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Content

A new bill makes proceeds from certain tax free share sales taxable

The Danish parliament has passed a bill making previously tax free proceeds from certain sales of shares taxable.

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Generally, capital gains received by companies from disposal of unlisted portfolio shares are tax free while dividends stemming from such shares are taxable. Naturally, this difference makes it interesting to consider whether it is possible to convert taxable dividend to a tax free capital gain.

However, the Danish parliament has recently passed a bill designed to neutralise such deliberations.

Not only are capital gains from disposal of unlisted portfolio shares becoming taxable according to the bill, the acquisition price of the shares cannot be deducted when calculating the taxable income because the income is treated as dividend instead of a capital gain. Hence, the entire proceeds are taxable.

Apart from companies' disposal of unlisted portfolio shares, reclassification from capital gain to dividend takes place when company or individual shareholders are remunerated in other assets than shares in connection with tax free or taxable company reorganisations.

The new rules mainly apply to companies' transfer of shares to "empty" companies, when the remuneration or part hereof stemming from such transfers consists of other assets than shares in the acquiring company or connected group companies. This also applies to non-resident individual shareholders living in a country outside the EU having no double tax treaty with Denmark. For non-resident individual shareholders, this means that the proceeds will be taxed in Denmark with 27 pct. – income that was previously tax free in Denmark.

In reference to taxable company reorganisations, the new rules apply in cases where company shareholders holding unlisted portfolio shares are remunerated in other assets than shares in the receiving company or connected group companies.

Concerning tax free company reorganizations, all remuneration in cash must be treated as dividend when the shareholder (company or individual) owns shares in one of the companies involved in the reorganisation - or connected group companies after completion of the reorganisation.

The above applies to Danish companies holding shares in Danish or foreign companies and to foreign companies holding shares in Danish companies. The new bill entered into force on 1 April 2014. However, the bill largely takes effect from 20 November 2013.

Easier access to highly skilled labour

The Danish government proposes to lower the minimum salary requirement for foreigners taxed according to the special 26 pct. tax scheme.

By Hans-Henrik Nilausen, hhn@bdo.dk

The Danish government has launched a proposition to reform international recruitment called "Easier access to highly skilled labour".

The aim of the reform is to strengthen Danish enterprises in international competition.

The reform proposal contains 7 items which all aim at attracting qualified foreign labour and to make it more attractive for foreign students to stay on in Denmark and contribute to the Danish community after having completed their studies.

One aspect of the reform comprises a reduction of the minimum salary required in order to use the special Danish 26 pct. tax scheme available to foreign specialists under certain conditions.

According to the proposal, the monthly minimum salary requirement for foreign specialists taxed according to the special Danish 26 pct. tax scheme should be reduced by DKK 10,000 meaning that the monthly minimum salary requirement would be reduced from DKK 70,600 to DKK 60,600.

The proposal also changes the rules on residence/work permits.

Further, the proposition contains a new "fast-track arrangement" that will make it possible for salary earners from 3rd countries to start working in Denmark as soon as application for residence/work permit has been filed and the application fee has been paid.

A new social security agreement with China takes effect

On 14 May 2014, a social security agreement between Denmark and China takes effect.

By Anders Kiærskou, aek@bdo.dk

Denmark and China have concluded a social security agreement covering social pension including Danish ATP.

The agreement takes effect from 14 May 2014.

For Danish enterprises posting employees in China, the agreement facilitates exemption from paying contributions to Chinese old age pension with 28 pct. of the employee's salary for up to 3 years.

Further, the employee and his accompanying family continue to accrue and retain rights to Danish social pensions including ATP.

The importance for Danish enterprises of a social security agreement between Denmark and China increased when the Chinese social security system was extended on 1 July 2011 to include foreign employees working in China and their foreign employers.

The agreement enables Chinese employees posted in Denmark by Chinese enterprises to remain covered by Chinese social security. In such cases, the agreement facilitates exemption from paying both employee and employer contributions to ATP.