# DOING BUSINESS IN Denmark

HLB Beierholm

# *doing business in Denmark*

# foreword

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HLB Beierholm
July 2013

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HLB International
Executive Office
21 Ebury Street
London SW1W 0LD
UK
Telephone +44(0)20 7881 1100
Fax +44(0)20 7881 1109
Email: mailbox@hlbi.com
Website: www.hlbi.com

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# general information

## Introduction

Denmark is a small country compared to other European countries. However, Denmark has always been heavily involved in trading with other countries, consequently Denmark has developed a favourable regime of Tax Treaties, trade regulations etc.

The main business attractions of Denmark are a stable and prosperous society heavily engaged in international trading, a well educated population and work force, very limited social security charges payable by the employer, flexible employment regulations, a generally positive attitude towards private sector industry and professions, a very efficient infrastructure including extensive use of information technology and the rule of law being administered consistently and without excessive bureaucracy.

## Top 5 Reasons for choosing Denmark

- Extensive number of Tax Treaties
- A natural gateway to the Scandinavian countries and the Baltic area - Copenhagen Airport is the main hub in Northern Europe and Europe's most efficient airport; a high-quality motorway

network means swift and easy access to all markets in the Northern European region
- One of the world's most flexible labour markets (flexicurity)
- One of the most advanced telecommunication infrastructures in Europe
- A well-educated population with a high proportion of university graduates and excellent language skills.

Denmark offers a very flexible environment for business activities as well as holding companies. When establishing a business in Denmark the procedure is the same for residents as for foreign investors.

Denmark has a reputation as a high-taxation country. However, from a business perspective this is not correct, a comparison with other European jurisdictions shows a more balanced picture when the combined tax rates are calculated.

The Danish tax regime is based on direct taxes, rather than indirect taxes. Business entities only have to pay insignificant amounts of DKK 3,000 per employee per year to social schemes etc, the costs are levied on the employee. Consequently, tax rates may seem high at individual level compared to other European countries.

## Location

The Kingdom of Denmark comprises Denmark, Greenland and the Faroe Islands. Denmark is located in the northern part of Europe.

The climate is characterized by cool summers with average temperatures of 16 o C and mild winters recording average temperatures of 0.5 o C. This climate is the result of the country’s position on the edge of the European Continent close to major sea areas.

## Population and language

The population of Denmark is about 5.5 million people. Greenland and the Faroe Islands are not included.

Danish is the official language, but people engaged in business normally speak other languages. English is the language which is most used, but German and French are also widely spoken.

## Government and Legal System

Denmark is a constitutional monarchy. The Danish Parliament (Folketinget), which holds legislative power, has 179 members. General elections to the Danish Parliament are due every 4 years, but the

Prime Minister has the option to call for an election.

It should be noted that Greenland and the Faroe Islands have their own systems of government, law and taxation, which are not covered in this booklet.

Danish jurisprudence operates on the basis of a division into public law and civil
law. The borderline is not easy to define, and the basis for this division is much
debated. Civil law regulates reciprocal relations between citizens and between
natural persons and legal persons, e.g. companies and institutions. Citizens' liberty of action can only be restrained by law or by legal precedent, i.e. on the basis of an Act.

The Constitution determines the conditions under which Acts are valid. After being passed by the Folketing and having received the Royal Assent, Acts must be published in the official journal Lovtidende. They come into effect one week after publication if no other date is specifically fixed in the Act concerned.

Many Acts are given the form of framework laws containing general guidelines and leaving it to the minister concerned to provide more precise regulations. An Act is amended or repealed by a new Act being passed. From ancient times the contents of the law have been determined by the courts by means of case law in areas where there is no legislation, and this still occurs, for instance especially in the law of compensation. In other legal systems, especially in countries with legal systems inspired by Anglo-Saxon law, common law, the courts have, however, a far greater law-creating function than in Denmark.

Customary laws are also sources of law. A legal custom arises when a specific manner of behaviour has been followed generally, constantly and over a long period of time, because the persons concerned were convinced that they were legally obliged to do so.

International aspects

Denmark is an open economy, and is a perfect choice for establishing a business in Scandinavia or Northern Europe.

Danish society, including the private sector industry and professions as well as the public sector, is well regulated, yet open and efficient, without unnecessary levels of bureaucracy.

Denmark is a member of the European Community (EU). The EU has a centralized system of administration with legislative, executive and judicial functions. In addition, Denmark has close economic, political and cultural ties to the other Nordic countries (Finland, Iceland, Norway and Sweden).

As a member of both OECD and WTO, Denmark is actively working towards the removal of obstacles to free international trade of goods and services.

## Danish International Register of Shipping (DIS)

If commercial shipping vessels are owned by owners resident in Denmark, another EU-country, Iceland, Norway or Lichtenstein, then the owners may elect to register the vessels with the Danish International Register of Shipping (DIS), provided the vessel’s gross register tonnage exceeds 20 tonnes and the vessel is not used for transport of passengers between Danish harbours.

Commercial shipping vessels owned by foreign owners electing to register the vessel with DIS must be operated, controlled and managed from Denmark.

Seamen working on a vessel registered with DIS enjoy a favourable Danish tax treatment basically exempting income from such work from Danish taxation, the aim being to allow international payroll competitiveness for the operation of the DIS registered vessels.

## Economy and Currency

The economy of Denmark is very dependent on import and export. Approximately three thirds of foreign trade is with other EU-member countries. Germany is the largest trading partner accounting for more than 22% of imports and 17% of exports. Sweden and the United Kingdom are the second and third largest trading partners.

The Danish currency is called kroner (DKK); each krone is 100 øre. The Danish kroner is closely connected to the euro (7,46 kroner equals 1 euro).

# *Investment factors*

## Incentives

The Danish membership of EU makes certain grants and subsidized loans available from EU agencies.

There are almost no direct subsidies to individual business in Denmark. However, in order to even out regional disparities in industrial and demographic development financial grants are made to enterprises in regional development areas. Grants are made primarily to small and medium sized enterprises undertaking new or expanding existing grant qualifying activities within these geographic areas.

Within certain industries or business sectors grants are made available for product development and research. Favourable loans or guarantees for commercial bank loans may also be obtained from Vækstfonden for research into and development of new or improved products, production methods or services or business concepts including the creation of international competence and expertise.

## Banking system and Sources of Finance

When setting up a business in Denmark finance can be raised from the following sources:

## Banks

Finance through banks can be provided as a line of credit or an overdraft, a term loan, a foreign exchange loan or a combination of these.

A line of credit or overdraft is intended to finance working capital. It is therefore used as a working account with electronic transfers being drawn on the account. Interest is at a variable rate and is calculated on the basis of the use of the overdraft facility, while any quarterly commission payable is usually calculated on the maximum of the overdraft. A fee may be charged to establish or renew the loan.

Term loans are usually for a long period, for example 5 or 10 years. Capital and interest are repaid over the period of the loan, and the interest rate is normally variable. Security is often required in the form of a charge over the assets of the business or guarantees by the owners or directors. Foreign exchange loans are usually obtainable at the foreign market interest rate plus a margin. The loan is repaid by instalments or in full at the end of the loan period.

## Debt factoring

Debt factoring is a method of obtaining payment of debtor balances when invoiced rather than waiting for payment. It is a useful method of obtaining finance for working capital requirements although it can be expensive.

## Leasing of equipment

If a business needs additional finance, leasing may be a good source of finance when assets are required. The lessee never owns the leased asset; payments are made for the use of the asset but the lease agreement may be structured either as an operating or a financial lease arrangement provided the asset type in question permits the lease format.

## Hire purchase

Hire purchase is a form of extended credit. It is used for purchasing of fixed assets such as equipment and motor vehicles and the agreement normally runs over a period of 3-7 years. When capital and interest have been fully paid full title to the asset passes to the acquirer.

## The Mortgage Credit System

The Danish mortgage credit system is efficient and used extensively for long term financing. The system is based on bonds, which are traded publicly. This results in interest rates being very competitive, with the possibility of interest rates being fixed annually, or for a period ranging from 1 to 30 years. Loans on any kind of real property may be raised under the mortgage credit system. Industrial property can typically be mortgaged for up to 60% of the market value and with the term of the loan extending to 20 years.

## Stock Exchange

Financing through the Copenhagen Stock Exchange is in practice only possible for existing companies with an established record and a substantial market value. It also requires publication of detailed commercial and financial information about the company and the future prospects for the company. The same applies to listing on other Danish authorized markets such as Dansk Autoriseret Markedsplads, although disclosure requirements on such markets are less onerous than on the Copenhagen Stock Exchange or other main markets.

## Venture capital

Venture capital is used for financing for example business expansions and company takeovers. In practice this kind of financing is only available for existing companies or enterprises under formation with a well documented business concept or model.

## Foreign Exchange Controls

There are no foreign exchange controls, but major transactions in a foreign currency must be reported to the Danish National Bank for statistical purposes. A foreign investor can repatriate capital, loans and income with no restrictions.

Denmark is a member of The European Monetary System established within the EU. Denmark did not join the European monetary standard, EURO, on January 1, 1999. However, the Danish Kroner is kept stable vis-à-vis the EURO. Denmark participates in the formal framework for the fixed exchange rate policy, the European Exchange Rate Mechanism, ERM II, at a central rate of DKK 746.038 per 100 EURO and a fluctuation band of +/- 2.25 per cent. In recent years the Danish National Bank has maintained the Danish Kroner rate closer to the central rate. It is expected that the country will convert to the EURO at a later stage.

Accounts and loans denominated in all major currencies, including the EURO, may be kept with Danish or foreign commercial banks and other financial institutions.

Employment regulations

Citizens from Iceland, Norway, and Lichtenstein and from EU-countries have free access to jobs in Denmark. The employer must be registered with the Danish Tax Authorities as it is obliged to withhold payroll tax etc. according to the PAYE-tax Act.

Other foreign nationals - including those employed by foreign companies – must apply for residence and work permits to a Danish mission in the applicant's country of origin or the country where the applicant has lived for the last 3 months prior to submitting the application.

Foreigners with special qualifications, obtaining employment in areas with a shortage of Danish labour, have easier access to residence and work permits in Denmark.

# Types of business organisations

The principal forms of business structures are:

- Public limited company (Aktieselskab or A/S)
- Private limited company (Anpartsselskab or ApS)
- Branch office
- General partnership (Interessentskab or I/S)
- Limited partnership (Kommanditselskab or K/S)
- Limited partnership (Partnerselskab or P/S)
- Sole Proprietor.

Most foreign companies chose the public limited company (A/S) form. The requirements for registration of a A/S or ApS is quite straight forward, and most of the process can be done on-line. All companies must be registered with the Tax Administration, eventually for VAT purpose, and with the Commerce and Companies Agency.

Denmark has a favourable holding company regime, see "Holding company in Denmark".

Below is a brief introduction to business forms normally used in Denmark.

## Public limited company (Aktieselskab or A/S)

The minimum capital of a public limited company is DKK 500,000 (There is no maximum limit). The capital may be paid for in forms other than cash, including fixed assets, goodwill, know-how etc. At least 25% of the capital must be paid in when the company is registered.

When establishing a public limited company one or more promoters must sign a memorandum of association containing a proposal for articles of association and the subscription of share capital. The promoters need not subscribe for any shares in the company.

The adoption of the articles of association takes place at a following statutory general meeting, which is also charged with the election of a Board of Directors and appointment of an auditor. An auditor is not required in small enterprises.

The company is managed by executive directors or by a Board of Directors or by both a Board of Directors and one or more executive directors. The Board of Directors must appoint the general management consisting of one or more members who will be responsible for the day to day running of the company. The majority of the Board must be non-executive directors.

If a company has employed an average of 35 or more persons during the past three years, its employees are entitled to elect from among themselves members to the Board of Directors. The number of members elected by employees is equivalent to half the number elected to the Board by the shareholders at the Annual General Meeting, but not less than two.

A public limited company must be registered with the Commerce and Companies Agency. There are no fees for the registration, but a foreign company will have to pay for local professional advice and assistance.

A limited company, both public and private, may also be purchased ‘off the shelf’ – normally DKK 3.000 - 5.000. Such companies are already registered, but have had no prior business activities.

Private Limited Company (Anpartsselskab or ApS)

The minimum capital of a private limited company is DKK 50,000. (There is no maximum limit). The capital may be paid for in forms other than cash, including fixed assets, goodwill, know-how etc. At least 25% of the capital must be paid in when the company is registered, however the minimum payment is DKK 50,000.

A private limited company needs to have only one founder. Although the private limited company is intended to appeal to one or just a few persons combining to set up a company, no maximum has been fixed for the number of members allowed.

A private limited company is managed by executive directors or by a Board of Directors or by both a Board of Directors and one or more executive directors. If the employees have a right to be represented on the Board of Directors the company must have a Board of Directors. The employees' right to be represented on the Board of Directors is the same as for public limited companies, cf. above.

Private limited companies must be registered with the Commerce and Companies Agency in the same way as public limited companies.

As from June 2013 a private limited company may be established with a minimum capital of 1 kroner (called IVS). This legal form is introduced to increase new business developments. In all other aspects this IVS is identical to an ApS. The equity must be increased to DKK 50,000 by adding 25% og annual profits before dividends could be paid out.

Branch office (filial)

A foreign joint stock company, which is lawfully registered in its home country, may carry on business activities in Denmark through a registered branch office. The establishment of a branch office must be notified to the Commerce and Companies Agency. There are no capital requirements.

One or more branch managers who can sign for the branch and grant powers of attorney must manage the branch. The cost of establishing a branch office will be payment for local professional advice and assistance.

General Partnership (Interessentskab or I/S)

The nature of a general partnership must be indicated by the inclusion of the initials I/S in its name. General partners are jointly and severally liable for the obligations of the partnership. However, an investor can minimise his risk by participating in a partnership by the intermediary of a limited company. There are no capital requirements.

A partnership agreement is commonly prepared to govern the relationship between partners as no Partnership Act exists in Denmark. When all partners are entities with limited liability the partnership must register with the Commerce and Companies Agency.

### Limited Partnership
### (Kommanditselskab or K/S)

A limited partnership consists of one or more general partners and one or more limited partners. Any of the general or limited partners may be individuals or legal entities, foreign or domestic. There are no capital requirements.

The firm name must indicate that it is a limited partnership by including in the name the initials K/S. The names of the limited partners may not appear in the firm name. When the sole or all general partners are entities with limited liability, a limited partnership must register with the Commerce and Companies Agency.

### Limited Partnership
### (Partnerselskab or P/S)

An Partnerselskab or P/S is an interesting entity due to the fact that it combines the benefits of a corporation (legal) and partnership (tax). The company is run like a corporation, but the partners are taxed individually.

A limited partnership consists of one or more general partners and one or more limited partners. Any of the general or limited partners may be individuals or legal entities, foreign or domestic. There are no capital requirements.

The firm name must indicate that it is a limited partnership by including in the name the initials P/S. This partnership has to comply with the regulations in the Corporate law, but is still a transparent company tax wise.

Sole Proprietor (personlig virksomhed)
A sole proprietor is an individual engaged in a business or profession on his own account. Any individual is free to establish a business in Denmark. Registration with the tax authorities must be made if the sole proprietor is engaged in an enterprise employing staff or performing a trade or any other activity subject to VAT.

Any trading name may be selected unless this is already being used by another enterprise; the owner's name may, but need not, appear in the firm's name.

The conduct of certain professions requires particular authorization and/or qualifications.

## Foundations (Fond)

Foundations (trusts) have often been used as a vehicle to avoid transfer tax and inheritance tax. However, this ceased in mid 1980s due to the taxation of foundations. Today, foundations are used to transfer significant wealth to foundations with obligations to provide public benefits, i.e. family trusts are not often established.

A foundation is established by the founder, who issues the deeds of the foundation and appoint the board. The board must be independent of the founder, i.e. he or she cannot control the foundation. The foundation may be a non-business or a business foundation, i.e. depends on the activity in the foundation. Special regulations apply to each type of foundation, and the board must follow these regulations as well as instructions etc. from the Authorities.

# *Legal, Accounting and Audit Requirements*

Public limited companies, private limited companies, branch offices and individuals engaging in business operations must file with the tax authorities a balance sheet and a profit and loss statement together with their annual tax return.

For public limited companies, private limited companies and limited partnerships required to register with the Commerce and Companies Agency, the financial statements have to be prepared in accordance with the Annual Accounts Act. The accounting principles to be applied under the Danish Annual Accounts Act generally correspond with the requirements prescribed in International Accounting Standards (IAS/IFRS). The annual accounts must give a true and fair view of the company's assets and liabilities, its financial position and its profits.

Danish companies with subsidiaries - Danish or foreign - are required to prepare financial statements for the parent company and consolidated accounts for the group. Small parent companies, however, are not required to prepare consolidated accounts.

As soon as the annual accounts have been approved by the company's shareholders at the ordinary annual general meeting and not more than 5 months after the close of the accounting year, a company must send an attested copy of its audited annual accounts to the Commerce and Companies Agency.

Company accounts including the annual accounts of registered limited partnership are open for public inspection in the Commerce and Companies Agency. Branches of foreign companies must file with the Commerce and Companies Agency a certified copy of the head-office company's annual accounts accompanied by a report by the company's auditors.

A state authorised public accountant or a registered public accountant must audit the accounts of public limited companies and private limited companies.

However, small entities may choose not to have an audit. It is an option, which must be used by small entities defined as corporations with (2 of 3 must be fulfilled):

- An annual turnover less than DKK 8,000,000
- Balance sheet less than DKK 4,000,000 in total

- No more than 12 employees.

Latest developments gives small companies the right to choose a reduced audit (udvidet gennemgang). This audit only focus on specific areas, and only gives reduced value to the public. The idea is to reduce costs for SME companies.

The accounts of partnerships and sole proprietors need not to be audited. The annual financial statements of such enterprises, with the exception of limited partnerships required to register with the Commerce and Companies Agency, are used only for the tax return and specific other recipients agreed to by the partners or proprietors. Such accounts are not publicly disclosed.

# Income tax

## General structure

Resident individuals are taxed on their worldwide income. An individual is deemed to be resident when he or she has lived in Denmark for six months and/or has an permanent address (primary home combined with physical presence).

The individual is taxed on his or her worldwide income retro-actively as from the date of his or her arrival. There are special rules for foreign experts, researchers etc, see 'Tax relief for foreign experts'.

Companies are only taxed on income from Danish sources (territorial principle). Also, Denmark has a favourable holding company regime.

Non-residents (individuals and companies) are liable to tax on income from a permanent establishment and from immovable property in Denmark. Furthermore, individuals are liable to income tax on wages and salaries for work performed in Denmark, including situations of hiring out of labour, cf. below, fees for serving on the Board of Directors of Danish companies and certain pensions.

An extensive network of double taxation agreements grants relief from international double taxation either by exempting foreign income from Danish tax or by allowing taxes paid abroad as a set off (credit) against Danish taxes. Alternatively unilateral relief is granted through a general national foreign tax credit provision.

Companies and individuals can carry forward tax losses indefinitely. However, companies are not allowed to utilize losses in full the following year, only 60% of losses exceeding 1 mio.euro. Loss carry back is not available.

No wealth tax is levied in Denmark.

## Corporation tax

Corporations are in general taxable when the company is registered in Denmark, or the seat of the management is situated in Denmark.

Danish companies and branches (incl. a permanent establishment) of foreign companies are taxed at a flat rate of 22% (reduced from 25% to 22% in 2017). Losses can be utilized in following years (no limits). However, companies are not allowed to utilize losses in full the following year, only 60% of losses exceeding 1 mio.euro.

Taxable income comprises gross income less the cost of earning, securing and maintaining the gross income.

Danish companies and Danish permanent establishments of a Group must be jointly taxed, i.e. all income from Danish sources must be consolidated within a Group.

A Group can choose to be taxed jointly with its controlled foreign subsidiaries and permanent establishments by consolidating the earnings of the individual companies. Only very few Groups has utilized this option. However, this scheme is favourable to international Groups, and could be used as a vehicle to obtain cash-flow improvements. Please note that a Group is defined by a holding corporation or trust, i.e. the ultimate individual shareholder can control two or more Groups with separate joint taxation status.

The benefit of a joint taxation scheme is the fact that losses from one company can be offset against another company (actual year and following years).

If a Danish company has income from abroad or from certain other activities abroad, a relief according to international double taxation agreements is granted by means of the exemption or the tax credit method or in accordance with internal Danish rules.

The fiscal year for companies runs from April 1 to March 31. The basis for assessment is the company's own financial year ending within the preceding tax year. The tax return must be filed within 6 months of the end of the financial year. For companies with a financial year ending January 1 - March 31 the tax return must be filed by June 30.

Taxes have to be paid on a current year basis with half payable on March 20 and the remainder on November 20. The assessed payments on account will be calculated on a basis of the income of the three prior years. To avoid interest charges on corporate taxes, companies can make voluntary payments on March 20 and November 20. Final settlement will be payable or refunded by November 20 of the following tax year.

Thin capitalization
In general, interest costs are deductible. However, Denmark has 3 levels of thin capitalization rules.

Firstly, the company has to comply with the 1:4 test if the net interest costs exceeds DKK 10,000,000, i.e. only interest costs on controlled debt is deductible if the debt/equity ratio do not exceed 4:1. If the debt/equity ratio exceeds this 4:1, then the interest on the exceeding amount is not deductible for tax purposes. However, the company may offset this adjustment if it can prove the interest rate is based on market terms.

Secondly, the company has to comply with the new regime if the net interest costs exceeds DKK 21,300,000 (2013) in the consolidated Group, i.e. interest costs on controlled debt is only deductible provided the criteria are met. These rules are quite complex, i.e. interest costs must not exceed a limit calculated on the "asset test" and a maximum of 80% of EBIT. Both tests must be performed each year, and adjustments can not bring the interest costs under DKK 21,300,000 per year. Interest may be utilized in following years if certain conditions are met.

CFC-rules

Foreign controlled entities will be taxed in Denmark on their financial income provided

- The business of the subsidiary is mainly of a financial nature, i.e. dividend income, interest income, capital gains etc.
- The financial assets of the subsidiary exceeds 10% of the assets of the company

Losses cannot be deducted. However, losses can be deducted when the international taxation scheme is chosen.

Credit is given for foreign taxes paid on foreign income.

Tonnage Tax - A special tax regime

A tonnage tax system was introduced in Denmark in 2002. The regime applies as an alternative to the normal corporate income tax regime for shipping companies resident in Denmark and for Danish permanent establishment of shipping companies in other EU-countries.

Conditions for qualification for the tonnage tax regime include that the shipping company operates vessels for the purpose of passengers or goods using vessels that are either owned by the shipping company or operated on a bareboat or a time charter basis and are strategically operated from Denmark.

Capital gains on the sale of vessels operated under the tonnage tax regime are included, 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 a deemed income per 100 tonnes of net tonnage by the number of days a vessel is controlled by the shipping company, regardless of whether or not the ship is in actual operation. The deemed income per 100 tonnes per day ranges from DKK 2 to 7, depending on the total tonnage operated. No deductions, including depreciation of the vessels, are permitted.

The taxable income computed as per the before mentioned principles is subject to corporate income tax at the ordinary rate of 25% (will be reduced to 22%), cf. above.

Holding companies

Danish holding companies are favourable as an vehicle for international tax planning. Denmark has a significant number of Tax Treaties, Danish companies are only taxed on income from Danish sources, and dividend and gains on substantial shareholdings are tax exempt (shareholding of 10% or more, or a controlled holding in general). Furthermore, capital gains from unlisted shares are tax exempt.

Personal taxation

Individual income tax is levied on a current year basis by the State and by local authorities. For most individuals the fiscal year is the calendar year.

A social tax of 8% is levied on all personal income, i.e. DKK 1,000 is taxed at DKK 80.

Net taxable income of DKK 920 (1,000 less 80) is taxed at State and Municipal level:

- The State income tax is progressive. Income exceeding DKK 421.000 is taxed with a surtax of 15%.

- Local income taxes are levied at flat rates, which vary according to municipality. In average, the tax rate is 25%.

**In overview:**

| | **2013** |
|---|---|
| Labour Market Contribution (LMC) | 8 % |
| Personal Deduction (> 18 years) | 42,900 DKK |
| Lower bracket tax | 3,64 % |
| Top bracket tax | 15 % |
| Top bracket tax level (after LMC) | 421.000 DKK |
| Municipal Tax (average) | 25% |

**Example, single tax payer (2013):**

| Net after social tax and income tax (no interst cost etc) | **2013** |
|---|---|
| Gross income of 500,000 DKK (approximately 67,000 euro) | 306.500 DKK (approximately 41,000 euro) |
| Gross income of 750,000 DKK (approximately 100,000 euro) | 417,000 DKK (approximately 56,000 euro) |
| Gross income of 1,000,000 DKK (approximately 134,000 euro) | 530,000 DKK (approximately 71,000 euro) |

A comparison with other countries must also include the low social costs at company level, i.e. the total cost at company level compared to employees' net income after tax. Based on an EEC comparison, Denmark is low tax area when looking at low or middle income levels (up to 500,000 DKK).

Personal income

Personal income comprises salaries, wages, pension, income from independent business activities etc.

Fringe benefits in kind are added to personal income. The tax value of most benefits in kind is, in principle, the fair market value. However, a special regime exists re value of a company car (25% of car value up to DKK 300,000 plus 20% of exceeding car value), free mobile phone or other media (DKK 2.500), company house, and company boat.

From this income, however, excluding pension and other passive type income, a social security contribution of 8% is paid (by employee).

Individuals seconded to Denmark for a temporary period of time who continues to be covered by the social security system of their home country are exempt from the social security contribution of 8% provided this either follows from the provisions of EEC-Regulation 1408/71 on the application of social security schemes to employed persons and their families moving within the community, or from other social security conventions entered into between Denmark and the home country of the respective individual.

On the net income after social security and pension contributions the tax amounts to 33% - 52% in 2013.

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. For 2013 the personal allowance is DKK 32,300 and consequently, the total tax credit is approximately DKK 10,600. The tax credit does not apply to the 28% tax on dividends, cf. below, and to a number of situations in which the individual is subject to taxation on Danish source income without being resident in Denmark.

The effective marginal tax rate on personal income is 42%, or 56% on net personal income exceeding DKK 42.000 (2013).

Income tax is deducted at source, i.e. when the salary is paid out. An example (monthly payment):

| | | | |
|---|---|---|---|
| **Employer: CVR-nr. Skattegade 99 0000 Skattebyen** | | | **July, 2013** |
| **Lønmodtager: CPR-nr. Name etc.** | | | |
| | Basic salary | | 27.000,00 |
| | Fringe benefits | | 1.000,00 |
| | Company car | | 3.500,00 |
| | | | 31.500,00 |
| Note 3 | ATP (social costs) | -90,00 | |
| Note 3 | Pension contribution | -2.000,00 | -2.090,00 |
| | **Gross income for taxation** | | 29.410,00 |
| | Social tax, 8% | | -2.352,80 |
| | **Net taxable income** | | **27.057,20** |
| | Net taxable income | 27.057,20 | |
| | Allowances | -6.000,00 | |

| | | | |
|---|---|---|---|
| | Net | 21.057,20 | |
| | Tax, 45% | 9.475,74 | -9.475,74 |
| | | | 17.581,46 |
| | Tax exempt income | | 1.750,00 |
| | Out-of-pocket cost | | 750,00 |
| | **Net payment this month** | | **20.081,46** |

## Capital income

Capital income comprises interest income and charges, income from passive business investments, certain dividends from foreign companies, certain allowances and deductions, and other capital income or losses.

The tax rate on net capital income is the same as for personal income (excl. social tax). However, a reduction to 42% in 2014 is being implemented, i.e. net capital income is taxed at a low rate compared to personal income.

The tax credit given for net capital losses against other income is at a rate of 33% in 2013. If the credit is not utilized in full, the remaining loss can be carried forward (no time limits).

For more details on capital gains, see section on Capital gains below.

## Dividends

Dividends from Danish companies up to an amount of DKK 48,300 (2013) per year are taxed at a flat rate of 27% deducted at source. Dividends exceeding this amount are taxed at 42% with the remaining 15% being collected directly from the individual.

Dividends from foreign companies are taxed in the same manner as from Danish companies. However, dividends from foreign companies engaged in financial activities of a significant extent, and having been subject to a taxation levied at substantially lower tax rates than current Danish corporate income taxation is capital income (CFC-rules for individuals).

## Tax relief for foreign experts

Under certain conditions foreign experts, public sector researchers etc. can be taxed at a final flat rate of 26% of the gross salary received including any relocation compensation. The social contribution of 8% must be paid also, i.e. the remaining taxable income will be taxed at the 26% rate.

The conditions are:

- The person must be temporarily living in Denmark for a minimum of 6 months, and choose the scheme for foreign experts for a maximum of 60 months. When the 60 months period ceases, the foreign expert will be taxed accordingly to general rules.
- Researchers would need an approval from a research council or a university.
- For other experts etc. the annual gross pay must be at least DKK 831,600 (2013).
- The tax relief may be used for more than one temporary period in Denmark provided the total of such periods does not exceed 60 months within 10 years of the first temporary employment contract.

## International Hiring-out of Labour

An employee having residence in another country than Denmark, who is hired by his foreign employer to work for a Danish enterprise, is subject to a limited tax liability in Denmark. The international hiring-out of labour tax is 30% of the gross remuneration less compulsory contributions to social security and pension, as per above described principles.

The income tax, social security and pension contributions must be withheld by the Danish enterprise being the user of the labour.

## Capital gains in general

For individuals, capital gains are normally taxed as capital income. For corporations capital gains form part of the ordinary taxable income.

Real property

Gains from the disposal of real property (other than the recovery of past depreciation) are taxed as capital income unless the taxpayer has previously opted for the use of a special enterprise taxation scheme. The capital gain is computed on a cash basis by deducting cost from the sales price.

Gains representing the recovery of past depreciation are always taxable.

Special rules apply to houses used for private living and for a business engaged in real property trading. Such living houses are normally tax exempt.

Machinery, equipment etc.

Capital gains from the disposal of equipment in connection with cessation of a business are taxable. The sales proceeds are deducted from the depreciable balance at the beginning of the year thus reducing total depreciation for the current and future years.

Shares held by Companies

As from 2010 shareholdings of 10% or more (based on nominal share capital) are tax exempt, i.e. gains are not taxable and losses are not deductible. This also applies to controlled share holdings of less than 10% (control based on votes or on all Group holdings).

Other shares (shareholdings less 10%) are only taxable if the shares are listed on a stock exchange.. Dividends on shareholdings less 10% are taxable.

Gains and losses are computed on accrual basis (value change through the tax year), incl. realized gains and losses.

A special regime is implemented in respect of holding companies (transparency rule), i.e. a holding structure could not be established with the purpose to be tax exempt on capital gains on shares and dividends.

Shares held by Individuals

Gains from the disposal of shares held as portfolio investments are taxable. The gain or loss is taxed as share income. Net gains from disposal of shares are taxed at a rate of 27-42%.

Net losses from listed shares are deductible (no time limits) in following years, and net losses on unlisted shares are deductible (by tax value) against other personal taxes.

Certain shares in deemed investment companies are taxed on accrual basis (value change through the tax year). Gains and losses on such shares are taxed as capital income. A company with 7 or more shareholders may be deemed to be an investment company provided more than 15% of its assets are invested in bonds, shares etc. (financial assets). A foreign investor may benefit from this sort of investment company, i.e. the investment company is tax exempt in Denmark.

## Business taxation in general

Corporations and individuals compute taxable income from business activities in the same way, i.e. it is the same legal framework. However, corporations are only taxable on income from Danish sources.

## Related party transactions

Related party transactions must be in accordance with the arm's length principle.

Danish regulations on transfer pricing were implemented in 1998, and have undergone several changes since. The latest adjustment was introduced in 2005, and today the documentation is based on the following:

- All controlled transactions between legal entities must be on arms length basis, i.e. both cross border and national transactions.
- All Danish companies must report to Danish Tax Administration on TP, i.e. whether or not the

company are deemed to prepare written documentation (included in tax return)
- Non-SME Groups must prepare written documentation.

According to Danish national law all non SME companies (Groups) must prepare written TP-documentation. Non-SME companies/Groups are defined as follows:

- 250 employees or more, and
- A balance sheet total of over 125 million. DKK (approximately 16 million euro) or an annual turnover over 250 million DKK (approximately 33 million euro).

Approximately 1,000 Groups based in Denmark have to prepare this written documentation. The documentation has to be updated annually, and must include information for the last 5 years.

The documentation must be prepared in accordance with OECD regulations and national instructions. However, the company must itself define the relevant documentation. Consequently, each set of documentation is unique, and the Tax Administration must approve the chosen form (if this form covers all essential areas).

A database analysis is not required, however the Danish Tax Authorities can apply for this. The company has to prepare this analysis within 60 days.

The Danish regulations include the following standards:

- Regulations on information given to the Tax Administration
- Regulations on requirements on documentation, when TP documentation must be prepared
- Regulations on valuation of Inter Company transactions (assets).

Beside these specific Danish regulations on transfer pricing documentation, all controlled transactions between related parties must be on arms length, i.e. controlled transactions between companies in a Group, transactions between shareholders etc. and their companies, and transactions between individuals in a family etc.

Also, Denmark complies with EEC regulations in general.

As from 1st January 2009 VAT, custom duties and other excise duties are also covered by transfer pricing regulations, cf. Article 80 in 6th VAT Directive (2006/112/EF). Consequently, the Danish Tax Authorities may adjust controlled transactions in respect of VAT and duties.

If the Tax Authorities adjust the price on a transaction, then the company etc. may apply for subsequent payment in accordance with the adjustment. Normally this payment will be allowed, i.e. the transaction is changed to arms length terms and corresponding adjustments are avoided. However, the companies etc. are supposed to apply for this ruling in each case, therefore a risk of double taxation exists.

The written documentation is based on two steps:

- Information prepared on an annual basis (must be available for inspection)
- Any information the Tax Administration may ask for during an inspection, i.e. further documentation, database analysis etc. Normally the company is allowed 60 days to prepare the additional information.

If the documentation is prepared then the burden of proof rest with the Tax Administration, Otherwise, the Tax Administration may adjust the taxable income based on an estimate.

If the required documentation is not prepared and presented to the Tax Authorities on demand (60 days notice), then a penalty is payable.

Depreciation

When computing taxable income, an allowance for depreciation is allowed.

Depreciation deducted for tax purposes need not conform to that provided in the financial statements. The method of depreciation for tax purposes depends on the asset group.

**Depreciation on machinery**

All plant, machinery, automobiles etc. are pooled and depreciation is calculated collectively applying the reducing balance method. The depreciation basis is the written down value of all assets in the pool at the beginning of the year plus the cost price of items purchased during the year, minus the sales proceeds of items sold during the year. Acquisitions and disposals must be accounted for at their cash value. Annual depreciation may be up to 25% of the balance. Assets individually costing less than DKK12,300 (2013) or with an expected life of less than 3 years and all IT software may be written off in full in the year of acquisition.

Assets with a long economic life must be depreciated at a reduced rate.

**Depreciation on ships**

Ships of less 20 tonnes may be depreciated by up to 25% of the remaining balance (declining balance method). Other ships must be depreciated at a reduced rate.

### Depreciation on buildings

For depreciation of buildings the straight line method is used. The basis for depreciation is the cash price paid for the building. The annual depreciation rate may be up to 4%. Land, office buildings and certain other types of buildings are not depreciable for tax purposes.

### Depreciation on intangible assets

For intangible assets, including goodwill, the straight line method is used.
The depreciation period is 7 years, however it could be prolonged if the assets is deemed to have a longer life.

The cost of know-how, patents etc. may be deducted straight away.

### Incentives

A newly introduced tax credit for R&D costs allows business entities to apply for a repayment of 25% (reduced to 22%) of any losses from this activity, not exceeding a total repayment per year of 25% of 25 mio.DKK or 6.25 mio.DKK.

Withholding taxes

**Dividends**

Withholding tax at a rate of 27% has to be deducted from dividends paid by Danish limited companies. The tax rate will often be reduced or the tax eliminated under the terms of a double taxation agreement.

Denmark has adopted the EU parent subsidiary directive granting EU based parent and subsidiary limited companies relief from dividend withholding taxes.

The same relief from Danish dividend withholding taxes applies to foreign holding companies of other jurisdictions as well, provided they hold 10% or more of the share capital of the Danish limited company, and a double taxation agreement exists between Denmark and the country in which the dividend receiving holding company is resident.

For a Danish parent company the dividend from a Danish subsidiary is exempt from Danish tax, if the company owns 10% or more of the capital in the subsidiary.

**Royalties**

Withholding tax at a rate of 25% must be deducted from most royalties paid to residents of foreign countries. For royalties paid to countries with which Denmark has entered into a Double Taxation

Agreement the withholding tax rate is often lower than the normal rate or zero.

**Interest**

Withholding tax at a rate of 25% has to be deducted from interest paid by Danish sources. The tax rate will often be reduced or the tax eliminated under the terms of a double taxation agreement.

Denmark has adopted the EU interest/royalty subsidiary directive granting EU based parent and subsidiary limited companies relief from interest withholding taxes.

In general, withholding tax on interest is only applicable on controlled debt to a non-EEC member resident.

# Value added tax

The value added tax rate is 25%. VAT is added to virtually all taxable deliveries of goods and services including imports. VAT is charged on imports from other EU and non-EU countries applying the reverse charge method provided the Danish importer is already registered for VAT and as an importer with the Danish Customs Authorities.

VAT charged on sales to customers is paid over to the tax authorities less VAT suffered on purchases from suppliers. Exports are exempt from value added tax. Many goods are also subject to a special duty, including for example automobiles, petrol, wine and tobacco, certain packaging materials and soft drinks.

# Other taxes

Hydrocarbon tax
(A special oil and gas tax)
Enterprises engaged in oil exploration, extraction, transportation and related activities in Denmark, in Danish territorial waters and on the Danish continental shelf are subject to a special system of taxation.

Real estate taxes
Individual owners of real estate (residential houses and summerhouses) are subject to a property tax based on the value of the property. The tax is calculated at 1% of property value plus 2% of the property value exceeding DKK 3,040,000 (ejendomsværdiskat).

Almost all real estate is also charged with a tax on land, based on a public assessment of the value of the property (the assessments cover both land and building, but it is only the land component which is taxed). The tax is levied at various rates ranging from 1.6% to 3.4%. This also applies to building used for business purpose. However, in certain major cities, including Copenhagen, commercial property building tax is not insignificant.

Registration duties

Registration duties are imposed on certain transactions principally involving the purchase or exchange of ownership to land and real estate, mortgage loans, contracts secured through a pledge on land and real estate and the registration of other encumbrances etc. on land and real estate property. The duties are 0.6% on property and 1.5% on mortgage loans etc., however mergers etc. are exempt.

There are no capital transfer duties on the injection of equity capital into a Danish limited company, nor are there any transfer duties applicable to the transfer of shares, bonds or mortgage letters.

## Inheritance and gift tax

The estate of a deceased person pays tax. Tax is 15% when the successor is closely related to the deceased. If the relationship is not close, there is an extra tax of 25%, giving an effective total tax rate of 36.25%. Tax is paid on the net value of estates exceeding DKK 264,100 (2013).

Gifts to closely related successors are subject to a 15% tax. However, annual gifts of DKK 58,700 are tax exempt (son or daughter in law: DKK 20,500).

Special rules apply to transfer of business assets, shares in companies (not financial/investment companies), i.e. a reduced valuation and/or a postponement of capital gains tax.

# *Tax treaties*

Treaty withholding rates on dividend, interest and royalties

I. Treaty and non-treaty withholding tax rates

Dividends(%)Interest(%) Royalties(%)

Non-treaty countries: 28 25 25

Denmark imposes withholding taxes on qualified/controlled outward interest payments at a rate of 25%. However, Danish withholding tax does not generally
apply to interest payments to a foreign group company in an EC
Member State or protected by a tax treaty.

Denmark imposes withholding taxes on outward royalty payments at a
rate of 25%.

0% rate applies to dividends distributed to foreign companies in EC
countries/protected tax treaty countries holding at least 10% of share
capital throughout a 12-month period and if not a 'flow-through' entity.

Treaty countries:

Argentina 15/10 12 3/5/10/15
Armenia 15/0 0 0
Australia 15 10 10
Austria 10 0 10/0
Bangladesh 15 10 10
Belarus 15 0 0
Belgium 15 10/0 0
Brazil 25 15 15/25
Bulgaria 15/5 0 0
Canada 15/5 10 0/10
Chile 15/5 15 5/15
China 100 10 10
Croatia 15/5 0 10
Cyprus 15/10 10/0 0
Czech Republic 15/0 5/10
Egypt 20/15 15 20
Estonia 15/5 10/0 5/10/0
Faroe Islands 15 0 0
Finland 15 0 0
France 0 0 0
Georgia 15 0 0
Germany 15 0 0
Greece 18 8/0 5/0
Greenland 0 10
Hungary 15/5 0 0
Iceland 15 0 0
India 25/15 10/15 20
Indonesia 20/10 10 15
Ireland 15 0 0
Israel 15/5 25 10
Italy 15 10/0 5/0
Jamaica 15/10 12.5 10
Japan 15/10 10 10
Kenya 30/20 20 20
Korea 15 15 10/15
Kyrgyzstan 15 0 0
Latvia 15/5 10/0 5/10/0
Lithuania 15/5 10/0 5/10/0
Luxembourg 15/5 0 0
Macedonia 15/0/5 0 10
Malaysia 0 0/- 0/25
Malta 15 0 0
Mexico 15/0 5/15 10
Montenegro 15/5 0 10
Morocco 25 10 10
Netherlands 15 0 0
New Zealand 15 10 10
Norway 15 (7) 0 0
Pakistan 15 15 12
Philippines 15/10 10 15
Poland 15/0/5 5/0 5/0
Portugal 10 10/0 10/0
Romania 15/10 10 10
Russia 10 0 10
Serbia 15/5 0 10
Singapore 10/0/5 10 10
Slovak Republic 15/5 0 5/0
Slovenia 15/5 5/0 5/0
South Africa 15/5 0 0
Spain 15 10/0 6/0
Sri Lanka 15 10 10
Sweden 15 0/10/ 0
Switzerland 0 0 0
Taiwan 10 10 10
Tanzania 15 12.5 20
Thailand 10 10/15 5/15
Trinidad and Tobago 20/0 15 15
Tunisia 15 12 15
Turkey 20/15 15 10
Uganda 15 10 10
Ukraine 15/5 10 0/10
United Kingdom 15/0 0 0
United States 15/5 0 0
Venezuela 15/5 5 10
Vietnam 15/5/10 10 5/15
Zambia 15/ 10 15

# *HLB in Denmark how to contact*

Website: www.beierholm.dk

Beierholm
Gribskovvej 2
DK-2100 Copenhagen Ø
Telephone: +45 39 16 76 00

Partner Peter Nordahl, pnr@beierholm.dk
Partner Jørgen Jakobsen, jja@beierholm.dk
Tax Partner Asger Lehmann Høj, asg@beierholm.dk
Other contacts: Please see www.beierholm.dk

HLB Beierholm

Gribskovvej 2, DK-2100 Copenhagen Ø, Denmark
Telephone: +45 39 16 76 00 Fax: +45 39 16 76 01 E-mail: kbh@beierholm.dk Web: www.beierholm.dk