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Self-employed individuals may be allowed to defer exit tax payments

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According to a proposal for a new bill, self-employed individuals will be allowed to defer payment of exit taxes when relocating their businesses abroad.

By Anders Kiærskou, aek@bdo.dk

Due to the higher tax rates in Denmark compared to tax rates in many other countries, Danish tax rules are in place to tax unrealised capital gains when assets are exiting Danish tax jurisdiction.

Without these rules, companies and individuals would be able to avoid or reduce Danish taxation on capital gains achieved under Danish tax jurisdiction by relocating abroad.

Different rules apply regarding payment of exit taxes depending on whether the assets are held by companies or individuals.

In reference to individuals, the rules on exit taxation further differ depending on whether the unrealised capital gains relate to shares, bonds or other securities or whether the unrealised capital gains concern other assets utilised in businesses.

Companies

As described in the February issue of tax:watch this year, according to recently introduced rules, companies subject to exit taxation related to transfer of assets to other EU/EEA countries are allowed to defer payment of the exit tax against payment of interest.

These rules were introduced in order to comply with EU regulations.

According to the rules, the deferred tax must be paid concurrent with return (income, gains, dividends) on the transferred assets, which would have been taxed in Denmark if the assets had remained in Denmark.

The yearly payment must, however, always constitute at least 1/7 of the calculated exit tax.

Self-employed individuals – business assets

Self-employed individuals are currently not allowed to defer payment of exit tax on business assets (other than securities as described below) related to transfer of such assets to other countries.

The proposed bill introduces rules which allow self-employed individuals to defer payment of the exit tax similarly to the recently introduced rules for companies as described above.

The rules aim to bring the Danish rules on exit taxation in compliance with EU law. However, it remains to be seen whether the aim is reached with the amendments as a transfer of assets to other EU/EEA countries is still treated differently from a transfer internally in Denmark.

Individuals holding shares, bonds or other securities

Individuals holding shares, bonds or other securities are allowed to defer payment of exit taxes on these equities without payment of interest.

Payment can theoretically be deferred indefinitely. However, when securities are disposed of, dividends are paid to the shareholder or certain other events occur, the exit tax or part hereof must be paid.

Payment can be deferred regardless of whether the individual relocates to another EU/EEA country or to a country outside the EU/EEA. However, collateral must be put up if the individual relocates to a country outside the EU/EEA.

Reporting to the Danish tax loss register

Now, the Danish tax authorities have adapted their IT systems making it possible to report tax losses. Unreported losses will be irrevocably lost.

By Hans-Henrik Nilausen, hhn@bdo.dk

In the March issue of tax:watch this year, we mentioned a bill requiring companies to report unexploited tax losses to the Danish tax authorities.

The bill was passed by the Danish parliament on 28 May 2014.

According to the bill, it is a condition for carrying forward unexploited tax losses for the period 2002-2013 that the losses have been reported to a special register with the Danish tax authorities.

Now, the Danish tax authorities have adapted their IT systems making it possible to report tax losses according to the bill.

Reporting of tax losses must be made no later than 1 August 2015, which is the same date on which the tax return for the income year 2014 must be submitted to the Danish tax authorities.

Unreported losses will be irrevocably lost.

Reporting of tax losses must contain information on the total loss carried forward specified per company. Further, the period from which the loss originates from must be stated.

Only unexploited tax losses that exist at the end of the income year 2013 must be reported.

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