reform which will come into force as of 1 January 2010 will markedly change the tax legislation; for example, capital gains or losses from shares will be tax exempt regardless of the period of ownership of the shares.

PROPERTY TAXATION

Three property taxes are levied in Denmark:

- Land tax (Grundskyld)
- Property value tax (Ejendomsværdiskat)
- Building tax (Dækningsafgift)

Land tax

Land tax is levied on all private property in Denmark; property value tax is levied on all property in Denmark and abroad, whereas building tax is only levied on commercial property. Property value tax paid for property located abroad is generally covered by double tax treaties.

The level of land tax varies from municipality to municipality, as each local authority determines the level of taxation within the framework stipulated by the government.

The land tax payable to the municipality varies between 16‰ and 34‰ of the official land value.

Property value tax

Additional to land tax, the annual property value tax amounts to 10‰ of the official value if the value of the property is less than DKK 3,040,000 and 30‰ if the value of the property is more than DKK 3,040,000. All property is valued every second year by the tax authorities and is paid by private persons on all property owned in Denmark and abroad. For property located abroad either double tax treaty relief or a reduction according to the taxes paid in the country of origin is available.

Building tax

The local authorities are also entitled to levy a tax on the value of commercial buildings. This tax may not exceed 10‰ of the building value, defined as the difference between the total official property value and the land value. If the defined building value is less than DKK 50,000, no building tax is levied.

The level of property tax varies from municipality to municipality. Examples of the different tax levels are shown in the table below.

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EXAMPLES OF LAND, PROPERTY VALUE, AND BUILDING TAX IN COPENHAGEN (2009)			
	Municipality of Gentofte	City of Copenhagen	Municipality of Ballerup
Land tax	16‰	34‰	29‰
Property value tax*	10‰	10‰	10‰
Building Tax	10‰	10‰	10‰

Source: KPMG, August 2009
* Property valued at more than DKK 3,040,000 is taxed at 30‰

PERSONAL TAXATION

While Denmark's corporate tax rate is lower than the average European level, Denmark has one of the highest personal income tax levels in Europe.

The Danish level of personal income tax reflects several factors:

- A high level of welfare - the Danish welfare model is based on the principle that all citizens should enjoy decent living conditions and equal opportunities in terms of education, social welfare, etc.
- Publicly-provided health care, education, elderly care, day care for children, etc. is free and is mainly financed by taxes, while in other countries welfare services are mainly financed by private users and provided by the private sector.
- Social security is mainly financed indirectly by taxes rather than directly by employees or employers.

Characteristics

A person is considered resident in Denmark for taxation purposes if he/she has a residence in Denmark or if he/she resides in Denmark for more than six months. See special expatriate rules below.

A person resident in Denmark must pay taxes of his/her global income whether or not the income is generated in Denmark or abroad. However, an applicable double tax treaty may limit Denmark's right to tax Danish-source income alone. The tax system is progressive. The higher the income, the higher the level of tax (up to an upper ceiling - see below). Calculation of taxable income is illustrated in the table below.

CALCULATION OF TAXABLE INCOME	
Personal income (salary, etc.)	
+/-	Net capital income (interest income, etc.)
-	Deduction (allowances, social security, etc.)
=	Taxable income

Source: KPMG, August 2009

There is also a separate share income tax, as well as property value tax and land tax as described above.

The state and the 98 municipalities collect income tax. The average level of tax paid to the municipality is 41.55 per cent (including health tax, AM-contribution and church tax). The rate for Copenhagen (2009, excluding church tax) is 39.8 per cent.

Tax paid to the state:

- Basic tax bracket of 5.04 per cent of the taxable income exceeding DKK 42,900 (2009)
- Middle bracket tax of 6 per cent of personal income exceeding 347,200 (2009)
- Top tax bracket of up to 15 per cent of personal income exceeding DKK 347,200 (2009)

The "tax ceiling" is 59 per cent of the total income to municipality and state excluding AM-contribution and church tax. Note that there is a special 25/33 per cent tax scheme available for certain expatriates – see below.

Deductions

All persons over 18 years of age are entitled to a personal allowance of DKK 42,900 (2009).

The following are deductible in the taxable income:

- Contributions to some pensions schemes
- Interest expenses
- Cost of transportation between home and work exceeding 24 kilometres per day (fixed rates per kilometre).
- Union subscriptions
- Contributions to unemployment insurance.

Detailed rules apply for each deduction right.

Social security

A person resident in Denmark is covered by the Danish social security system. In Denmark it is primarily the government and employees who contribute to social security. From 1 January 2008, the AM-contribution is no longer part of the social security contribution, but instead part of income taxes.

Under the EU regulation 1408/71, foreigners who are stationed in Denmark and can prove that they are covered by the social security system of their native country do not have to pay social security contributions in Denmark. This is also the case for foreigners from countries with which Denmark has concluded a social agreement.

Example illustrating Danish tax rate

The level of personal taxation incl. social security for Danish residents is illustrated in the following table.

EFFECTIVE TAX RATE FOR A DANISH RESIDENT WITH INCOME OF DKK 500,000		
Gross income (incomes – deductions)		500,000
- ATP		1,080
AM-contribution		39,914
Personal income		459,006
- Other deductions: employment relief (calculated automatically)	13,600	
Taxable income (income – social security and other deductions)	445,406	
Tax		
- Basic tax (5.04 % of personal income)	20,972	
- Medium tax (6% of personal income exceeding 347,200)	6,708	
- High tax (15% of personal income exceeding 347,200)	16,771	
- Local tax, including health tax (31,8 % of taxable income)	127,997	
Tax		172,448
Net (Income – social security and tax)		327.552
Effective tax rate (%)	34.49	

Source: KPMG, August 2009
Note: Note that the example is based on an unmarried resident with income of DKK 500,000, living in Copenhagen Municipality in 2009 and who is not a member of the Danish church.

EXPATRIATE TAXATION

Denmark is one of few European countries which offer special favourable tax rules to expatriates and foreign researchers.

If certain conditions are met, expatriates are eligible for a special reduced tax rate of 25 per cent on their income for the first three years or 33 per cent for the first five years in Denmark, provided the concession is claimed from the start and that the expatriate becomes liable to Danish tax as a resident or non-resident when starting the employment (a settling down period of one month is allowed and some exceptions to the main rules apply for researchers). Under certain conditions, it is possible to switch from the 25 per cent scheme to the 33 per cent scheme and vice versa. There are several conditions for the 25/33 per cent tax regime, including but not limited to:

- The expatriate must not have been liable to Danish taxation as a resident, or have incurred tax liability to Denmark as a non-resident within the last three years prior to employment in Denmark.

- The expatriate must not have been seconded from Denmark to work abroad by the company or by a group company.

- The expatriate must not have been employed by a foreign group company within a period of three years before and one year after termination of previous Danish tax liability, as described above. The condition is considered fulfilled if the expatriate has not been employed by the company or a group company within the last three years prior to the employment at the company.

- Finally, the expatriate must not have – or at any time within the previous five years have held more than – a 25 % of the share capital or have held the majority of the voting power in the employing company, or have had a determining influence on the company.

This tax regime is available for researchers and key personnel. Key personnel are defined as those with a monthly gross salary in excess of DKK 63,800 in 2009 after mandatory contributions to ATP and AM or to social security in the home country (via EU Regulation 1408/71). The total remuneration includes salary, holiday pay, other cash remuneration and company car. However, non-cash income, for instance, free housing is taxed according to the normal rules.
After the 36/60 months, the expatriate becomes subject to normal Danish tax. Please note that all researchers and some key personnel that fulfil certain conditions can stay in Denmark for an unlimited period after the 36 months. Others can only stay in Denmark for up to 48 months after the end of the 25%/33% tax period.

There are numerous conditions to be taken into account regarding company car, employee-paid housing, etc. For more detailed information, please contact the Danish taxation authorities (SKAT) at www.skat.dk or KPMG.

Special rules for researchers under the expatriate taxation regime

Favourable rules apply for foreign employees who are officially approved as qualified researchers:

- Approved researchers are allowed to work as guest researchers for up to 12 months within the previous three years.
- Approved researchers are not required to comply with the salary level which applies for other foreign key employees,.
- The claw back rule does not apply to approved researchers.

On the basis of an application the public research councils decide whether a given employee can be approved as a researcher. The application form can be downloaded from the Danish Research Agency's website.

Representative office

Key employees in a representative office are normally not eligible for the 25 per cent expatriate tax. The reason for this is that in order to avail of the expatriate tax scheme, the company must be established as a legal entity or a permanent establishment with a turnover in Denmark. Usually, a representative office does not produce a turnover – it is primarily a sales support unit.

Please see the table below for an overview of the different rules regarding the salary and tax surcharge according to the job function.

OVERVIEW OF REQUIREMENTS ACCORDING TO JOB DESCRIPTION		
	Minimum salary requirements	Claw back after extended period
Person employed to carry out research work **with** official approval as researcher	No	No
Person employed to carry out research work **without** official approval as researcher	Yes	No/Yes
Other foreign employees	Yes	No/Yes

Source: KPMG, August 2009
Note: Note: The supplementary tax is only levied if the expatriate employee has been liable to Danish taxation as a resident or as a non-resident on certain income types within the previous five years.

The effective tax rate for expatriates (25%) is illustrated in the table below.

EFFECTIVE TAX RATE FOR EXPAPRIATES (25%)	
Earned income	**100.00**
- Gross tax (8%)	8.00
Subtotal	**92.00**
- Expatriate income tax (25%)	23.00
Net income	**69.00**
Effective tax rate (%)	31.00

Source: KPMG, August 2009

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