

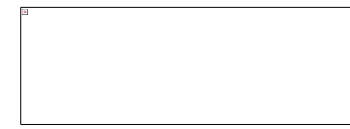
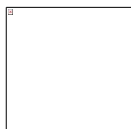
DANISHTAX NEWS

Agenda

- New legislation
 - 19 bills in 2023/24 + 11 presented late june/early july 2024
 - Reform of the personal income taxation, L138, FT 2023/2024
 - Law on Minimum Taxation, L5, FT 2023/2024
- New rulings – in the period 1. January 2023-2. July 2024

Supreme Court	36
Eastern High Court	107
Western High Court	50

- Upcoming legislation

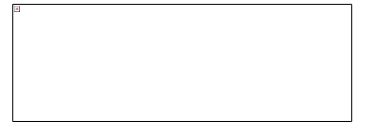
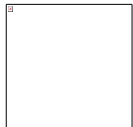


DANISHTAX NEWS

NEW LEGISLATION

Reform of the personal income taxation

- Purpose: To make it possible for the Danes to keep a larger part of their salary in order to make working worthwhile including working more hours – and at the same time ensuring that those with the highest income contribute more to the community.
- Denmark has a dual income tax system:
 - Taxable income = personal income +/- capital income – deductions
 - Personal income: income from labour, self employment etc.
 - Capital income: income from capital – interests, capital gains etc.
 - Income from shares – dividend and capital gains on shares
 - CFC-income



DANISHTAX NEWS

NEW LEGISLATION

Reform of the personal income taxation

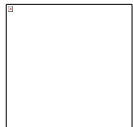
Current system	New system –as from the income year 2026
Municipal tax –app. 25 %	Municipal tax –app. 25 %
Church tax –app. 1 %	Church tax –app. 1 %
Bottom tax –12,01 %	Bottom tax –12,01 %
	Intermediate tax –7,5 %
Top tax –15 %	Top tax –7,5 %
	Top-top tax –5 %
Labourmarket contribution (ambi) –8 % Deductible in the personal income	Labourmarket contribution (ambi) –8 % Deductible in the personal income

DANISHTAX NEWS

NEW LEGISLATION

Current system

- Municipal & church tax: 26 % of taxable income
- Bottom tax: 12.01 % of personal income above 49.700 DKK (54.000 DKK before ambi)
 - Including positive net-capital income
- Top tax: 15 % of personal income above 588.900 DKK (640.000 DKK before ambi)
 - Including positive net-capital income above 50.500 DKK
- Tax ceilings:
 - Personal income: max 52.07 %
 - Positive net-capital income: max 42 %



DANISHTAX NEWS

NEW LEGISLATION

New system

- Municipal & church tax: 26 % of taxable income
- Bottom tax: 12.01 % of personal income above 49.700 DKK (54.000 before ambi)
- Intermediate tax: 7.5 % of personal income above 588.900 DKK (640.000 DKK before ambi)
 - Including positive net-capital income above 50.500 DKK
- Top tax: 7.5 % of personal income above 714.400 DKK (776.500 DKK before ambi)
- Top-top tax: 5 % of personal income above 2.381.200 DKK (2.588.300 before ambi)
- Tax ceilings:
 - Personal income: max 44.57 % (municipal + bottom + intermediate tax) – **not** top tax and top-top tax
 - Positive net-capital income: max 42 %

DANISHTAX NEWS

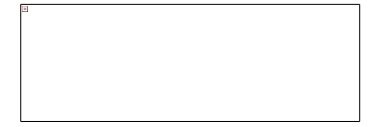
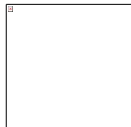
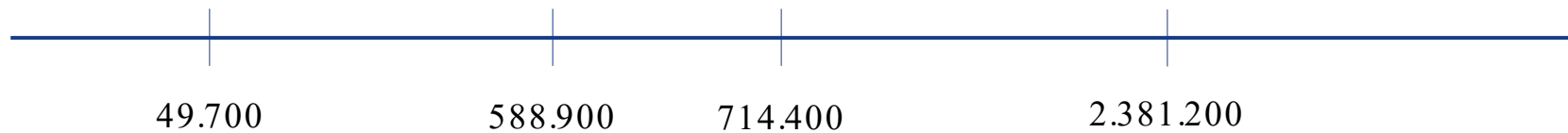
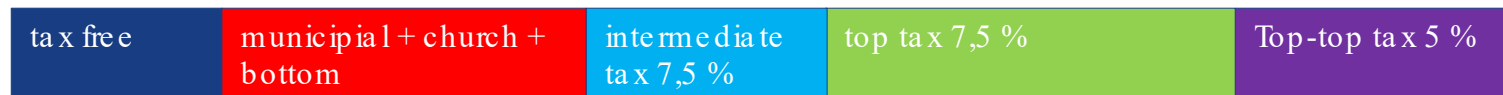
NEW LEGISLATION

Thresholds

Current system



New system

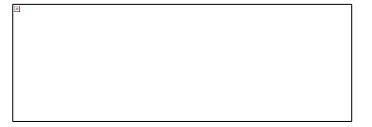
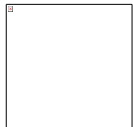


DANISHTAX NEWS

NEW LEGISLATION

Deduction for employment

- Also part of the reform of the personal income tax system
- Purpose: to make working worthwhile
- Ligningslovens § 9 J (Tax Assessment Act)
- Two initiatives
 - Deduction for being employed is increased
 - A new extra deduction for seniors

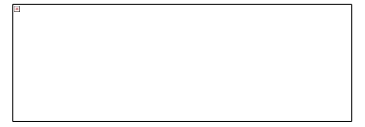
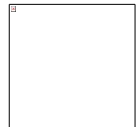


DANISHTAX NEWS

NEW LEGISLATION

Increase of the deduction for being employed

				Extra for single provider	
	2024	2025	2026	2024	2025
Percentage of basis for ambi	10.65	12.3	12.75	6.25	11.5
Max amount DKK	46.300	53.500	58.200	25.300	46.500



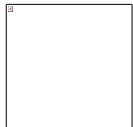
DANISHTAX NEWS

NEW LEGISLATION

New extra deduction for seniors

- Deduction for seniors in the last two years before pension age
- Ligningslovens § 9 J, stk. 6

	2026-2028	2029	2030
Percentage of ambi	1,4	3,8	3,9
Max deduction	5.600	15.300	15.700



DANISHTAX NEWS

NEW LEGISLATION

Law on Minimum Taxation

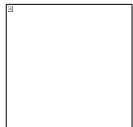
- Implementation of EU directive 2022/2523 of 14. december 2022 – Minimum Tax Directive
 - Only implementation of the GLOBE-part of pillar II (not the »subject to tax rule« which is also part of pillar II)
- Aim: to ensure a minimum taxation of 15 pct. in every one of the countries where a MNE is active. Includes also large scale domestic groups.
- Tool: an extra tax in case of an effective tax rate below 15 pct.
- Came into force for financial years beginning 31. December 2023 or later
- Chapter 12 (Undertaxed Profit Rule) for financial years beginning 31. December 2024 or later with some exceptions

DANISHTAX NEWS

NEW LEGISLATION

Danish considerations and solutions

- The Minimum Tax Directive is based on accounting principles, but as a main rule no connection between accounting rules and rules on taxation exists in Denmark
 - Implementation of the Directive by a new main law, in order to underline that the rules on minimum taxation functions independently from the current rules on company taxation
 - There will be no interaction between the Law on Minimum Taxation and other tax law, unless explicitly expressed
 - The top-up tax will be a separate tax (not another company tax)
 - General tax-law principles etc. can probably not be used in the interpretation of the Law on Minimum Taxation. (Jakob Bundgaard, Taxo.2023.08)

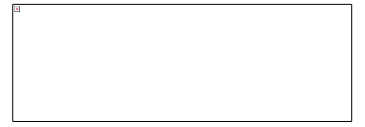
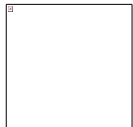


DANISHTAX NEWS

NEW LEGISLATION

Danish considerations and solutions

- A »close to the text« implementation
 - in order to make sure that the Danish implementation is qualified and thus recognisable by other EU-memberstates and other states that has joined OECD pillar II.
 - The understanding of the Directive in relation to Danish rules is explained in the preparatory work – in the end it is up to the EU Court of Justice to decide.
- Has chosen to implement the Qualified Domestic Top-up Tax
 - In order to make sure that Denmark will benefit from an eventual top-up tax
- Has chosen to implement the Undertaxed Profit Rule (UTPR) as an extra tax
 - Due to administrative considerations and in order to keep the Law on Minimum Taxation separated from the other rules on company taxation (in opposition to a denial of deduction, which would create a connection). Has not yet come into force.



DANISHTAX NEWS

NEW LEGISLATION

Further Danish considerations

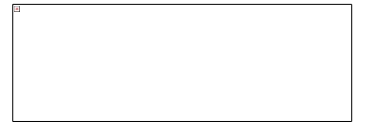
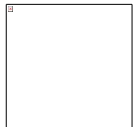
- A binding answer is not binding, if a question regarding the law on minimum taxation is interpreted differently by foreign tax authorities (not part of the Directive).
- MBL § 20, stk. 6, nr. 3: definition of a cooperative (implementation of the directive) – not exactly equal to the Danish definition. In the end it will depend on a concrete assessment whether a Danish cooperative is to be regarded as a cooperative in relation to the Law on Minimum Taxation.
 - If so the qualified income can be reduced until zero with deductible disbursements
 - Deductible disbursements which are taxable for the recipient (MBL § 20, stk. 1, nr. 1)
 - Deductible disbursements to a natural person though the disbursement is not taxable for the natural person – only possible if the disbursement is from a supply cooperative (MBL § 20, stk. 2, nr. 1)

DANISHTAX NEWS

NEW LEGISLATION

Further Danish considerations

- Can Danish foundations be regarded as non-profit organisations?
 - Two types of foundations – those which run a business and other foundations
 - Often a Danish business foundation runs its business through its subsidiaries.
 - The preparatory works: It does not exclude a Danish business foundation from being regarded as a non-profit organisation.
 - A non-profit organisation must not have members with ownership or members who are entitled to receive a part of the foundations income or assets.
 - The preparatory works: Danish foundations do not have owners
- Caroline Bormlund Thomsen: Anvendelsesområdet for direktivet om minimumsbeskatning, del I og del II, SR.2023.233 og SR.2023.296



DANISHTAX NEWS

NEW RULINGS

The Valuation Circular – question of whether and when a taxpayer can rely on the circular

- Circular 185, 17. November 1982 with amendments in circular 9792, 27. September 2021
- When estimating the value of real estate being handed over between family members a 15 pct.-rule applies (20 pct.),
 - If the value of real estate is estimated to +/- 15 pct. of the public property assessment, the estimate must be accepted by the tax authorities, if no special circumstances exist
- SKM2016.279.HR – (disbursement from an estate) the taxpayer can rely on the circular, unless special circumstances exist
- SKM2022.507.HR – the same applies when real estate is handed over as a gift
- SKM2024.365.HR – 3 out of 5 judges conclude: the circular does **not** apply when it comes to commercial property (næ ringsejendom), that is when your business is selling and buying real estate.

DANISHTAX NEWS

NEW RULINGS

SKM2024.365.HR—the Valuation Circular

- Is the value 900.422.000 DKK (- 15 pct.) or is it 1.540.000.000 DKK (Vurderingsstyrelsen)?
- Refers to the bill (L254, 1994/95) which says that the circular from 1982 and case law at that time will also be valid after the bill has been passed. **But** does this mean that the 15 pct.-rule is also applicable on commercial property?
- If so it will be a deviation from the wording of § 27 in the inheritance tax law saying that the value of a gift must be set at its actual market value.
- Presumably, the 15 pct.-rule must secure predictability and security when handing over real estate among family members.
- No such considerations are relevant when it comes to commercial property and furthermore commercial property is not directly mentioned in the circular.

DANISHTAX NEWS

NEW RULINGS

Shareholder loans – LL § 16 E – indirect loans to whom?

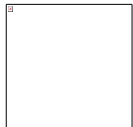
- Loans from a company to a shareholder with decisive influence (LL § 2) must be regarded as dividend or salary – that is taxable for the shareholder and if the loan is regarded as dividend not deductible for the company.
- LL § 2 – decisive influence: shareholders owing more than 50 pct. of the votes or shares directly or indirectly, includes shares held by the shareholders close family
- Indirect loan: a loan to a person who is not itself shareholder but related to the shareholder?
- Is an indirect loan also covered by LL § 16 B?
 - According to the preparatory works: yes – for example a loan to the shareholders wife is an indirect loan which must be treated according to LL § 16 E.

DANISHTAX NEWS

NEW RULINGS

Shareholder loans – LL § 16 E – indirect loans to whom?

- SKM2023.273.HR – what about a loan to the shareholder's boyfriend?
- The supreme court confirms the ruling by the Eastern High Court
- According to the preparatory work loans according to the provision can include loans to relatives, for example spouses or children, but these examples are not covering all situations in which a shareholder has been granted an indirect loan.
- Because of other evidence in the case, and due to the fact that there was no commercial reason for granting the loan, it was concluded that the only reason for the company having granted the loan was the shareholder's personal relation with the borrower, who was her boyfriend.

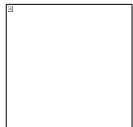


DANISHTAX NEWS

NEW RULINGS

Shareholder loans – LL § 16 E – reimbursement and double taxation

- SKM2022.431.HR: withdrawals from a current account were also to be regarded as shareholder loans and reimbursements did not create a new current account from which withdrawals could be made without establishing a new shareholder loan. The reimbursements are regarded as tax exempt subsidies for the company

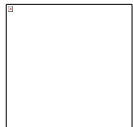


DANISHTAX NEWS

NEW RULINGS

Shareholder loans – LL § 16 E – reimbursement and double taxation

- Withdrawal: 100.000 DKK, reimbursement: 100.000 DKK, withdrawal: 100.000 DKK, reimbursement: 100.000 DKK => the shareholder has borrowed 200.000 DKK taxable as salary or dividend – see also SKM2023.124.HR. When the shareholder withdraws the 200.000 DKK, which has been reimbursed, the amount is taxed again => double taxation
- The double taxation can be avoided by a distribution of the receivable as dividend.
- NB! An amendment is on its way – the shareholder loan will only be taxed once if a reimbursement is followed by a new withdrawal.

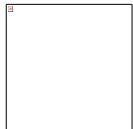


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NEW RULINGS

Shareholder loans – LL § 16 E – reimbursement and double taxation

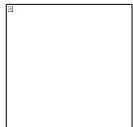
- SKM2024.44.HR – the shareholder claims that LL § 16 E is in conflict with article 6 and 7 of the European Convention on Human Rights (ECHR)
- The double taxation has both a punitive and deterrent purpose and the sanctions are severe
- The shareholder is punished both according to § 367 (210) of The Company Act and § 16 E of the Tax Assessment Act => in conflict with article 4 of the 7th tillægsprotokol
- The Eastern High Court: § 16 of the Tax Assessment Act is not a violation of ECHR. This is repeated by the Supreme Court.



DANISHTAX NEWS

UPCOMING LEGISLATION

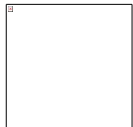
- Increase of extra deduction for R&D-expenses – 120 pct. as from 2028 (114 in 2026 and 116 in 2027)
 - Abolition of certain immediate deductions
- Entrepreneur package as from 1. January 2025
 - Tax exempt dividend from unlisted portfolio-shares (ownership < 10 pct.)
 - Increase of threshold on income from dividend from 61.000 DKK to 80.000 DKK
 - Decrease in required salary regarding the special scheme for researchers and highly paid persons from 75.100 DKK to 60.100 DKK
 - Increase of companies carry forward losses without limitations from 9 to 20 mill. DKK

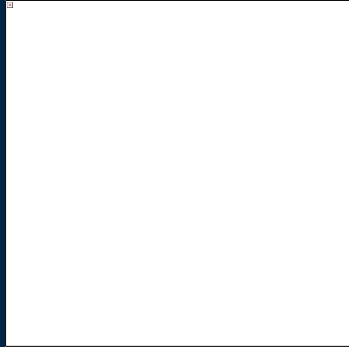


DANISHTAX NEWS

UPCOMING LEGISLATION

- Generational change package
 - Decrease in inheritance and gift tax when the inheritance or gift is a business from 15 pct. to 10 pct. – on certain conditions – as from 1. October 2024
 - A right for the taxpayer to value the business according to a schematically value calculated as the inner value plus the value of goodwill (intangible assets) calculated on basis of the results for the last 5 years.
 - Rental property will be an asset which can be handed over with succession – as from 1. January 2025





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