



TAXATION

Mini-report



INTRODUCTION

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 expatriate tax regime
- Attractive holding company tax regime

This fact sheet contains information on:

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Please note that the report is not comprehensive. If you require additional or more detailed information, please contact Copenhagen Capacity.

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CORPORATE TAXATION

TAXES ON CORPORATE INCOME

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

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

TABLE 1 - TAX REGIMES IN EUROPEAN COUNTRIES

Country	Corporate income tax rate (%)*	Special expatriate tax regime
Ireland	12.50	No
Czech Republic	19	No
Poland	19	No
Denmark	25	Yes
Netherlands	25.5	Yes
Sweden	26.3	Yes
United Kingdom	28	No
Germany	29.41	No
Spain	30	No
Italy	31.4	No
France	33.33	Yes
Belgium	33.99	Yes

Source: KPMG 2010
Note: *All rates are maximum rates.

TAXES ON DIFFERENT TYPES OF BUSINESS ENTITIES

Corporate taxation in Denmark is levied irrespective of business type. This is also the case for the calculation of profits, allowances and deductions relating to taxable income.

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 representative 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.

For information on the legal formalities surrounding business activities and different types of business entities, please see the mini report – business entities (www.copccap.com/reports)

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% 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 to apply international tax consolidation. However, such an election implies that all the group companies worldwide under common control (including any foreign parent company and foreign sister companies) will be subject to 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 to ordinary corporations. Special rules may apply to 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. capital gains on shares or dividends, which a Danish company receives from subsidiary shares or group shares.

Capital gains on shares, which are not exempt from taxation under the participation exemptions, are subject to taxation of 25%, while losses are generally fully tax deductible.

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 TAX REGIME

Denmark has a so-called Controlled Financial Corporation (CFC) tax regime which applies to Foreign and Danish subsidiaries, but this rarely has any practical effect on Danish subsidiaries due to 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 direct or indirect shareholding in the subsidiary calculated over the income year, 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:

1. the resident company controls a non-resident company (the subsidiary) directly or indirectly.
2. more than 50% of the taxable income of the subsidiary is considered to be financial income (i.e. more than 50% of the income consists of dividends, interest, capital gains, royalties, financial leasing income or insurance premiums)
3. more than 10% of the assets in the subsidiary is considered to be financial assets (i.e. more than 10% of the accounting value of the assets in the subsidiary are shares, claims and receivables, financial leasing assets, insurance contracts or intangible assets)

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.

DEDUCTIONS

Business expenses are generally deductible if they are incurred in order to “obtain, secure and maintain” income. The following tables illustrate Denmark’s competitive taxation system with its flexible depreciation and amortization methods (Table 2 & 3).

TABLE 2 - TAX REGIMES IN EUROPEAN COUNTRIES	
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 five 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: <p>Thin capitalisation</p> <p>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.</p> <p>Interest ceiling</p> <p>Net financial expenses exceeding DKK 21.3 mill. (2011) are restricted if they exceed 4.5% (2011) 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 be included in the asset base with certain adjustments. The 20 % rule will decrease over time and stands at 15 % for 2011.</p> <p>EBIT-rule</p> <p>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.</p>
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. with 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 2010	

TABLE 3: DEPRECIATION RULES

Depreciation	
Machinery and equipment	Included in one single depreciation balance. Depreciation calculated at between 0 and 25% of the balance.
Ships exceeding 20 metric tons, aeroplanes, trains, oil rigs, and power plants	These assets are depreciated on a separate balance. Depreciations will be calculated at between 0 and 15% of the balance from 2016 and onwards. Until then, depreciations are calculated at: 0 - 21% in 2010 – 2011 0 - 19% in 2012 – 2013 0 - 17% in 2014 – 2015 0 - 15% in 2015 – 2016
Railways, radio and tv communication facilities, facilities for 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 include 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 of rental contract. Annual limit of 20%.
Source: KPMG 2010	

Holding company tax regime

Denmark is one of the countries in the world to have concluded the most bilateral tax treaties, and its taxation on holding companies has several advantages.

Dividends received by a Danish company are tax exempt under the participation exemption, provided that the shareholding in the distributing company is qualified as “subsidiary shares” or “group shares”.

1. Subsidiary shares are defined as shares where the shareholder directly owns at least 10% of the share capital of the company (“subsidiary”). Further, if the subsidiary is not a Danish resident, the dividend taxation must be tax exempt or reduced according to the EU Parent/Subsidiary Directive or the applicable double tax treaty.
2. Group shares are shares where the shareholder and the distributing company are or could be subject to joint taxation (national or international) - see above under mandatory national joint taxation.

Also, there is no withholding tax on dividends distributed from a Danish company to a foreign parent company, provided that the

foreign parent company’s shares in the Danish company qualify as subsidiary shares or group shares, and the dividend taxation is tax exempt or reduced according to the EU Parent/Subsidiary Directive or the applicable double tax treaty.

For both inbound and outbound dividends, look-through rules apply to intermediate holding companies with no real economic activity. In cases where the look-through rules apply, the shareholders of the immediate parent company are considered to be the direct owners of the distributing company.

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% or the rate agreed upon in the applicable double tax treaty.

Foreign investors may also be interested to learn that Denmark has abolished virtually all exchange regulations, which means that there are no restrictions on the cross-border transfer of capital.

Property taxation

In Denmark three types of property taxes are levied:

- 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 not 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

In addition 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‰ of the value if it exceeds DKK 3,040,000. All property is valued every second year by the tax authorities and is paid by private individuals on all property owned in Denmark and abroad, if liable to Danish taxation as a resident.

Building tax

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 table 4.

TABLE 4 - TAX REGIMES IN EUROPEAN COUNTRIES

Country	City of Copenhagen	Municipality of Gentofte	Municipality of Ballerup
Land tax	34%	16%	29%
Property value tax*	10%	10%	10%
Building tax	10%	10%	10%

Source: KPMG 2010
 Note: *Property valued at more than DKK 3,040,000 is taxed at 30%

Personal taxation

Denmark has one of the highest personal income tax levels in Europe. This in turn is balanced by one of the lowest levels of employers' social security contributions 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, provision for the elderly, 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 consecutively. See special expatriate rules on page 12.

A person resident in Denmark must pay taxes on his/her global income. However, an applicable double tax treaty may limit Denmark's right to tax non-Danish source income. The tax system is progressive. The higher the income, the higher the level of tax. Calculation of taxable income is illustrated in table 5.

TABLE 5 - CALCULATION OF TAXABLE INCOME

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

Source: KPMG 2010

There is also a separate share income tax, as well as property value tax and land tax as described previously in this paragraph.

The state and the 98 municipalities collect income tax. The average level (2010) of tax paid to the municipality is 34.14 per cent (including health tax and church tax). The rate for Copenhagen (2010, including church tax) is 32.6 per cent.

Tax paid to the state:

- AM-contribution of 8 per cent of gross income.
- Basic tax bracket of 3.67 per cent of taxable income exceeding DKK 42,900 (2010)
- Top tax bracket of up to 15 per cent of personal income exceeding DKK 389,900 (2010)

TABLE 6 - EFFECTIVE TAX RATE FOR A DANISH RESIDENT WITH AN INCOME OF DKK 500,000

Gross income (incomes – deductions)	500,000
- ATP*	1,080
AM-contribution (8 %)	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 (3.67 % of personal income)	15,271
- High tax (15% of personal income exceeding 389,900)	10,366
- Local tax, including health tax (31.8 % of taxable income)	127,997
Tax	153,634
Net (Income – social security and tax)	305,372
Effective tax rate (%)	38.93

Source: KPMG 2010

Note: the example is based on an unmarried resident with an income of DKK 500,000, living in Copenhagen Municipality in 2010 and who is not a member of the Danish church

Note: * 90 dkr. per month for employees and 180 per month for companies

The "tax ceiling" is 51.5 per cent of total income paid to the municipality and state, excluding the AM-contribution and church tax. Note that there is a special 25/33 per cent tax scheme available for certain expatriates.

Deductions

All persons over 18 years of age are entitled to a personal allowance of DKK 42,900 (2010).

The following are deductible from taxable income:

- Contributions to some pension 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. Since 1 January 2008, the AM-contribution has no longer formed part of social security contributions, but instead part of income tax.

As of 1 January 2011, any person covered by a foreign social security system is no longer exempted from paying the 8 % AM-contribution, due to the fact that since that date it has been fully implemented as a tax rather than a social security contribution.

Expatriate taxation

Denmark is one of the 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 26 per cent on their income for the first 60 months 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 employment. The expatriate must also pay the 8 % AM-contribution and have been liable to Danish taxation as a resident, or have incurred tax liability to Denmark as a non-resident within the ten years prior to employment in Denmark.

KEY PERSONNEL

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 2010 after mandatory contributions to ATP and AM or to social security in the home country (via EU Regulation 883/2004). The total remuneration includes salary, multimedia, holiday pay, other cash remuneration and company car. However, non-cash income, for instance free housing, is taxed according to the normal rules.

After 60 months, the expatriate becomes subject to normal Danish tax.

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. In particular, the transitional rules between prior income years and the income year 2011 should be carefully considered.

SPECIAL RULES FOR RESEARCHERS

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 clawback 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 salary and tax surcharges according to the job description.

TABLE 8 - EFFECTIVE TAX RATE FOR EXPATRIATES (25%)

Earned income	100.00
- AM-contribution (8%)	8.00
Subtotal	92.00
- Expatriate income tax (26%)	24.00
Net income	68.00
Effective tax rate (%)	32.00
Source: KPMG 2010	

TABLE 7 - REQUIREMENTS ACCORDING TO JOB DESCRIPTION

	Minimum salary requirements	Clawback 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 2010

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.