The rules on tax residence and tax exemption are relaxed as a result of the corona pandemic

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The corona pandemic has caused restrictions on where people can stay and perform their work. Consequently, new Danish tax rules have been adopted to mitigate a number of unintended consequences for certain individuals.

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Commencement of tax residence
Individuals, who are not resident in Denmark for tax purposes, but have acquired a home in Denmark, may choose to be covered by a temporary scheme, which results in the absence of tax residence even though the normally permissible limits for residence in the country in such a situation is exceeded.

Thus, the scheme implies that uninterrupted presence in Denmark for more than 3 months or a total presence of more than 180 days within a period of 12 months, does not trigger tax residence if these thresholds are exceeded due to presence in Denmark in the period from 9 March 2020 through 30 June 2020.

Work may be performed during the stay in Denmark in the specified period, without incurring Danish tax residence.

If the scheme is elected, remuneration related to employment and fees for services rendered are taxable when attributable to the specified period, to the extent that the individual resides in Denmark. This applies regardless of whether the individual is working or on holiday during the stay in Denmark for the specified period.

The choice to apply the scheme must be made no later than 1 May 2021 and can be reversed until 30 June 2022.

Commencement of tax residence according to another rule, where tax residence commences from the first day of presence in Denmark, when an individual has been present in Denmark consecutively for more than 6 months without having a home available in the country, is not affected by the above changes.

Tax relief under section 33 A of the Tax Assessment Act
Expatriates, who are Danish tax residents, may apply the rule in section 33 A of the Tax Assessment Act to enjoy full or partial tax exemption in Denmark on salary earned abroad, if the stay abroad lasts at least 6 months, and if the expatriate is present in Denmark (including Greenland and the Faroe Islands) for a maximum of 42 days within any 6-month period of the stay abroad.

Such individuals may choose to disregard presence in Denmark (including Greenland and the Faroe Islands) from 9 March 2020 until the time work is resumed in the country, where the work is normally performed, but no later than 30 June 2020.

CONTENT

Work performed in Denmark (including Greenland and the Faroe Islands), which is not necessary work in direct connection with the stay abroad, does not interrupt the qualifying stay abroad - which is usually the case. Full or partial tax exemption does not include the part of the remuneration that can be attributed to the specified period. This applies regardless of whether work is carried out or holidays are spent during the stay.

The choice to apply the scheme must be made no later than 1 May 2021 and can be reversed until 30 June 2022.

The flat rate tax scheme for inbound expatriates
Employees, who are recruited abroad, and who enter into an employment agreement with a Danish employer may, under certain conditions, be taxed on salary income under a lenient flat rate tax scheme, i.e. 8 pct. gross tax and 27 pct. tax on the remaining amount – a total of 32.84 pct. tax without deductions - for one or more periods of up to 7 years total.

If an employment relationship enabling taxation under the flat rate tax scheme was concluded by 8 March 2020, the following factors regarding the period from 9 March 2020 to 30 June 2020 will be disregarded when assessing, whether the conditions for applying the scheme are fulfilled:

- The discontinuation of non-resident tax liability is disregarded when assessing, whether the employee is liable to tax in Denmark so that he is not excluded for 10 years from being able to apply any remaining period to the scheme.

  It is understood that if the employee e.g. lives in Sweden and is subject to non-resident tax liability on the income from a Danish employer, the employee can continue on the tax scheme even if the non-resident tax liability terminates for a period – e.g. from 9 March to 15 June 2020.

- Presence outside Denmark, which entails that the right to tax the salary is transferred abroad, to the Faroe Islands or to Greenland for more than 30 working days is disregarded.

- The minimum salary required according to the employment contract is disregarded.

Additionally, the tax scheme can be applied to a new employment relationship, which should have commenced during the period from 9 March 2020 to 30 June 2020, if the employment commences by 1 August 2020.

Normally, the appointment of a new Danish employer, where the tax scheme is also intended to be applied, must take place no later than one month after the termination of the previous employment relationship in which the scheme has been applied.

Tax and social security for Øresund commuters and others during the corona pandemic

The corona pandemic has caused restrictions on where people can stay and perform their work. For commuters crossing the Danish/Swedish border at Øresund, this can have an impact on both tax and social security.

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If you live in Denmark and work in Sweden for a Swedish employer
If you live in Denmark and work in Sweden for a Swedish employer, you will typically be taxed on your entire salary in Sweden. This follows from the so-called Øresund agreement on tax matters between Denmark and Sweden.

However, it is a condition that your work in Sweden amounts to at least half the working time in any 3-month period.

The work in Denmark must also be carried out at home at one's own residence or holiday home etc., or work in Denmark or in a third country must constitute a business trip or other work of an occasional nature. This may include courses, conferences, trade shows or the like.

If you have an increased number of home working days in Denmark due to the corona pandemic, it may mean that you no longer will be taxed in Sweden on the entire salary from your Swedish employer.

This may entail that the salary for your workdays at home during periods where the Øresund agreement does not apply must be taxed in Denmark.

The result may be an increase in total taxation, if you are taxed in Sweden under the so-called SINK scheme, which is a flat tax of 25 pct. without deductions, combined with tax exemption in Denmark on the Swedish salary (applicable because you are covered by Swedish social security).

In relation to the rules on social security, your changed work pattern does not change your coverage by Swedish social security.

Consequently, you will still be entitled to tax exemption in Denmark on the Swedish salary for work performed in Sweden, but the part of the salary that relates to work in Denmark must be taxed in Denmark according to the general Danish tax rules, where the marginal tax rate is approx. 56 pct.

When calculating working hours, holidays and sick days must be counted as working days in Sweden.

Weekends, bank holidays as well as lieu days, are not included in the calculation of the number of working days.

Social security if you normally work in several countries
If you normally work in several EU/EEA countries and have an A1 certificate from the Danish social security authority as proof that you are covered by Danish social security, the influence of the corona pandemic on your work pattern does not change in which country you are covered by social security.

Consequently, no action is required. Your A1 certificate will remain valid for the period.

Social security if you are posted
If you have an A1 certificate as proof that you are covered by social security in Denmark during temporary posting to work in another EU/EEA country, the influence of the corona pandemic on your work pattern does not change in which country you are covered by social security if your posting period is interrupted for up to 2 months, as long as the completion of the assignment abroad is not postponed.

If the termination of the work assignment is postponed and the interruption period is longer than two months, an extension of the A1 certificate should generally be sought.