Setting up your Business in Denmark
Issues to consider

Denmark is amongst the world's best locations for doing business. The World Bank ranks Denmark as one of the easiest place in Europe to do business and the World Economic Forum ranks Denmark in the top ten of the most competitive economies in the world.

However there are a number of issues which you must consider when you are looking to set up your business in Denmark. This document takes you through some of the common questions we come across and gives you practical information about the issues you need to consider.

What type of Business Structure should we use?

There are advantages and disadvantages to all of them, and there is no one correct answer, it's all dependent on your specific business circumstances and needs. A brief overview of the main structures is below:

Establishment (a branch of your overseas business)

- Not a separate legal entity but an extension of the overseas parent company
- No limited liability or ring-fencing of the Danish operations
- If you have a permanent establishment in Denmark then profits from this PE are liable to Danish Corporation tax
- Must file parent company accounts at the Danish Business Authority for public inspection, even if these are not made publically available overseas.
- Establishment through a representation office is an option, if the activities are limited to being of an "auxiliary and preparatory nature".

Limited Company:

- Provides limited liability and ring-fencing to Danish operations
- Gives a perception of a local business, with longevity
- Corporation tax to be paid on company profits
- Have to file Danish company accounts at the Danish Business Authority for public view
- Accounts require auditing if Revenues > DKK 8.0m p/a or Gross Assets > DKK 4.0m or an average number of 12 full time employees

Limited Liability Partnership:

- Members (partners) have limited liability
- Profits are allocated to members who then pay Income Tax on these profits personally
- The tax residence of the member, and where the profits in the LLP originated will determine in what jurisdiction and how these profits are taxed

How much Corporation Tax will the business pay?

Taxable income including capital gains is subject to a flat corporate tax rate of 22%. The tax rate is identical for limited companies and branches.

Generally a company resident in Denmark is subject to corporate tax on its income and gains from Danish territory. A company is resident in Denmark for tax purposes if it is incorporated in Denmark or has its statutory seat in Denmark. By statutory seat is determined on the basis that the foreign incorporated company has its effective management in Denmark.

What if we use Denmark to set up our holding company?

Denmark's tax legislation means that it is a very attractive place to set up a holding company.

If a Danish company holds shares in another company and these shares are subsequently sold then the resulting gain is exempt from tax. Also virtually all dividends received by a Danish parent company, whether from Denmark or overseas are exempt from taxation.

What if we make cross-border transactions between group companies?

Denmark follows internationally recognized **Transfer Pricing** (TP) rules where cross-border trading and financial transactions between affiliated entities have to be conducted on an arm's length basis. The price and terms should be the same as if the transactions had been between completely independent parties.

Typical transactions between affiliated entities that are covered by TP regulations are:

- Sale and purchase of goods
- Provision of management services
- Property rental charges
- Transfer of intangible assets e.g. trademarks, patents
- Sharing of knowledge, expertise, business contacts etc.
- Provision of financial support e.g. inter-group loans and charging a "market" interest on loans

A business will need to prepare a Transfer Pricing Report proving the arm's length basis of transactions. The report will include a functional and risk analysis, analysis of the adopted pricing model and benchmarking of the arm's length basis.

SME's are generally exempt from Denmark's transfer pricing regime, so only "large" entities need to undertake detailed TP analysis. A "large entity" for TP purposes is one with > 250 employees, and Revenues > DKK250M **and** Gross Assets > DKK125M.

However even if an entity is exempt from the Danish transfer pricing regime it may fall under the scrutiny of the other international tax jurisdictions where it transacts. There may also be other tax regulations which ensure transactions are undertaken at a commercial value.

What Employment Taxes and Social Security will need to be paid?

If an individual is resident in Denmark then they are subject to Danish tax laws. Danish tax legislation distinguishes between full tax liability for resident individuals and limited tax liability.

for non-resident individuals. Citizenship does not affect tax liability.

Residents are taxable on their worldwide income and capital gains. Furthermore, residents are liable to pay gift tax. There are no wealth taxes in Denmark.

We would advise any new entrant to Denmark or person who spends time working in Denmark to take professional advice to determine whether they are Danish tax resident.

Current Personal Income Tax rates in Denmark are:

Band of income (DKK)	Tax rate (%)
1 – 42,000	0
42,000 – 479,600	38
Over 479,600	53

(NB: rates are for the tax year 2017)

Employees also have to pay Danish social security, which is called Labour market contribution 8% of all personal income. The contribution is deductable in the income statement.

It is the employers' legal responsibility to pay over employee's tax and social security deductions to the Danish tax authorities.

Denmark has a Reciprocal Agreement with the USA, EU countries and many others whereby when an overseas national of those countries is seconded to Denmark for a defined period of time and continues to pay social security in their home country, then the employer and employee are exempt from paying Danish social security.

What is Value Added Tax (VAT) and should the business be registered?

VAT is a “goods and services tax” on supplies made, the standard rate of which is 25%. If a business makes taxable supplies in excess of DKK 50.000 in any 12 months then it MUST be registered for VAT.

There are three types of supply

- Taxable – must charge VAT on supplies, can reclaim input VAT
- Exempt – cannot charge VAT nor reclaim input VAT
- Outside the scope – not in the Danish VAT system

The supply of most types of goods and services in Denmark would be classed as Taxable supplies. However when these supplies are made to companies which are outside of Denmark advice needs to be sought as to what rate of VAT, if any, to use.

If a Danish entity sells goods or provides services to its non EU parent then there is no VAT chargeable on this overseas supply, however on the basis that the supply would be VAT’able if made in Denmark then the entity will be able to reclaim all its input VAT.

Denmark applies the system of VAT established by the European Union.

Can we provide Share option plans to our staff?

Many companies see Share Option plans as being an important way of attracting, motivating and retaining key staff.

Denmark has a number of “approved” share option plans which give tax benefits to employees and employers alike and it is often possible to adapt an overseas stock option plan to fit into one of these “approved” plans.

However this is a very technically complex area and careful planning needs to be undertaken as soon as share option plans are being considered for implementation in Denmark.

How else can we compensate our employees?

Denmark has a very comprehensive range of compensation and benefit options available for companies to offer their employees.

Pensions, private medical insurance, life and disability cover are now commonplace benefits provided by many Danish businesses to their workforce.

Flexible benefit packages are also gaining in popularity, giving employees options on how they wish to “spend” their benefits allowance; which can range from “purchasing” additional holiday entitlement to obtaining full family medical cover.

To discuss your requirements please contact the International Office on +44 (0) 1245

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