

WORTH KNOWING ABOUT

Real Estate investments - tax saving possibilities - in Denmark

TAX AND VAT
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A foreign investor may invest directly in real estate in Denmark or through a Danish company. A direct investment involves that the foreign investor becomes liable to tax to Denmark but limited to income related to the investment.

Danish taxation

Companies - foreign or Danish - are in Denmark taxed at a flat rate of 22 % of their taxable income. In the computation of the taxable income interest expenses are - as a main rule - fully deductible. However, Danish tax legislation contains 3 rules which put limitations on the deductibility of interest. The debt/equity structure should therefore be carefully considered before entering the Danish market.

Acquisition costs and improvement costs must to a certain degree be added to the purchase price and can therefore not be deducted as operating costs.

A foreign group must for tax purposes consolidate all Danish activities (companies, permanent establishments and real estate) which entail the possibility to deduct losses in one entity against profits in another entity. The group structure should however be considered carefully due to the fact that certain group structures will not give access to consolidation.

Certain buildings can be depreciated for tax purposes by 4 % per year. Machinery and equipment, furniture and fixtures can be depreciated according to the declining balance method by 25 % per year. Maintenance costs are fully deductible whereas improvement costs to a certain level (5 % of depreciation base) may be treated as maintenance and the exceeding amount must be capitalized.

Capital gains

Sale of real estate may trigger a capital gain. Capital gains are taxed at the normal rate. In addition tax depreciation recaptures in connection with the sale will be taxable as well. Capital losses can only be offset against the company's capital gains from real estate in the year of disposal, or in the following income years.

Foreign corporate shareholder of Danish real estate companies are not subject to tax in Denmark on capital gains from the sale of shares to a third party. If the investment is done through a Danish holding company capital gains from the sale of shares in the Danish subsidiary will not be subject to Danish taxation.

Stamp duty

In connection with the acquisition of real estate a stamp duty of DKK 1,750 + 0.6 % of the acquisition sum will apply. Mortgage loans are subject to a stamp duty of DKK 1,750 + 1.45 %.

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Real estate tax

Real estate tax is imposed on the value of the land, but not the building. In addition a municipality real estate tax on buildings used for offices, hotels, plant, workshops and similar business purposes may be imposed. These real estate taxes are deductible when computing the taxable income.

VAT

In principle, the sale of real estate will not trigger VAT. However, VAT will apply if a building has been newly built, is substantially rebuilt or in case of sale of land plots in a professional capacity.

Environmental taxes

Denmark levies a number of “green taxes” including taxes on carbon dioxide emissions and on waste water which may influence the operating profit.

Payments out of Denmark

Profit from a direct investment may be transferred to the owner without triggering withholding tax.

Dividends from a Danish subsidiary to a qualifying foreign parent company within the EU or in a tax treaty country are generally tax exempt in Denmark if the parent company is the beneficial owner. Otherwise, dividend is subject to 27 % withholding tax that may subsequently be reduced to 22 % or lower according to a double tax treaty.

Similar applies for interest payment but with a withholding tax of 22 %.

Denmark has adopted a general anti-avoidance rule that may affect the tax treatment.

Individual investors

Individual investors will be liable to tax in Denmark. The rules described for companies apply in broad terms also for individuals, but the tax rates are different.

Legal matters for companies

A Danish company can be established as a public limited company (A/S) or as a private limited company (ApS). The requirements for registering an A/S or ApS are straightforward and much of the process can be carried out online. The minimum capital is for an A/S DKK 400,000 and for an ApS DKK 40,000. Companies must file annual financial statements with the Danish Business Authority.

Using Denmark for foreign investments

A Danish company shall not include income from foreign real estate/permanent establishments in the Danish taxable income unless international tax consolidation is elected (joint taxation). Consequently, if a Danish company invests in foreign real estate, profit and capital gains will be excluded from Danish taxation even if the income has not been taxed abroad. Foreign investors could benefit from setting up a Danish company for foreign investments.

Using Denmark as temporary residence

If an individual who moves to Denmark owns real estate assets (directly or through a company) the value of the investment will be valued at fair market value at the entrance day and a later capital gain will be calculated based on this value. Consequently, capital gains from the period before the entrance to Denmark will not be taxed in Denmark.

**DO YOU HAVE ANY
QUESTIONS?
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