



Doing Business in Denmark

Ecovis Danmark

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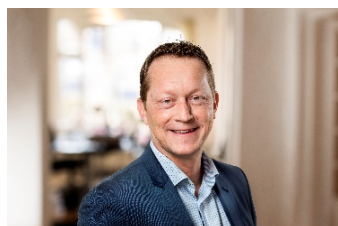
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Doing business in Denmark

Preface

Denmark ranks [number 1](#) at Transparency International as the least corrupted country and [number 3](#) in Word Banks survey of ease of doing business. Denmark has been member of European Union since 1972 and consequently is to observe regulations and directive issued by EU and rulings made by the Court of Justice of the European Union. Danish is the official language; however, Denmark has a highly educated population with excellent foreign language skills. In fact, [5th](#) on the EF English Proficiency Index 2018.

Interactions between persons, be it legal or individuals, and public authorities are digitalized why a digitally identity is needed ([nemID](#)) .

For further information: [Denmark in bullets](#).



Entity forms

Commercial activity can be arranged in a variety of entities, be it companies, partnerships or by individuals acting as sole traders. The business of sole traders and partnerships is not distinct from the personal affairs of the proprietor(s). The proprietor has unlimited liability for the debts of his business.

A company, most commonly a public or private limited company, is a distinct legal entity established to separate its business affairs from the personal affairs of its proprietors.

A company can only cease to exist when it is wound up according to legal framework. This means that a company can carry on as long as there are individuals appointed to act on its behalf despite e.g. the death or retirement of an individual.

Investors are free to choose their preferred form of entity. However, to set up branch operations most non-EU/EEA residents must have permission by the [Danish Business Authority](#) (Erhvervsstyrelsen).

Most foreign investors prefer to establish businesses under one of the following types of companies, as they are regulated by law:

- Public limited companies (Aktieselskab, abbreviated A/S).
- Private limited companies (Anpartsselskab, abbreviated ApS).
- Branches (of foreign limited companies).
- Permanent establishment (PE)

Other ways of establishing a business will therefore not be dealt with here.

The Danish Business Authority charges [a fee \(app. 90€\)](#) for registering a company.

Public limited companies (Aktieselskaber)

The liability of each shareholder is limited to the amount of shares subscribed (irrespective of them being fully paid up or not) or alternatively the purchase price of the shares acquired.

A public limited company must have a share capital of a nom. value of at least DKK 400,000 of which at least 25 % or DKK 100,000 of the initial share must be fully paid, before registration when the share capital is paid cash. It is also possible to make payment in kind for subscribed capital.

Foreign individuals or companies are allowed to own a Danish company by 100 %. If the book value of a company's equity is less than 50 % of the subscribed capital, an account of the financial situation and measures at a management/supervisory board within 6 month must be taken.

The management

The management may consist of either a board of directors (minimum of 3 persons) and the managing director(s) (minimum of 1 person), or a board of managing directors supervised by a supervisory board (minimum of 3 persons).

The shareholders at the annual general meeting elect the board of directors and its primary task is to ascertain a sound organization and to set out guidelines for the managing director.

If the company employs more than 35 persons for three consecutive years, the employees are entitled to be represented at the board of directors or at the supervisory board.

The board of directors appoints the managing director. The managing director's primary task is the daily management.

Statutory publication

The following details of the company have to be filed with the Danish Business Authority, where part of the information is publicly available, e.g.:

- Denomination of the share capital.
- Names and addresses of the founders of the company.
- Names and addresses of the members of the board of directors and the managing director(s).
- Articles of association.
- The annual report.

Shareholders are listed in a register at the Danish Business Authority. However, only shareholdings of at least 5 % of the capital or votes are publicly available.

Further, registration of real ownership is statutory (fifth anti laundering directive and Danish companies Act)

Private limited Companies (Anpartsselskaber)

In general, private limited companies are governed by the same laws as described above for public limited companies.

The essential differences are:

- A minimum share capital of DKK 40,000 is required.

The initial share capital in full must be paid in before registration, either in cash or in kind.

- The management may consist of either a board of managing directors, (can be 1 person) or a board of directors and the managing director(s), or a board of managing directors supervised by a supervisory board.
- A board of directors or a supervisory board is only required if the company employs more than 35 persons for 3 consecutive years. If so, the employees are entitled to be represented on the board of directors or on the supervisory board.

Branches (of foreign limited companies)

Foreign limited companies from EU and EEA countries can carry out activities through a branch in Denmark. The same apply to USA, Switzerland, Georgia and South Korea. Some possibilities for other countries with reciprocity declaration.

Danish Business Authority register a Branch, and it must be certified that the foreign company is registered in accordance with the legislation of its home country.

A branch in Denmark acts under Danish law. The name of a branch must show its status as a branch of a foreign limited company and its nationality. A branch manager must manage the branch.

Each year the annual report of the foreign company must be filed with the Danish Business Authority, where the annual report is made public.

Permanent establishment (PE)

PE as entity form is not defined within a company law, but is defined within the interpretation of tax guidelines and treaties. Commonly PE is seen used in the construction business. Nevertheless, PE is still to be registered at the Danish Business Authority because this body is authority of issuing CVR numbers, which all in one the number a given entity is identified by: be in the context of VAT, tax, excise duties or as employer. Further, if a job is commenced and it is expected to endure for more than 8 days, you are to make registration at [RUT \(Register of Foreign Service Providers\)](#).

Representation offices

Establishment through a representation office is a possibility, provided the activities are limited to being of an “auxiliary and preparatory nature”.

Such activities cannot include any kind of sales activities, nor power to enter into binding sales contracts on behalf of a non-resident company.

The activities included in the definition of a representation office could be the gathering of information for the foreign company or maintenance of a showroom. However, in case of maintaining a showroom, no individual in the representation office can have the authority to enter into contracts.

The foreign company must register the activities of the representation office with the Danish Business Authority and point out a representative in Denmark. The representative must sign a declaration confirming that he or she is the representative of the foreign company.



Accounting requirements

The board of directors and the management are responsible for the maintenance of appropriate accounting procedures and records and for the preparation of annual reports, covering each financial reference period.

The management report prepared by the board of directors and the auditors' report are integrated parts of the annual report.

The shareholders at the company's annual general meeting must approve the annual report.

The annual report must be filed with the Danish Business Authority without undue delay after the approval at the general meeting and no later than five months after the end of the financial year

Form and contents of the annual report

The disclosure requirements and the form and contents of the annual report are set out in the Danish Financial Statements Act. In addition, the annual report must comply with Danish accounting standards. Companies may choose to prepare accordingly to IAS and IFRS. Annual report can be composed (solely) in English.

According to the Act, a listed company must prepare an annual report consisting, as a minimum, of:

- A statement by the board of directors and the management on the annual report.

- A balance sheet.
- A profit and loss account.
- A cash-flow statement.
- Disclosures, including disclosure of accounting policies.
- A statement of changes in equity as well as a management report.
- An auditors' report.

Small and medium-sized companies may be exempt from some of the disclosures.

Audit requirements

An independent auditor must audit all limited companies. The shareholders at the general meeting appoint the auditor.

Audit is mandatory if two out the following of three conditions are met.

Revenue 8 mill. DKK, (app. 1.075.000 €) Balance 4 mill. DKK, (app. 537.500 €) and 12 employees.

If two of these three it from the start is below can audit be deselected as part of incorporating the Company.

If audit for the first year is mandatory audit can be deselected again if two following years where two of the three conditions are not met.

In addition, the auditor provides the shareholders with an auditors' report, which is an integrated part of the annual report.

The auditors' report must state whether the annual report complies with the disclosure requirements of the Danish Financial Statements Act and whether it gives a "true and fair view" of the company's state of affairs at the balance sheet date as well as of the profit or loss in the financial period. Small and medium-sized companies are free to choose an "extended review" as well (which is a review with four extra obligatory actions).

Auditors must comply with the auditing standards published by the Danish Institute of State Authorized Public Accountants and Registered Accountants (FSR-Danske Revisorer), which is a member of the International Federation of Accountants (IFAC). Hence, audit must be performed in accordance with the International Standards on Auditing (ISA).

Accountancy requirements

When doing business in Denmark, bookkeeping must be made in accordance with the Danish Accountancy Act:

Under the Danish Accountancy Act, accountancy material must be stored and preserved for a period of five years.

Hard copy accounting records must in general be stored in Denmark or Nordic countries (Finland, Iceland, Norway or Sweden). The records must be stored in such a way that they may easily be made available to Danish public authorities entitled to claim insight into the accounting records according to other legislation.

Storage outside the Nordic countries is only possible with respect to storage of accounting records for the current and previous month and with respect to storage of accounting records relating to foreign activities.

Electronic accounting records can be stored abroad, i.e. on a server located abroad, if they are stored in such a way that they may easily be made available to Danish public authorities entitled to claim insight into the accounting records according to other legislation. It is further required



That the storage complies with the Accountancy Act's requirement for:

- E.g. registration, documentation and storage period, and procurement of the records at any time and on-line access to the records in Denmark, and
- Storage of all descriptions of the system applied etc. and

Necessary codes etc. in Denmark, and

- ensuring that the accounting records can be printed in hard copy (paper or micro film in a readable form) or be made available in other recognized file format.

If the accounting records contain personal data, the processing of such data must comply with the rules of the Personal Data Act.

Establishment (limited companies)

Establishment procedures

A memorandum of association must be prepared and signed by the founders. The memorandum of association must contain draft articles of association, including the following information:

- Name of the company.
- Objective of the company.
- Share capital.
- Share capital rights.
- Management body.
- Annual general meeting.
- Financial year.

Furthermore, the memorandum of association must detailing on the names and addresses of the founders, the share subscription price, the deadlines for subscription and for payment of subscribed capital.

The final decision to found the company is made at the shareholders' first meeting. If so, the shareholders elect the members of the board of directors and appoint the auditor (or choose non-audit if allowed) when the resolution to found the company has been passed.

The board of directors is obliged to register the company with the Danish Business Authority within 2 weeks as from the signing of the memorandum of association.

A company in the process of incorporation – e.g. a company which has not yet been registered – is not considered an independent entity. Therefore, the founders are to be considered liable for the Activities of the company.

Upon registration, the company takes over all liabilities, including the liabilities related to activities carried out between the date of founding and the date of registration.

Registered branch office

A registered branch office of a foreign company is entitled to carry out any business activity included in the objectives of the foreign company.

The foreign company must register the branch office with the Danish Business Authority. The registration is to be made digitally the Danish Business Authority.

If the foreign company's home country is within the EU/EEA, the following documents must be submitted:

- A certification on the legal existence of the foreign company in its home country.
- A certified power of attorney to a branch manager.
- Documentation with respect to the person authorized to sign for the foreign company (e.g. passport number). If the foreign company's home country is outside the EU/EEA, the following documents may also be required:
 - A copy of the foreign company's articles of association.
 - A copy of the foreign company's incorporation certificate.
 - Further, a statement from the relevant foreign authority in question confirming that a Danish company can register a branch in the foreign country.

Danish Labour Market – flexi security (flexibility and security)

An integrated approach of both enhancing, at the same time, flexibility and security in the labour market. The approach operates through a combination of personal taxation, unemployment benefits and collective agreements. It reconciles employers' need for a flexible workforce with workers' need for security and simultaneously promotes stability and adaptability of employees and enterprises.

The flexibility in adapting your business is unique to the Danish labour market model, where you combine the flexibility of hiring and firing with a safety net for employees. This enables businesses to pursue opportunities and ensures the right talent is there to deliver, while mitigating risk for both parties.

The combined approach offers a high flexibility in hiring and firing practices, which is unique in Europe. Provided a valid reason exists and legal notice is given, the employer is entitled to dismiss any employee at any time, without incurring costs, making it easier for an individual business to adjust the size of its workforce in Denmark.

Around 2/3 of Danish workers are union members. Strikes are uncommon in Denmark as the participants of a collective agreement is to observe peace for the duration of the agreement.

Labour costs

There is no minimum wage set by law, instead the wage and salary are set as part of the regular negotiations between the employers and labour unions.

The level of salary and wage in Denmark may seem high compared to other European countries. The competitiveness of Danish labour costs is, however, visible when considering both salary and non-salary related costs, as employers have a lower [aggregated cost burden](#) in terms of social security, labour taxes and more. This makes the overall gross labour cost very competitive without compromising employees' rights and benefits. As such, Denmark offers a high level of social security for people who get ill or lose their job, but the employer's direct contribution to social security is minimal.

Foreigners working in Denmark benefit from the Danish welfare system

Most foreign nationals who are working in Denmark are covered by the social security system from the time they take up employment.

Denmark has a very extensive social security system, covering health insurance, sickness benefits, maternity and paternity leave, pensions, industrial injury insurance and family benefits. The system is mainly financed by income taxes.

For some benefits there is a minimum period of residence requirement.

EU/EEA nationals, and other foreign nationals whose countries' have a social security agreement with Denmark, can opt to remain covered by the social security system in their home country, if they are living and working in Denmark on a temporary basis.

Value-added tax (VAT)

Denmark applies as a member of EU the common system of value added tax (directive 2006/112/EC).

Rate

VAT rate is 25%, which is imposed on taxable deliveries and imports. Denmark does not apply differentiate VAT rates as known from other countries e.g. food.

VAT returns

However, some deliveries are exempted from VAT, most notably hospital, medical and dental care, insurance, certain financial activities, lottery and betting. Some VAT exempted activities may instead be subject to payroll duty (lønsumsafgift).

The frequency by which VAT returns are to be filed depends on turnover:

- 0-5 MDKK (0-0.7 MEUR), biannual
- 5-50 MDKK (0.7 – 6.7 MEUR), quarterly
- <50 MDKK (< 6.7 MEUR), monthly

Input VAT

Input VAT can in general be deducted in so far the goods and services are used for the purposes of the taxed transactions though there may be limitations e.g. on amusements and entertainment. Input VAT on capital goods are subject to adjustment obligation, which is spread over five years. In case of immovable property, the adjustment period is extended to 10 years. Reimbursement of Danish VAT to foreign companies not VAT-registered in Denmark is possible.

Distance selling

Foreign entities registered in another EU country and selling goods to privates (B2C) e.g. via internet may be liable for VAT registration in Denmark in order to pay in Danish VAT (25%) of the Danish sale.

The criteria's for registration are:

- Turnover > 280 TDKK (37 TEUR)
- Retailer can be considered also to handle the transportation

If the goods sold are subject to special excise duties (e.g. confectionery, tobacco, light bulbs and alcoholic drinks) registration is compulsory disregard size of turnover.

Corporate tax issues

Companies, income

Private and public companies in Denmark (ApS and A/S) are liable to corporation tax of their income in Denmark. Income from foreign permanent establishments or properties are, as a rule, exempted unless international joint taxation is opted.



In order to avoid double taxation related to foreign income Denmark has entered tax treaties with app. 150 countries. The most common instrument for avoidance of double taxation is credit for foreign paid tax.

Foreign companies are also liable to corporation tax in Denmark if the effective seat of management is in Denmark.

The tax rate is flat 22 % on all taxable income and gains.

Taxable losses can be carried forward without timing expiration. However, two limitations applies to carryforward:

- Step one: a max. of 8.4 MDKK (2019) loss can be carried forward
- Step two: any remaining taxable income hereafter can be offset by a max of 60% of remaining taxable income (e.g. income 10 MDKK minus 8.4=1.6 minus 60% 0.96 = 0.44 MDKK)

Carry backwards is not possible.

Group taxation

In Denmark there is compulsory joint taxation within the group of Danish affiliated companies, permanent Establishments and Real Estes in Denmark owned by the foreign group . This means pooling of income from all companies and permanent establishments within the group before company income tax is calculated. There are some conditions, which have to be met.

Some of the most important are:

The parent company controls directly or indirectly through companies included in the group more than 50% of the votes of the shares in the subsidiaries, either by ownership or voting agreements.

International joint taxation can be opted. If chosen international joint taxation, it will have to comprise all foreign companies into the joint taxation. Obviously, such a decision will require thorough pro et con considerations, also as international joint taxation, if chosen, will be compulsory for minimum 10 years.

Danish tax regulation contains safe guards against “double-dip” whereas foreign owned Danish companies (ApS – A/S) will be considered as a transparent entity if the Danish companies qualifies as a transparent entity according to local tax regulation abroad; unless if international joint taxation is opted in Denmark.

Income from shareholdings

If the Danish company own at least 10% of the share capital dividends and capital gains from sale of the shares are exempt from taxation

- If the subsidiary is within the EU or in a country with which Denmark have a double taxation agreement and
- The dividend received does not constitute as an deductible expense for distributing Company.

Capital Gains from realization and changes in value of shares below 10% ownerships and other securities will be taxed. (Some exceptions with unlisted securities) Losses can be deducted in computation of the taxable income.

Outbound dividends

No withholding tax levied when the resident holding company pays dividends to a parent company owning subsidiary shares (at least 10% ownership of the capital) if the taxation is to be reduced according to the EU Parent-Subsidiary Directive or a tax treaty. No withholding tax levied when the resident holding company pays dividends to a parent company owning group company shares (and that qualifies for tax consolidation and is resident within the EU or EEA) if the taxation is to be reduced according the EU Parent-Subsidiary Directive or a tax treaty.

Withholding tax according to a tax treaty can be reduced.

Withholding tax is reduced from 27% to 15% if Denmark exchanges information with the country of residence of the shareholder according to an international agreement such as a tax treaty or a tax information exchange agreement (“TIEA”) and the company owns less than 10% of the share capital;

Capital expenditure

Both tangible and intangible assets can be subject to taxable depreciations based on the assets cash value at time of acquisition. Expenditures for software can be opted to be fully expensed in year of acquisition. As for research and development expenditures, it can be opted to apply for tax credit reimbursement where after tax value of taxable deficit, which stems from RD, will be reimbursed. Tax value cannot exceed 5.5. MDKK (22% of 25 MDKK RD expenditure).

Operationally expenditure

In general, expenditures incurred in the course of business in order to generate income, can be deducted when computing taxable income. However, expenditures in shape of fines are not deductible. In addition, expenditures for bribery is - without exception - non-deductible.

As for financial expenditures thin capitalizations scheme is imposed.

Transfer pricing

Transactions between related parties at arm length basis are to be made. Depending on volume, entities are to prepare and keep documentation, which substantiate transactions, has been at arm length basis. According to Danish tax law, if the company is entering into transactions related to supply of goods or provision of services with a foreign related party, the taxpayer is obliged to prepare a transfer pricing documentation report insofar as the following conditions are met:

The group with respect to which the company is part of has more than 250 employees;

The compliance burden in terms of preparing limited documentation is reduced, if the number of employees is lower than 250 and either (i) the group achieves a total balance of less than 125 mill. DKK (€ 16.7 million) (ii) or an annual group turnover is less than DKK 250 million (€ 33.4 million)



The authorities will itself fine the mere lacking of complying with such documentation.

Tax audit – tax reassessment

Income years normally can be subject for reassessment 3 year and four months after expiration. E.g. income year 2015 expires 1 May 2019. After expiration, neither the authorities nor the taxpayer can ask for reassessment. The expiration rule also applies for VAT. Insofar reassessment concerns TP issues expiration deadline is prolonged by 2 years.

Individual tax issues

Income like salary, wage and certain fees e.g. fee earn in capacity of being member of supervisory board constitutes income of which you are tax liable to Denmark from day one. [Further filing tax return is to be made.](#)

Individuals in Denmark are taxed progressively whereas tax on income is marginally increased as the income increases.

For an income of 1,000,000 DKK, the efficient tax percentage is app. 45%.

However, a [special expat scheme](#) can be applied if certain criteria's are met, of which a monthly gross salary of 66,600 (2019) DKK (app 8,900€) often is a "deal breaker".

If expat scheme can be applied, the efficient tax rate is 32.84%.

Examples of tax situations for individuals:

1. Working for a Permanent Establishment in DK, taxable from day one.
2. Working for a foreign entity but lend out to a Danish entity as an integrated part of the organization and where the Danish entity have more or less the management, Hiring out labour rules will apply and the Danish entity will withhold 35,6 % of the salaries when paying the invoice, (8% and 30% of the rest)
3. Working for a foreign entity in Denmark without permanent establishment. Taxable if stay exceeds 183 days

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Ecovis at a Glance

A Local on the Spot - Globally Connected

Ecovis is a leading global consulting firm with its origins in Continental Europe. It has over 6.500 people operating in more than 75 countries. Organised in partner firms, Ecovis is active in the fields of auditing, tax accounting, legal advice and management consulting. The particular strength of Ecovis is the combination of personal advice at a local level with the general expertise of an international and interdisciplinary network of professionals. Every Ecovis office can rely on the expertise of all the Ecovis experts worldwide. In its consulting work, Ecovis concentrates mainly on mid-sized firms.

With Ecovis, you are relying on a strong partner: nationally and internationally.



Global Expertise with Local Faces

The basic idea of Ecovis is to combine personal consulting and servicing of the client on site, as is characteristic for a single accounting firm, with the advantages of larger units:

- Access to specialist and sector competence in back office operations
- Uniformly high quality standards secured by the firm's own ongoing and advanced training programmes
- Trans-regional and international presence

This corporate structure, flexible and efficient at the same time, makes it possible to offer holistic advice of the highest quality in all commercial questions at an attractive price-performance ratio.

Our Business in Denmark

ECOVIS Danmark, statsautoriseret revisionsinteressentskab carries on business from Store Kongensgade 36, DK-1264 Copenhagen K, and Nørregade 6 B, DK-4100 Ringsted.

Kurt Bülow, Preben Pedersen, and Bo Langtoft, who are all State Authorised Public Accountants, own the company.

The company have about 30 employees: three State Authorized Public Accountants, accountants having educations ranging from students studying for the Graduate Diploma in Business Administration (HD) to holders of such diplomas in accountancy and MSc degrees in Business Administration and Auditing, accounting consultants and a secretary.

We serve a wide range of business as well in the industrial as in the service sector.

Service Lines

Our service lines are auditing, accountancy and all kind of taxes.

Legal services we provide via a separate Law firm Ecovis Legal Denmark

Who and how

We serve foreign companies in Denmark, just as our Ecovis partners abroad help our client companies.

Besides a partner, at least one competent employee with client responsibility is always attached to a client to ensure that more than one person in our company is familiar with the client's circumstances. Furthermore, other employees or partners can always answer general questions.

You will find more information of our company at www.ecovis.dk