

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 entails that the foreign investor becomes liable to tax to Denmark but limited to tax on the 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 three 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 since certain group structures will not give access to consolidation.

Certain buildings can be depreciated for tax purposes by 3 % or 4 % per year, which depend on whether the buildings are acquired before or after 1 January 2023. Machinery and equipment, furniture and fixtures can be depreciated according to the declining balance method at a rate of up to 25 % per year. Maintenance costs are fully deductible whereas improvement costs may be deducted immediately, rather than depreciated, to the extent the total annual costs of maintenance, improvement and reconstruction do not exceed 5 % of the acquisition cost of the building.

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 shareholders of Danish real estate companies are generally not subject to tax in Denmark on capital gains from the sale of shares to a third party. Further, Danish real estate companies held through a Danish holding company may be sold by the Danish holding company exempt from Danish capital gains tax.

Stamp duty

In connection with the acquisition of real estate a stamp duty of DKK 1,850 + 0.6 % of the acquisition sum will apply. Mortgage loans are subject to a stamp duty of DKK 1,850 + 1.45 %.

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

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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 wastewater which may influence the operating profit.

Payments out of Denmark

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

Dividends from a Danish subsidiary to a foreign parent company entitled to claim benefits under the EU parent/subsidiary directive or a tax treaty with Denmark are generally tax exempt in Denmark. A relatively strict and detailed beneficial ownership and anti-abuse test is applied. Otherwise, dividend is subject to 27 % withholding tax that may subsequently be reduced to 22 % or lower according to a double tax treaty.

Interest payments on group related lending by a corporate lender can be subject to Danish interest withholding tax, unless the group related lender is entitled to claim benefits under the EU parent/subsidiary directive or a tax treaty with Denmark. A relatively strict and detailed beneficial ownership and anti-abuse test is applied. If Danish interest withholding tax applies, the applicable rate is 22 %.

Individual investors

Individual investors in Danish real estate will be liable to tax in Denmark. The rules described for companies apply in broad terms also to 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 real estate investments

A Danish company does 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 irrespective of how the income has been taxed abroad. Foreign investors could therefore potentially benefit from using a Danish company to hold foreign real estate investments if this is commercially viable.

Using Denmark as temporary residence

If an individual who moves to Denmark owns foreign 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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