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Reclaim French social security charges levied on income from real estate located in France before the end of 2015

Individuals, who own real estate in France may be able to reclaim certain French social security charges for 2013 and 2014 if they are covered by social security in another EU country.

By Anders Kiærskou, aek@bdo.dk

Danish resident individuals, who own a home, holiday home or other real estate located in France, may be among the individuals who are entitled to a refund of French social security charges for 2013 and 2014.

Please note, that the social charges for 2013 must be reclaimed before the end of 2015.

Background

Pursuant to French law, individuals who own real estate located in France - directly or via a tax transparent entity - are subject to social taxes (CSG/CRDS) at a rate of 15.5 pct. on income and/or realised capital gains related to the real estate located in France.

On 26 February 2015, the Court of Justice of the European Union ruled that French social taxes (CSG/CRDS) are in fact social security contributions due to the fact that they are used by the French state to finance the French social security regime.

According to EU law, an individual can only be covered by social security in one EU member state.

This implies that the individual is only required to pay contributions to the social security regime of the EU country where the individual is covered.

Hence, the Court of Justice of the European Union ruled that France cannot apply the above stated social charges to individuals who are covered by the social security regime of another EU member state.

Refund claims

On the basis of the ruling by the Court of Justice of the European Union and pursuant to French tax law, individuals, who are covered by social security in another EU member state than France and who have paid CSG/CRDS on income generated in 2013 and 2014 related to French real estate are entitled to a refund of these unlawfully levied social charges.

As stated above, social charges that have been unlawfully levied for 2013 should be reclaimed by the tax payer before the end of 2015.

Overview of proposed legal initiatives by the Danish government

In connection with the opening of the Danish Parliament, the Danish government presented its list of intended legislation for the coming year.

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The intended tax legislation and legislation of general interest to businesses operating in Denmark is of a relatively modest scope.

Among these, the following can be highlighted:

1. The Minister of Taxation is expected to propose a bill that will make it possible for the authorities to require that large multinational companies make so-called country-by-country reporting of their income and tax payments. Further, the OECD global standard for the reporting and exchange of account information will be implemented.

2. The special tonnage tax scheme will be expanded in order to include a number of special vessels. Subject to minor alterations, this is basically a proposal originally conceived by the previous government.

3. The government will, with effect from 2016, restructure various business support systems - both direct business support and tax-based support – into other initiatives designed to improve the framework conditions for businesses operating in Denmark. Further elaboration will be presented by the government.

   The government will also implement a reform to improve investment opportunities by ensuring a more neutral and balanced taxation of business income.

4. Further, the Minister of Taxation will present two initiatives to strengthen the legal rights and due process of tax payers.

   The first initiative abolishes the authority given to the Danish tax authorities to inspect construction work on private property.

   The second initiative is expected at the end of February 2016 and will - among other things - contain a proposal for the reinstatement of rules allowing companies etc. to receive reimbursements from the state for costs to advisors in cases concerning tax and VAT.

The list of legislative initiatives intended by the Danish government is not exhaustive.

Only the legislative initiatives that can be expected to be proposed with a reasonable degree of certainty are included.

As in previous years, the Minister of Taxation as well as other ministers will undoubtedly propose legislation not included in the presented program.

It is important to note that the above described legal initiatives are only intended proposals for new legislation.

It cannot be ruled out that there will be changes due to political negotiations, and there may be proposals which will not be adopted by the Parliament.