BECH-BRUUN

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INTRODUCTION

Dear reader

This annual Tax Newsletter is a compilation of Danish tax news from September 2007 to August 2008. This period corresponds with the Danish parliamentary year and includes legislative amendments during the past parliamentary year. The annual Tax Newsletter includes only changes of interest to foreign individuals and companies.

Generally, it has been a quiet year for the Danish tax scene after last year's many changes, which included new interest deduction limitations, new rules on tax-exempt restructurings as well as amendments to the CFC and depreciation rules.

This year, the main legislative change is a new act under which Danish transparent entities are reclassified into non-transparent corporations for Danish tax purposes if such transparent entities are treated as non-transparent by their foreign owners.

Other significant changes include amendments to the Danish inbound expatriate system, social contributions system, deduction for pension funds and the tonnage tax regime.

The content of this annual Tax Newsletter originates primarily from articles written during the past year and published in International Tax Review and European Taxation. For further comments, please see the articles referred to in each contribution.

RECLASSIFICATION OF DANISH TRANSPARENT ENTITIES TO ELIMINATE CROSS-BORDER TAX ASYMMETRIES[1]

On 12 June 2008, the Danish parliament passed new legislation (Act no. 530 of 17 June 2008) (the "New Reclassification Rules"), which affects a number of Danish transparent entities and branches that are treated as non-transparent by their foreign owners.

The objective of the New Reclassification Rules is to obstruct a tax planning scheme whereby U.S. shareholders via the use of the U.S. check-the-box regulations obtain an asymmetric treatment of Danish transparent entities (reverse hybrids). By making a U.S. check-the-box election, a Danish entity may thus be treated as a separate entity for U.S. tax purposes while maintaining the Danish tax classification as a transparent entity. This tax planning scheme is prevented by reclassifying such transparent entities into non-transparent entities for Danish tax purposes.

The new legislation affects structures already in place as no grandfathering mechanisms apply.

Background

Traditionally, Danish tax law has provided for an investor-friendly tax regime.

In 2004, Denmark introduced rules which disallow asymmetric tax treatment of Danish corporate entities for Danish and foreign tax purposes. Under these rules (which are commonly referred to as the "anti-U.S. check-the-box rules") the Danish tax classification of Danish corporations mirrors the foreign tax classification. Thus, if a Danish corporation is treated as a partnership for U.S. tax purposes, Denmark will treat the corporation as a transparent entity correspondingly. The objective of these rules was to eliminate tax structures where Danish debt-leveraged corporate entities were treated as disregarded entities under the U.S. check-the-box regulations and thereby avoiding U.S. taxation of the interest income to the U.S. shareholder while – at the Danish level – obtaining a Danish tax deduction for the interest expenses.

1) The essence of two articles brought in Tax Notes International on 28 April 2008, p. 288, "Denmark Targets Reverse Hybrid Structures" and in Tax Notes International on 23 June 2008, p. 979, "Denmark Cracks Down on Reverse Hybrid Entities".

Under Danish law, partnerships are as the main rule transparent for tax purposes. A private equity fund organised in Denmark as a limited partnership is thus as the main rule not subject to taxation, nor are foreign investors taxed on distributions from the fund to Denmark as these are considered foreign source income.

In the spring of 2008, the Danish Tax Council (the body rendering binding advance rulings) considered the Danish tax consequences of a product manufacturing agreement entered into between a Danish limited partnership and a U.S.-controlled Danish medical company. The limited partnership was owned by three U.S.-based group-related companies. The U.S. group had chosen to treat the Danish limited partnership as a corporate entity for U.S. tax purposes under the U.S. check-the-box entity classification rules. The limited partnership was, however, considered tax transparent for Danish tax purposes (i.e. a "reverse hybrid") and was not considered having a permanent establishment in Denmark. The Tax Council confirmed that income received by the limited partnership under the product manufacturing agreement would not be taxable in Denmark even if such income was not taxable to the U.S. limited partners until repatriated to the U.S. as dividends.

The matter brought before the Tax Council led to the introduction of the New Reclassification Rules which targets reverse hybrid structures where a Danish tax transparent entity is treated as a non-transparent entity by its foreign owners with the effect that the income of the entity is neither taxed in Denmark nor in the jurisdiction in which the owners are resident for tax purposes.

Danish tax classification of legal entities

Previous tax regime

Under Danish law as applicable prior to the New Reclassification Rules, partnerships (whether limited or unlimited) were treated as tax transparent entities and, consequently, the partners were taxed directly on the income realised by the partnership. Foreign partners were, however, only subject to Danish tax on the partnership income if the partnership business constituted a permanent establishment in Denmark. The mere holding of a partnership interest did not constitute a permanent establishment.

Under the previous tax regime, a Danish partnership was treated as a tax transparent entity regardless of the location of its foreign partners, and regardless of whether the Danish partnership was treated as non-transparent under foreign law.

New regime – reclassification of hybrid entities

Under the new rules:

– Danish branches of foreign entities subject to registration in Denmark; and

– tax transparent entities which (a) are incorporated in Denmark, (b) have their corporate seat in Denmark, or (c) have their effective seat of management in Denmark (collectively, the "Hybrid Entity")

are reclassified and for Danish tax purposes treated as non-transparent corporate entities if:

– more than 50% of the votes or the capital interest in the Hybrid Entity is held by foreign investors directly; *and*

– such foreign investors are tax residents either in a foreign state which (a) considers the Hybrid Entity as non-transparent, or (b) has not concluded any exchange of tax information agreement with the Danish tax authorities (collectively, a "Tainted State").

The ownership threshold of 50% can be met irrespective of whether the foreign owners can be said to control the Danish entity by virtue of group relationship or an agreement. The decisive criterion is whether the majority (>50%) of the owners of the Hybrid Entity are tax resident in a Tainted State.

When the New Reclassification Rules are triggered, the reclassification of the Danish entity has general application and thus affects all investors, including Danish investors and foreign investors which are not residents in a Tainted State or in a state which considers the Hybrid Entity non-transparent.

New regime – carve-out for certain venture funds
During the legislative process, Bech-Bruun assisted the Danish Venture Capital Association in obtaining a carve-out for venture funds. Under this exemption, certain venture funds which otherwise qualify as Hybrid Entities are exempt from reclassification. The carve-out is granted in order to secure that high-risk equity investments in small-cap and mid-cap enterprises will not be subject to reclassification.

As no specific definition of a venture fund exists under Danish tax law, the New Reclassification Rules set out certain criteria under which the Hybrid Entity for purposes of the New Reclassification Rules qualifies as a venture fund and is exempt from reclassification. The criteria are as follows:

1 The purpose of the Hybrid Entity is to acquire entities to participate in the management and operation of such companies.

2 The Hybrid Entity holds only:

- assets in the form of shares or securities subject to the Danish Act on Taxation of Capital Gains on Shares (in Danish: *aktieavancebeskatningsloven*), including convertible bonds as well as certain warrants and options;

- unencumbered cash deposits in banks (the cash deposits on a blocked account (escrow) may, however, secure potential claims by buyers from a sale of enterprises by the Hybrid Entity); and

- committed investments in the Hybrid Entity by the investors.

3 The Hybrid Entity invests only in companies, directly or indirectly, which independently or on a consolidated group basis (subject to specific group definition) have less than 250 employees and

- an annual consolidated balance of less than DKK 125m (approx. EUR 16.8m) or

- an annual gross profit of less than DKK 250m (approx. EUR 33.6m).

4 None of the investors in the Hybrid Entity holds more than 50% of the nominal share capital or more than 50% of the voting rights in the Hybrid Entity. Group-related (subject to specific group definition) investors are considered one investor for the purpose of determining the ownership share.

5 The Hybrid Entity has at least eight investors. Group-related (subject to specific group definition) investors are considered one investor for the purpose of determining the number of investors in the venture fund.

The criteria are expected to give rise to a number of interpretation issues.

New regime – assets and liabilities of the reclassified Hybrid Entity
During the legislative process, significant amendments were made to the tax treatment of the assets and liabilities considered held by the Hybrid Entity and not the investors as a result of the reclassification. Following the amendments, the Hybrid Entity assumes certain of the tax attributes of the investors.

When the Hybrid Entity is reclassified, the investors will not be considered as having disposed of the assets and liabilities for tax purposes at the time of reclassification. However, assets which subsequent to a reclassification cease to be taxable in Denmark will be considered disposed of by the investor at market price at the time of reclassification.

Instead, the Hybrid Entity assumes the holding period and acquisition price of the investors. Thus, the Hybrid Entity is deemed to have acquired all assets and liabilities when they were actually acquired by the investors and at the investors' actual purchase price. If the investors have invested in the Hybrid Entity at different times and at different prices, and have thus acquired assets/liabilities at different times and at different prices, a proportionate allocation of time of acquisition and a proportionate average acquisition price will be calculated and applied by the Hybrid Entity going forward. Goodwill and intellectual property rights developed by the investors will be considered acquired by the Hybrid Entity at zero value.

Assets which up to the reclassification have been depreciated for Danish tax purposes by the investors will be considered depreciated by the Hybrid Entity. If the investors have depreciated at different rates, a proportionate average tax book value will be determined and applied by the Hybrid Entity going forward.

Assets which are eligible for tax depreciation and which have not been subject to Danish taxation prior to the reclassification will generally be considered to have been acquired at the actual cost price less maximum tax depreciation under Danish tax law.

The Hybrid Entity also assumes the investment objective of the investors. Thus, assets which the investors acquired in a professional trading capacity for Danish tax purposes are also considered acquired in a professional trading capacity by the Hybrid Entity, and the tax rules applicable to such assets apply accordingly. If the circle of investors in the Hybrid Entity includes both professional trading investors and non-professional trading investors, and a disposal of the assets in question would have been tax-exempt for a Danish non-professional investor, a proportionate adjustment is made of the profit or loss realised upon disposal by the Hybrid Entity. Accordingly, only a proportionate part of the profit or loss which can be allocated to the investor with the professional objective will be taxable (tax-deductible).

Losses which have been carried forward by the investors for Danish tax purposes as a result of their participation in the business will carry-over to the Hybrid Entity.

New regime – income realised by the Hybrid Entity
Income realised by the Hybrid Entity will be subject to ordinary Danish corporate tax at the standard flat rate of 25%. Dividends and capital gains on shares may, however, be exempt from Danish tax. Capital gains realised by the Hybrid Entity on shares will be tax-exempt if the shares have been held for at least three years.

Furthermore, dividends received by a Hybrid Entity from subsidiaries will be tax-exempt if the following conditions are met:

1 The Hybrid Entity holds at least 15% of the shares of the distributing subsidiary for a continuous period of at least one year (10% as of 1 January 2009);

2 the dividends are declared and paid within such holding period;

3 the distributing subsidiary qualifies as a "company" under Danish law;

4 the distributing subsidiary is not a so-called section 19 investment company (an investment vehicle such as a fund comprised by the UCITS Directive); and

5 the distributing subsidiary is:

- tax resident in Denmark, an EU/EEA member state or a tax treaty state;
- subject to Danish tax consolidation with the Danish Hybrid Entity; or
- controlled by the Danish Hybrid Entity as defined under the Danish tax consolidation rules.

If not all of the above conditions are met, dividends received by the Hybrid Entity will be subject to corporate income tax at the standard rate of 25%. However, if conditions 4 and 5 are met, only 66% of the dividend amount will be considered taxable income to the Hybrid Entity, resulting in an effective net tax rate of 16.5%.

New regime – ownership shares in a Hybrid Entity
The disposal of an ownership share in the Hybrid Entity will be treated as a sale of shares. Non-residents are, however, not subject to Danish tax on the sale of shares in a Danish

entity, and foreign investors will consequently not be taxed on their disposal of an ownership share in the Hybrid Entity. Disposal of an ownership share by a Danish investor will be a taxable event unless the Danish investor is a corporate entity (which is not a trader in shares) and the disposal occurs three years (or more) after the reclassification. Ownership shares are considered acquired at a value corresponding to the investor's proportionate share of the tax book value of the assets and liabilities in the Hybrid Entities.

New regime – distributions from the Hybrid Entity
Distributions from the Hybrid Entity to its owners will be treated as dividends and may thus be subject to withholding tax. Dividends from the Hybrid Entity to its Danish and foreign owners will, however, be exempt from withholding tax if the following three conditions are met:

1 The owner is a corporate entity; and

2 the owner holds at least 15% (10% as of 1 January 2009) of the capital interest in the Hybrid Entity for a continuous period of at least one year, and the dividends are declared and paid within such holding period; and

3 the owner qualifies for elimination or reduction of the Danish withholding tax by virtue of Danish internal law, the EU Parent Subsidiary Directive or a tax treaty with the state in which the owner is resident.

If not all the above conditions are met, withholding tax will apply at rates of between 15% and 28%.

New regime – termination of the reclassification of the Hybrid Entity
Any reclassification of the reclassification as a Hybrid Entity will be treated as a liquidation. Accordingly, all assets and liabilities will be deemed to have been sold by the Hybrid Entity at fair market value at such time. This may result in (i) capital gains taxation and/or recaptured tax depreciation at the level of the Hybrid Entity, and (ii) dividend or capital gains taxation of the estimated liquidation proceeds at the level of the owners.

A foreign owner may, however, avoid Danish tax on the estimated liquidation proceeds if it:

– owns at least 15% of the Hybrid Entity (10% as of 1 January 2009) and is resident in an EU/EEA or tax treaty state (e.g. the U.S.); or

– owns less than 15% (10% as of 1 January 2009) of the Hybrid Entity and is not "group-related" with the Hybrid Entity as defined under Danish tax law.

Effective date
Generally, the New Reclassification Rules are effective for fiscal years commencing on or after 15 April 2008. The New Reclassification Rules may, depending on the circumstances, also apply to fiscal years commencing before 15 April 2008, but only with effect, however, for the period of the fiscal year which falls after 15 April 2008.

If a check-the-box election to consider a Hybrid Entity a taxable entity for U.S. tax purposes was made before 15 April 2008, the new rules will apply as of the beginning of the first fiscal year which commences after 15 April 2008. If there is more than one investor in the Hybrid Entity and the fiscal years of the investors do not coincide, the new rules will apply when any investor first begins a new fiscal year.

If a check-the-box election to consider a Hybrid Entity a taxable entity for U.S. tax purposes is made after 15 April 2008, the new rules will apply when the election becomes effective, however, not earlier than 15 April 2008.

Bech-Bruun comments
The New Reclassification Rules are the latest in a line of examples of the Danish tax authorities assuming a more or less extraterritorial authority in the field of corporate taxation in an effort to counter perceived tax abuse. However, as the structures targeted this time have not at any time been taxable in Denmark and as the income of the Hybrid Entities would generally be taxable upon repatriation, we find that, to some extent, the tax authorities have misunderstood or disregarded the concept of tax abuse in the matter at hand. Instead, it appears that the tax authorities have created another technically difficult tax regime which may negatively impact the investment environment in Denmark.

INBOUND EXPATRIATE TAX CHANGES[2]

On 3 June 2008, the Danish parliament adopted Bill L 162 (L 162 – Act no. 522 of 17 June 2008) (the "Expanded Expatriate Tax Regime"), which amends the inbound expatriate tax system known as the "25 percent tax regime", creating a new additional tax regime applicable to a wider range of foreign workers and scientists.

Introduction
The Danish tax system operates with one of the highest individual income tax rates in the world. Thus, the marginal income tax rate for Danish individual taxpayers is 63% (including social security contributions). The high individual income tax rate is known to deter foreigners from moving to Denmark to work.

In 1992, an inbound expatriate tax regime was introduced to attract foreign workers. The tax regime provides for a reduced tax rate of 25% (effectively 31% including social security contributions) for certain foreign workers and scientists for a limited period. One of the key elements of the Expanded Expatriate Tax Regime is to extend the period for which the 25 percent tax regime is available to encourage foreign workers to stay in Denmark for a prolonged period.

Previous tax regime
The reduced tax regime applied to inbound expatriates who were either highly compensated or approved scientists. All business lines were qualified under the previous tax regime. No deductions were available under the reduced tax regime. This has not been changed.

There are no nationality restrictions, and thus, Danes also qualify for tax treatment under the reduced tax regime if they fulfil the requirements. Before the amendments, the 25 percent tax regime was available for a period or periods of collectively 36 months which had to be used within a 10-year period.

The regime was based on the fulfilment of several conditions, the most important of those being that:

– the taxpayer could not have been tax liable to Denmark within the past three years;

– the taxpayer had to take up full Danish tax residence when entering the regime; and

– the taxpayer had to receive a minimum monthly salary of DKK 61,700 (approximately EUR 8,300).

The rules under the reduced tax regime are strict – either you qualify or you don't. There is no room for discretion by the Danish tax authorities.

When the period for which the reduced tax regime applies expires, the taxpayer may stay in Denmark permanently, subject to taxation under the ordinary Danish tax rules. This does not apply, however, when the taxpayer has been subject to Danish taxation within the past five years (before becoming taxable under the reduced tax regime). If this is the case, the taxpayer must leave Denmark within four years of the termination of taxation under the reduced tax regime to avoid being taxed under the ordinary income tax rules retroactively. Thus, if the taxpayer does not leave Denmark within that period, the taxpayer will be subject to full taxation at the ordinary income tax rates for the period the taxpayer was subject to taxation under the reduced tax regime.

The expanded expatriate tax regime
The Expanded Expatriate Tax Regime includes the following changes:

– Qualified expatriates may choose between three years of taxation at the rate of 25% (effectively 31%, including social security contribution of 8%) or five years of 33% tax (effectively 38.6%, including social security contribution of 8%).

– A taxpayer has to choose between the 25 percent and the 33 percent tax regime upon entering the reduced tax regime. The choice between the 25 percent and the 33 percent regime can be altered once after entering the regime, but not later than after 36 months of employment (corresponding to the three-year period of the 25 percent regime).

2) The essence of two articles brought in Tax Notes International on 4 February 2008, p. 403, "Ministry Proposes Tax Changes to Address Labour Shortage" and in Tax Notes International on 16 June 2008, p. 897, "Parliament Approves Inbound Expatriate Tax Changes".

- A transitional rule has been introduced so that taxpayers on the former 25 percent regime can choose to replace it with the new 33 percent regime.

- Scientists who within the past three years have been taxable to Denmark on compensation received for short-term employment as visiting professors at Danish universities or other research institutions will now qualify for the reduced tax regimes. The stays must not have lasted more than 12 months collectively within the three-year period.

- The taxpayer does not have to take up full Danish tax residence; limited tax liability to Denmark is enough.

- The so-called one-third rule has been deleted so that it is no longer a condition that no more than one-third of the work is performed outside Denmark.

- The Danish internal exemption relief method in section 33A of the Tax Assessment Act (under which foreign income is exempt from Danish taxation) cannot be applied to income taxed under the reduced tax regime.

- The minimum compensation requirement is changed from a minimum salary each month to a minimum monthly average salary of DKK 61,700 (approximately EUR 8,300) within a year. Thus, it is possible to earn less the first couple months or to have a month without salary if the salary is correspondingly higher the rest of the months. The salary must be paid in accordance with the employment contract and thus, a bonus will not qualify. Approved scientists are exempt from the payment condition as before.

- The 10-year period has been deleted so that it is no longer a condition that the 3/5 years of reduced taxation must be used within a limited time period.

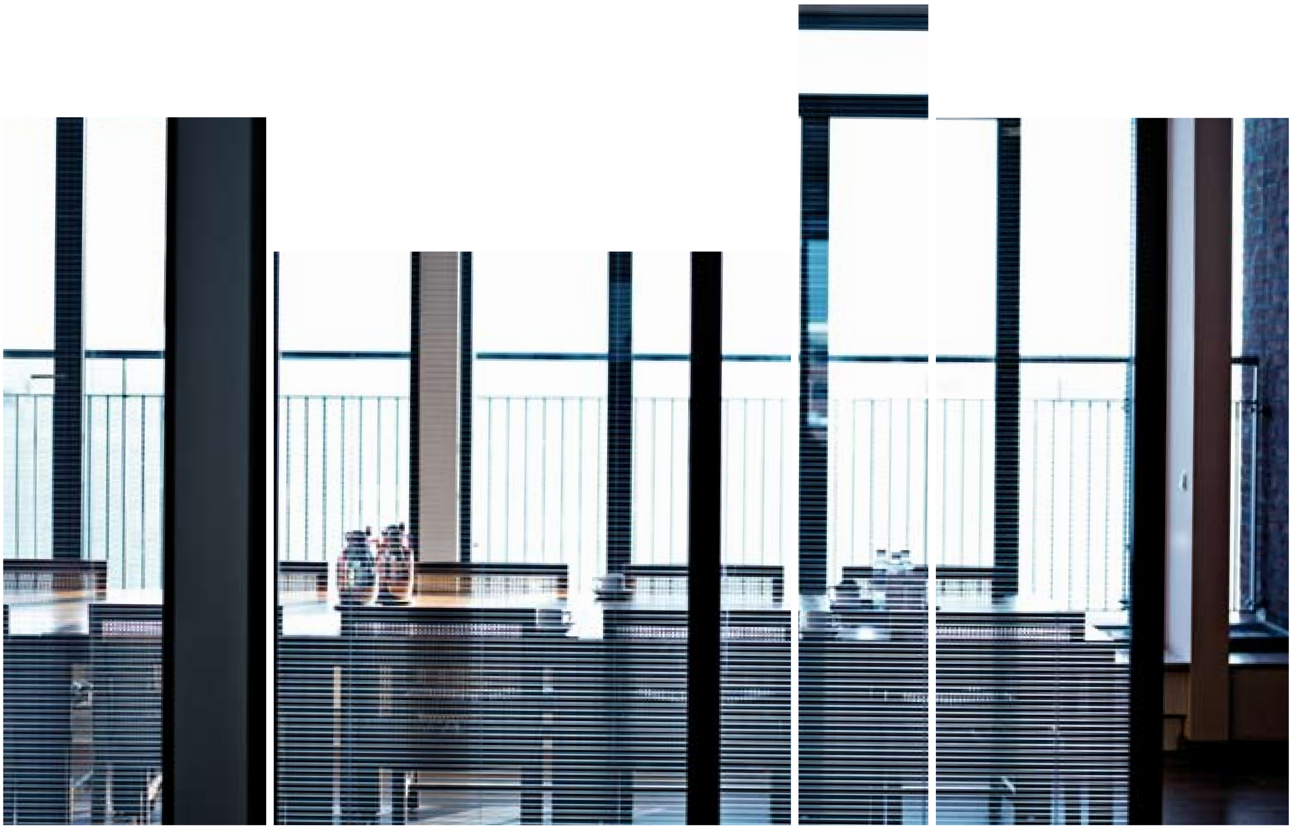
The expanded expatriate tax regime in brief
As described above, the new rules introduce an additional reduced tax regime and loosen the restrictions applicable.

The condition that most often excludes people from the reduced tax regime is retained in the new regime: The taxpayer must not have been tax liable to Denmark within the past three years. This condition has, however, been modified in that scientists now qualify for the regime even if they have been taxable to Denmark within the past three years on compensation received for short-term employment as visiting professors at Danish universities or other research institutions. Also, it is no longer required that the taxpayer takes up full Danish residency. Thus, it is sufficient that the taxpayer is subject to limited tax liability to Denmark if Denmark has the full right to tax the income under double taxation treaties.

Other modifications, such as cancelling the one-third rule and the 10-year rule and changing the payment condition to an average monthly salary, also make the regime easier to apply.

The new regime requires a choice of tax regime (25% versus 33%). Because the choice must be made upfront, it is important to make a realistic assessment of how long the taxpayer expects to stay in Denmark; although it is possible to alter the decision once.

PARLIAMENT REDUCES LABOUR TAXATION[3]



On 24 October 2007, the Danish parliament adopted Bill no. 2 (Act no. 1235 of 24 October 2007), which reduces tax on labour. Income tax will be reduced by increasing both employment relief and the middle-income tax bracket threshold. Also, the Danish labour market contribution will no longer be considered a social contribution, but an income tax.

Act no. 1235 is a continuation of tax cuts introduced in 2004. It will reduce income tax revenue by a total of DKK 9.5bn (approximately EUR 1.3bn). The size of the Danish labour market contribution (now 8%) remained unchanged and was not reduced as scheduled. However, it changed character – from a social contribution to an income tax as defined in Denmark's income tax treaties.

Below is a comparison of current law and the changes that will take place under Act no. 1235.

Income tax – previous tax regime

Employment relief

Under employment relief introduced in 2004, employed taxpayers were entitled to an income tax deduction equal to 2.5% of their earned income, up to DKK 7,700 (approximately EUR 1,000) (2008). The term "earned income" refers to gross wages less any pension scheme contributions. The calculated employment relief was an assessment-oriented deduction on taxable income, meaning it only reduced some taxes (the municipal tax, the health contribution tax, and the church tax).

Personal exemption

The personal exemption applied to some income taxes and varied for people over and under the age of 18. The personal exemption was subject to annual inflation regulation and totals DKK 40,500 (approximately EUR 5,400) for persons over the age of 18 and DKK 30,100 (approximately EUR 4,000) for persons under the age of 18 (2008).

3) The essence of an article brought in Tax Notes International on 5 November 2007, p. 546, "Parliament Reduces Labour Taxation".

Middle-bracket tax
Under the previous tax regime, the Danish individual income tax system included a marginal income tax rate of 62% and a system with three tax brackets – a bottom bracket of 5.5%, a middle bracket of 6%, and a top bracket of 15% – in addition to local taxes at an average aggregate rate of 33%. The top-bracket tax rate of 15% applied to all income in excess of DKK 327,200 (approximately EUR 44,000) (2008).

The middle-bracket tax base included income in excess of DKK 279,800 (approximately EUR 37,000) (2008). A spouse could transfer the basic exemption to the other spouse, provided his or her income was below the middle-bracket tax threshold. That meant that married couples were not subject to middle-bracket income tax unless their total middle-bracket tax base exceeded the doubled basic exemption – that is, DKK 559,600 (approximately EUR 75,000) (2008).

Income tax – Act no. 1235 – new rules
Employment relief
Act no. 1235 increased the employment relief (income tax deduction) to 4% and increased the maximum relief available to DKK 12,300 (approximately EUR 1,600) in 2008. On 1 January 2009, it further increases the employment relief to 4.25% and increases the maximum relief available to DKK 13,100 (approximately EUR 1,700).

Personal exemption
For persons over the age of 18 who are subject to full tax liability, the personal exemption is increased to DKK 41,000 (approximately EUR 5,460) in 2008 and to DKK 41,500 (approximately EUR 5,530) in 2009. For persons under the age of 18 who are subject to full tax liability, the personal exemption is increased to DKK 30,600 (approximately EUR 4,100) in 2008 and then to DKK 31,100 (approximately EUR 4,150) in 2009.

Middle-bracket tax
Act no. 1235 further increased the middle-bracket tax threshold as of 1 January 2009. The middle-bracket tax threshold was increased by DKK 56,000 (approximately EUR 7,500) (the 2008 level) in addition to the regular inflation adjustment.

Consequently, at today's price level, the middle-bracket tax threshold is raised to DKK 335,800 (approximately EUR 44,700), thereby aligning the middle-bracket tax and the top-bracket tax threshold. Before the deduction of the labour market contribution, the amount of DKK 335,800 is equal to an annual income of DKK 365,000 (approximately EUR 48,600).

As a result, income up to DKK 365,000 is not subject to the middle-bracket tax, and the number of middle-bracket taxpayers is reduced by almost 50%. That means the marginal tax paid on earned income is reduced for about 575,000 persons.

The government said it expects the tax reductions to result in a labour increase of 7,000 to 8,000 individuals. It will be interesting to see whether the tax reductions will have any effect at all, as people with income in excess of DKK 360,000 (approximately EUR 48,000) will now be hit with a double tax of 21% (a combination of the middle-bracket tax and the top-bracket tax) rather than the current 15%. In 2007, 36% of the Danish workforce paid the top-bracket tax.

Labour market contribution – previous tax regime
In addition to income tax, employed taxpayers must contribute to the Danish Labour Market Fund. The labour market contribution was paid at a rate of 8% and levied on the taxpayer's entire income base; no personal exemption was available for purposes of the labour market contribution. An exemption was available, however, for the labour market contribution on the state and municipal tax bases.

For employees, the labour market contribution was levied on earned income, fees, and so on, including the taxable value of employee benefits. Self-employed persons and their assisting spouses paid the labour market contribution calculated on the basis of the share of the company's profits that are included in those taxpayers' personal income.

Under the previous tax regime, the labour market contribution should be reduced to 7.5% in 2008.

Labour market contribution – Act no. 1235 – new rules
Act no. 1235 maintained the labour market contribution rate at the current rate of 8%. Furthermore, it was specified that the employer must calculate and collect the labour market contribution for seconded employees.

The labour market contribution will no longer constitute a social contribution, as the Labour Market Fund has been discontinued. Instead, the labour market contribution will change character, becoming an income tax as defined under Denmark's income tax treaties.

As a consequence, the labour market contribution may be levied only when Denmark is entitled to impose income tax under an income tax treaty. This may apply, for example, in the case of a Danish tax resident working abroad for a foreign public employer. Under most income tax systems, income of that nature is subject to tax only in the country of employment.

Under the previous tax regime, the liability to pay the labour market contribution was conditional on the employee earning income that is subject to the contribution, and on the employee being eligible for social security benefits in Denmark. Under the current tax regime, the labour market contribution is an income tax, and the contribution can no longer be levied solely because the employee is eligible for social security benefits in Denmark, without taking tax treaties into account.

Another consequence is that the maximum amount creditable against the Danish tax liability when an employee is entitled to relief from double taxation will increase by an amount equal to the labour market contribution. This will be of significance to Danish tax residents who earn their income abroad and who are still subject to Danish income tax. In those situations, Denmark must decrease its tax levy according to the so-called tax credit method (by the amount of tax paid abroad), up to the amount of Danish tax levied on the foreign income. This is relevant only if the foreign tax exceeds the Danish tax. In that case, the maximum reduction in the Danish tax liability will be composed of any Danish income taxes paid, including the (previous) Danish labour market contribution.

The conversion of the labour market contribution into an income tax may also be of significance to non-Danish residents working in Denmark. Under current law, non-Danish residents who earn income in Denmark and who are eligible for social security benefits in Denmark are subject to the labour market contribution. Act no. 1235 has not changed the current practice. If the labour market contribution is considered a tax, the maximum Danish tax credit for which the employee is eligible in his or her country of residence may be increased accordingly. This is significant if the tax levy of the country of residence exceeds the Danish tax levy, but will also depend on current legislation and practice in the country of residence.

Other
Act no. 1235 also prolongs the suspension of contributions to the Special Pension Scheme for another year in 2008.

Under the Special Pension Scheme, taxpayers paid 1% of their income into a special retirement fund. Those contributions were suspended in 2004.

REDUCTION OF TAX RATES ON DIVIDENDS PAID TO NON-RESIDENTS[4]

The Danish parliament has passed a bill reducing the Danish tax on dividends paid to non-residents from 28% to 15%.

On 29 April 2008, the Danish parliament adopted Bill no. 31B (Act no. 335 of 7 May 2008) to ensure compliance of Denmark's tax laws with EC laws. The changes are effective for dividends and payments made on 1 April 2008 or later.

Prior to the bill, all dividends distributed from a Danish company to a foreign individual or company were taxed at a rate of 28% and withheld at source. Dividend distributions could, however, be exempt from taxation under the EU parent-subsidiary directive or exempt or reduced according to a double taxation treaty. The tax would generally be reduced to a rate of 15%, but that rate could be higher depending on the treaty in question.

Dividends distributed to a Danish company holding less than 15% of the share capital in the dividend distributing company were generally taxed at a rate of 16.5% (or 15% if paid to a Danish pension company). An EU company or EU pension fund could face a higher Danish tax burden if the applicable treaty rate exceeded 15%. This discrepancy had led to an EU Commission inquiry of whether the inconsistent treatment was in violation of EC law.

In response, Danish Minister of Taxation Kristian Jensen presented a bill to reduce the tax rate on dividends distributed to non-residents to 15% to ensure compliance of Danish law with EC law.

The new regulations reduce the effective tax rate applicable to outbound dividends distributed by a Danish company to a foreign individual or company from 28% to 15% if the following conditions are met:

– the foreign individual or company is resident in a country that has concluded an exchange of information agreement with the Danish tax authorities; and
– the foreign individual or company holds less than 10% of the share capital in the Danish company. If the foreign individual or company is resident outside the European Union, the individual or company must hold less than 10% of the share capital of the Danish company together with affiliated companies.

Danish dividend distributing companies will still have to apply the 28% withholding tax. The difference between 28% and 15% – or less due to an applicable treaty – will be refunded by the Danish tax authorities subject to an application from the taxpayer.

A foreign company is of course still entitled to a tax exemption on receipt of dividends if an exemption applies.

Generally, the changes do not carry any significance due to the pre-existing reductions of the dividend tax rates under the double taxation treaties.

4) The essence of an article brought in Tax Notes International on 7 July 2008, p. 25, "Parliament OKs Tax Cut on Dividends Paid to Nonresidents".

DEDUCTION FOR PENSION CONTRIBUTIONS[5]

In January 2007, the European Court of Justice found Denmark's pension system to be in violation of EU law. In November 2007, the Danish government proposed two bills to amend the Danish Act on Taxation of Pension Schemes and the Danish Act on Taxation of Pension Yields to introduce deductions to contributions to foreign Pension Schemes within the EU/EEA. The purpose of the bills was to bring the pension system into compliance with EU law.

Under the legislation previously in force, contributions to pension schemes were deductible by Danish individual taxpayers only if the contributions were made to Danish pension funds. Any return on contributions placed in a Danish pension fund (for example, in the form of interest or dividends) is taxable at a rate of 15%. Because taxation of the return on pension funds would be difficult, if not impossible, to administer if the pension funds were placed in foreign pension funds, the Danish tax system allowed Danish taxpayers to deduct only those contributions made to Danish pension funds.

The two bills were enacted on 14 December 2007 (Act no. 524 of 17 June 2008 and Act no. 525 of 17 June 2008). Effective 1 January 2008, Danish taxpayers are able to deduct their pension contributions to foreign pension funds subject to a few conditions. The pension scheme must meet the same conditions as a Danish pension scheme, which contributions are deductible, and the pension scheme must have a tariff structure. Furthermore, the Danish taxpayer must acknowledge that the payments he or she receives from the foreign pension fund are taxable to Denmark even if the taxpayer later moves from Denmark (and thereby is no longer subject to Danish taxation).

The foreign pension funds must meet the same administrative requirements as Danish pension funds, and it has to be possible to verify the pension fund's documentation via the Social Assistance Directive or a double taxation treaty (which excludes i.a. pension funds in Liechtenstein).

The foreign pension funds must therefore agree to declare ingoing and outgoing returns, withhold and pay the taxes attributable to current returns on the contributions as well as returns from the foreign pension funds to the Danish tax authorities.

If these conditions are fulfilled, the Danish taxpayer can deduct contributions to foreign pension funds after the Danish tax authorities have approved the foreign pension fund and the foreign pension scheme. Any returns on the contributions will be taxable at a rate of 15%.

Furthermore, also effective 1 January 2008, the tax payment responsibility with respect to the return on the contributions is shifted from the foreign pension fund to the individual taxpayer. With respect to Danish pension schemes, the tax payment responsibility is shifted to the individual taxpayer effective 1 January 2010. The shift of tax liability will not, however, result in an increased administrative burden for the taxpayer because the pension fund will continue to be obliged to calculate, withhold and submit the payments to the Danish tax authorities.

The foreign pension funds must comply with the investment rules of the country of residence, but not with the equivalent rules in Denmark if the pension schemes offered extend across Danish borders.

Finally, it should be noted that specific favourable rules apply to migrant workers with pension schemes set up in an EU/EEA country.

5) **Part of an article from Tax Notes International on 15 October 2007, p. 223, "Denmark Prepares Large-Scale Tax Reforms".**

TREATMENT OF FOREIGN SUBCONTRACTED WORKERS[6]

The Danish tax authorities has published four statements establishing the conditions for the taxation of foreign subcontracted workers in Denmark.

Foreign workers can perform work in Denmark in three ways with various tax results:

1 Foreign workers can be hired directly by the Danish employing company. In that case, they will be subject to either full or limited tax liability to Denmark and will be subject to the usual progressive income tax rates, with a maximum rate of app. 63%.

2 Foreign workers can be hired out from the foreign employer to the Danish employing company. In that case, the foreign employer is identified as the employer in the employment contract, but the Danish employing company performs the usual employer duties, such as organising the work and giving instructions. According to special Danish rules, hired-out workers are subject to a reduced 30% tax rate with no deductions allowed.

3 The foreign employer can undertake a project contract with the Danish company and perform the contracted work with its own employees and under its own instructions and risk. In that case, the foreign employer will become tax liable to Denmark only if a permanent establishment is created in Denmark. Correspondingly, the foreign workers will become tax liable to Denmark only if the foreign employer has a permanent establishment in Denmark or if they stay in Denmark for more than 183 days during a (consecutive) six-month period.

In the second scenario, Denmark has the right to tax hired-out foreign workers. In the third scenario, the project contract prevents Denmark from taxing the foreign employer or employees unless there is a permanent establishment in Denmark. The third scenario therefore offers the parties administrative and tax advantages if the tax rate in the foreigners' country of residence is preferable. For that reason, it is important to determine whether the contract qualifies as an employment contract (for hired-out work) or as a project contract.

In the statements, the Danish tax authorities address the question of whether specific contracts qualify as labour hire-outs or as project contracts. According to the statements, and a circular regarding the Danish Tax at Source Act, foreign workers are subject to the Danish hiring out of labour rules if:

– the Danish company is responsible for the general management (for example, giving instructions and supervising the work);

– the work is performed at a workplace which the Danish company is in charge of and for which it is responsible;

– the Danish company bears the risk for the result of the work;

– the fee from the Danish company to the foreign employer is calculated on the basis of the amount of work performed by the hired-out workers or if there is another relationship between the fee and the payment to the foreign workers;

– the Danish company has placed most of its work tools and other material at the free disposal of the workers; or

– the foreign employer does not independently determine the number of employees and their qualifications at the Danish company.

These conditions are also listed in the commentary to article 15 of the OECD model tax treaty on hire-outs of labour. If a situation involves hiring out of labour, and Denmark and the states of residence of the hired-out workers have entered into an income tax treaty, the country in which the work is performed has the right of taxation.

The aforementioned conditions are not cumulative; in other words, all the conditions do not have to be met to be subject to the Danish hiring out of labour rules. Rather, the Danish tax authorities conduct an overall assessment based on the facts and circumstances to determine whether a specific contract qualifies as a labour hire-out or a project contract. Having said that, the tax authorities have stated that the most important criterion in the assessment is whether it is the foreign employer or the Danish employing company that holds the risk and responsibility of the result of the work.

6) The essence of an article brought in Tax Notes International on 23 June 2008, p. 994, "Tax Authority Addresses Treatment of Foreign Workers".

AMENDMENTS TO THE DANISH TONNAGE TAX SCHEME

The Danish parliament has adopted Act no. 539 of 6 June 2007 introducing the following amendments to the Danish tonnage tax scheme:

1 Capital gains on sale of tonnage-taxed vessels

2 Interest deduction

3 Pool fees

4 Time-charter

5 Retroactive effect of the tonnage tax scheme

Act no. 539, which is considered to be a state subsidy scheme, was submitted to the EU Commission for approval in April 2007. In December 2007, the EU Commission notified its decision to approve two of the five amendments and at the same time to initiate a formal investigation procedure of the remaining three amendments to the Danish tonnage tax scheme.

At this point in time (August 2008), it is not expected that the EU Commission will revert with its final decision before May 2009.

Following an approval from the EU Commission, Act no. 539 may enter into force retroactively from 1 January 2007.

Approved amendments
No. 1 Capital gains on sale of tonnage-taxed vessels
The EU Commission has approved the amendment regarding profits on the sale of tonnage-taxed vessels, entailing that such profits are taxed under the tonnage tax scheme. From a practical perspective this implies that capital gains on the sale of tonnage-taxed vessels are not taxed.

This particular amendment has entered into force retroactively from 1 January 2007.

No. 2 Interest deduction
The EU Commission has also approved an amendment which provides for deduction of interest for purposes of the tonnage tax. The interest deduction is subject to a limitation in that only interest which does not exceed an upper limit of the taxable value of the assets times 6.5% (ring-fencing measure) is deductible. Thus, shipping companies which are taxed both under the ordinary tax rules and the tonnage tax rules are now also under the tonnage tax rules allowed a deduction of interest not exceeding the taxable value of non-tonnage taxed assets times 6.5%.

The purpose of the amendment is to avoid so-called "thick capitalization" of tonnage-taxed activities where a tonnage-taxed company allocates all or the majority of its debt to activities subject to ordinary corporate taxation, allocating no debt to activities subject to tonnage taxation.

This particular amendment has entered into force retroactively from 1 January 2007.

Pending amendments subject to the formal investigation procedure

No. 3 Pool fees

Act no. 539 proposes that income from the management of pools is taxed under the tonnage tax scheme. Thus, a shipping company which manages a pool cooperation is allowed, subject to certain conditions, to include its pool fee in its taxable income subject to tonnage taxation.

No. 4 Time-charter

Act no. 539 proposes that the relationship between owned tonnage and chartered tonnage is amended so that the gross tonnage from chartered vessels in the tonnage tax scheme is ten times greater than the gross tonnage owned by the shipping company itself. At present, the relationship is one to four times greater.

Further, when determining whether chartered vessels shall be considered owned vessels, Act no. 539 proposes that the charter period of charter agreements including a purchase option must be between one and seven years as opposed to one and five years as present regulation states.

No. 5 Retroactive effect of the tonnage tax scheme

Act no. 539 proposes that following the enforcement of the act, non-tonnage tax companies are allowed retroactively to enter into the tonnage tax scheme as of the income year of 2001 or the first income year (after 2001) in which the company was eligible to enter into the tonnage tax scheme.

Requests to enter into the tonnage tax scheme retroactively must be put forth within six months of the enforcement of the act.

At this point in time (August 2008), the EU Commission has not reverted with its decision with respect to amendments nos. 3-5.

AMENDED AIRCRAFT VAT RULES[7]

The most important amendments concern the rules regarding transfer pricing, VAT on aircraft and extended access to apply the so-called "reverse charge".

Transfer pricing
It will no longer be possible for related parties to conclude transactions below cost/manufacturing price, if the buyer is not entitled to deduct the full amount paid in VAT against tax.

This aspect affects several sectors, e.g. the construction and financial sectors, but it also affects businesses across sector lines, as VAT on canteens will also be covered by the new rules.

This means that businesses operating canteens which sell food to the employees must as a minimum charge VAT on the manufacturing price. If the businesses buy the food from an external supplier and resell it to the employees, the VAT must be charged on an amount equal to at least the purchase price.

Several EU countries, although not Denmark, have decided not to apply the transfer pricing rules to the canteen area.

VAT on aircraft
So far, a quite extensive VAT exemption has applied in Denmark for the delivery of aircraft and in connection with sale, chartering and leasing of aircraft. Sports aircraft have, however, not been covered by this VAT exemption.

With this amendment, the VAT exemption will only cover aircraft used by airlines engaged mainly in international commercial flights. An airline will be deemed to be engaged mainly in international flights when 55% of the flights are international.

The rules will come into force on 1 January 2010 except for the following situation:

If a written contract has been concluded for the sale of an aircraft, except for sports aircraft, and sale of fixed equipment for such aircraft before 1 January 2010, delivery is VAT exempt if the actual delivery is made before 1 July 2010.

Reverse charge
Danish undertakings will now, as a main rule, be covered by the rules on reverse charge when buying services from undertakings established abroad. This means that the Danish undertakings must calculate Danish VAT of the services they buy from international suppliers.

The amendment means that international suppliers can to a greater extent avoid having to register for VAT purposes in Denmark when selling services to Danish undertakings.

The rules will come into force on 1 January 2009.

7) The essence of an article brought in Tax Notes International on 22 October 2007, p. 345, "Parliament to Consider Amended Aircraft VAT Rules" and an article brought in Worldwide Tax Daily on 7 July 2008, "Denmark Adopts New VAT Act".

TAX TREATY NEWS

Denmark has concluded tax treaties with all EU member states (see below regarding termination of the French and Spanish treaties) and the following states outside the EU:

Argentina	Jamaica	South Korea
Armenia	Japan	Sri Lanka
Australia	Kenya	Switzerland
Bangladesh	Kyrgyzstan	Taipei (Taiwan)
Brazil	Macedonia	Tanzania
Bulgaria	Malaysia	Thailand
Canada	Mexico	The Faeroe
Chile	Morocco	Islands
China	New Zealand	Trinidad & Tobago
Croatia	Norway	Tunisia
Egypt	Pakistan	Turkey
Georgia	Philippines	Uganda
Greenland	Romania	Ukraine
Hong Kong	Russia	USA
Iceland	Serbia-	Venezuela
India	Montenegro	Vietnam
Indonesia	Singapore	Yugoslavia
Israel	South Africa	Zambia

Negotiations on new tax treaties

Negotiations on entering into double taxation treaties with Austria, Croatia and Georgia are finalised. Further, four tax agreements have been entered into with the Isle of Man. Furthermore the double taxation treaty with the U.S. has entered into force. Please see next page for details on the protocols.

Tax treaty negotiations are pending with Brazil, Cyprus, France, Israel, Kuwait and Poland.

Termination of tax treaties with France and Spain[8]

On 11 October 2007, the Danish Minister of Taxation introduced a bill in the Danish parliament that would authorise him to terminate the tax treaties between Denmark and France and Denmark and Spain. On 20 February 2008, the bill was enacted (Act no. 85).

On 11 June 2008, the Danish Ministry of Taxation issued a press release announcing that as of 10 June 2008, Denmark terminated the tax treaty between Denmark and France as well as the tax treaty between Denmark and Spain.

The bill emphasised that enactment of the authorisation would lead to the termination of the two tax treaties only if renegotiation of the treaties would not lead to a satisfactory agreement. Denmark wanted to ensure that it was entitled to tax payments from all (primarily private) pension schemes for which tax deductibility had been obtained in Denmark at the time of contribution to the pension scheme. Such agreements were not reached and the treaties were terminated.

The termination of both tax treaties is effective as of 1 January 2009. We have frequently been in contact with the Danish tax authorities and it is our understanding that specifically in relation to the tax treaty between Denmark and France there is an ongoing dialogue between the tax authorities in both countries regarding the content of a new tax treaty between Denmark and France. However, outstanding issues on which the parties have not reached agreement remain, presumably mainly with respect to taxation of pensioners formerly tax residents in Denmark and now tax residents in France.

It is our impression that the Danish tax authorities aim to have a new treaty in place with both France and Spain as of 1 January 2009, but we do not have specific information regarding the position of the French and the Spanish tax authorities on this matter. It is, however, our understanding that the French tax authorities do not wish to enter into an agreement on the conditions desired by the Danish tax authorities.

New US-Denmark tax treaty entered into force

The protocol on amendments to the US-Denmark tax treaty was signed by George Bush on 28 December 2007 and entered into force on that date.

8) Part of an article brought in Tax Notes International on 22 October 2007, p. 345, "Parliament Reviews Bill to Terminate Tax Treaties".

The rules in the protocol became effective on 1 January 2008 except for the rules applicable to withholding tax, which became effective on 1 February 2008.

Please see last year's Tax Newsletter for a description on the protocol rules.

New Austria-Denmark tax treaty[9]

On 29 January 2008, the Danish parliament passed Bill no. 12 (Act no. 86 of 20 February 2008) ratifying Denmark's adoption of a new tax treaty with Austria. The treaty became effective in Denmark on 1 March 2008.

The previous tax treaty between Denmark and Austria, which dates back to the 1960s, was adopted before the OECD model income tax treaty came into existence. However, like the vast majority of Denmark's more recent tax treaties, the new treaty with Austria is based on the OECD model. The major changes include:

- Dividends: Under the new tax treaty, dividends are not taxable in the country of source when paid by a subsidiary in one treaty country to a parent company located in the other treaty country. In all other cases, the dividends are taxable at a rate of 15%. Under the previous tax treaty, the country of source could tax all dividends at a maximum rate of 10%. A full exemption from the Danish dividend withholding tax for some Austrian qualifying shareholders has applied under Danish domestic law since 1999.

- Pensions: Under the new tax treaty, the country of source may tax all types of pensions. The new rules do not apply to pension recipients who had already moved from the country of source before the enactment of the new treaty. Under the previous treaty, the country of residence had the right of taxation.

- Relief method: The new tax treaty applies the credit method rather than the exemption method.

New Croatia-Denmark tax treaty[10]

On 29 January 2008, the Danish parliament passed Bill no. 14 (Act no. 87 of 20 February 2008) ratifying Denmark's adoption of a new tax treaty with Croatia. The treaty became effective in Denmark on 1 March 2008.

In 1995, Croatia acceded to the 1981 tax treaty between Denmark and the former Yugoslavia, which was based on the 1977 version of the OECD model income tax treaty. The new Croatia-Denmark treaty is based on the 2005 version of the OECD model. Major changes include:

- Dividends: Under the new Croatia-Denmark treaty, the country of source may tax dividends at a maximum rate of 10% (or 5% if the recipient is a company holding at least 25% of the votes in the distributing company or is a pension fund or similar entity). Under the previous tax treaty, the country of source could tax the dividends, but the tax could not exceed a rate of 15% (or 5% if the recipient was a company holding a minimum of 25% of the votes in the distributing company).

9) Part of an article brought in Tax Notes International on 11 February 2008, p. 478, "Denmark Ratifies Treaties with Austria, Croatia".
10) Part of an article brought in Tax Notes International on 11 February 2008, p. 478, "Denmark Ratifies Treaties with Austria, Croatia".

– Pensions: Under the new treaty, all types of pensions are taxable in the country of source. In principle, no change has been made with regard to social pensions (and other social benefits) and the pensions of public servants. However, in the future, other pensions (mainly from private pension funds) will be taxable in the country of source, provided that contributions to the pension scheme previously were tax deductible (or otherwise tax privileged) in that treaty country. Under the previous tax treaty, social pensions (and other social benefits) and the pensions of public servants were taxable in the country of source. Other pensions, including payments from private pension schemes, were taxable only in the country of residence.

New Georgia-Denmark tax treaty[11]

On 3 June 2008, the Danish parliament adopted Bill no. 114 (Act no. 470 of 17 June 2008) proposing the adoption of a law to enact a new tax treaty with Georgia. The treaty was signed on 10 October 2007, but would only become effective when both Denmark and Georgia had enacted commencement provisions.

The main object of the new treaty is to avoid international double taxation. The treaty follows the OECD model income tax treaty for the most part. However, it varies from the OECD model regarding the right to tax dividends, interest, royalties, and pensions. Under the new Denmark-Georgia treaty, the state where an individual has only limited tax liability can tax dividends at a rate of 0% to 10% depending on the ownership share. Interest and royalties cannot be taxed if the owner is a resident of the other state, and pensions can be taxed (but private pensions must be deductible).

Double taxation is eliminated by providing a credit so that the state of residence (for example, Denmark) reduces the tax due by the amount of tax paid in the other state (in this example, Georgia). Such a deduction cannot, however, exceed the Danish tax on that income.

The treaty also contains rules on administrative assistance through exchange of information between the tax authorities in Denmark and Georgia.

Four tax agreements signed with The Isle of Man[12]

On 3 June 2008, the Danish parliament adopted Bill no. 115 (Act no. 471 of 17 June 2008) proposing the adoption of a law to enact four tax agreements with the Isle of Man. Bill no. 115 would make effective four tax agreements signed with the Isle of Man on 30 October 2007. The agreements would not become effective until both Denmark and the Isle of Man had enacted commencement provisions.

The tax agreements are a part of the OECD's work to combat damaging tax practices, and the purpose of the agreements is to strengthen and broaden the economic and trading relationship between Denmark and the Isle of Man.

The first agreement concerns exchange of information and gives each party the right to obtain relevant information from the other party for tax purposes. The main object of the agreement is to ensure that Danish taxation cannot be circumvented by way of transactions with parties in the Isle of Man.

In connection with the first agreement, Denmark and the Isle of Man have signed three other agreements with the purpose of contributing to business and economic development on the Isle of Man so that companies other than financial companies can be established there. Two of the agreements concern the avoidance of double taxation on individuals and on enterprises operating ships or aircraft in international traffic. The third agreement concerns a mutual agreement procedure relating to the adjustment of profits of associated enterprises.

After Denmark and the Isle of Man have assessed the success of the agreements, the plan is to initiate negotiations for a full tax treaty. The treaty would, if necessary, take into consideration the corporate taxation in the Isle of Man.

11) Part of an article brought in Tax Notes International on 19 May 2008, p. 543, "Parliament Considering Bills on Treaty, Tax Agreements".
12) Part of an article brought in Tax Notes International on 19 May 2008, p. 543, "Parliament Considering Bills on Treaty, Tax Agreements".

ABOUT BECH-BRUUN AND OUR TAX PRACTICE

Bech-Bruun is one of Denmark's leading law firms with approximately 230 fee earners, which places Bech-Bruun as one of the largest law firms in Denmark.

Bech-Bruun Tax now has 18 fee earners, which makes Bech-Bruun Tax the largest tax group among Danish law firms.

Bech-Bruun has an outstanding portfolio of international and Danish clients who regularly seek our assistance in relation to structured finance products and expertise in relation to M&A planning, group restructuring, strategic tax advising and transfer pricing.

Below is an extract of recent ratings of Bech-Bruun Tax:

Chambers and Partners
Bech-Bruun Tax has received a tier 1 rating by Chambers and Partners.

Chambers and Partners about Bech-Bruun:

"This outstanding tax practice offers six fully dedicated partners and a "comprehensively broad range of services," and is the largest in the market. On behalf of a substantial domestic client base, the group undertakes a considerable amount of work in M&A tax and sophisticated corporate tax planning. The team also shines outside of Denmark and is particularly noted for its "excellent international network" and work with international banks: "When it comes to the wide range of international work, Bech-Bruun is the number-one choice," declared interviewees. Clients value the lawyers' ability to "think outside of the box and solve problems innovatively," together with their "always accessible and concise advice." Within the realm of corporate tax, Bech-Bruun is proving itself as a genuine alternative to the "Big Four" auditing companies. It also handles tax litigation and has been involved in some of the largest cases before the Supreme Court and the ECJ."

Chambers and Partners about Bech-Bruun's lawyers:

"Nikolaj Bjørnholm is respected as one of Denmark's most recognised tax lawyers: "We always call him first," declared clients; "he is simply excellent all-round but particularly on international matters." He heads the practice and focuses on high-end transactional work, especially for financial institutions, but also takes on litigation work. Anders Oreby Hansen is widely commended for his "creative approach" and attention to clients' needs. "He really knows his stuff when it comes to transfer pricing," pointed out interviewees, and he is also involved in M&A tax planning. He represents mainly industrial enterprises, and also advises on taxation in shipping."

Chambers and Partners about Bech-Bruun's Clients/ Work Highlights:

"Before the ECJ, the group represented listed Danish company Olicom in the first customs duty controversy case involving the classification of network cards with both LAN and WAN functions. It also acted on behalf of TDC, Telia, Orange and Hi3G in a case concerning whether granting of a Universal Mobile Telephone System licence by the government is subject to VAT. Other clients include Goldman Sachs; Morgan Stanley; ABN AMRO and Deutsche Bank."

Legal 500

In Legal 500, Bech-Bruun Tax has received a tier 1 rating.

"Bech-Bruun's 17-lawyer team is the largest in Denmark. Its "professionalism" and "extraordinarily high quality of work" is underpinned by the firm's international connections and its lawyers' "24/7 availability". Practice group head Michael Serup together with "creative thinker" Anders Oreby Hansen and Nikolaj Bjørnholm, who is commended for his "exceptional expertise" have established a group which in certain areas competes with the big accountancy firms. It offers planning, transfer-pricing and litigation and supports the firm's structured finance and M&A practices, advising major international players including Goldman Sachs, Credit Suisse and Deutsche Bank. In 2007, the team was strengthened by the arrival of VAT expert Elsebeth Hjorthshøj Rasmussen from PwC".

World Tax 2008

International Tax Review's publication "World Tax 2008" refers to Bech-Bruun as one of the top Danish tax law firms and specifically references Bech-Bruun's partners, Nikolaj Bjørnholm and Anders Oreby Hansen.

In 2008, the Bech-Bruun tax group also received the award as Danish tax firm of the year. Bech-Bruun also received this award in 2005 and 2007.

PLC Which Lawyer? 2008

PLC Which Lawyer 2008 ranks Bech-Bruun Tax as "leading".

Tax Directors Handbook

Tax Directors Handbook places Bech-Bruun as the leading law firm in Denmark.

Tax Directors Handbook especially emphasises Bech-Bruun's tax lawyers, Michael Serup, Nikolaj Bjørnholm and Anders Oreby Hansen, and describes that they together have built a strong tax group.

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