DOING BUSINESS IN DENMARK
2018

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DOING BUSINESS IN DENMARK

FEBRUARY 2018

BDO

INTRODUCTION

This publication has been prepared by the International Bureau of Fiscal Documentation (IBFD) on behalf of BDO, its clients and prospective clients. Its aim is to provide the essential background information on the taxation aspects of setting up and running a business in this country. It is of use to anyone who is thinking of establishing a business in this country as a separate entity, as a branch of a foreign company or as a subsidiary of an existing foreign company. It also covers the essential background tax information for individuals considering coming to work or live permanently in this country.

This publication covers the most common forms of business entity and the taxation aspects of running or working for such a business. For individual taxpayers, the important taxes to which individuals are likely to be subject are dealt with in some detail. We have endeavoured to include the most important issues, but it is not feasible to discuss every subject in comprehensive detail within this format. If you would like to know more, please contact the BDO firm(s) with which you normally deal. Your adviser will be able to provide you with information on any further issues and on the impact of any legislation and developments subsequent to the date mentioned at the heading of each chapter.

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DENMARK

This chapter is based on information available up to 1 February 2018.

Abbreviations

Abbreviation	*English definition*	*Danish definition*
ABL	Law on Taxation of Capital Gains on Shares	Aktieavancebeskatningsloven
AL	Law on Depreciation	Afskrivningsloven
EJBL	Real Estate Tax Law	Ejendomsbeskatningsloven
KGL	Law on the Tax Treatment of Gains and Losses on Debt Claims, Debts and Financial Instruments	Kursgevinstloven
KSL	Tax at Source Law	Kildeskatteloven
KUL	Law on Taxation of Hydrocarbons	Kulbrinteskatteloven
LL	Assessment Law	Ligningsloven
LSA	Payroll Tax Law	Lønsumsafgiftsloven
ML	VAT Law	Momsloven
SEL	Corporate Income Tax Law	Selskabsskatteloven
SKL	Law on the Reporting of Information to the Tax Authorities	Skattekontrolloven
SL	National Income Tax Law	Statsskatteloven
TSL	Tonnage Tax Law	Tonnageskatteloven

Introduction

Corporate taxpayers are subject to the national corporate income tax. A hydrocarbon tax is levied on companies extracting hydrocarbons. A VAT system applies.

For tax purposes, Greenland and the Faroe Islands are regarded as separate jurisdictions. This means that Danish tax legislation does not apply to these autonomous areas. Tax treaties are in force between Denmark and these two jurisdictions.

The applicable currency is the Danish krone (DKK).

1. Corporate Income Tax

1.1. *Type of tax system*

Resident companies are subject to corporate income tax, which is levied based on the modified worldwide income principle. Profits derived from foreign immovable property or foreign permanent establishments are not subject to corporate income tax (*see further* section 6.1.1.1.).

Denmark has a classical system of taxation of corporate profits. This tax system is coupled with a participation exemption for corporate shareholders and reduced tax rates on dividends for individual shareholders.

For the participation exemption, *see* section 2.2.

1.2. *Taxable persons*

Legal entities subject to corporate income tax include, inter alia (section 1 of the SEL):

- public and private companies incorporated in Denmark;

- other resident corporate entities, in which none of the participators is personally liable for the entity's debts and which distribute their profits in proportion to the capital contributed by each participator;
- resident savings and cooperative banks;
- resident mutual insurance associations and certain mortgage institutions;
- investment funds that issue negotiable documents for members' capital contributions;
- foundations; and
- other resident entities, such as associations, to the extent they carry on a business.

The above categories are subject to unlimited tax liability as residents. Non-resident entities of similar description are subject to tax only in so far as they derive certain types of Danish-source income (*see* section 6.2.). This survey is restricted to Danish-incorporated public companies (A/S) and private companies (ApS) as well as to foreign-incorporated entities of a similar description, whether resident or non-resident. These entities are referred to as companies.

Only public entities and not-for-profit entities are exempt from tax.

A partnership is treated as a transparent entity for tax purposes.

A Danish entity (or a foreign entity with a permanent establishment in Denmark) is treated as transparent for Danish tax purposes if it is treated as fiscally transparent under the rules of a European Economic Area (EEA) country or a treaty country, whereby its income is included in, or consolidated with, the income of a controlling foreign entity. Control exists where a foreign entity owns, directly or indirectly, more than 50% of the share capital or controls, directly or indirectly, more than 50% of the voting power in the Danish entity. If a Danish entity is classified as transparent, it is treated as a branch of the foreign controlling entity. It is not considered a Danish tax resident and is thus not entitled to the benefits of EU directives or tax treaties concluded by Denmark. If the transparency according to the foreign tax law ceases to exist, a transfer of the assets and liabilities to the Danish entity is deemed to take place, which may trigger capital gains taxation.

1.2.1. Residence

A corporate entity is resident in Denmark if it is registered with the Danish Business Authority or if its place of effective management is located in Denmark (section 1 of the SEL). For the place of management test, the location of the day-to-day management is normally decisive.

1.3. *Taxable income*

1.3.1. General

Resident companies are not taxed on income from foreign immovable property and income from foreign permanent establishments (section 8(2) of the SEL). The worldwide tax liability is applicable in respect of all other types of income of resident companies, e.g. dividends, interest and royalties derived directly, as well as CFC income (*see* section 7.4.). In computing taxable gross income, all income is combined. In general, no schedular system or basket system applies for purposes of deducting expenses or setting off losses from one income source against profits from another income source or for purposes of carrying forward losses.

1.3.2. Exempt income

The provision that lists items of taxable income is broadly worded and includes practically all income, either in money or in kind. The only important items of exempt income are domestic and foreign dividends under the participation exemption (*see* section 2.2.) and capital gains from subsidiary investments and group investments (*see* section 1.4.2.) (sections 4A and 4B of the ABL and section 13(1)(2) of the SEL). With effect from 2015, dividends received from other Danish companies are also partly exempt (section 13(1)(4) of the SEL); *see* section 2.2. of this survey.

1.3.3. Deductions

Expenses incurred in acquiring, securing and maintaining taxable income are in general deductible (section 6(1)(a) of the SL). Special provisions allow expenses for establishing or expanding a business, including market research expenses, and of research and development expenses to be written off over a period of 5 years. Royalties, service fees and management fees paid at an arm's length price are deductible. Interest is also deductible, subject to the limitations following from the transparency rule (*see* section 1.2.) and the thin capitalization rules (*see* section 7.3.). Taxes on immovable property (*see* section 5.2.), including comparable foreign taxes on foreign-situs immovable property, are deductible if the property is used commercially.

Donations to certain approved charitable resident organizations and to organizations for the public benefit are generally deductible up to DKK 15,900 (for 2018) per year.

Restrictions apply to entertainment expenses which are only deductible up to 25%. Dividends may not be deducted.

Auditors' and lawyers' fees incurred in connection with the establishment of new businesses are not deductible.

1.3.4. Depreciation and amortization

Depreciation deducted for tax purposes need not conform to depreciation shown in the annual accounts. The general depreciation methods available are the straight-line depreciation method (for e.g. buildings, installations and intangible assets) and the declining balance depreciation method (for e.g. machinery, vehicles, ships and aircraft) (sections 5 and 17(1) of the AL).

Only the person with title to an asset or, where relevant, the holder of a depreciable right, is entitled to claim depreciation. There is, however, no obligation to depreciate assets under Danish law.

As a temporary measure, a taxpayer is granted an option for additional depreciation for certain investments in operating equipment instead of the normally applicable depreciation rules (*see* section 1.7.3.).

1.3.4.1. Immovable property

Buildings used for business purposes may, as a rule, be depreciated (section 14(1) of the AL). However, a building may not be depreciated if it is used for offices, accommodation (hotels are depreciable), health care, or for a business in the financial sector, such as banking, insurance, stockbroking, etc.

Installations that exclusively serve a depreciable building are depreciated together with that building. Examples of depreciable installations include lifts, heating systems and ventilation systems.

Each building is depreciated separately. Depreciation is computed using the straight-line method. The normal rate is 4%. The rate may be increased by 3% if a building is subject to a degree of wear and tear that makes it likely that the building, despite a normal level of maintenance, will lose its economic value within 25 years of construction.

A building that is not used for a business purpose that allows it to be depreciated may nevertheless be depreciated if the building is situated on leased land, unless the building is used for accommodation (*see* above). If the lease period is fixed, depreciation may be taken in equal instalments over the lease period. If the lease period is not fixed, depreciation may be taken at an annual rate of 5% using the straight-line method.

1.3.4.2. Ships, machinery and equipment

Machinery and equipment, and ships with a gross tonnage under 20 tonnes, used for business purposes are depreciated on a pool basis using the declining-balance method (section 5(1) and (2) of the AL). Depreciation may be taken at a rate of up to 25% per year at the option of the taxpayer. If the balance is less than DKK 13,500 (for 2018), it may be written off. For most ships with a gross tonnage exceeding 20 tonnes, the depreciation rate is 12%. For all ships, a depreciation rate of 20% is allowed in the first year after being built.

A loss upon the sale of ships under 20 tonnes, machinery and equipment may be deducted in the year of the disposal of the asset (rather than being depreciated on a pool basis). A loss occurs if the disposal price is less than the acquisition cost less depreciation taken. If an asset is scrapped, this constitutes a deemed disposal. This rule was introduced because the depreciation regime for tax purposes did not match the pace of economic and technical depreciation of assets used by many high-tech companies.

The acquisition cost of the following assets may, at the taxpayer's option, be written off for the year of acquisition:

- short-life assets whose estimated useful life is no longer than 3 years;
- assets whose acquisition cost does not exceed DKK 13,500 (for 2018);
- ships, machinery and equipment used for research and development, unless they are used for exploring for raw materials; and
- computer software.

For the additional depreciation regime, *see* section 1.7.3.

1.3.4.3. Intangibles

Acquired goodwill may be depreciated over 7 years using the straight-line method (section 40(2) of the AL).

The acquisition cost of know-how, patents, copyrights, designs or models, trademarks and similar rights may be depreciated over 7 years. The same applies to the acquisition cost of rights under usufruct contracts and lease contracts. If the right is acquired when the period during which the right enjoys legal protection is less than 7 years, the acquisition cost of the right may be depreciated over the remaining period of protection. Depreciation is computed under the straight-line method.

The acquisition cost of patents and acquired know-how may, as an alternative to depreciation, be deducted in the year of acquisition.

1.3.4.4. Rebuilding rented premises

The cost of rebuilding, improving and arranging rented premises used for business purposes other than accommodation (*see* section 1.3.4.1.) may not be deducted immediately, but may be depreciated instead (depreciation is optional). Depreciation may be taken using the straight-line method at an annual rate of 20%. If the lease period is fixed, the maximum annual depreciation is the cost divided by the number of years of the lease period.

1.3.5. Reserves and provisions

1.3.5.1. Provisions for bad debts

Losses on bad and doubtful debts may normally be deducted only in the financial year in which the loss is incurred and its amount is determined (section 12 of the SEL). Deductions for contributions to a provision for bad and doubtful debts may, however, be allowed where a taxpayer has a large number of debtors.

1.3.5.2. Reserves for guarantees, etc.

The mere granting of a guarantee is not sufficient to allow a deduction for an allocation to a reserve. Generally, allocations to a reserve to fulfil obligations under a guarantee are only deductible if the history of the business shows that a genuine risk exists and the amount of risk is substantial (section 8 of the LL). Allocations to a reserve to meet contractual service obligations are not deductible.

1.4. *Capital gains*

The tax treatment of capital gains and losses depends on the type of asset sold. Taxable capital gains are included in the company's total taxable profits (section 3 of the KGL).

The realization of a capital gain on the disposal of depreciable machinery or equipment does not give rise to immediate taxation because the sale proceeds are deducted from the depreciable pool, thus only reducing the scope for future depreciation. *See also* section 1.3.4.2.

Any gains are taxable if the seller's business is deemed to include dealing in the assets in question, e.g. a bank selling shares.

1.4.1. Immovable property

Capital gains on immovable business property are taxable in full; losses incurred on such property are deductible, subject to the restrictions mentioned in section 1.5.2.

1.4.2. Shares

Capital gains or losses on the disposal of shares are included in taxable income according to the mark-to-market principle (section 23(2) of the ABL). Non-listed companies, however, have a one-time possibility to opt for taxation in accordance with the "realization principle", provided that the realization principle is applied for all non-listed shares. Capital gains from investments in qualifying subsidiaries and group investments are exempt (*see* section 2.2.).

With effect from 1 January 2013, an exemption also applies to portfolio investments provided that:

- the portfolio shares are non-listed shares;

- the ownership in the portfolio company is less than 10% of the share capital; and
- the portfolio company is a Danish private limited liability company or a similar foreign company.

The gross proceeds from the sale of shares to the issuing company and liquidation proceeds are in some cases taxed as dividends (*see* section 2.2.). The deduction of net losses is restricted (*see* section 1.5.2.).

1.4.3. Intangibles

Capital gains or losses on the disposal of goodwill, know-how, patents, copyrights, designs or models, trademarks and similar rights are included in taxable income (section 40 of the AL). The same applies to rights under usufruct contracts and lease contracts.

1.4.4. Other

Debts and debt claims

Gains and losses on debts and debt claims are in general included in taxable income (section 2 of the KGL). However, exceptions include:

- a debtor's gain on a loan due to a debt settlement, either voluntarily or by court order, is exempt from tax, but only to the extent a debt is not forgiven to below its fair market value at the time of the settlement; and
- a loss on a debt claim against a group-related company is not deductible by the creditor company, while the corresponding gain by the debtor company is not taxable (*see also* section 2.1.).

Financial instruments

Income from financial instruments is generally taxable (section 29 of the KGL). Thus, gains and losses on forward contracts and options are included in taxable income, although a number of important exceptions apply (a further description of the regime is beyond the scope of this survey).

1.5. *Losses*

1.5.1. Ordinary losses

The carry-forward of losses is restricted. Losses may be used to offset no more than 60% of the taxable income in any (future) year (section 12 of the SEL). However, companies may always offset tax losses of up to DKK 8,205,000 per year (DKK 8,025,000 in 2017). In other words, companies with a taxable income in excess of DKK 8,205,000 in principle always pay corporate income tax.

No loss carry-back is permitted.

Carry-forward may be restricted upon changes in ownership (this restriction does not apply to quoted companies), upon settlement with creditors, either voluntarily or by court order, or upon conversion of debt into equity.

1.5.2. Capital losses

Capital losses on investments other than investments in subsidiary shares (*see* section 2.2.) and capital losses on immovable property may only be set off against gains on assets of a similar type (section 6(4) of the EBL and section 9(3) of the ABL). Deductible losses are restricted to the amount in excess of the exempt dividends on the shares.

Net capital losses of a tax year may be carried forward indefinitely. Other capital losses are treated as ordinary losses. Capital losses on exempted portfolio shares (*see* section 1.4.2.) are not tax deductible.

If a company's business is deemed to include dealing in the assets in question, the result is treated as income or ordinary losses.

1.6. *Rates*

1.6.1. Income and capital gains

The rate of corporate income tax is 22% (section 17(1) of the SEL). This rate also applies to capital gains. The application of this rate is coupled with the mandatory pre-payments of tax (*see* section 1.8.3.).

For the tax rate applicable to companies in the oil and gas industry, *see* section 3.

1.6.2. Withholding taxes on domestic payments

Companies must withhold tax at a rate of 22% (23.5% in 2015) on dividends, unless the participation exemption applies (*see* section 2.2.) (section 65(6) of the KSL). The taxable base is the gross dividends (for the definition, *see* section 2.2.).

From 1 January 2016, the withholding tax on dividends from non-quoted portfolio shares is reduced to 15.4% (70% x 22%). Before 2016, such dividends were not subject to a withholding tax, but were (partially) taxed at the general rate. For more details, *see* section 2.2.

There is no withholding tax on interest and royalties paid to resident companies. For rates of withholding tax on payments to non-residents, *see* section 6.3.

1.7. *Incentives*

1.7.1. Tonnage tax

As an alternative to the normal corporate income tax regime, a tonnage tax regime applies for shipping companies resident in Denmark and for Danish permanent establishments of shipping companies resident in other EU Member States (section 1 of the TSL). The regime constitutes a form of State aid which is approved by the European Commission. The regime applies for renewable periods of 10 years.

Conditions for qualification for the tonnage tax regime include that the shipping company operates vessels for the transport of passengers or goods using vessels that are (i) owned by the shipping company, (ii) operated on a bareboat or a time charter basis and (iii) strategically operated from Denmark. A vessel owned by the shipping company but operated by another company may qualify for the regime, provided that the other company operates the vessel for the same qualifying purpose as the shipping company that owns the vessel. If the vessel is chartered on a bareboat basis, the regime only applies if the charter period does not exceed 3 years.

Capital gains on the sale of vessels operated under the tonnage tax regime are included in taxable income, as well as income from certain activities closely connected with the operation of the vessels.

Under the tonnage tax regime, taxable income is computed by multiplying deemed income per 100 tonnes of net tonnage by the number of days a vessel is controlled by the shipping company, regardless of whether the ship is in actual operation. The deemed income per 100 tonnes per day ranges from DKK 2.77 to 9.82 (for 2018), depending on the total tonnage operated by the company. No deductions or depreci-

ation is allowed for ships under the tonnage tax regime. Taxable income computed accordingly is subject to corporate income tax at the ordinary rate (*see* section 1.6.1.).

1.7.2. Cash payment for research and development costs

Companies may apply for a (tax-free) cash payment of part of certain research and development costs (section 8X(1) of the LL). The maximum cash payment is DKK 5.5 million per year, i.e. 22% (the current corporate tax rate) of DKK 25 million.

For companies subject to group taxation (*see* section 2.1.), the credit is only available to the group as a whole.

1.7.3. Additional depreciation

A taxpayer may opt to claim additional depreciation instead of the normally applicable depreciation (*see* section 1.3.4.) for investments in newly manufactured operating equipment (excluding cars, ships and software) made before 31 December 2013 (section 5D of the AL). In order to claim depreciation, the equipment must only be used for business purposes.

Qualifying equipment is added to the depreciation base at 115% of the purchase price and depreciated at an annual rate of 25%.

If the operating equipment added to the depreciation base with an increased value is sold before it is written off, the depreciation base is reduced by 115% of the sale price. This reduction of the base is, however, 100% from income year 2018, but increasing to 101.5% in 2019 and gradually to 110% in 2026.

1.8. *Administration*

1.8.1. Taxable period

The taxable period is the tax year (section 10 of the SEL). The tax year follows the calendar year, but a company may choose to have a tax year that is other than the calendar year. A company with a tax year other than the calendar year is assessed to tax according to the law applicable to the replaced tax year. Taxable income is the income that is derived during a tax year.

1.8.2. Tax returns and assessment

In general, a company must file its income tax return, at the latest, 6 months after the end of the tax year (sections 1(1) and 4(2) of the SKL). If its tax year expires between 1 February and 31 March, the income tax return must be filed by 1 August of that year. With effect from 1 August 2014, companies are obliged to file their tax return digitally by using an online filing program provided by the tax authorities. Filing in paper form is no longer possible.

For filing of losses carried forward, *see* section 1.5.1.

1.8.3. Payment of tax

In general, companies must make prepayments of tax in two equal instalments on or before 20 March and 20 November of the tax year (section 29A(4) of the SEL). The total of the compulsory prepayments must be equal to 50% of the average of the tax due in the previous 3 tax years. Special rules apply to companies in existence for less than 3 years prior to the tax year. Voluntary additional tax prepayments may be made on or

before the same dates. To the extent that the assessed final tax exceeds the aggregate of the prepayments, a surcharge of 4% is due. The final tax is due on 20 November of the year following the tax year.

1.8.4. Rulings

Taxpayers may request a binding advance ruling regarding the tax consequences of a specific transaction. The request may concern the tax consequences to the taxpayer and/or other parties. The contemplated transaction may be carried out either before or after the submission of the request.

The rulings are obtained from the tax authorities. However, the authorities must put the case before the Assessment Board if the case (i) may have consequences for a large number of taxpayers, (ii) involves a large amount of tax, (iii) involves interpretation of new legislation, (iv) involves EU law to a considerable extent or (v) is of public interest.

The ruling is binding on the tax authorities for a period of 5 years from the issuance of the ruling. However, the tax authorities may shorten this period if specific circumstances make it necessary and/or desirable.

2. Transactions between Resident Companies

2.1. *Group treatment*

Permanent establishments located in Denmark, resident subsidiaries of non-resident companies and Danish immovable property owned by non-resident companies are subject to taxation in Denmark under the mandatory national tax consolidation rules (section 31(1) of the SEL).

Resident group-related subsidiaries of non-resident companies may apply for international consolidation. Tax consolidation means that either (i) all group entities (resident and non-resident) are included in a Danish tax consolidation scheme or (ii) none of them are. The decision to form an international tax consolidation group is, in principle, valid for a period of 10 years.

A qualifying group relation exists if a company, foundation, association, trust, etc. (section 31C of the SEL):

- has the majority of the voting rights in another company;
- is a shareholder of another company and has the right to appoint or dismiss the majority of the members of that company's management;
- is a shareholder of another company and is entitled to exercise control over that company's operational and financial management on the basis of the articles of association or of an agreement with that other company;
- is a shareholder of another company and controls the majority of the voting rights in that company on the basis of a shareholder's agreement; or
- is a shareholder of another company and exercises control over that company's operational and financial management.

Group consolidation means, inter alia, that losses of one company are set off currently against profits of the other companies. However, losses originating from tax years before the commencement of group consolidation may only be set off against profits of the same company. Intercompany dividends are disregarded.

2.2. *Intercompany dividends*

The concept of dividends comprises distributions, including deemed dividend distributions, gross liquidation proceeds paid prior to the calendar year in which the final liquidation of a company takes place and gross proceeds generated from the transfer of shares to the issuing company. Under conditions, liquidation proceeds distributed prior to the year of final liquidation may be taxed based on the legislation dealing with the taxation of capital gains on shares (with a deduction for acquisition cost) (*see* section 1.4.2.). Bonus shares are not treated as dividends.

Liquidation proceeds paid to a company are treated as dividends (and taxed as such) if the company (i) has controlling power (i.e. the company together with group companies owns more than 50% of the shares or has more than 50% of the voting power) in the liquidated company, or (ii) is qualified as "group companies" in accordance with the Danish transfer pricing legislation.

Shares are divided into three categories (sections 4A and 4B of the ABL and section 13(3) of the SEL):

- shares of subsidiaries, which are shares where the shareholder owns directly at least 10% of the nominal share capital of the company. Furthermore, if the subsidiary is not a Danish resident, the dividend income is tax exempt or subject to a reduced rate based either on the EU Parent-Subsidiary Directive (2011/96) or an applicable tax treaty (with effect from 1 July 2016, the exemption applies, provided that the foreign subsidiary is resident and subject to tax in a jurisdiction which exchanges tax information with Denmark, for example, under a tax treaty provision, an exchange of information agreement, an EU Directive or the OECD Convention on Mutual Administrative Assistance in Tax Matters);
- group shares (or group investments), which are shares where the shareholder and the company are subject to mandatory or voluntarily Danish international tax consolidation, or which would have qualified for voluntarily consolidation but have not elected to do so (*see* section 2.1.); and
- portfolio shares (or portfolio investments), which are shares not qualifying as shares of subsidiaries or group shares, e.g. when the ownership is below 10%.

The participation exemption applies to subsidiary and group investments (section 13(1) and (2) of the SEL). Dividends from portfolio investments are subject to tax on the gross amount.

With effect from 1 January 2015, 30% of dividends from portfolio investments in non-quoted shares are tax exempt; the remaining 70% is taxed at the normal corporate income tax rate (before 2015 such dividends were fully taxable). Consequently, the effective tax rate on dividends from portfolio investments in non-quoted companies is 15.4% (70% of the general corporate income tax rate of 22%). Dividends from portfolio investments in quoted companies remain subject to tax on the gross amount.

Under the participation exemption, domestic intercorporate dividends are exempt from tax if the dividend-receiving company holds at least 10% of the capital in the dividend-distributing company (section 13(1)-(2) of the SEL). *See also* section 7.1. for a special anti-avoidance rule precluding meeting the 10% ownership requirement through a chain of companies. For dividends received from non-resident companies, *see* section 6.1.1.1.

3. Other Taxes on Income

There is no local corporate income tax, but the municipalities receive a share of the national corporate income tax.

Taxation of income from extraction of hydrocarbons

General

The Law on Taxation of Hydrocarbons applies to income from activities carried on in connection with the extraction of hydrocarbons. The law has four main effects:

(1) it extends the jurisdiction to tax under Danish domestic law to areas beyond the Danish land territory and the territorial sea;

(2) the existence of a permanent establishment is no longer a condition for tax liability of a non-resident company in respect of business income;

(3) the law contains special rules on deductibility of the cost of exploring hydrocarbons and special timing rules to ensure that expenses are allocated to taxable periods in which income is derived; and

(4) apart from imposing the normal corporate income tax on income from all the activities carried on in connection with the extraction of hydrocarbons, a special hydrocarbon tax is levied on companies actually extracting hydrocarbons.

Corporate income tax

Generally, income derived from preliminary surveys, exploration and exploitation of hydrocarbons and activities related thereto, including the installation of pipelines, supply services and transport by ship or pipeline of extracted hydrocarbons is taxable (sections 1 and 4 of the KUL). Tax legislation provides that income is derived from activities carried out in Denmark, including the territorial sea and the Danish continental shelf area.

The following income is subject to a separate assessment (both for purposes of corporate income tax and the hydrocarbon tax):

(1) income from the first sale of hydrocarbons extracted;

(2) income fixed as a share of the hydrocarbons extracted or their value;

(3) gains or losses from the direct or indirect disposal of a concession, licence or right to carry out preliminary surveys, exploration or extraction of hydrocarbons; and

(4) any excess depreciation or further depreciation, as determined according to the provisions on depreciation (*see* section 1.3.4.), upon sale of assets used for preliminary surveys and exploration and assets used in acquiring income under (1) and (2).

The cost of preliminary surveys and exploration may be deducted from taxable income. If the costs are incurred before extraction has started, the taxpayer may opt to depreciate costs at a rate of 20% each year over 5 years, the first instalment being taken in the first year in which extraction is commenced.

The acquisition cost of machinery, equipment, ships and buildings used in connection with preliminary surveys and exploration activities may be depreciated in accordance with the normal depreciation rules. Drilling rigs must be depreciated as machinery and equipment. Depreciation may be postponed until the first year in which extraction of hydrocarbons is commenced. Production plant, platforms, pipelines and other plant and machinery used in earning taxable income may be depreciated as machinery and

equipment. Other ships and buildings are subject to the normal depreciation rules (*see* section 1.3.4.). Concessions and licences may be deducted over the period during which they grant rights.

Both income subject to a separate assessment and other income are subject to corporate income tax at a rate of 25%. The reduction of the general corporate income tax rate from 2014 onwards (*see* section 1.6.1.) does not affect the rate applicable to companies taxed under this regime. An additional corporate income tax is levied on income derived under this regime equal to the reduction of the general corporate income tax (i.e. companies under this regime are subject to a (total) corporate income tax rate on such income of 25% (22 + 3)).

Hydrocarbon tax

Hydrocarbon tax is only levied on companies extracting hydrocarbons (section 20B of the KUL). Taxable income is, in general, computed in accordance with the rules described in the paragraphs above on income subject to a separate assessment, but corporate income tax levied on this income is deductible. Losses may be carried forward indefinitely. The rate of hydrocarbon tax is generally 70%, and 52% in respect of activities carried out in connection with the 1962 sole concession (i.e. without state participation) and in respect of new licences issued from 1 January 2004.

4. Taxes on Payroll

4.1. *Payroll tax*

In general, there is no payroll tax. However, persons carrying on certain activities exempt from VAT are liable to the payroll tax. The payroll tax is neither creditable against other taxes nor deductible from income.

4.1.1. Taxable persons

Companies carrying out the following activities are liable to the payroll tax: health care, administration of immovable property, financial activities, including insurance and reinsurance and the activities of agents, gambling and the activities of travel agents (section 1 of the LSA). The importation or publishing of newspapers is also a taxable activity. Passenger transport directly to or from a foreign destination and the leasing out of immovable property are exempt.

Companies liable to the payroll tax must register, but only if the taxable base exceeds DKK 80,000.

4.1.2. Taxable base and rate

The taxable base is the payroll in respect of activities within the scope of the tax (section 5 of the LSA). For publishers or importers of newspapers, however, the taxable base is turnover of newspapers. The effective rates for the most important types of activity in 2018 are:

Activity	*Rate (%)*
Financial activity	14.5
Importation and publishing of newspapers	3.54
Activities of lottery organizers, tourist offices and associations	6.37
Other	4.12

4.2. *Social security contributions*

In general, employers are required to pay a number of contributions. These amount to approximately DKK 8,000 to 10,000 per year per employee.

For social security contributions payable by employees and self-employed persons, *see* Individual Taxation section 3.

5. Taxes on Capital

5.1. *Net worth tax*

There is no net worth tax.

5.2. *Real estate tax*

Immovable property situated in Denmark can be subject to two types of real estate tax:

- municipal real estate tax; and
- municipal real estate tax on buildings used for certain business purposes, e.g. offices, hotels, plant and workshops.

The owner of immovable property is normally the taxable person (section 6A(1) of the EJBL). For municipal real estate tax purposes, the taxable base is the value of the land, but not the building. For the municipal real estate tax on buildings used for certain business purposes, the taxable base is the value of the building, but not the land.

The rate of the municipal real estate tax may in general vary between 1.6% and 3.4%. The rate of the municipal real estate tax on buildings used for certain business purposes may not exceed 1%. Real estate taxes are deductible for corporate income tax purposes.

6. International Aspects

6.1. *Resident companies*

For the concept of residence, *see* section 1.2.1.

6.1.1. Foreign income and capital gains

6.1.1.1. Income

Under the modified worldwide income principle (*see* section 1.1.), resident companies are not taxed on profits (including capital gains) from foreign immovable property and foreign permanent establishments (section 8(2) of the SEL). Losses incurred from foreign immovable property or permanent establishments may not be set off against income taxable in Denmark. Worldwide tax liability applies to all other types of income of resident companies, e.g. dividends, interest and royalties derived directly, as well as CFC income (*see* section 7.4.). The rules described in section 1.3. concerning taxable income generally apply.

Dividends received by a resident parent from a non-resident subsidiary are exempt from income tax if the shareholding qualifies as an investment in a subsidiary or a group investment (*see* section 2.2.). The exemption, however, does not apply if the activity of the non-resident subsidiary is mainly of a financial nature (*see* section 7.4.).

Dividends from portfolio investments (*see* section 2.2.) are taxed at a rate of 22% (23.5% in 2015) on the gross dividends, but a foreign tax credit of up to 22% (23.5% in 2015) is available.

If a company ceases to be resident because its place of management is moved abroad or because it is deemed resident abroad under a tax treaty, there is a deemed taxable disposal of its worldwide assets and liabilities at their fair market value at the moment of cessation of residence (i.e. an "exit tax" applies). The change of residence may lead to taxation of unrealized capital gains on shares, immovable property and debt and debt claims and to a recapture of depreciation on depreciated assets. The deemed disposal rule does not apply to assets and liabilities that remain subject to Danish tax jurisdiction after a company has become non-resident.

Further, the following events also trigger exit taxation (section 8(4) and (5) of the SEL):

- transfer of assets by a head office in Denmark to its foreign permanent establishment; and
- transfer of assets from a foreign permanent establishment to its head office in Denmark.

However, with effect from income year 2013 (in some cases retroactively from income year 2008), it is possible to defer payment of the exit tax, provided that:

- assets and liabilities are transferred from a company resident in Denmark or a Danish PE to a PE in another EEA Member State;
- assets and liabilities are transferred from a Danish PE to its foreign head office resident in another EEA Member State;
- a company resident in Denmark migrates to another EEA Member State; or
- the corporate seat of a European Company (SE) or a European Cooperative Society (SCE) is transferred outside Denmark.

The deferred amount of tax due must be paid in instalments within a maximum period of 7 years. Thus, every year the company must pay an amount being the greater of one seventh of the original exit tax balance or the Danish tax on any actual or deemed income from the transferred assets subject to the exit tax. At any time the company may opt to repay a larger amount or to repay the full deferred amount due. Furthermore, the company is charged with penalty interest annually on the remaining deferred amount. The applicable interest rate is the greater of (i) 3% per annum or (ii) the Danish National Bank's discount rate plus 1%.

6.1.1.2. Capital gains

Foreign capital gains are in principle taxable (section 2 of the KGL). The rules described in section 1.4. generally apply. However, capital gains from the disposal of shares forming part of a qualifying subsidiary or a group investment (*see* section 1.4.2.) are tax exempt. Gains on the disposal of portfolio investments are taxed at a rate of 22% on the net gains. Capital gains on foreign immovable property are exempt (under the modified worldwide income principle) unless these are derived under the consolidation regime (*see* section 2.1.), in which case they are taxed.

Capital gains and losses realized on securities (shares, units, etc.) in qualifying investment companies are regarded as portfolio investments (*see* section 2.2.) and are taxable in accordance with the mark-to-market principle (as opposed to the realization principle). Shares of investment companies that fall outside the statutory definition are taxed under the normal rules (*see* section 1.4.2.).

Relief (unilateral and treaty) is available to reduce or mitigate double taxation of the capital gains.

6.1.2. Foreign losses

Foreign losses are generally deductible and eligible for carry-forward under the same rules that apply to domestic losses (*see* section 1.5.). To prevent the abuse of tax treaties, however, a number of restrictions apply to losses of foreign permanent establishments and foreign-situs immovable property.

As resident companies are, in general, not taxed on profits from their foreign immovable property or profits generated by foreign permanent establishments, losses incurred from such property and establishments may, in general, not be set off against income taxable in Denmark. This rule does not apply to resident companies that have made an election for cross-border tax consolidation.

6.1.3. Foreign capital

There is no net worth tax. Immovable property located abroad is not subject to real estate taxes in Denmark.

6.1.4. Double taxation relief

At the taxpayer's option, relief for double taxation may be claimed either unilaterally or under a tax treaty. Unilateral relief is granted by way of an ordinary tax credit computed on a country-by-country basis (section 33 of the LL). If the foreign tax credit cannot be used because a taxpayer has losses from other sources, either in Denmark or abroad, the taxpayer may decide not to claim such losses and thereby avoid the loss of the credit. If a company elects not to claim losses, it must not claim those losses until the taxable income (after the unclaimed losses) is equal to the sum of positive income from other countries in respect of which double taxation is relieved unilaterally. Unclaimed losses may be carried forward indefinitely, subject to the normal rules for loss carry-forward.

Foreign taxes may not be deducted as expenses. Special rules apply to foreign dividends (*see* section 6.1.1.1.). For a list of tax treaties in force, *see* section 6.3.5.

6.2. *Non-resident companies*

Non-resident companies are those which are not incorporated in Denmark or whose place of management is not located in Denmark. For the mandatory national tax consolidation rules, *see* section 2.1.

6.2.1. Taxes on income and capital gains

A non-resident company is taxable on business income if it carries on a business with a permanent establishment in Denmark or participates in such a business (section 2(1)(a) of the SEL). The concept of permanent establishment is defined in accordance with the concept of permanent establishment under article 5 of the OECD Model Convention. Regular payments from such a business are also taxable, unless they are dividends, repayments of a loan, interest or royalties. Under Danish law (and divergent from the OECD Model Convention) a building site or construction and installation project constitutes a permanent establishment from the first day.

Income from immovable property is taxable when earned by a non-resident company, regardless of whether the company is the owner, a user or otherwise derives income from the property. Taxable income includes any capital gain or recaptured depreciation upon disposal.

Non-residents may only deduct expenses related to their Danish taxable income. The rate of corporate income tax (*see* section 1.6.1.) is the same for resident and non-resident companies.

A capital gain is, in general, taxable only if the asset from which the gain is derived is attributable to a permanent establishment in Denmark. Gains on debts and debt claims are taxable if they are attributable to immovable property. Capital gains on the disposal of immovable property in Denmark are also taxable.

The transfer of assets from a permanent establishment in Denmark out of Denmark, e.g. to its foreign head office, either during the course of business or upon or after cessation of the business of the permanent establishment is a deemed disposal at fair market value which may give rise to taxation of unrealized capital gains and/or recapture of depreciation (section 8(5) of the SEL). This applies to inventory, machinery and equipment, goodwill, know-how, patents, copyrights, designs or models, trademarks and similar rights. It also applies to rights under usufruct contracts and lease contracts. Under certain conditions, there can also be a deemed disposal of shares and debts and debt claims.

Interest income of a non-resident company is only taxable if it is attributable to a permanent establishment in Denmark. Gross dividends and royalties are subject to final withholding taxes (*see* section 6.3.) under the condition that no permanent establishment exists. Dividends and royalties attributable to a permanent establishment are taxable and any foreign withholding tax is credited against the final Danish tax liability.

For the taxation of income from activities in connection with the extraction of hydrocarbons, *see* section

6.2.2. Taxes on capital

There is no net worth tax. A non-resident company is subject to real estate taxes (*see* section 5.2.) in respect of immovable property located in Denmark.

6.2.3. Administration

A non-resident company with a permanent establishment in Denmark is taxed by assessment in respect of the income attributable to the permanent establishment. *See* section 1.8. for details of assessment. For final withholding taxes in respect of dividends and royalties, *see* section 6.3.

6.3. *Withholding taxes on payments to non-resident companies*

6.3.1. Dividends

Dividends paid to non-resident companies are subject to a 27% dividend tax withheld on the gross amount, unless exemption applies under the domestic law (*see* below) or a tax treaty prescribes a reduced rate (section 65(1) of the KSL) (*see* section 6.3.5.). With effect from 1 January 2016, the rate is reduced to 22% for dividends paid to EU/EEA companies and with effect from 1 July 2016 for non-EU/EEA companies. The 22% rate is only available through a refund procedure. The withholding agent is still required to withhold 27% on the gross amount of the dividends.

The general rate is reduced to 15% if:

- the recipient non-resident company holds less than 10% of the capital of the resident company; and

- the tax authorities of the recipient's residence state are obliged to exchange information with the Danish tax authorities by virtue of a bilateral tax treaty, an international treaty or an administrative agreement.

Dividends from investments in a subsidiary (*see* section 2.2.) are exempt from withholding tax if the Danish taxation is reduced or eliminated under the EU Parent-Subsidiary Directive (2011/96) or an applicable tax treaty.

Further, dividends from group company shares (*see* section 2.1.) are exempt from withholding tax if the shareholder is a resident of the EEA, and provided the taxation of dividends would have been waived or reduced in accordance with the Parent-Subsidiary Directive or in accordance with a tax treaty with the country in which the company investor is resident, had the group company shares instead been subsidiary shares.

6.3.2. Interest

There is no general withholding tax on interest. However, interest paid to a foreign related entity is subject to a 22% (25% before 1 January 2016) withholding tax (*renteskat*) (sections 2(1)(8), 2(6) and 65C of the KSL). A foreign related entity is an entity owning or controlling, directly or indirectly, more than 50% of the share capital or voting power in the company paying the interest.

The tax is not levied on interest paid to a foreign related entity if:

- the interest income is attributed to a permanent establishment that the foreign related entity has in Denmark;
- the foreign related entity is covered by the EU Interest and Royalties Directive (2003/49) or a tax treaty with Denmark (irrespective of the treaty withholding tax rate);
- the foreign related entity is controlled by a Danish parent entity, as defined under the international tax consolidation rules, for at least 1 year and the relevant payment was made in that year;
- the foreign related entity is controlled by an entity resident in a treaty state and that state may tax the foreign related entity on the interest income under its CFC rules; or
- the foreign related entity is able to demonstrate that the foreign corporate tax levied on the interest income is at least 16.5% (three quarters of the Danish 22% corporate tax) and that the foreign related entity does not pay the interest received to another foreign related entity subject to a corporate tax of less than 16.5%.

Under the domestic law implementing the provisions of the EU Interest and Royalties Directive (2003/49), interest and royalty payments are exempt from withholding tax (section 2(1)(d), (g) and (h) of the SEL), provided that the recipient is an associated company of the paying company and is resident in another Member State or is such a company's permanent establishment situated in another Member State. Two companies are "associated companies" if (i) one of them has a direct minimum holding of 25% in the capital of the other or (ii) a third EU company has a direct minimum holding of 25% in the capital of the two companies. A minimum holding period of 1 year is required.

6.3.3. Royalties

A final withholding tax of 22% (25% before 1 January 2016) applies to industrial royalties paid to non-residents. Industrial royalties include payments as consideration for the use of, or the right to use, any patent, trademark, design or model, plan, secret formula or process, and consideration for information concerning industrial, commercial or scientific experience (sections 2(1)(g) and 2(2) of the SEL and 2(1)(8) of the KSL). The tax is levied on gross payments. The rate may be reduced under a tax treaty (*see* section 6.3.5.).

Under the domestic law provisions implementing the EU Interest and Royalties Directive, outbound royalty payments between associated companies are exempt from withholding tax (section 2(1)(d), (g) and (h) of the SEL). For details, *see* section 6.3.2.

6.3.4. Other

No other withholding taxes apply to non-resident companies. There is no branch profits or remittance tax.

6.3.5. Withholding tax rates chart

The following chart contains the withholding tax rates that are applicable to dividend, interest and royalty payments by Danish companies to non-residents under the tax treaties in force as at the review date. Where, in a particular case, a treaty rate is higher than the domestic rate, the latter is applicable.

For dividends, reduced treaty withholding tax rates are normally not applied at source; instead, a refund system applies. For royalties, the reduced rates may be applied at source upon permission.

	Dividends		***Interest[1]***	***Royalties***
	Individuals, companies	***Qualifying companies[2]***		
	(%)	***(%)***	***(%)***	***(%)***
Domestic Rates				
Companies:	22	0/15	0/22	0/22
Individuals:	15/22	n/a	0	22
Treaty Rates				
Treaty With:				
Argentina	15[3]	10[3]	12[3]	3/5/10/15[3,4]
Armenia[5]	15[5]	15[5]	0[5]	0[5]
Australia	15	15	10	10
Austria	15	0[6]	0	0
Azerbaijan	15	5[7]	0/8[8]	5/10[9]
Bangladesh	15	10[6]	10	10
Belarus[5]	15	15	0	0
Belgium	15	0	10	0
Brazil	25	25	15[10]	15/25[11]
Bulgaria	15	5	0	0
Canada	15	5	0/15[12]	0/10[13]
Chile	15	5	5/15[14]	5/10[15]
China (People's Rep.)	10	5	10	10[16]

	Dividends		Interest[1]	Royalties
	Individuals, companies	Qualifying companies[2]		
	(%)	(%)	(%)	(%)
Croatia	10	5[17]	5	10
Cyprus	15	0[18]	0	0
Czech Republic	15	0[19]	0	0/10[13,20]
Egypt	20	15	15	20
Estonia	15	5	10	0/5/10[21]
Faroe Islands	15	0[6]	0	0
Finland	15	0[6]	0	0
Georgia	10	0/5[22]	0	0
Germany	15	0/5/25[23]	0	0
Ghana	15	5[6,17]	0/8[12,24]	8
Greece	18	18	8	5
Greenland	-[25]	-[25]	0	10
Hungary	15	0[26]	0	0
Iceland	15	0[6]	0	0
India	25	15	10/15[27]	20
Indonesia	20	10	10	15
Ireland	15	0	0	0
Israel	10	0[28]	0/5[29]	0
Italy	15	0[30]	0/10[12]	0/5[31]
Jamaica	15	10	12.5	10
Japan	15	10[30]	10	10
Kenya	30	20[32]	20	20
Korea (Rep.)	15	15	15	10/15[33]
Kuwait	15	0/5[34,35]	0	10
Kyrgyzstan[5]	15[5]	15[5]	0[5]	0[5]
Latvia	15	5	10	0/5/10[36]
Lithuania	15	5	10	5/10[37,38]
Luxembourg	15	5	0	0
Macedonia (FYR)	15	0/5[39]	0	10
Malaysia	0	0	-[25]	10
Malta	15	0[30]	0	0
Mexico	15	0	0/5/15[40]	10
Morocco	25	10	10	10
Netherlands	15	0[6]	0	0
New Zealand	15	15	10	10
Norway	15	0[6]	0	0
Pakistan	15	15	15	12
Philippines	15[41]	10[41]	10	15
Poland	15	0/5[42]	0/5[12]	5
Portugal	10	0[43]	0/10[12]	10
Romania	15	10	10	10

	Dividends		Interest[1]	Royalties
	Individuals, companies	Qualifying companies[2]		
	(%)	(%)	(%)	(%)
Russia	10	10	0	0
Serbia	15	5	10	10
Singapore	10	0/5[42]	10	10
Slovak Republic	15	15	0	5
Slovenia	15	5[44]	5	5
South Africa	15	5	0	0
Sri Lanka	15	15	0/10[12]	10
Sweden	15	0[6]	0	0
Switzerland	15	0[19]	0	0
Taiwan	10	10	10	10
Tanzania	15	15	12.5	20
Thailand	10[45]	10[45]	10/15[46]	5/15[47]
Trinidad and Tobago	20	10	15	15
Tunisia	15	15	12	15
Turkey	20	15	15	10
Uganda	15	10	10	10
Ukraine	15	5	10	0/10[48]
United Kingdom	15	0	0	0
United States	15	0/5[49]	0	0
Venezuela	15	5[30]	0/5[12]	10
Vietnam	15	5/10[50]	10	5/15[33]
Zambia	15	15	10	15

1. Many treaties provide for an exemption for certain types of interest, e.g. interest paid to the state, local authorities, the central bank, export credit institutions or in relation to sales on credit. Such exemptions are not considered in this column.
2. The reduced treaty rates given in this column normally apply if the non-resident company owns at least 25% of the capital (or the voting power, as the case may be) in the Danish company; no holding period is required. The higher rate applies to rights or debt-claims participating in profits.
3. A most favoured nation clause may be applicable with respect to dividends, interest and royalties.
4. The 3% rate applies to royalties paid for news items; the 5% rate applies to copyright royalties, except films, etc.; the 10% rate applies to industrial royalties and to technical service fees.
5. The treaty concluded between Denmark and the former USSR only applies to Belarus based on BKI no 35 of 04/12/2007. With respect to Armenia and the Kirgiz Republic the domestic rate applies because the application of the USSR treaty is not confirmed.
6. The rate applies if the non-resident company owns at least 10% of the capital in the Danish company (no holding period required).
7. The rate applies if the Azerbaijani company owns at least 20% of the capital in the Danish company and has invested at least EUR 1 million or its equivalent in any other currency into the capital of that company.
8. The 0% applies, inter alia, to interest arising in Denmark and paid to the State Oil Fund of Azerbaijan or interest arising in Azerbaijan and paid to the Investment Fund for Developing Countries of Denmark.
9. The lower applies to royalties for any patent, design or model, plan, secret formula or process, to industrial, commercial, and scientific equipment or for industrial, commercial, or scientific information.
10. The domestic rate applies to interest paid by public bodies (under the treaty such interest is taxable only in the source state and there is no reduction).
11. The 25% rate applies to trademarks.

12. The lower rate applies to interest paid by public bodies.
13. The lower rate applies to copyrights, except films, etc., as well as to computer software, patents and know-how.
14. The rate under the treaty is 15%. However, by virtue of a most favoured nation clause and by way of a Ministerial Order issued by the Danish Ministry of Finance (BKI nr 16 of 27 June 2005), the rate is reduced to 5% with respect to the following types of interest:
    - loans granted by banks and insurance companies;
    - bonds or securities that are regularly and substantially traded on a recognized securities market; and
    - sale on credit paid by the purchaser of machinery and equipment to a beneficial owner that is the seller of the machinery and equipment.

    Under the Chile-Spain treaty and Chile-United Kingdom treaty, the rate for such interest is 5%. Furthermore, it is also reduced to 5% for interest derived by a financial institution which is unrelated to and dealing wholly independently with the payer. Under the Australia-Chile treaty the rate for such interest is 5%.
15. The lower rate applies to equipment rentals.
    The general rate under the treaty is 15%. However, by virtue of a most favoured nation clause and by way of a Ministerial Order issued by the Danish Ministry of Finance (BKI nr 16 of 27 June 2005), the rate is reduced to 10%. Under the Chile-Spain treaty and Chile-United Kingdom treaty, the general rate is 10%.
16. This rate is calculated on 70% of the gross amount of royalties paid for the use of or the right to use industrial, commercial or scientific equipment, and on the full gross amount in other cases.
17. The 5% rate also applies to pension funds or other similar institutions (under conditions).
18. The zero rate applies if the beneficial owner is (i) a company that owns at least 10% of the capital of the Danish company for an uninterrupted period of no less than 1 year, (ii) the other contracting state, the central bank of that other state, or any other agency owned or controlled by the government of that other state; or (iii) a pension fund or other similar institution providing pension schemes (under conditions).
19. The zero rate applies if the beneficial owner is (i) a company (other than a partnership) which owns at least 10% of the capital in the Danish company, or (ii) a pension fund or other similar institution (under conditions).
20. A most favoured nation clause may be applicable with respect to royalties.
21. The rates under the treaty are 5% and 10%. However, by virtue of a most favoured nation clause the rates are reduced to 0% for royalties (as defined). Under the 2014 amending protocol of the Estonia-Switzerland treaty, the rate is 0%.
22. The zero rate applies if the participation is at least 50% with a minimum investment of more than EUR 2 million; the 5% rate applies if the participation is at least 10% with a minimum investment of more than EUR 100,000.
23. Under this treaty, the exemption applies to dividends qualifying for the EC Parent-Subsidiary Directive. The 5% rate applies if the non-resident company owns at least 10% of the capital in the Danish company (no holding period required).
24. The zero rate also applies to pension funds or other similar institutions (under conditions).
25. The domestic rate applies; there is no reduction under the treaty.
26. The zero rate applies if the recipient is (a) a company that owns directly at least 10% of the capital in the Danish company for an uninterrupted period of no less than 1 year; or (b) a pension fund or other similar institution providing pension schemes (under conditions).
27. The lower rate applies to interest on bank loans.
28. The zero rate applies if the beneficial owner is (i) a company that owns at least 10% of the capital in the Danish company for an uninterrupted period of no less than 1 year and the dividends are declared within that period, (ii) the other contracting state, the central bank of that other state, or any other agency owned or controlled by the government of that other state; or (iii) a pension fund or other similar institution providing pension schemes (under conditions).
29. The zero rate applies to interest paid to a pension fund resident in Israel and interest on corporate bonds traded on a Israeli stock exchange and issued by a company resident in Israel.
30. The rate applies if the non-resident company has owned at least 25% of the capital (or the voting power, as the case may be) in the Danish company for at least 1 year.
31. The lower rate applies to copyrights of literary, artistic or scientific work, except computer software and films, etc.
32. The rate applies if the Kenyan company has owned at least 25% of the voting power in the Danish company for at least 6 months.

33. The lower rate applies to industrial royalties and know-how.
34. The zero rate applies if the recipient is a company which holds directly at least 25% of the capital in the Danish company for an uninterrupted period of no less than 1 year and the dividends are declared within that period.
35. The 5% rate applies if the recipient is a pension fund or other similar institution providing pension schemes (under conditions).
36. The rates for royalties under the treaty are 5% for rental leases and 10% in all other cases. However, by virtue of a most favoured nation clause the rate is reduced to 0%. Under the Japan-Latvia treaty the rate is 0%.
37. The lower rate applies to rental leases.
38. A most favoured nation clause may be applicable with respect to royalties.
39. The 5% rate applies if the Macedonian company has owned at least 25% of the capital in the Danish company for at least 1 year. The zero rate applies if it is a qualifying pension fund or other similar institution.
40. The zero rate applies to interest paid by public bodies. The 5% rate applies to interbank interest.
41. A most favoured nation clause may be applicable with respect to dividends.
42. The zero rate applies if the recipient company has owned at least 25% of the capital in the Danish company for at least 1 year. The 5% rate applies if the recipient is a qualifying pension fund.
43. Under this treaty, the exemption applies to dividends qualifying for the EC Parent-Subsidiary Directive.
44. The rate applies if the recipient company (a) has owned at least 25% of the capital of the Danish company for at least 1 year or (b) is a qualifying pension fund.
45. A most favoured nation clause may be applicable with respect to dividends.
46. The lower rate applies to interest paid to financial institutions.
47. The lower rate applies to copyright royalties.
48. The lower rate applies to secret formulas or processes, and to know-how.
49. The 5% rate applies if the non-resident company owns at least 10% of the capital in the Danish company. The zero rate applies if the corporate shareholder owns 80% or more of the voting stock of the Danish company for the 12-month period ending on the date on which entitlement to the dividend is determined and qualifies under certain provisions of the limitation on benefits article of the treaty.
50. The 5% rate applies if the Vietnamese company owns at least 70% of the capital of the Danish company or has invested at least USD 12 million in such capital. The 10% rate applies if the holding is less than 70% but at least 25%.

7. Anti-Avoidance

7.1. *General*

Denmark has introduced two general anti-avoidance rules which apply to existing and new arrangements and transactions made on or after 1 May 2015.

The first general anti-avoidance rule regards benefits granted under the EU Parent-Subsidiary Directive (2011/96), the EU Interest and Royalties Directive (2003/49) and the EU Merger Directive (2009/133) (section 3(1) and (2) of the LL). The benefits under these directives are not available to an arrangement or a series of arrangements:

- whose main purpose or one of the main purposes is to obtain a tax advantage which is not in accordance with the object or purpose of the directives; and
- which are not regarded as genuine when all the relevant facts and circumstances are considered.

An arrangement or a series of arrangements are regarded as not genuine to the extent that they are not put into place for valid commercial reasons which reflect the economic reality.

The second general anti-avoidance rule regards treaty benefits provided under the tax treaties that Denmark has concluded. Accordingly, no treaty benefits are granted if it is reasonable to conclude, taking into consideration all the relevant facts and circumstances, that obtaining the benefit is one of the principal purposes of any arrangement

or transaction which directly or indirectly results in that benefit, unless it can be proven that the benefit in these circumstances would be in accordance with the objective and purpose of the relevant provision of the treaty (section 3(3) of the LL).

In case the taxpayer could claim benefits under both the above-mentioned directives and a tax treaty concluded between Denmark and another EU Member State, the first general anti-avoidance rule prevails.

Prior to the introduction of the general anti-avoidance rules, the courts, in a number of cases, applied the substance-over-form principle where no sound business reason for a transaction existed.

Furthermore, a substantial amount of anti-avoidance legislation exists, particularly concerning international aspects of the Danish tax system and concerning the interaction between Danish domestic law and the tax treaties concluded by Denmark (a further description of those rules is beyond the scope of this survey).

A special anti-avoidance rule precludes meeting the ownership requirement through a chain of companies in order to qualify for the participation exemption as subsidiary or group investment (section 4A and 4B of the ABL); *see* section 2.2. Accordingly, the corporate shareholders of the recipient company (interposed holding company "H Co") are considered to be direct owners of the distributing company if:

- the shares of H Co are unlisted;
- the primary objective of H Co is to own shares in subsidiaries or group companies;
- H Co is deemed to have no genuine economic activity; and
- more than 50% of the share capital of H Co is directly or indirectly owned by resident entities which would not individually meet the 10% ownership condition if H Co was disregarded.

With effect from 1 January 2013, an anti-avoidance rule applies that targets Danish conduit companies used to avoid foreign withholding taxes on dividends (section 2(1)(c) of the SEL). Accordingly, if a Danish company directly or indirectly receives tax-free dividends on subsidiary and group shares and redistributes these tax free, withholding tax is levied if the Danish company is not the beneficial owner of the received dividends (i.e. a look-through approach). This rule does not, however, apply if the distribution from the Danish company is tax exempt under the EU Parent-Subsidiary Directive (2011/96).

Furthermore, intra-group share transfers are, under certain conditions, reclassified as dividends for tax purposes. This occurs if part of the consideration for the transfer is in a form other than shares. This rule was introduced to ensure that taxable dividends are not artificially transformed into tax-exempt payments (e.g. debt payments).

7.2. Transfer pricing

Transactions between associated persons are subject to the arm's length principle (section 2 of the LL). This applies to transactions between all associated persons, whether resident or non-resident, and is thus not restricted to cross-border transactions. The arm's length principle applies to:

- a person controlled by another person;
- group-related companies;
- the relationship between a head office and a permanent establishment; and
- the relationship between employers and employees.

The main test of control is direct or indirect ownership of at least 50% of the share capital or direct or indirect control of at least 50% of the voting power (section 2(2) of the LL).

Denmark generally applies the transfer pricing methods as set out in the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations. Furthermore, with effect from 1 January 2016, new transfer pricing documentation obligations for multinational groups apply. Under these obligations, multinational companies with a consolidated group turnover of DKK 5.6. billion (EUR 750 million) must file an annual country-by-country report.

There is no separate regime for obtaining advance pricing agreements, but rulings may, in general, be requested (*see* section 1.8.4.).

Companies which, for a period of more than 4 years, have suffered an operating loss or which have carried out transactions with group related parties resident in non-EEA countries, with which Denmark has not concluded tax treaties, may be obliged to (upon request) submit to the tax authorities an accountant's statement regarding, inter alia, the company's transfer pricing documentation for the loss years.

From 1 January 2016, Denmark has introduced country-by-country (CbC) reporting rules. Under these rules, the transfer pricing documentation must consist of a master file containing basic information relevant for all group entities, a local file containing specific information on the Danish entities and a country-by-country report containing information on the global allocation of the group's income and taxes. The annual country-by-country report must in certain cases be submitted to the Danish tax authorities each year if the annual worldwide turnover of the group exceeds DKK 5.6 billion.

7.3. *Thin capitalization*

Thin capitalization rules apply to resident companies and to non-resident companies having a permanent establishment in Denmark (section 11 of the SEL). The thin capitalization rules apply to a Danish debtor when certain conditions are met, e.g. where a controlled debt, i.e. debt owed by the Danish debtor to a Danish or foreign legal entity, whereby the debtor controls the creditor (or vice versa) or the two are group related, exceeds DKK 10 million. The main test of control is direct or indirect ownership of more than 50% of the share capital or direct or indirect control of more than 50% of the voting power. The thin capitalization rules apply if a company's debt-to-equity ratio exceeds 4:1 at the end of a tax year.

Interest expenses relating to debt to controlling persons in excess of the 4:1 ratio are not deductible. Capital losses on such debt are also not deductible. Such losses may, however, be carried forward to be set off against future capital gains in respect of the same debt relationship.

If the debt-to-equity ratio of 4:1 is exceeded, a company may avoid the limitation on the deductibility of its interest expenses to the extent it substantiates that a similar loan relationship could exist between unrelated persons.

Non-deductible interest expenses are not recharacterized as distributions of profits either for purposes of domestic law or tax treaty purposes.

A Danish lender is not taxable on interest received by a Danish related borrower if the interest is not deductible for the borrower. This does not apply to loans granted by a third party and guaranteed by a related company (back-to-back loans).

Two additional limitations apply regardless of whether the debt is to controlling persons. First, the deductibility of net financing expenses is limited to a cap computed by applying a standard rate of 2.9% (for 2018) on the tax value of the company's business assets at the end of each tax year. However, expenses of less than DKK 21.3 million (for 2018) are always deductible under this rule. The second limitation is based on annual profits: the net financing expenses may not exceed 80% of the annual taxable profits.

7.4. *Controlled foreign company*

A resident parent company is liable to tax on the net financial income of a non-resident subsidiary or a foreign permanent establishment if (section 32 of the SEL):

- the subsidiary is controlled by the parent company; and
- the business of the subsidiary or the permanent establishment is mainly of a financial nature.

A non-resident subsidiary is controlled if a resident company holds more than 50% of the voting power. For the purposes of determining the degree of control, the following persons are taken into account:

- group-related companies, i.e. companies in which the same group of shareholders holds directly or indirectly more than 50% of the capital or voting rights of each company;
- individual shareholders of the resident parent company and certain close relatives of such shareholders;
- non-related shareholders with whom the Danish resident company has made an agreement for the purpose of exercising a common controlling influence over the non-resident subsidiary; and
- trusts or foundations set up by the parent company or any of these persons.

The business of a company is considered "mainly of a financial nature" if (i) more than 50% of its total taxable income consists of net interest income, dividends, commissions, net capital gains on shares, payments and capital gains with respect to intellectual property rights, income from leasing or insurance activities, etc., and (ii) more than 10% of its assets are of a financial nature. The assessment of the subsidiary's financial assets is made according to the territoriality principle (i.e. income from foreign permanent establishments and foreign real property of the foreign company is not included in the relevant income from the foreign company, *see also* section 1.1.).

Foreign taxes are calculated on the basis of the foreign company's total taxable income. Only income and withholding taxes are taken into account in determining the level of taxation of the non-resident subsidiary.

If the above-mentioned conditions are met, the resident parent company is taxed on a share of the net income of the subsidiary equal to its greatest participation during the tax year. Only net financial income is taxed, but interest expenses, losses on shares and certain other deductible expenses may not be deducted in calculating income for the purposes of CFC taxation. Provisions exist to prevent double taxation upon distribution of dividends and upon realization of any capital gains on the shares.

CFC taxation also applies to individuals and foundations.

8. Value Added Tax

8.1. *General*

Denmark applies a VAT system under which tax is levied at all levels of the supply of goods and services (section 1 of the ML).

8.2. *Taxable persons*

Individuals and companies are taxable if they carry on a business (section 3(1) of the ML). The general registration threshold is DKK 50,000 (section 48(1) of the ML). From 2014, there are special rules (e.g. extended deadline for submitting a VAT return and remitting VAT) for small businesses (i.e. businesses with an annual turnover not exceeding DKK 5 million).

8.3. *Taxable events*

Taxable transactions include, inter alia (chapter 3 of the ML):

- transactions for the supply in Denmark of goods and services for consideration;
- acquisitions of goods and/or services from other EU Member States if the seller is registered for VAT and the buyer is a taxable person; and
- importation from places outside the European Union.

8.4. *Taxable amount*

For the supply in Denmark of goods and services and the acquisition of goods from other EU Member States the taxable amount is the consideration for supplies, excluding VAT (sections 27 and 31 of the ML). The taxable amount includes customs and excise duties levied on earlier levels of the supply or on importation, cost of packing, transportation, insurance, etc., commission paid to an agent and financial costs.

8.5. *Rates*

The standard rate is 25% (section 33 of the ML). It applies to all supplies of goods or services which are not exempted or zero rated.

8.6. *Exemptions*

Important exemptions include administration and leasing of real estate, the transfer of real estate, insurance and reinsurance, including the services of agents, a number of financial services and passenger transport and activities performed by charitable organizations (section 13 of the ML).

A taxable person leasing immovable property may, however, opt for taxation of this supply.

8.7. *Non-residents*

Non-residents are taxable in the same manner as residents if they carry out any of the taxable transactions described in section 8.3.

Non-resident taxable persons without a place of business in Denmark are entitled to a refund of the tax paid in Denmark on goods and services in so far as the supplies have been used for the person's taxable activities. In order to receive a refund, non-residents must register for VAT purposes even if their turnover does not exceed the general VAT registration threshold (*see* section 8.2.).

9. Miscellaneous Taxes

9.1. *Capital duty*

There is no capital duty on the formation and expansion of capital of companies.

9.2. *Transfer tax*

9.2.1. Immovable property

There is no transfer tax on the transfer of immovable property, but a levy on the registration applies (DKK 1,660 plus 0.6% of the transfer amount). A levy also applies on mortgage agreements concerning immovable property, transfers of vessels and aircraft (and mortgages thereon).

9.2.2. Shares, bonds and other securities

There is no transfer tax on the transfer of shares, bonds and other securities.

9.3. *Stamp duty*

The stamp duty on indemnity insurance policies has been replaced by an annual duty of 1.1% of the insurance premium if, inter alia, the policy is drawn up in Denmark.

9.4. *Customs duty*

In the European Union, customs law is harmonized and applies only to movements of goods between the European Union and third countries. Customs duties, as possibly other taxes (for example VAT (*see* section 8.3.)), are imposed on the import of goods into the EU Customs Union.

The EU Customs Union consists of the EU Member States, as well as Monaco, the Channel Islands, the Isle of Man and the areas of Akrotiri and Dhekelia (Cyprus). Turkey, San Marino and Andorra have separate customs agreements with the EU.

The basis for calculating the customs duty is the customs value, which is generally the sum of the price paid for the goods and any related insurance and shipping costs. A percentage (tariff), which depends on the type and origin of the good being imported, is then applied to the customs value to determine the customs duty payable. The applicable tariff is found in the Common Customs Tariff (Council Regulation (EEC) No. 2658/87 of 23 July 1987).

EU customs legislation comprises the Union Customs Code (Regulation (EU) No. 952/2013), the Common Customs Tariff, the Customs Duty Relief Regulation and various international agreements. The Union Customs Code, supplemented by the Delegated Act and Implementing Act, replaced the Community Customs Code (Regulation (EEC) No. 2913/92) as from 1 May 2016.

One of the main differences between the Union Customs Code and the Community Customs Code relates to the mandatory use of the “last sale” amount for valuation purposes (i.e. the sale price immediately before the goods are brought into the territory of the European Union). Previously, a “first sale for export” valuation basis was possible, under which duties were imposed on the manufacturer-to-middleman transaction price (which is generally lower than any subsequent sales).

9.5. *Excise duty*

Denmark levies excise duties on, inter alia, alcoholic beverages, cars, chocolate and sugar, gasoline, certain insurance policies and tobacco.

DENMARK

This chapter is based on information available up to 1 February 2018.

Abbreviations

Abbreviation	*English definition*	*Danish definition*
ABL	Law on Taxation of Capital Gains on Shares	Aktieavancebeskatningsloven
AL	Law on Depreciation	Afskrivningsloven
AMBL	Law on Labour Market Contribution	Arbejdsmarkedsbidragsloven
BAL	Estate and Gift Tax Law	Boafgiftsloven
EBL	Law on Taxation of Gains on Immovable Property	Ejendomsavancebeskatningsloven
EVSL	Law on Taxation of Owner-Occupied Homes	Ejendomsværdiskatteloven
KGL	Law on the Tax Treatment of Gains and Losses on Debt Claims, Debts and Financial Instruments	Kursgevinstloven
KML	Municipal Tax Law	Kommuneskattelov
KSL	Tax at Source Law	Kildeskatteloven
LL	Assessment Law	Ligningsloven
PABL	Law on Taxation of Pension Returns	Pensionsafkastbeskatningsloven
PBL	Law on Taxation of Pensions	Pensionsbeskatningsloven
PSL	Individual Income Tax Law	Personskatteloven
SKL	Law on the Reporting of Information to the Tax Authorities	Skattekontrolloven
SL	National Income Tax Law	Statsskatteloven

Introduction

Individuals who are resident in Denmark for tax purposes (*see* section 1.1.) are subject to a national income tax, a national surtax (health contribution) thereon and a municipal income tax. The national income tax is described in section 1., while the national surtax and the municipal income tax are dealt with in section 2. Inheritance and gift taxes apply. Social security contributions are also levied. For VAT and miscellaneous indirect taxes, *see* Corporate Taxation section 8. and 9., respectively.

For tax purposes, Greenland and the Faroe Islands are regarded as separate jurisdictions. This means that Danish tax legislation does not apply in these autonomous areas. Tax treaties are in force between Denmark and these two jurisdictions.

The applicable currency is the Danish krone (DKK).

1. Individual Income Tax

Income taxes are levied on a resident taxpayer's annual worldwide income, including capital gains (section 4 of the SL). A national income tax is levied on personal (employment and business) income, and income from capital, at progressive rates (*see* section 1.9.1.). A special regime exists for expatriates (*see* section 6.2.1.).

In addition, a municipal income tax and (possibly) a church tax are levied (*see* section 2.2.).

1.1. *Taxable persons*

Taxable individuals are those who are residents in Denmark (section 1 of the KSL). This is the case if:

(1) the individual has an abode in Denmark. The test of abode is one of facts and circumstances, with available accommodation being a very important criterion, though not sufficient;

(2) the individual is present in Denmark for a period of 6 months, including short stays abroad (tax liability then commences from the first day of presence). However, a tourist or a student not engaged in business in Denmark, and who continues to be resident in his own country under the law of that country, only becomes a resident if his stay in Denmark exceeds 365 days within a 2-year period; or

(3) the individual exercises employment on board a Danish-registered ship and is a Danish national who fails to substantiate having an abode abroad, or is a foreign national who prior to employment on the ship was resident in Denmark under (1) or (2).

Married persons are taxed separately, but certain modifications apply (*see* section 1.10.2.). A child is also taxed separately.

A partnership is treated as a transparent entity for tax purposes. With effect from 1 July 2017, participation in a partnership is, however, not per definition treated as income from independent businesses (section 4 of the LL). The determination must be done based on the facts specific to each individual partner's part of the business. The criteria for determining if an individual is considered an employee or carrying out independent business are relevant for the evaluation.

1.2. *Taxable income*

1.2.1. General

Resident taxpayers are taxable on all income, whether received in money or money's worth (section 4 of the SL). All items of income are taxable, unless statutorily exempt. There is no separate capital gains taxation, but income and capital gains are combined and taxed together, subject, however, to the categorization rules explained below.

Income and capital gains of an individual taxpayer are divided into four categories: (1) personal income, (2) capital income, (3) income from shares and (4) CFC income (sections 3, 4, 4a and 4b of the PSL). The aggregate of *personal income* and net positive *capital income* less *general deductions* constitutes *taxable income*. The categories are relevant for the various tax rates and for the deductibility of expenses. Categories (1) to (3) are described in detail below. For a description of the CFC regime, *see* Corporate Taxation section 7.4.

In addition, a national property tax is levied on the value of owner-occupied dwellings (*see* section 4.2.2.).

1.2.1.1. Personal income

Personal income is deemed to include all items of income that do not fall into categories (2), (3) or (4) (section 4a of the PSL). In practice, personal income consists of employment income, business income, pension income and gifts (unless the income is subject to gift tax; *see* section 5.1.2.).

1.2.1.2. Capital income

Capital income comprises net interest, gains and losses on bonds and other debt claims and gains on the disposal of immovable property (section 4 of the PSL). Furthermore, dividends from a qualifying investment company resident in a low-tax country are included. Capital income up to DKK 2,000 is exempt. In 2018, capital income up to DKK 43,800 (double for married couples) is not subject to the higher tax rate (i.e. it is disregarded when calculating income subject to the higher rate). For applicable tax rates, *see* section 1.9.1.

1.2.1.3. Income from shares

Income from shares consists of capital gains on shares, dividends from resident companies and dividends from non-resident companies other than dividends from qualifying investment companies (section 4a of the PSL) (*see* section 6.1.1.).

Gross liquidation proceeds paid prior to the calendar year in which the final liquidation of a company takes place and gross proceeds from the transfer of shares to the issuing company are taxed as dividends (i.e. no deduction for acquisition cost), unless the Minister of Taxation approves such gross proceeds being treated as a normal share transfer (i.e. capital gains taxation with a deduction for acquisition cost).

1.2.2. Exempt income

No important items of income are exempt.

1.3. *Employment income*

1.3.1. Salary

Employment income is subject to income tax as personal income (section 3 of the PSL). Work-related commuting costs, unemployment insurance premiums and membership fees to labour unions are deductible as general expenses in computing taxable income. In 2018, other work-related costs are only deductible to the extent the total exceeds DKK 6,100 a year (*see* e.g. sections 9 A and 16 of the LL). An employment deduction applies to all employment income (*see* section 1.7.1.).

If an employee is seconded by his employer, the employee is not taxable in respect of moving costs paid by the employer if the employer pays these costs directly to third parties.

1.3.2. Benefits in kind

The fair market value of benefits in kind is taxable as personal income (section 16 of the LL). The taxable value of the private use of a company car is fixed at 25% of the value of the car, computed on a minimum value of DKK 160,000 and a maximum value of DKK 300,000, and 20% computed on the value exceeding DKK 300,000. The benefit of parking space near a workplace paid for by the employer, is exempt. Valuation rules deal with the use of accommodation, summer dwellings and yachts.

The taxable value of employee benefits, which are taxable as personal income, such as a free phone is DKK 2,800 per year.

Spouses living in the same household and both receiving a free phone are each entitled to a 25% reduction of the taxable value, provided that the total taxable value is at least DKK 3,700 (in 2018). In these cases, the taxable value is DKK 2,081.25 for each spouse (i.e. 75% of DKK 2,775).

Internet connection and the private use of a computer made available in an employee's home for work purposes is not a taxable benefit.

Stock options received from the employer are not taxed until the employee sells the shares if certain conditions (listed in section 7P of the LL) are met. If these conditions are met, the employee will be taxed under the provisions of the ABL. If the requirements of section 7P of the LL are not met, the stock options or shares received by the employee are taxed as a fringe benefit.

The annual deductible amount of travel expenses is capped at DKK 27,400 (in 2018).

1.3.3. Pension income

The tax treatment of private pension schemes (insurance and saving schemes) is laid down in the Pension Taxation Law.

Premiums paid to capital pension schemes (i.e. pension schemes which pay out a lump-sum pension) are not deductible for tax purposes (section 18 of the PBL). Lump-sum payments received under annuity pension schemes whereby the premiums were still deductible are subject to a final tax of 40%.

Under the pension savings scheme (*aldersopsparing*), an individual may contribute up to DKK 5,100 per year if there is more than 5 years until the pension age, and up to DKK 46,000 if there is 5 or less years to the pension age (for 2018) (section 16 of the PBL). These premiums are not deductible for tax purposes, and the yield of the plan is taxed at a rate of 15.3% (section 2 of the PABL). Specific rules on how to transfer the existing capital pension schemes into the new pension saving schemes apply.

Contributions made by employers under employee capital pension schemes are exempt from tax for an employee up to an amount of DKK 50,400 per year (for 2018).

The deductibility of pension premiums is normally restricted to premiums paid under pension schemes with approved resident corporate entities or with Danish permanent establishments of non-resident corporate entities (sections 12 and 15C of the PBL). Premiums paid to foreign pension funds are also deductible, provided that the pension fund is established within the European Economic Area (EEA) and fulfils the conditions laid down in Danish law. The tax deductibility of contributions made to private pension schemes (*ratepensioner*), which pay out the benefit over at least 10 years, is capped at DKK 54,700. This limitation only applies to private pension schemes where the disbursement from the pension scheme is dependent on the recipient being alive.

Pensions that exceed DKK 397,000 (for 2018) are subject to an additional tax (*see* section 1.9.1.).

1.3.4. Directors' remuneration

No special rules apply. Directors' remuneration is subject to income tax as personal income.

1.4. *Business and professional income*

An individual is liable to tax on all income derived from a trade, profession or other type of business. Business and professional income is taxed as personal income (section 4 of the SL). Expenses incurred in acquiring, securing and maintaining taxable income are in general deductible. For details on deductions, *see* Corporate Taxation sections 1.3.3. to 1.3.5.

A special regime exists for the taxation of business and professional income. This regime allows profits to be "retained" in the business. These profits are subject to provisional taxation at a rate of 22% (23.5% in 2015) instead of normal individual income taxation, thus partly postponing tax liability. Profits not retained in the business are fully taxed. The regime also avoids the reduction in the tax value of the interest expense deduction under the normal rules (*see* section 1.9.1.).

1.5. *Investment income*

Domestic dividends are taxable as income from shares, but reduced rates apply (sections 4a and 8b of the PSL and section 16A of the LL); *see* section 1.9.1. Interest, royalties and income from immovable property are also taxable (section 4 of the PSL). Expenses incurred in acquiring investment income are normally deductible.

1.6. *Capital gains*

For income tax purposes, a distinction is made between income and capital gains, the latter, as a starting point, being exempt from tax. However, the tax treatment of capital gains is specifically regulated as described below, so that, in most cases of practical importance, gains are taxable.

If an individual's activity of buying and selling a certain type of asset, for example immovable property, shares, intangibles or bonds and other debt claims, constitutes a trade or business, the profits and losses arising from such transactions are taxable or deductible, normally as personal income (i.e. the specific rules set out below in sections 1.6.1. to 1.6.3. do not apply).

1.6.1. Immovable property

Gains on the disposal of owner-occupied dwellings are normally exempt and losses may not be deducted (sections 6(4) and (8) of the EBL).

Capital gains and losses on other immovable property are subject to the rules discussed in Corporate Taxation section 1.4.1. For individuals, such gains are taxable as capital income. The deduction of net losses is restricted (*see* section 1.8.). That part of a gain that represents past depreciation is not taxed as capital income but as personal income. Only 90% of such recaptured depreciation is taxable.

1.6.2. Shares

In general, capital gains on quoted and unquoted shares are taxed as income from shares at the rates of 27% or 42% (sections 1 and 7 of the ABL and sections 8a(1) and (2) of the PSL); *see* section 1.9.1.

If paid in the calendar year of final liquidation, the proceeds of liquidation are taxed as income from shares (with a deduction for the acquisition cost). If paid prior to the year of final liquidation, the gross proceeds are taxed as dividends (with no deduction for the acquisition cost). A transfer of shares to the issuing company is also treated as a dividend, unless permission for taxation as a share transfer is obtained.

Liquidation proceeds paid to an individual are qualified as dividends (and taxed as such) if the individual controls (i.e. together with closely related persons owns more than 50% of the shares or has more than 50% of the voting power) the company being liquidated.

1.6.3. Other

1.6.3.1. Intangibles

Capital gains on the disposal of goodwill, know-how, patents, copyrights, designs or models, trademarks and similar rights are taxed as personal income (sections 40(6) of the AL). The same applies to rights under usufruct contracts and lease contracts. Losses are deductible from personal income.

1.6.3.2. Bonds and other debt claims

Gains and losses on claims (excluding debt claims) are taxable regardless of the currency and the carried interest rate of the claim (sections 1, 3 and 6 of the KGL). Only net gains or losses exceeding DKK 2,000 are regarded as taxable income.

All taxable gains and deductible losses are included in capital income.

1.7. *Personal deductions, allowances and credits*

1.7.1. Deductions

Deductions are either included in computing the net income of the various categories (*see* section 1.2.1.) or categorized as *general deductions* in computing taxable income. Since income of the various categories is taxed at different rates, the categorization of a deduction determines its "tax value". A number of deductions are described in sections 1.3.1. to 1.6.

A special employment deduction of 9.5% (8.75% in 2017) applies for employees and self-employed individuals (section 9J(2) of the LL). The deduction is limited to DKK 33,300 and is calculated on the same base as the social security contributions (*see* section 3.). This deduction is increased by DKK 21,200 (for 2018) for single parents.

All interest payments are deductible from capital income (section 6(e) of the SL). The tax value of an interest deduction which exceeds DKK 50,000 for singles (DKK 100,000 for married couples) is gradually being reduced by 1% per year over the period 2012 until 2019 (section 11 of the PSL). For 2018, the tax value is 26.5%. The rate applies if the net capital income is negative.

Life insurance premiums are deductible if the insurance policy qualifies under the Law on Taxation of Pensions. For pension premiums, *see* section 1.3.3. Neither medical expenses nor educational expenses are deductible.

Donations for the benefit of the public are deductible as general deductions if made to an approved organization (section 8A of the LL). Only annual donations in excess of DKK 500 are deductible, with a maximum deduction of DKK 15,900 (for 2018).

1.7.2. Allowances

For the computation of a tax credit based on the personal allowance, *see* section 1.7.3. There are no allowances for children and other dependants.

1.7.3. Credits

Each taxable person is entitled to a personal allowance which is computed as a personal tax credit to be set off against his tax liability (section 6(2) of the PSL). For national income tax purposes, the credit for 2018 is 11.15% of the personal allowance (10.08% in 2017). The credit is set off against the national income tax liability, except for the 27% tax credit on dividends. For 2018, the allowance is DKK 46,000 and, consequently, the credit is DKK 5,129. In practice, the allowance is normally deducted from income rather than computed as a credit.

1.8. *Losses*

Because of the categorization of income (*see* section 1.2.1.), complicated rules regulate situations where either taxable income, personal income, or capital income is negative. Losses may be carried forward indefinitely (section 13 of the PSL). No carry-back is permitted. Losses may also be transferred to a spouse. The carry-forward and transfer of losses to a spouse also applies for the local income taxes (*see* section 2.).

Capital losses on immovable property may only be set off against gains on assets of a similar type (section 6 of the EBL). Such net losses may be carried forward indefinitely, to be set off against gains on assets of a similar type. They may also be transferred to a spouse. Other capital losses are treated as ordinary losses.

Losses on quoted shares may be offset against gains realized on other quoted shares (section 13A of the ABL). Losses on unquoted shares may be offset against positive income from other shares. Any excess losses may be carried forward indefinitely. Capital losses from the sale of most shares are deductible only if the purchase of shares was reported to the tax authorities.

1.9. *Rates*

1.9.1. Income and capital gains

The national income tax liability is the aggregate of taxes levied on six different tax bases, which are based on the categorization (*see* section 1.2.1.). The rates for 2018 are as follows (sections 6-8 of the PSL, *see* changes at www.skm.dk):

Taxable base (DKK)		*Rate (%)*
(1)	personal income plus positive net income (but not losses) from capital	11.15[1]
(2)	personal income and positive net income from capital with certain pension contributions[2] exceeding DKK 498,900	15
(3)	income from shares not exceeding DKK 52,900[3]	27
(4)	income from shares exceeding DKK 52,900[2]	42
(5)	CFC income (*see* Corporate Taxation section 7.4.)	22
(6)	pension income exceeding DKK 397,000	2

1. The bottom tax rate will be increased to 12.18% for 2019, to 12.19% for 2020 and 2021 and to 12.20% for 2022 and subsequent tax years.
2. Within limits (*see* section 1.3.3.), contributions to lump-sum pension plans are, if made by an employee, deductible in computing personal income or, if made by an employer, exempt from tax on the employee. The add-back means that these contributions are not deductible at the 15% rate or are taxable at 15% rather than being exempt.
3. If a married person's income does not exceed this threshold amount, the difference between the threshold amount and the income increases the threshold amount of the spouse.

The effects of computing the national income tax in this way are, inter alia, that (i) income taxation of personal income (e.g. employment income) is progressive and (ii) the tax value of the net interest expense deduction (e.g. mortgage interest) is reduced to the rate of the municipal income tax (*see* section 2.2.).

If the aggregate rate of the national income tax, the municipal income tax (*see* section 2.2.) and the health contribution (*see* section 2.1.) exceeds 52.02% in 2018, the 15% national tax rate is reduced by the excess percentage. The rates applicable to income from shares, social security contributions (*see* section 3.) and church tax (*see* section 2.3.) are not taken into account in computing the aggregate tax rate. The maximum

burden of national income tax, municipal income tax and health contributions is increased to 52.05% for 2019, 52.06% for 2020 and 2021, and 52.07% for 2022 and subsequent tax years (section 19 of the PSL).

In tax year 2018, pension income exceeding DKK 397,000 is subject to an additional tax of 2% (3% in 2017). Up to DKK 132,400 (of the DKK 397,000) may be transferred to the other spouse. The tax is scheduled to be in force until 2020, but the tax rate will decrease by 1% annually from 2015 (section 7a of the PSL).

1.9.2. Withholding taxes

Declared dividends and the gross proceeds from the transfer of shares to the issuing company paid to resident individuals are subject to a withholding tax of 27% (section 65 of the KSL). The tax is a prepayment of the tax on income from shares, but if (positive) income from shares does not exceed DKK 52,900 in 2018 (DKK 51,700 in 2017) (double for married couples), the withholding tax is final.

Employment income, pension income and certain benefits in kind are subject to withholding tax which is a prepayment of tax (sections 43 and 46(1) of the KSL). The rate of withholding tax is set separately for each taxpayer in a tax card (*see* section 1.10.2.). If a taxpayer does not provide a tax card to e.g. his employer, a withholding tax rate of 55% applies.

There is no withholding tax on interest and royalties paid to resident individuals.

1.10. *Administration*

1.10.1. Taxable period

The taxable period is the tax year (section 1 of the SKL). For individuals, the tax year normally corresponds to the calendar year. In Denmark the taxable period is referred to as the income year.

1.10.2. Tax returns and assessment

Income tax returns for employment income must normally be filed by 1 May in the year following the tax year (section 4(1) of the SKL). In practice, the taxpayer receives a draft income tax return containing the information concerning his taxable income that is known to the tax authorities. The taxpayer may make his corrections on this draft return, which must then be submitted by 1 May. An election may be made not to use this system. If so, the income tax return must be self-assessed and filed by 1 July. The deadline for income tax returns for business income is also 1 July.

Every year the tax administration imposes a pre-assessment for the next tax year and the taxpayer receives a "tax card" with an estimate of his tax liability, including a withholding tax rate to be used by e.g. his employer. If a taxpayer considers his estimated tax liability in the pre-assessment to be incorrect as a result of e.g. a change in his earnings, he may ask for a new assessment.

The collection and assessment procedure is the same for all income taxes, i.e. the taxpayer receives for each tax year only one assessment that covers all income taxes, whether national or local.

The tax authorities must impose the final assessment by 30 June in the second calendar year after the end of a tax year.

Spouses are taxed separately, but certain modifications apply if they derive different amounts of income. Thus, to the extent that a married person is not able to make full use of the personal tax credit, the balance is transferred to the spouse. Also, if a married person's income does not exceed the threshold amount for the 15% national income tax or the threshold amount for income from shares (*see* section 1.9.1.), any unused balance is added to the threshold amount of the spouse. Losses may also be transferred between spouses. The application of rules on the transfer of losses, personal allowances and income thresholds requires marital cohabitation at the end of the tax year.

1.10.3. Payment of tax

Taxes are collected during the tax year either by withholding tax at source where possible (*see* section 1.9.2.), e.g. from employment income and pension income, or by prepayments of tax, e.g. with respect to business income. Withheld or prepaid taxes are credited against the final tax liability.

If the taxpayer's final tax liability exceeds the aggregate of the amounts already withheld or paid, the balance is normally payable in three monthly instalments in August, September and October (section 61(4) of the KSL). Small balances (up to DKK 20,100 for 2018) are not payable, but are transferred to the following year's assessment. If the taxpayer's final tax liability is lower than the aggregate of the amounts already withheld or paid, the balance is normally refunded.

1.10.4. Rulings

Advance rulings may be requested by both resident and non-resident individuals on most aspects of the assessment to individual income tax. Generally, a ruling may only be obtained on the tax consequences of a future transaction and is only issued if it is of substantial importance. The contemplated transaction may, however, be carried out either before or after the submission of the request.

The ruling is binding on the tax authorities for a period of 5 years from the issuance of the ruling. However, the tax authorities may shorten this period if specific circumstances make it necessary and/or desirable.

2. Other Taxes on Income

2.1. *Health contribution*

A 1% (2% in 2017) national surtax called "health contribution" is levied (section 8 of the PSL) until the end of 2018. The health contribution is calculated on the *taxable income* in the same manner as the municipal income tax (*see* section 2.2.).

2.2. *Municipal income tax*

The municipal income tax is levied only on *taxable income*, i.e. the total of *personal income* and *capital income*, less *general deductions* (section 2 of the KML). For details on the categorization, *see* section 1.2.1.

The rules regarding carry-forward of losses, double taxation relief and administration are the same as the general rules for the national income tax. For the purposes of municipal income tax, the personal allowance is also DKK 46,000 in 2018, and the corresponding tax credit is the personal allowance multiplied by the appropriate municipal income tax rate. Any unused tax credit may be transferred to a spouse.

In 2018, the municipal income tax rates vary, depending on the municipality, between 22.5% and 27.8% (23.8% in Copenhagen). The average rate is 24.91%; together with the 1% health contribution (*see* section 2.1.), the average total rate is 25.9%. Non-residents pay a 24% municipality tax.

2.3. *Church tax*

The church tax applies only to the members of the Danish State Church. The tax is imposed together with the national and municipal income taxes, and the rules are identical to those of the municipal income tax (*see* section 2.2.). The church tax is levied on *taxable income* at a flat rate, varying from municipality to municipality, between 0.39% and 1.30% (0.8% in Copenhagen). The average rate is 0.68%. Non-residents pay no church tax.

3. Social Security Contributions

Social security contributions are payable by employees and self-employed persons at a rate of 8% (section 1 of the AMBL). Resident individuals are liable to social security contributions on income from employment exercised in Denmark, while contributions are levied on income from employment abroad only if the employer is Danish (a foreign branch of a resident company is not considered a Danish employer, for example). The taxable base is the gross salary (for the self-employed, normally net business income), including the taxable value of a company car and pension contributions made by the employer. For employees the contribution is withheld by the employer. The amount of the contribution is deductible in computing personal income.

For the purposes of Danish social security conventions and in relation to EU Regulation 1408/71 on the application of social security schemes to employed persons and their families moving within the Community, the social security contribution is considered a tax, not a social security contribution. Consequently, inward expatriates covered by social security in their home country are subject to the 8% social security contribution. The same applies to non-resident board members of Danish companies.

Employees are also liable to pay a supplementary pension contribution (ATP). The contribution, for an employee working full-time and receiving remuneration on a monthly basis, is DKK 95 per month. The contribution is withheld by the employer and is deductible for individual income tax.

Employers are not required to pay social security contributions for their employees.

4. Taxes on Capital

4.1. *Net wealth tax*

There is no net wealth tax.

4.2. *Real estate tax*

4.2.1. Municipal real estate tax

See Corporate Taxation section 5.2.

For individuals, real estate taxes are only deductible to the extent that the property is used for business purposes.

4.2.2. National property tax

A national property tax is levied on the value of owner-occupied dwellings (section 2 of the EVSL). Residents are taxable in respect of worldwide immovable property, while non-residents are taxable in respect of Danish-situs immovable property. Taxable immovable property includes detached houses, semi-detached houses, apartments, summer cottages, etc.

The taxable value of property situated in Denmark or abroad is the lowest of (i) the assessed value as at 1 October of the current tax year, (ii) 105% of the assessed value as at 1 January 2001 and (iii) the assessed value as at 1 January 2002.

The standard rate is 1% of the taxable value up to DKK 3,040,000 and 3% on any excess (section 16(9) of the LL). If the owner acquired the property on or before 1 July 1998, the rates are generally reduced to 0.8% and 2.8%, respectively, and, for most types of property, further reduced to 0.6% and 2.6%, with a maximum reduction in tax of DKK 1,200 for the latter reduction. The reductions cease to apply upon a subsequent transfer of the property, except for transfers between spouses. Relief is granted to resident elderly owners.

The tax is not deductible for income tax purposes. Unilateral double taxation relief in respect of foreign-situs property is available. The tax is considered a tax on capital for tax treaty purposes.

5. Inheritance and Gift Taxes

5.1. *Taxable persons*

5.1.1. Inheritance tax

Inheritance tax comprises an estate duty imposed on the net value of the estate of a deceased person, coupled with an additional tax on property passing to persons other than certain close relatives (sections 1 and 4 of the BAL). A transfer to a surviving spouse is exempt from both estate duty and inheritance tax, however.

The close relatives who are not subject to the inheritance tax (but to the estate duty only) comprise:

- children/stepchildren and their descendants;
- spouses of children/stepchildren; and
- parents.

All other beneficiaries are subject to the additional inheritance tax. These rules also apply to non-resident beneficiaries.

If an executor administers the estate, he is liable to pay the tax. If the beneficiaries take care of the administrative procedure, they are jointly and severally liable for the tax.

5.1.2. Gift tax

Gift tax is levied on gifts to children/stepchildren and their descendants, parents, stepparents, grandparents and the spouse of a child/stepchild (section 22 of the BAL). Gifts to a spouse are exempt. It should be noted that gifts to other persons are subject to income tax as personal income (*see* section 1.2.1.1.). Gift tax is payable by the donee, but the donor is jointly liable for the tax.

5.2. *Taxable base*

5.2.1. Inheritance tax

If the deceased was domiciled in Denmark at the time of his death, the fair market value of his worldwide net estate is subject to tax in Denmark (section 9 of the BAL).

Domicile is defined by the Court Procedures Act, under which an individual is domiciled when his connection with Denmark, because of accommodation available in Denmark or presence in Denmark, is as strong as, or is stronger than, his connection to any other jurisdiction. Nationality is of no importance for this test. In general, the concept of domicile is similar to the concept of residence for income tax purposes (*see* section 1.1.).

If the deceased was not domiciled in Denmark at the time of his death, only Danish-situs immovable property, fixtures pertaining to such property and assets of permanent establishments in Denmark are subject to tax. However, tax liability may in some cases be partly or fully imposed on the estate of a non-domiciled Danish national or a person with special connections to Denmark if his estate is not subject to any procedure of administration and distribution in a foreign jurisdiction.

In computing the taxable value of an estate, liabilities may be deducted. If the estate is subject to full Danish tax liability, all liabilities are allowed as deductions. If only part of an estate is subject to Danish tax liability, deductions are limited to those attributable to the taxable part of the estate.

5.2.2. Gift tax

Gift tax is due if, at the time of the receipt of the gift, *either* the donor *or* the donee was domiciled in Denmark, as described in section 5.2.1. (section 25 of the BAL). If *neither* was domiciled in Denmark, gift tax is nevertheless due if the gift consists of immovable property located in Denmark, fixtures pertaining to such immovable property or assets attributable to a permanent establishment in Denmark. Gift tax is levied on the fair market value of the gift.

5.3. *Personal allowances*

5.3.1. Inheritance tax

A basic allowance of DKK 289,000 (DKK 282,600 in 2017) is deducted before the levy of the 15% tax (section 6(1) of the BAL).

Transfers at death to a surviving spouse are exempt from both the estate duty and the additional inheritance tax. Such transfers are deducted from the taxable estate before the basic allowance is deducted.

5.3.2. Gift tax

Gift tax is computed on a yearly basis (section 26 of the BAL). Tax is only levied on the value of the gift in excess of a threshold amount. The rates and threshold amounts depend on the proximity of the donor to the donee (*see* section 5.4.2.).

5.4. *Rates*

5.4.1. Inheritance tax

The estate tax is imposed on the net value of the estate of a deceased person at a rate of 15% (section 1(1) of the BAL). The rate of the additional inheritance tax levied on property passing to persons other than certain close relatives as described in section 5.1.1. is 25%. As the 15% tax is deductible before the levy of the 25% tax, the effective tax burden cannot exceed 36.25%.

5.4.2. Gift tax

Gifts to children/stepchildren, their descendants and parents, and the spouse of a deceased child/stepchild are taxed at 15% on the amount exceeding DKK 64,300 (DKK 62,900 in 2017) (sections 1(9) and 22(1) of the BAL). Gifts to stepparents and grandparents are taxed at 36.25% on the amount exceeding DKK 64,300. Gifts to a spouse of a child/stepchild are taxed at 15% on the amount exceeding DKK 22,500 (DKK 22,000 in 2017).

5.5. *Double taxation relief*

5.5.1. Inheritance tax

Unilaterally, an ordinary credit is available for estate duty or inheritance tax paid to another state in respect of assets located in that state (section 15 of the BAL). No credit is available if the asset in question is not subject to Danish tax liability, e.g. transfers to a spouse, or is exempt from such tax liability under an inheritance tax treaty. The credit is calculated on a country-by-country basis.

Further relief may be available under a tax treaty. Denmark has concluded treaties on inheritance taxes with Finland, Iceland, Norway (Nordic Convention), Germany, Italy, Switzerland and the United States. There is no inheritance or gift tax in Sweden.

5.5.2. Gift tax

Unilaterally, an ordinary credit is granted for gift taxes paid to another state with respect to assets located in that state (section 29(1) of the BAL). The credit is calculated on a country-by-country basis. Bilaterally, relief for double taxation is available under the tax treaties with Finland, Iceland, Norway (Nordic Convention, which also covers gifts), Germany and the United States.

6. International Aspects

6.1. *Resident individuals*

For the concept of residence, *see* section 1.1.

6.1.1. Foreign income and capital gains

A resident individual is subject to tax on his worldwide income and worldwide capital gains. Foreign income is subject to the same income taxes as domestic income.

Employment income of individuals who remain resident while exercising employment abroad is, however, exempt (with progression) if the stay abroad exceeds 6 months (section 33A of the LL). If Denmark, under a tax treaty, has an exclusive right to tax such employment income, the exemption does not apply, but the Danish income tax imposed on that income is reduced by 50%.

Foreign dividends, interest and royalties are fully taxable. No special tax treatment is accorded foreign business or professional income.

Capital gains and losses realized on securities (shares, units, etc.) in qualifying investment companies are determined at the end of the tax year in accordance with the mark-to-market principle (section 19 of the ABL) (as opposed to taxation based on the realization principle). For details, *see* Corporate Taxation section 6.1.1.2.

6.1.2. Foreign capital

There is no net wealth tax. Immovable property located abroad is subject to a national property tax in Denmark (*see* section 4.2.2.).

6.1.3. Double taxation relief

At the taxpayer's option, relief for double taxation may be obtained either unilaterally or under a tax treaty. Unilateral relief is granted by way of an ordinary tax credit against Danish national and local income taxes (section 33 of the LL). The relief is computed on a country-by-country basis. Foreign taxes may not be deducted as expenses.

A general anti-abuse rule applies in respect of existing and new arrangements and transactions made on or after 1 May 2015 (section 3 of the LL). Accordingly, no treaty benefits are granted if it is reasonable to conclude, taking into consideration all the relevant facts and circumstances, that obtaining the benefit is one of the principal purposes of any arrangement or transaction which directly or indirectly result in that benefit, unless it can be proven that the benefit in these circumstances would be in accordance with the objective and purpose of the relevant provision of the treaty.

6.2. *Expatriate individuals*

6.2.1. Inward expatriates

Under the Danish expatriate regime, for employments commencing on or after 1 January 2011, qualifying persons are taxed at the flat rate of 27% (26% before 2018) for a maximum of 84 months (60 months before 2018). Inward expatriates are also subject to the 8% social security contribution, even if they are covered by the social security system in their home country (*see* section 3.). Consequently, the total effective tax rate is 32.84% (for 2018).

The expatriate regime is applicable to individuals who become resident for tax purposes on taking up employment in Denmark with a resident employer or with a Danish permanent establishment of a non-resident employer and to non-resident employees engaged in an approved research project (*see* sections 48E-F of the KSL).

The conditions for expatriate taxation are the following:

- the expatriate has not been subject to tax in Denmark during a period of 10 years prior to the employment in Denmark;
- the expatriate does not participate, or has not participated, directly or indirectly, in the management, control or capital of the employer during the employment or during a period of 5 years prior to the employment;
- the expatriate has not been sent abroad to work for the same employer or an associated employer prior to the employment in Denmark;
- the expatriate has not been sent abroad for doctoral studies funded by public means provided by Denmark;
- the employment is temporary and lasts between 6 and 36 months (it is possible to change employment freely, provided that the conditions for expatriate taxation continue to be met); and

- the gross salary exceeds DKK 65,100 (DKK 63,700 in 2017) per month before the deduction of the social security contributions and the ATP contribution (*see* section 3.). This minimum salary requirement does not apply if the employee is engaged in an approved research project.

Income other than the expatriate's salary is subject to the normal income tax liability.

6.2.2. Outward expatriates

Former tax residents of Denmark are (remain) subject to income tax in Denmark on consultancy fees received from a Danish business if the recipient was connected to the paying business as a manager or shareholder in the last 5 years (section 1(2) of the KSL).

If an individual is deemed resident abroad under a tax treaty, he may only deduct expenses related to income that Denmark has the right to tax under the treaty. Thus, mortgage interest related to immovable property situated in Denmark is deductible, while other interest payments normally are not.

If an individual becomes a non-resident or is deemed resident abroad under a tax treaty, he is deemed to have disposed of his bonds and other debt claims and normally also of his shares. The disposal is deemed to take place at the fair market value at the moment of becoming non-resident, with the result that any unrealized capital gains on such assets are taxed. However, this exit taxation applies only if the individual has been a resident for at least 7 of the last 10 years prior to the change in his residential status. In the case of shares, exit taxation is triggered only if the value of the individual's portfolio of shares at the time of departure exceeded DKK 100,000 (double for married couples).

Where an individual, as a result of e.g. emigration, is only resident during part of a tax year, his income for that part of the year is proportionally grossed up to an income on a 1-year basis on which income taxes are levied. Only a proportion of the tax so computed is due, however. The proportion is equal to the proportion between actual income and the 1-year basis. This computation is made to ensure the application of the progressive income tax rates (*see* section 1.9.1.). However, the taxpayer may opt to use his actual annual income instead of the proportionally grossed-up income.

6.3. *Non-resident individuals*

For the concept of residence, *see* section 1.1.

6.3.1. Taxes on income and capital gains

Unless stated otherwise, non-residents are subject to the normal rules for the national and municipal income taxes described in sections 1. and 2., including the rates (but *see* below for municipal income tax) and the granting of the personal tax credit. Although the personal tax credit is generally not granted if the assessment is for less than 1 year, non-residents are granted the credit if their employment or business income from Denmark amounts to at least 75% of their worldwide income in a tax year (*see* section 6.3.1.1.). In general, a non-resident may only deduct expenses that are connected to his taxable income in Denmark.

Non-residents are subject to a flat 24% rate of municipal income tax throughout the country (section 8c of the PSL) (25% including the health contribution of 1% in 2018; *see* section 2.1.). No church tax is levied for non-residents.

6.3.1.1. Employment income

Income from employment is taxable if the employment is exercised in Denmark and if the income is subject to withholding in Denmark (sections 1-2 of the KSL). Employment exercised in Denmark includes work on board a registered or bareboat chartered aircraft operated by a resident airline. Income is subject to withholding if paid by (or on behalf of) a resident employer, including a permanent establishment of a non-resident company, or if paid through an agent in Denmark. Remuneration to which an individual becomes entitled after the termination of his employment in Denmark, e.g. bonuses and termination payments, is also taxable.

Income of members of boards, councils, commissions and similar bodies is also taxable, provided the income is received from Denmark. No personal tax credit is granted.

Pension income from Denmark is also subject to tax (section 2 of the KSL).

Employment income derived from being hired to work in Denmark for a Danish employer is subject to a final withholding tax of 30% (no personal tax credit is granted). However, a non-resident to whom these rules apply may opt to be taxed as if he were resident in Denmark. Denmark taxes remuneration received by non-resident employees, even if their employer is foreign, provided that the work is an integral part of the Danish company.

A non-resident sailor is subject to normal income taxation if he exercises employment on board a ship registered in Denmark. Sailors are exempt from tax if the ship is registered in the Danish International Shipping Register. A special regime exists under which a non-resident sailor is taxed at a reduced rate of 30%, levied on gross income (no personal tax credit is granted). The tax is a final withholding tax. This regime only applies to employment on board ships operated within or to and from certain designated areas.

Income from employment in connection with the activity of extracting hydrocarbons (*see* Corporate Taxation section 3.) is subject to a final withholding tax of 30% (no personal tax credit is granted) if the employer is not resident in Denmark. However, a non-resident to whom these rules apply may opt to be taxed as if he were resident in Denmark. If the employer is resident, employment income is subject to normal income taxation.

Non-residents deriving employment income (including pensions) or business income from Denmark may opt for taxation under a special regime if their employment or business income from Denmark amounts to at least 75% of their worldwide income in a tax year (section 5A of the KSL). This means, inter alia, that interest payments are deductible, that the personal tax credit is granted even if the non-resident is subject to limited tax liability for less than 1 year, and that any unused part of a spouse's personal tax credit and threshold amount for the national income tax (11.15%) may be transferred to the taxpayer (*see also* section 1.7.3.).

6.3.1.2. Business and professional income

Business and professional income is only taxable if it is attributable to a permanent establishment. For details, *see* Corporate Taxation section 6.2.1. No personal tax credit is granted.

6.3.1.3. Investment income

There is no income or withholding tax on interest paid to non-residents.

Dividends paid to a non-resident are taxed at a rate of 27% (sections 2(5) and 65 of the KSL). A final withholding tax of 27% is levied on declared dividends and the gross proceeds from the transfer of shares to the issuing company. In other cases the tax is levied by assessment.

The 27% general rate is reduced to 15% if (sections 2(5) and 65 of the KSL):

- the recipient holds less than 10% of the capital of the resident company; and
- the tax authorities of the recipient's residence state are obliged to exchange information with the Danish tax authorities by virtue of a bilateral tax treaty, an international treaty or an administrative agreement.

Industrial royalties are subject to a final withholding tax of 22% (sections 2(7) and 65C of the KSL). Such royalties include payments as consideration for the use of, or the right to use, any patent, trademark, design or model, plan, secret formula or process, and consideration for information concerning industrial, commercial or scientific experience.

The above withholding taxes are levied on gross payments and no personal tax credit is granted. The rates may be reduced by a tax treaty (*see* Corporate Taxation section 6.3.5.).

Income, including capital gains, from immovable property located in Denmark is subject to normal income taxation. No personal tax credit is available.

6.3.1.4. Capital gains

A capital gain is generally taxable only if the asset giving rise to the gain is attributable to a permanent establishment in Denmark. Gains on debts and debt claims are also taxable if they are attributable to immovable property. Capital gains realized on immovable property in Denmark are also taxable.

6.3.2. Taxes on capital

There is no net wealth tax. A non-resident individual is subject to real estate taxes (*see* section 4.2.) in respect of immovable property located in Denmark.

6.3.3. Inheritance and gift taxes

See section 5.

6.3.4. Administration

The taxation of non-residents is by assessment, unless it is indicated above that a final withholding tax applies. The rules as set out in section 1.10. apply.

KEY FEATURES

Last reviewed: **7 February 2018**

A. General information	
Sources of tax law	Corporate Income Tax Law (*Selskabsskatteloven*, SEL) Individual Income Tax Law (*Personskatteloven*, PSL) Law on Collection of Taxes and Levies (*Opkrævningsloven*) Orders issued by the Ministry of Taxes (*bekendtgørelser*, BEK) and circulars and guidance notes by the tax authorities (*cirkulærer*, CIR;*vejledninger*, VEJL)
Main types of business entities	Public company (*aktieselskab*, A/S) Private company (*anpartsselskab*, ApS) General partnership (*interessentskab*, I/S) Limited partnership (*kommanditselskab*, K/S)
Accounting principles	IAS/IFRS/Danish GAAP
Currency	Danish krone (DKK)
Foreign exchange control	No
Official websites	Ministry of Finance http://www.fm.dk/ Ministry of Taxation http://www.skm.dk/ parliament http://www.ft.dk/ tax administration http://www.skat.dk/
B. Direct taxation: Companies	
1. Resident companies	
Residence	A corporate entity is resident in Denmark if it is registered/effectively managed in Denmark
Tax base	Worldwide
Corporate tax rates	22%
Alternative minimum tax	No
Capital gains	22% Certain shares exempt
Loss carry-forward	Yes, indefinitely (restrictions apply)
Loss carry-back	No
Unilateral double taxation relief	Yes, ordinary foreign tax credit
2. Non-resident companies	
Corporate tax rates	22%
Capital gains on sale of shares in resident companies	No, except if the shareholder deals in shares and such shares are attributable to a PE in Denmark
Capital gains on sale of immovable property	Part of business income
Withholding tax rates	
Branch profits	No

Dividends	27% 15% (if less than 10% holdings and exchange of information) 0% for qualifying EU companies (EU Parent-Subsidiary Directive)
Interest	0% (generally and for associated EU companies under EU Interest and Royalties Directive) 22% (if paid to foreign related entity)
Royalties	22% 0% for associated EU companies (EU Interest and Royalties Directive)
Fees (technical)	0%
Fees (management)	0%
3. Specific issues	
Participation relief	Inbound dividends: yes Outbound dividends: yes
Group treatment	Yes
Incentives	Cash payment of R&D costs Tonnage tax
Anti-avoidance	
Transfer pricing legislation	Yes
Thin capitalization legislation	Yes
Controlled foreign company legislation	Yes
General anti-avoidance rule (GAAR)	Yes
Other anti-avoidance legislation	Yes
C. Direct taxation: Individuals	
1. Resident individuals	
Residence	An individual is regarded as a resident in Denmark if he: (1) has an abode in Denmark (2) is present in Denmark for a period of 6 months (3) exercises employment on board a Danish-registered ship and is a Danish national who fails to substantiate having an abode abroad, or is a foreign national who prior to employment on the ship was resident in Denmark under (1) or (2)
Taxable income	Worldwide
Income tax rates	Progressive Up to 56.49% effectively (including municipal and other taxes) (over DKK 498,900) 27% on income from shares not exceeding DKK 52,900 (42% on any excess) Municipal income tax - average 24.91% Church tax - average 0.68% (only for members)
Alternative minimum tax	No

Capital gains	Exempt, except for certain gains on immovable property, shares in corporate entities, intangibles, bonds and other debt claims (taxed at ordinary rate)
Unilateral double taxation relief	Yes, ordinary foreign tax credit
Social security contributions	Supplementary pension contribution (ATP) 95 DKK per month Labour market contribution 8%
2. Non-resident individuals	
Income tax rates	Same as for resident individuals, except a flat municipal tax rate of 24% applies
Capital gains on sale of shares in resident companies	Only if attributable to a PE in Denmark
Capital gains on sale of immovable property	Yes
Withholding tax rates	
Employment income	General wage withholding applies 30% on income derived from a Danish employer, certain shipping-related income and hydrocarbon extraction-related income
Dividends	27% 15% (if less than 10% holdings and exchange of information)
Interest	0%
Royalties	22%
Fees (technical)	0%
Fees (directors)	0%
D. Indirect taxation: Value added tax (VAT)/Goods and services tax (GST)	
Taxable events	Supply of goods, supply of services, importation, intra-Community acquisitions
VAT/GST (standard)	25%
VAT/GST (reduced)	0%
VAT/GST (increased)	No
Registration/deregistration threshold	DKK 50,000 in general DKK 170,000 for supplies of goods and services by blind persons DKK 300,000 for the first sale of works of art by their creator
VAT group	Yes
E. Other taxes	
Inheritance and gift taxes	Yes
Net wealth tax (individual)	No
Net wealth tax (corporate)	No
Real estate taxes	Municipal real estate tax between 1.6% and 3.4% and national property tax of 1% of the taxable value up to DKK 3,040,000 and 3% on any excess on owner-occupied dwellings
Capital duty	No

Transfer tax	No (however, a registration levy on the transfer of immovable property applies)
Stamp duty	No
Excise duties	Yes
Other main taxes	Annual duty on the insurance premium Taxes on garbage Extraction of raw materials Certain chemicals Packing used in the retail sector Electricity Coal Mineral oils Gas and water

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