

Information on residency for tax purposes

Section I – Criteria for Individuals to be considered a tax resident

As a general rule, all individuals who establish a home in Denmark are deemed to be residents in Denmark.

Even if the individual has not established a home in Denmark, he is deemed to be resident in Denmark when:

- The individual is staying in Denmark for a period of at least six months
- The individual is a Danish citizen and is serving or permanently staying on board ships based in Denmark.
- The individual is a Danish citizen and has been stationed abroad by the Danish state, regions, municipalities or other public institutions.

If an individual is considered a tax resident in Denmark and is also considered a tax resident in another country, the individual is dual resident.

If Denmark does not have a Double Taxation Agreement (DTA) with the other country, Denmark is entitled to tax the individual's worldwide income. This means that all income, regardless of country of origin, may be taxed in Denmark.

If Denmark has a DTA with the other country, the DTA will determine where the individual is resident for tax purposes.

The right of taxation is determined by:

- where the individual concerned is resident for tax purposes in accordance with the DTA (the home or centre of vital interests)
- where the income is earned
- type of income

Relevant tax provisions:

Section 1 (1), paras (1-4) Taxation at Source Act (*Kildeskatteloven*)

Section 4 of the Danish Central Government Taxation Act (*Statsskatteloven*)

Article 4 of the OECD Model Tax Convention

Section II – Criteria for Entities to be considered a tax resident

Companies etc. can be either fully or partially taxed in Denmark.

Full tax liability

Companies may be subject to full tax liability either because they are registered in Denmark, or because their place of management is in Denmark. The Faroe Islands and Greenland are treated as "abroad".

Whether a company's place of effective management is situated in Denmark depends on an individual assessment with emphasis on the day-to-day management of the company.

According to section 1 of the Danish Corporation Tax Act ([Selskabsskatteloven](#)), companies and associations domiciled in Denmark and subject to full tax liability to Denmark include e.g:

- Public limited companies
- Savings banks, cooperative savings banks, etc.
- Water utilities
- Cooperative societies
- Associations
- Mutual funds
- Other associations, corporations, foundations, and private institutions

Foreign companies domiciled in Denmark are considered domestic companies and are subject to full tax liability.

Limited tax liability

Foreign companies and associations etc. of a similar nature as those that are subject to full tax liability are subject to limited tax liability in Denmark when they have income from Denmark, see section 2 of the Corporation Tax Act.

The tax liability applies to taxpayers who receive consulting fees, own real estate or carry out commercial activities with a permanent establishment in Denmark.

Foundations

Foundations and associations covered by the Danish Foundations Act (Fondsloven) and the Commercial Foundations Act (Erhvervsfondsloven) are taxable under the Act on Taxable Nonstock Corporations ([Fondsbeskatningsloven](#)).

The Act on Taxable Nonstock Corporations includes the following:

- Associations (trade associations etc.)
- Labour Associations
- Foreign foundations and other private institutions in Denmark.

Other foundations etc. are subject to the Corporation Tax Act.

The term "foundation" means a legal person owning assets which are irrevocably separated from the founder's personal assets.

A number of foundations, etc. are not subject to the Foundations Act. These include the Church of Denmark, religious communities and educational institutions. As a general rule, these meet the requirements for tax exemption under section 3 of the Corporation Tax Act.

A number of institutions are excluded from the scope of the Commercial Foundations Act. These include halls of residence for young people, elderly homes, sports facilities, power stations, etc.

In specific cases, SKAT may find that the institution etc. is not a foundation but a charitable collection, for example. Such a collection would not be subject to tax liability because it would be considered to be temporary.

The Act on Taxable Nonstock Corporations only lays down rules on the taxation of foundations and associations based in Denmark. If foreign foundations and associations have activities in Denmark, they are subject to limited tax liability on these activities.

Foreign foundations are taxable under the Act on Taxable Nonstock Corporations if their place of management is in Denmark, regardless of where the foundation or private foundation may be registered.

More information

The text above is described in detail in the Danish Tax Authority's legal guide (SKATs Juridiske Vejledning) at www.SKAT.dk, in, particular in Sections C.D.1. "Subjective tax liability" and C.D.9. "Taxation of Foundations and certain associations". Please note that the guide is only available in Danish.

Section III – Entity types that are as a rule not considered tax residents

Transparent entities

The transparency principle means that the income earned by an entity for tax purposes is deemed to be earned by the unit's owner(s).

For example limited partnership companies (Kommanditaktieselskaber) are transparent, as the general partner is personally liable and limited partner shareholders are taxed personally on their ideal share of the company's results.

The same applies to partnerships (Interessentskaber) where the partners are taxable.

A Danish company that according to the rules of a foreign State is treated as a transparent company is also considered to be transparent in accordance with Danish rules see section 2A of the Danish Corporation Tax Act ([Selskabsskatteloven](#)).

If a company is reclassified to a transparent company, the owners of the transparent company will be subject to limited tax liability to Denmark, as they are deemed to have a permanent establishment in Denmark if a permanent establishment exists according to a double taxation agreement.

According to section 2C of the Corporation Tax Act, branches and transparent entities will be reclassified to independent taxpayers if the direct owners are not domiciled in Denmark.

A foundation set up abroad which does not comply with the same requirements as the Danish foundations cannot be expected to be approved and will continue to be taxed with the founder.

Exempt companies and institutions

Section 3 of the Corporation Tax Act lays down a number of companies, associations and institutions which are exempt from tax liability according to the Corporation Tax Act. However, the association or the institution may be liable to tax according to the Danish Act on Taxable Nonstock Corporations ([Fondsbeskatningsloven](#)).

Unconditional absolute exemption applies to for example:

- Recognized/approved religious communities
- Danmarks Nationalbank (the Danish Central Bank)
- Pension funds
- The State and its institutions

Unconditional partial exemption applies to municipalities, regions, etc.

Conditional absolute exemption applies to for example libraries, airports, hospitals, museums, water supply companies, etc.

Common to institutions with conditional absolute exemption is that these are completely exempt from tax liability unless they are engaged in activities which go beyond the purpose. Then they are not only taxable on their incomes from these activities, but on the total income.

Housing organizations and schools are partially exempt.

More information

The text above is described in detail in the Danish Tax Authority's legal guide (SKATs Juridiske Vejledning) at www.SKAT.dk, in , particular in Sections C.D.1. "Subjective tax liability". Please note that the guide is only available in Danish.

Section IV – Contact point for further information

For individuals:

SKAT (Danish Customs and Tax Administration)

Customer Services

Foreign Department

Tel: +45 72 22 18 18

www.skat.dk

For entities:

SKAT (Danish Customs and Tax Administration)

Law Department

Companies, Shareholders and Business

Tel: + 45 72 22 18 18