KPMG
cutting through complexity™

February 4, 2014
2014-013

flash International Executive Alert

A Publication for Global Mobility and Tax Professionals by KPMG's International Executive Services Practice

Denmark – Method for Calculating Tax Relief on Foreign Income Changed

by Jonas Madsen and Per Oertoft Jensen, KPMG, Copenhagen (KPMG in Denmark is a KPMG International member firm)

Denmark has announced it will amend its rules relating to the method for calculating tax relief for foreign income in light of a European Commission reasoned opinion. The change will allow Danish tax residents to claim a full personal allowance (rather than a proportionate allowance) in cases where the individuals have foreign source income not subject to tax in Denmark based on domestic law or by application of an income tax treaty. The change will be retroactive to the 2010 tax year.

Why This Matters

The retrospective nature of the change means there may be refund opportunities for individuals who "overpaid" their Danish tax liabilities under the terms of the old rules.

Background

According to Danish regulations (the "old" rules), only a proportion of the personal allowance is allowed to Danish taxpayers when calculating their income tax if they also have income from other countries which is exempt from Danish taxation, either due to the application of an income tax treaty or domestic law.

In the spring of 2013, the European Commission issued Denmark with a reasoned opinion[1] because the Commission did not consider the Danish regulations on tax relief for foreign income to be in accordance with European Union (EU) law.

In response, the Danish government informed the European Commission that it would amend its rules to comply with EU law. In January 2014, the Danish tax authorities issued a notification[2] stating that the application of the Danish regulations on tax relief for foreign income will be amended and will have retroactive effect to 2010.

KPMG Note

The Danish tax authorities ("SKAT") have announced they will contact all affected individuals before the end of 2014, although there remains a lack of detail concerning the form and timing of such contact. Such individuals may be entitled to tax refunds of approximately DKK 7,000 to 15,000 per year depending on the facts and circumstances in each specific case.

Individuals who believe that the amendment is relevant for them should contact their local tax advisers if they are not contacted by the Danish tax authorities within the next couple of months, since the period for claiming excess paid taxes for the income year 2010 is expected to expire on 1 May 2014.

© 2014 Statsautoriseret Revisionspartnerselskab, a Danish limited liability company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A.

KPMG Note (*cont'd*)

Further, companies that had employees abroad on a net contract[3] in the relevant income years, and where the salaries have been exempt from Danish taxation should contact their local tax advisers to evaluate the amendment vis-a-vis the implications for tax equalization policies and hypo-tax and reconciliation calculations.

Footnotes:

1 Reasoned Opinion no. 2012/4169 of 26 April 2013.

2 SKM2013.920.SKAT. The amendment will affect situations where Denmark exempts foreign income from Danish taxation either according to domestic regulations (the Danish Tax Assessment Act Section 33A) or according to a double taxation treaty.

3 A net contract is a contract where the employees is guaranteed a net salary instead of a gross salary, i.e., the employer pays all taxes, this included extra taxes which are levied and the employer is entitled to receive all excess paid taxes (tax equalization policies/hypo-tax policies).

* * * *

The information contained in this newsletter was submitted by the KPMG International member firm in Denmark. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

Flash International Executive Alert is an IES publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click **here**. To learn more about our IES practice, please visit us on the Internet: click **here** or go to http://www.kpmg.com .

© 2014 KPMG Statsautoriseret Revisionspartnerselskab, a Danish limited liability company and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A.