



TAX WATCH

Reimbursement of litigation costs

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A bill recently adopted by the Danish parliament reintroduces reimbursement of litigation costs for companies in cases concerning tax matters.

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As mentioned in the August 2016 issue of tax:watch, the Minister of Taxation wishes to strengthen the rule of law when it comes to taxation in Denmark.

Due to the highly complex nature of the tax law and the lengthy proceedings in tax disputes, litigation costs can be considerable.

This may prevent businesses from pursuing an appeal when it comes to rulings issued by the Danish tax authorities that are contrary to the interpretation of the tax rules by the business and professional tax advisors.

The rules for reimbursement of litigation costs for companies were abolished in 2009 but remained in place for individual taxpayers. Companies could instead deduct the costs, but with a tax rate of 22 pct., the benefit is limited.

Hence, one initiative to strengthen the rule of law when it comes to taxation in Denmark is reintroduction of rules concerning reimbursement of litigation costs in tax matters for companies. This has happened with the recent adoption of a bill by the Danish parliament. Consequently, the costs will no longer be deductible.

According to the new rules, the state will reimburse 50 pct. of the litigation costs associated with cases concerning taxation of companies.

If the company is vindicated, the state will cover 100 pct. of the litigation costs.

Further, the state will cover 100 pct. of the litigation costs in cases where the Danish tax authorities appeal a ruling, regardless of whether the taxpayer is vindicated.

However, litigation costs are not reimbursed in cases regarding rulings on reimbursement of litigation costs.

The new rules take effect from 1 January 2017. Litigation costs related to cases that are already pending on this date is also covered by the new rules provided the costs concern services rendered on 1 January 2017 or later.

Postponement of the deadline for appeal to the courts

In addition, the recently adopted bill stipulates that the deadline of three months for bringing a final administrative decision to the courts is postponed, if a complaint is lodged to the Parliamentary Ombudsman before the deadline expires.

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The purpose is to ensure that taxpayers can complain to the Parliamentary Ombudsman without risking that the deadline for appeal to the courts expires before the case is closed by the Ombudsman.

Incidentally, the Parliamentary Ombudsman recently established a specific office to deal with tax matters.

The deadline for appeal to the courts expire one month after the case has been closed by the Ombudsman.

Tax refunds for 2016 are paid on 11 April 2017

Most individuals, who are to receive a tax refund for 2016, can expect the refund to be transferred to their “NEM-bank account” on 11 April 2017. The tax statement issued on 13 March 2017 will show whether a refund is due.

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The Danish tax authorities have published the schedule for the annual tax return process for individuals concerning the income year 2016.

An automatically generated tax statement will be available for most individuals in their electronic tax file at www.skat.dk on 13 March 2017. However, it is usually possible to view the tax statement a few days before the official release date.

The tax return

If a tax statement for 2016 is not automatically issued, a tax return must be filed. However, filing a tax return for 2016 may also be required if a tax statement has been issued.

It is the responsibility of the taxpayer to ensure that all taxable income is included on the tax statement. Hence, if the automatically generated tax statement is incomplete, the taxpayer must file a tax return.

Individuals coming to Denmark from abroad to live and work are often required to file a Danish tax return.

The automatically generated tax statement is only based on information reported to the Danish tax authorities by Danish employers, banks etc.

However, individuals coming to Denmark from abroad often have taxable income from foreign sources that is not automatically reported to the Danish tax authorities.

In such cases, the tax return for 2016 must be filed no later than 3 July 2017.

Payment of tax refunds

Tax refunds for 2016 will be paid including a tax-free interest of 0.5 pct. The refund is automatically transferred to the taxpayers “NEM-bank account”. Most taxpayers that are due for a tax refund will receive it on 11 April 2017.

If the refund exceeds DKK 100,000, payment will be made later, as the tax statement must be reviewed manually by the Danish tax authorities to ensure that the large amount is not due to an error. In such cases, the payment will be made by the end of August 2017.

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