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International hiring-out of labour - Recent administrative practice

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Eight months have passed since new guidelines were issued and it seems prudent to follow up on the application of the new guidelines by examining the publicised rulings.

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As described in the [June 2014 issue of tax:watch](#), the Danish tax authorities issued new guidelines last summer for interpreting the tax rules concerning international hiring-out of labour.

At the time, the main implication of the new guidelines seemed to be that the rules on international hiring-out of labour would primarily impact foreign blue collar workers. Foreign white collar workers seemed less likely to become subject to the rules.

However, in many real-world situations, the guidelines still left considerable uncertainty as to whether the rules on international hiring-out of labour would apply.

Eight months have now passed since the new guidelines were issued and it seems prudent to follow up on the application of the new guidelines by examining the publicised rulings.

Refreshing the scope of the rules, Danish businesses are required to withhold international hiring-out of labour tax at a rate of 35.6 pct. from payments to foreign businesses when the services rendered in Denmark by a foreign business constitutes an "integral part of the Danish business".

In situations where the rules apply, the Danish business is liable for payment of the international hiring-out of labour tax if no tax has been withheld at source.

The current wording of the rules was passed by the Danish parliament in 2012 and represented a significant tightening compared to the previous version of the rules.

From the outset, the Danish tax authorities adapted a very restrictive approach when interpreting the new rules. This was met with considerable criticism from several industries and in October 2013, the tax authorities issued clarifying guidelines for interpreting the rules in relation to haulage contractors.

As indicated above, more general guidelines followed in June 2014. The guidelines took effect retroactively from the passing of the tightened rules in 2012.

Reading the rulings that have been publicised after the new guidelines were issued, it is fairly obvious that the Danish tax authorities have in fact relaxed their - initially very rigid - interpretation of the rules.

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In fact, the publicised rulings do include cases where foreign blue-collar workers performed work in Denmark without becoming subject to the Danish tax rules concerning international hiring-out of labour.

As the guidelines took effect retroactively from the passing of the tightened rules in 2012, many of the recently publicised rulings are the result of previous rulings that have been reopened.

According to the new practice, the fact that a foreign business operates in the same industry and offers the same services as a Danish business no longer - by default - implies international hiring-out of labour.

It is decisive whether the Danish or the foreign business bears the major part of the responsibility and financial risk of the services rendered. If this can be attributed primarily to the Danish business, the rules on international hiring-out of labour apply.

BDO can assist your business if you require an assessment of whether you are at risk of being subject to the rules on international hiring-out of labour - including guidance on what alternatives exist.

The Danish tax return for 2014

In March 2015, many individuals will be able to view their statement of taxable income for 2014 in the electronic tax file with the Danish tax authorities. This marks the beginning of the period where tax returns for 2014 can be filed.

By Anders Kiærskou, æk@bdo.dk

In recent years, there has been a trend towards increased obligations of businesses etc. to report income to the Danish tax authorities in order for the tax authorities to have sufficient information to issue statements of taxable income without awaiting the tax payers to file tax returns.

Most recently, this trend is even extended so far as to include income on the statement of taxable income that do not stem from actual income reported by third parties to the Danish tax authorities. Instead, income that is merely an estimate based on previous tax assessments are included on the statements of taxable income.

For example, an individual who lets out his home in Denmark during an expatriation period abroad may find that the Danish tax authorities have estimated a surplus from this business even though the individual have yet to calculate and include the correct amount on his Danish tax return.

The practice of including as much information as possible on the initially issued statements of taxable income - even if the information is likely incorrect - without awaiting tax returns from the tax payers does generally not extent to foreign income, however.

For example, many foreign individuals who are expatriated to Denmark from abroad receive income from foreign sources that the Danish tax authorities are unaware of.

In March 2015, many individuals will be able to view their initial statement of taxable income for 2014 in the electronic tax file with the Danish tax authorities. This marks the beginning of the period where tax returns for 2014 can be filed.

For the above reasons it is important that individuals review their statements of taxable income and file a tax return if necessary. If required, BDO can be of assistance.



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