



UnitedTaxNetwork

# Newsletter

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*Dear Sir, Madam,*

*United Tax Network is delighted to present you with our latest issue of our world newsletter.*

*Should you have any questions with regard to our newsletter or any related issues then please do not hesitate to visit our website [www.unitedtaxnetwork.com](http://www.unitedtaxnetwork.com) where you can find your local United Tax Network office.*

*You can also refer directly to the authors of each article by clicking their name in the newsletter.*

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## European Enactment 883/2004

The European Enactment 883/2004 introduced the new social security system on the 1<sup>st</sup> May 2010 replacing Enactment 1408/71. The new Enactment is based on many of the same principles as Enactment 1408/71 but sums up many of the ongoing changes made over the years and sets the new standards for various situations. To some extent the enactment has been simplified but at the same time it leaves a number of unanswered questions. We are monitoring the development of the different countries' and will work to keep you updated.

The European legislation on social security, especially for expatriates, had been fixed in the past time in the European enactment 1408/71 with the following content:

- In case of a secondment of an employee to another country a possibility to stay in the home country social security system for 12 months exists according to a special request (form E101) combined with a possibility of prolongation for another 12 months after the first period.
- For persons who are employed in at least two countries the social security rules of the home country system remains decisive in case of at least a partly work in the home country. This rule is not valid for flying or driving personal (stewardess etc.).
- Persons who work in several countries in the same time as employees and as free lancers are staying in the social security system of the country in which the employment activity takes place. Several countries claim exceptions from this rule.

From 1<sup>st</sup> of May 2010 on the European enactment 1408/71 is replaced by the European enactment 883/2004 with the following content:

- The duration of the secondment, for which the stay of the employee in the home social security system can be claimed, had been prolonged from 12 to 24 months. Therefore only one E101 claim is necessary in case of a secondment with duration of more than 12 months.
- The exceptions for flying or driving personal are cancelled.
- The exceptions of several countries concerning the rules in case of an employment and a free lancer activity are cancelled.
- In case of an employee working in several countries, the social security rules of the home country stay only decisive in case the employee spends at least 25% of the working activity in the home country.

We will keep monitoring the development of the Enactment in each member state and bring updates.

Jörg Assmann (main author)

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## Denmark

### Change to the pension system § 53 A of the Danish Pension Taxation Act (Pensionsbeskatningsloven) - Requirements to validation of tax calculations

The Danish pension system has had a relevant change in regards to expatriates and secondments in general. Contributions to pension schemes are normally deductible in the personal income and the taxation is therefore postponed to such time when the pension is disbursed during retirement.

The § 53 A system of the Danish Pension Taxation Act (Pensionsbeskatningsloven) is an arrangement that allows already taxed contributions to be paid into an account without any Danish taxation against later tax-free payments during retirement. Such types of arrangements are normally utilised by expatriates during secondments in order to avoid double taxation of pension contributions.

If an employee leaves Denmark for a period of time and becomes taxable to another country the contributions to a Danish pension often would consist of taxed funds since deductions in foreign income of this sort are rarely allowed. Double taxation is then avoided by making pension disbursements during retirement tax free.

The new addition to the regime is a demand for the tax payer to validate that there has not been partly or full deductibility in Denmark or the foreign country of the § 53 A payments. In other words the tax payer now has to ensure documentation for his Danish and foreign tax calculations in order to ensure avoidance of double taxation.

Jan Dalgaard



### Proposed Amendment to the Danish Tax Assessment Act (Ligningsloven): Limited taxable – removal of spouse deduction

A proposed amendment to the Danish Tax Assessment Act (Ligningsloven) is going to remove § 9 F, which is a special spouse deduction for people, who are limited taxable to Denmark and has a spouse in their resident country without any Danish income.

If the motion carries it will have the effect that individuals, who are limited taxable to Denmark, will not be able to utilize a DKK 42.900 (~ € 5.750) (whole year 2010) tax assessment deduction when calculating their taxes. Ultimately in some cases

## Quick News

### >> Belgium

#### Dubai employment income

Belgian tax authorities state in an internal tax circular that Dubai employment income will be taxed at normal rates in Belgium notwithstanding the double tax treaty in place.

Filip Camps

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### >> Portugal

#### PORTUGUESE TAX PARDON

The Portuguese Government has approved a new Tax Pardon for deposits and financial investments out of Portugal. The specificity of this measure is that it will be including both individuals and companies.

In order to benefit from this initiative one must declare and transfer to a credit institution resident in Portugal all foreign incomes due to 31st December 2009 until 16th December 2010, and proceed to payment of a 5 % fee over the declared incomes.

This tax amnesty provides the declarers with the extinction of all tax obligations regarding these elements as well as misdemeanour or criminal responsibility.

Ana Castro Gonçalves



this might result in a additional expense compared to previous years of approx. DKK 14.160 ( $\approx$  € 1.900) (whole year).

The proposed amendment is part of law proposal based on an agreement between the Government and it's supporting party, which also contains changes to the taxation of pension income, where a 6 % taxation will be imposed on pension income above DKK 362.800 ( $\approx$  € 48.700) (2010 level).

If the law proposal carries the mentioned changes will have effect from the beginning of 2011. The proposal is part of the plan to finance one of the biggest tax relief reforms in newer Danish history.

Jan Dalgaard

## Estonia

### Tallinn establishes a Sales Tax starting from June 2010

A 1 % sales tax will be introduced on 1st June 2010. The taxation will apply to the majority of goods and services traded and is to be paid by the sellers/providers. Tallinn hopes to collect 150 million kroons ( $\approx$  € 10.000.000) a year with this new tax.

New tax applies on a trader who is operating within Tallinn, is registered with the register of economic activities and operates in retail, catering or service business. The taxable value of goods and services is calculated according to section 12/1 of the Value Added Tax Act. Sales tax will also apply to those enterprises not registered for VAT.

Sales tax will not be applied to medicinal products, milk and certain dairy and bread products, infant garments and clothing accessories, vegetables and certain toys and parts and accessories thereof. Sales tax is reported and paid by the 20th day of the month following the quarter.

The city of Tallinn and the Estonian Tax and Customs Board have concluded a cooperation memorandum according to which the city will outsource the IT solutions and experiences for collecting the tax to the Tax and Customs Board. The Board will offer the city the service of administering the collection of the tax The collection of trade tax will cost approx. 6 million kroons ( $\approx$  € 400.000) a year.

Valters Gencs

## Germany

### German children relief in international cases

The right for children relief in a country is in general linked to the membership of the employee in the social security system of this country.

In some countries out of Germany children relief is not or only partially granted (Example: in France children relief is not granted for the first child). In such cases expatriates working in Germany and having a domicile in Germany have right to German children relief for the concerned child(ren), even if the employee is not member of the German social security system.

This new treatment has also an impact on the German taxation of the employee:

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According to German taxation law a deduction of the taxable income per child is granted. On the other hand the children relief has to be added to the German tax duty, even in case this children relief had not been paid out (Example: in case the employee had not claimed for the relief). Therefore, in order to avoid a negative final result the thus added German children relief should be requested by the employee.

Jörg Assmann



### **New board and lodging regulations for travelling employees**

As from 2010, the VAT rate for overnight stays has been reduced from 19% to 7%. However, in particular, breakfast has not been affected by this new regulation and is still to be calculated with the standard tax rate of 19%.

As a result of the new regulation, invoices issued by hotels and other accommodation facilities do not indicate a total sum for accommodation and breakfast. The hotel receipts will differ from previous ones due to the VAT and amounts for services with reduced and normal tax rates will be indicated separately.

This new form of receipt also has an impact on the wage tax procedure. If breakfast is listed individually, the breakfast lump sum reduction of € 4,80 used by many employees, is no longer possible.

Annette Weinel

### **Latvia**

#### **Latvia increases the Personal Income Tax rate (PIT) and introduces taxation on further capital gains**

Starting from 1<sup>st</sup> January 2010 comprehensive amendments to the Latvian tax system are in force. One of the most considerable concerns is changes to the personal income tax rate (PIT).

The new PIT rate of 26 % is a result of an increase by 3 % from the previous rate of 23 %. The new PIT rate of 26 % is also applicable to self-employed individuals, which is an increase of 11 % from a previous rate of 15 %.

## **Quick News**

### **>> United Arab Emirates**

#### **New double tax agreement between The Netherlands and UAE**

A new double tax treaty between the Netherlands and the United Arab Emirates ("UAE") that was signed in May 2007, was finally approved in the Dutch Parliament in April 2010, and will enter into force in June 2010.

Of most importance, the treaty will allow Sovereign UAE entities to enjoy 0 % withholding tax on Dutch dividends. This will encourage investment into the Netherlands, but also allow advantages for the use of Dutch holding companies.

Dominic Treays

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### **>> Germany**

#### **Withholding tax on private equity funds**

Since 2009 capital income has to be submitted in Germany to a withholding tax of about 25%.

It has been clarified recently that income from private equity funds has also to be submitted to this withholding tax. Due to this fact this income is not treated anymore in a favourable way.

Jörg Assmann



Further amendments to the Law regards that all sorts of capital gain is now liable for taxation. Capital gain is primarily defined as the difference between sales price of capital asset and value of acquisition, as well as difference between liquidation quota and value of investment. Secondly capital gain also includes dividends, interest income, income from investment in private pension funds and life insurance agreements with savings.

Income from primary capital gain (difference in purchase and sales price of capital assets) is taxed at a rate of 15 %. The person, who receives this type of capital gain income, is solely responsible for making the tax payment and also has the obligation to report the income to the State Revenue Service. The moment of taxation is in that taxation period, when the income is gained, i.e. when the income is actually received.

Income from secondary capital gain (dividends, interest income etc.) is taxed at a rate of 10 %. The obligation of making the tax payments lies with the person or entity, who disburses the income (bank, company etc.). No matter when the income is actually received the day on which the income is determined equals the moment of taxation.

Valters Gencs



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## Lithuania

### **New rule for calculating non-taxable amounts and reduced corporate income tax rate**

During 2009 several amendments were made to the tax laws in Lithuania in an attempt to counter the adverse financial situation.

From August, 2009 the new amendments to the law on personal income tax came into force. The law provides a complete list of benefits that starting from 2010 will not be considered as taxable income. The amendment to the law on personal income tax also sets new rules for calculation of non-taxable income, which will not be applicable for members of non-limited liability companies as previously.

As of 2010 the corporate income tax rate has been reduced by 5 % from 20 % to a new rate of 15 %. In addition small companies employing not more than 10



employees and an annual income of no more than LTL 500.000 ( $\approx$  € 145.000) shall be subjected to 5% of Corporate income tax. Previously the tax rate was 13 %.

Personal income tax rate in Lithuania remains at 15 % as well as dividends and other profit distributions are subject to 15 % tax rate.

Valters Gencs

## Luxembourg

### Intellectual property rights in Luxembourg (IPR): Tax exemption

The tax attractiveness of Luxembourg regarding the intellectual property has increased by the introduction of a tax optimization regime for the use of intellectual property.

Article 50bis L.I.R. has provided for an 80% tax exemption of positive net income derived from the use or the right of using of certain intellectual property rights (copyright on software, patent, trademark, design or model and domain names) received by a Luxembourg tax payer, as well as capital gains realized on the transfer of such IP rights.

Article 50bis, §2 states that a Luxembourg tax payer using a self-developed patent in its business is also entitled to a deduction of 80% of the net consideration which a third party would have paid for licensing the patent based on market conditions.

#### CUMULATIVE CONDITIONS

- The IP rights must have been created or acquired after 31 December 2007.
- Obligation to activate any costs, amortizations or depreciations in connection with the IP rights during the first book year for which the application of this regime is demanded.
- The IP rights may not have been acquired from a legal person who is qualified as an "affiliated person", but may be acquired by a contribution in kind.

#### Tax perspective

- 80% of the income out of the IP rights will be exempted, which provides an effective tax burden of 5.7%.
- The losses are fully being deducted.
- The capital gains realized are also being exempted at 80%.
- Exemption of the wealth tax on the qualifying IP rights.

This exemption regime may be cumulated with:

- The SOPARFI regime (providing an exemption on participations);
- The extensive network of double tax treaties concluded by Luxembourg;
- The European "Mother-Subsidiary" Directive (no withholding tax in case of dividends distributed) and "Interest-Royalties" Directive (no withholding tax due on any interest or royalties paid between affiliated companies).
- The exemption is applicable as from the date of registration demands deposit of the IP rights.

Phillippe Corbesier

## Quick News

### >> The Netherlands

#### Tax Treaty with Hong Kong

The Netherlands and Hong Kong concluded a tax treaty to avoid double taxation.

The tax treaty provides the regular rules to avoid double taxation on employment income and director's fees for individuals who are residents of one State and working in the other State. Moreover, the tax treaty contains a provision to exchange information on tax matters based on the OECD standards.

The tax treaty is to be ratified by both the Netherlands and Hong Kong and therefore not entered into force yet.

Siegfried Jagga

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## Malta

### Aircraft registration bill approved

The Aircraft Registration Bill has been approved by the Parliament. The Bill, which meets the framework of the Cape Town Convention, is expected to generate new opportunities within the growing financial services sector as well as the airline maintenance industry. This is an autonomous initiative and not an EU Law which is being transposed into Maltese legislation and is flexible in order to be able to react to the dynamism of the industry.

The Bill positively addresses various types of owners, real rights, guarantees and mortgages in relation to aircraft. It also includes the facility to register aircraft engines, opening up possibilities for engine financing. The inclusion of private aircraft and making the system also available to OECD jurisdictions was yet another positive trend.

This new legislation coupled with Malta's full imputation system of taxation makes the Malta Aviation Register an attractive proposition for owners of private and commercial craft and continues to consolidate Malta's position as an emerging financial and commercial centre within the region.

David Borg



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## The Netherlands

### 30%-ruling applicable on unconditional remuneration

The Dutch Court recently decided that the 30 % ruling should apply on stock options which are vested after an employee has left the Netherlands.

According to the Court the 30% ruling applies if:

- the benefit was related to the employment activities performed in the Netherlands during which the employee was eligible for the 30% ruling; *and*
- the benefit qualifies as income from present employment (“loon uit tegenwoordige dienstbetrekking”)



This Court decision is important since the tax authorities firmly defended during the last years that the 30% ruling cannot be applied on stock options which are vested once the employee has left the Netherlands.

Siegfried Jagga

## Poland

### Personal Income Tax exemption for benefits for training and education received by employees

Following the planned changes in the Polish Labour Code regarding the rights of the employee, who based on an employer's initiative or with the employer's consent pursues professional training, all the benefits obtained by the employee from the employer for training purposes (e.g. costs of participation in the training, etc.) will be exempted from Personal Income Tax in Poland (excluding the holiday pay related to training).

Under the old rules, tax authorities happened to question the employee's right to Personal Income Tax exemption, especially when the training was pursued in the institution which was not accredited by the Polish Ministry of Education or when the employee pursued training on his / her own initiative.

The planned amendments in the Labour Code and consequently in the Polish PIT Law (the final act has not yet been passed) aim to solve the above concerns and interpretative doubts.

Anna Biegańska

### Polish Tax on Civil Transactions (PCC) - exemption for foreign investing firms trading in financial instruments

On 22<sup>nd</sup> April 2010 an amendment to the Act on Civil Law Transactions Tax came into force in Poland. The new regulations concern the Polish Tax on Civil Transactions (PCC tax), in particular, with respect to the company's formation or capital increase (mainly in terms of contributions in kind) or trading in financial instruments (buying / selling shares, security bonds, options etc.)

The changes are mainly aimed at précising exemptions of certain specific transactions from PCC tax. The amendment has also impact on the foreign investment firms trading in the financial instruments in Poland.

Anna Biegańska

## Tunisia

### The Head of State has ordered measures to accelerate the creation of companies in Tunisia.

The main measures are:

- A one hour limit for creating Private limited liability companies within the one-stop shops of the Agency for Industry (API) in Tunis, Sousse and Sfax. 24 hours are required in the other governorates. These measures are applicable from 15<sup>th</sup> April 2010.

## Quick News

### >> Italy

#### Voluntary disclosure ended

The Italian voluntary disclosure program for offshore assets ended 30<sup>th</sup> April 2010

A new circular (Circular no. 20 of 16th April 2010) outlines the guidelines for fighting tax evasion. A particular effort is addressed to the fighting of international tax evasion and in this respect the tax authorities will:

check fictitious residences abroad by Italian citizens - expatriated in UK, Monaco, Switzerland,

improve the exchange of information with respect to assets owned abroad by Italian resident (e.g. they exchanged info with France and UK for real estate properties registered in the name of Italian resident), and

check the flux of money transfers of Italian banks vs. Abroad banks and vice versa.

Luca Valdameri

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- A twelve hours limit to incorporate Public limited companies within the one-stop shops of the Agency for Industry (API) in Tunis, Sousse and Sfax. Three days are required for the remaining regions. These measures are applicable by the end of 2010.
- The achievement of tax ID card within 24 hours, from 15th April, regarding individual projects.
- By the end of 2010, it will be possible to create any company (whatever is its activity) within the one-stop shops of the Agency for Industry (API).
- Reduction of the number of documents required for the creation of a project from 15<sup>th</sup> April 2010.
- Tax and customs ID are unified from 1<sup>st</sup> June 2010.

Slim GARGOURI



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## Feature article:

### The Danish § 48-E Inbound Expatriate Regime (25% or 33% taxation)

The Danish inbound tax regime is mainly designed to give Danish employers the ability to attract high-level employees and experts by offering them a number of years with relatively low taxation. The inbound tax regime has within recent years undergone immense changes in order to function more effectively, be more flexible and to give Danish employers a number of different setups to offer when hiring specialists from abroad.

### The benefits of the regime

Since Denmark according to the OECD has one of the highest marginal taxation on salary income Danish employers has been supplied with the inbound tax regime in order to attract high-level employees and experts.

The regime makes it possible for inbound expatriates to be taxed with either 25 % over a period of three years or 33 % over a period of five years. The current marginal taxation in Denmark is approx. 55,38 %. So as an inbound expatriate there is much to gain from being able to qualify for the regime.

2010 yearly income*	Standard taxation	Inbound tax regime (25 %)
Salary**	1.200.000 DKK	1.200.000 DKK
(less) Labour Market Contribution	96.000 DKK	96.000 DKK
(less) Tax	490.200 DKK	276.000 DKK
Net salary	613.800 DKK	828.000 DKK

\*The example is based on an unmarried employee with no other income than shown in the example and no deductions other than what legal mandatory requirements supply.

\*\*See *Salary requirements* for information on which items that are included in the gross salary and the minimal salary requirements in order to qualify for the regime.

### Qualifying for the regime

Since the regime has been built with the purpose to attract high-level foreign employees many of the main considerations in qualifying for the regime revolves on this subject.

### Salary requirements

The regime was originally created in order to attract "specialists" and therefore it often required a subjective assessment of each employee applying for the regime. Today the regime mostly depends on the employee's salary level. There are a few exceptions, which enables accepted scientists working for Danish public institutions to be accepted under the regime without fulfilling the salary requirement but otherwise the salary level is the main requirement to qualify for the regime.

For 2010 the salary requirement is a minimum monthly salary of DKK 63.800 (DKK 765.600 p.a.). If the employee is not exempted from payment of Labour Market Contribution<sup>1</sup> (LMC) (AM-Bidrag) the salary amount is DKK 69.348 (DKK 832.176 p.a.) since the LMC is an 8 % gross taxation. Added to the amount of DK

<sup>1</sup> Major changes to the LMC will impact starting from 2011 where e.g. the E-101 will not exempt payment of LMC due to its new status of being a tax other than a social security contribution.

### Feature Article presented by Denmark



### Facts about Denmark

**Population:** 5,5 mill.

**Area:** 43.098 km<sup>2</sup>

**Government:** Constitutional monarchy with a parliamentary system of government  
**Member of EU:** Yes

### Taxes Paid (2009)

**Personal:** 491,0 Bill. DKK

**Company:** 40,1 Bill. DKK

**Total taxes:** 801,5 Bill. DKK

**Marginal taxation:** 55,38 %

**Double tax agreements:** 90

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69.348 are contributions to foreign and national pension arrangements, Danish social security (ATP) and mandatory foreign social security. The salary requirement is yearly regulated and typically grows by a couple of percent.

The salary requirement must be fulfilled already in the employment contract, which means that an employer cannot add a yearend bonus in order for the employee to qualify for the regime. The salary requirement is yearly average, which means it is possible to have months with a lower level of salary depending the other months to be sufficiently higher so that the yearly average requirement is met.

### Salary types

When an employee is under the inbound tax regime there are certain requirements as to what type of salary that will be calculated under the 25 % or 33 % taxation. Salary payments including normal salary, vacation allowance, fees, remuneration, provision etc. relating to the employment is considered as A-income and therefore included under the regime. The value of free lodge and board is however not. If the employer defrays any private expenses on behalf of the employee a similar amount would apply under the regime.

The value of employment benefits, which have been made into A-income, is also included under the regime. Currently this only involves the benefit of having a free company car at disposal for private matters and the new multimedia taxation. Other employee benefits are taxed under the standard taxable income.

### Tax implications

Qualifying for the inbound tax regime will have an effect in terms of how any income outside the regime will be handled. Furthermore the regime also brings a lot of restrictions in terms of deductible expenses.

The income regarded as A-income under the regime is not possible to reduce by any deductions otherwise normally used in the ordinary salary income such as transport to and from work, lodging and board, moving expenses, payments to private pension arrangements, union costs, unemployment security costs and other employee related expenses. Furthermore it is not possible to deduct interest expenses in the income under the regime or transfer any unutilized deductions in the standard taxable income to a spouse. Additionally it is not possible to forward any deficit in the personal income outside of the regime to offset future taxable income.

In other words the employee under the regime would face having two different kinds of tax calculations if any income is obtained outside of the regime. Depending on which affiliation the personal expenses may have they may be deductible in the income outside the regime. We highly recommend any individuals or employers facing the possibility of entering into the inbound expat regime to contact their local Danish advisors in order to calculate as well as the benefits but also the limitations of the regime.

### Employee tax liability

The employee must enter Danish tax liability in association with commencement of the employment. Previously this demand was only satisfied with the employee being liable under unlimited Danish tax liability but today both limited and unlimited tax liability are sufficient to qualify for the regime.

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The entering of Danish tax liability must have a connection with the commencement of the employment where the regime is being utilized. It is allowed to go to Denmark for up to a month prior to the commencement of the employment in order to accommodate to a new place of residence. In the period of accommodating the employee cannot become liable to any other form of taxation other than the one, which will occur due the commencement of his stay and usage of a place residence.

Furthermore the employee cannot have been liable under any form of Danish taxation three years prior to the commencement of the employment. Besides the one exception where an employee arrives up till one month earlier to accommodate this demand is pursued vigorously.

### **Employer tax liability**

The employer must be a person or a company either fully or limited taxable to Denmark. If the employer is limited taxable to Denmark the regime requires that the expenses of the employee are stressed on the permanent establishment and that the function of the employee is associated with the permanent establishment. The employer must also be obligated to withhold and pay A-taxes from the employee's salary.

An employment contract between the employee and employer stating their relation is also necessary. In a recent case (TfS.2009.682) it has been stated that a secondment contract between the foreign employer and the employee is not sufficient in order to qualify for the regime. It was however stated that if the Danish Employer used the secondment contract as a basis for their own employment contract with the employee and signed it as employer it would be considered to be an employment contract and in line with the requirements. As in any other case with the inbound expat regime this also requires that the Danish employer will be entitled with the standard employer remedies.

### **Employee influence on the Danish employer**

The employee cannot within a period of five years prior to his employment have had direct or indirect part of the management of the Danish business. The demand is also in force during the employment.

When the employer is a company the demand is specified so that within the period of five years prior to the employment and during the employment the employee cannot:

- have owned 25 % or more of the share capital or
- have disposed over 50 % of the votes on the General Assembly in the (employer) company

When determining the amount of votes the employee has been or is able to dispose of, shares belonging to a large group of relatives<sup>2</sup> are counted as well. All shares and owners' agreements that directly or indirectly lead to control of the employer company are counted in the assessment. Both current and previous ownership is counted in this assessment.

As long as the demand of ownership and control is not violated even managers, directors and board members are capable of using the regime.

<sup>2</sup> The employee's spouse, parents, grandparents, children and grand children including their spouses and any estate of a deceased mentioned type of person. Stepchildren and adoptions are viewed as equals to natural relations.

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If the employee is hired in a personally owned business a similar assessment is made only using the business' equity instead of shares.

### **Company group rotation and previous employment**

The purpose of the inbound tax regime is to actually recruit foreign high-level employees and with that in mind there is a restraint in the ability for company groups with a company in Denmark to relocate Danish employees outside of Denmark in order to bring them back later under the inbound tax regime.

In situations, where an employee has already been employed in Denmark the inbound tax regime is not possible to use if the employee three years prior or one year after end of Danish taxation has been employed in the employer company or an associated Danish or foreign company or business of the employer company.

If the "new" employment lies within the four year period (three years prior and one year after end of Danish taxation) the ability to utilize the regime highly depends on the course of the individual's employments since leaving Denmark. There are certain scenarios where a return to Denmark under the inbound tax regime is possible but we would advice that you consult with your local Danish advisor before doing.

### **How to enter the regime**

The employer must alert the Tax authorities about the employee entering the inbound tax regime before eight days after the duty to withhold taxes from employee has occurred. The Danish tax authorities have created a special form for the purpose, which must be supplemented with a copy of the employment contract.

During the employment the employer must withhold LMC and tax and report to the authorities under the normal guidelines.

When applying for the regime it is possible to choose between a three year period with 25 % taxation and a five year period with 33 % taxation. The choice must be made by the first following deadline for submission of tax return. It is possible to change the choice during the stay, which is described further below.

The employee will in almost every case be obligated to hand in a preliminary tax return explaining the situation and providing information about the additional income, which is expected during the year.

### **Changes and failure to comply**

If for some reason during the employment the employee fails to comply with any of the demands of the inbound tax regime it will mean an automatic change to the standard tax calculation methods. This will have the effect that it is not possible to obtain the discounted tax benefit and therefore be taxed according to the standard methods and most certain the high level marginal tax.

The choice of tax regime may only be changed one time during the entire employment. The choice must be made no later than 36 months after the employee entered into the regime. The situation typically occurs when a three year stay is prolonged. The change to 33 % taxation counts for all periods, which means that all salary taxed with 25 % must be taxed with 8 % further and furthermore there will be penalties due to late payments of this tax.

Jan Dalgaard

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We Commit

We Act



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