

# NARRATIVE REPORT ON DENMARK



## PART 1: NARRATIVE REPORT

### Overview

Denmark is a high-tax nation characterised by high social trust and strong tax compliance. Recent Danish governments have been firmly in favour of combating financial secrecy. While issues remain, a succession of reforms over the past decades in particular have ensured that Denmark today has relatively few characteristics of secrecy jurisdictions. Still, tax evasion and avoidance have increasingly come under serious public scrutiny in the wake of media attention, tax haven leaks and international political action. After a brief introduction to taxation in Denmark, this report provides an overview of these developments.

### Taxation in Denmark

Denmark has one of the highest tax-to-GDP ratios in the world at more than 50%, using it to finance a large welfare state. The country’s tax mix is largely in line with comparable OECD/EU countries, though social security contributions are financed exclusively through the personal income tax rather than as a standalone tax. The corporate tax rate for 2018 is 22%, with Denmark having followed the “broad bases, low rates” mantra, lowering the corporate income tax rate from 34% in 1998 while broadening the corporate tax base. Personal income and value-added taxes are amongst the highest rates in the world.

Given the importance of taxation to the modern Danish state and society, tax compliance is paramount, and the government has historically invested in institutions and tools to ensure compliance, to detect evasion and to close loopholes. Over the past few years, however, the Danish tax system has come under significant pressure from various scandals, including global news stories and leaks from tax havens, discussed below.

### Limited liability partnerships

One key area of concern in the wake of recent years’ surge in public and political attention to international tax issues has been the Danish limited liability partnerships, which have been abused for purposes of tax evasion. A special Danish version of the LLPs, known as “kommanditselskaber” (K/S), are generally absolved from taxation as a tax transparent entity (meaning that the tax is paid by the partners rather than the partnership). These entities have specifically been marketed as tax haven structures in Eastern Europe and Russia due to the lack of transparency of foreign ownership and of their financial transactions<sup>1</sup>. In response, in 2017 the Parliament agreed to address remaining issues with the LLPs, and later in the same year, the tax administration issued a set of practical policy recommendations, headlined by a proposed anti-abuse rule.<sup>2</sup> At the time of writing, the proposed rules remain under discussion.

### Open tax lists

Another key area of discussion in Denmark as regards financial secrecy has been corporate tax transparency. In 2012, the centre-left government introduced so-called “open tax lists” for companies. The open tax lists initially published the corporate tax paid and the taxable

Rank: 61

Chart 1 - How Secretive?

53  
Secrecy Score

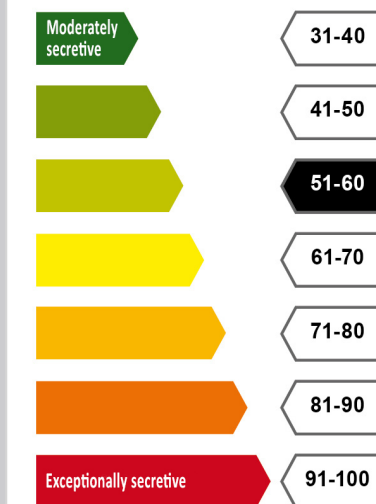
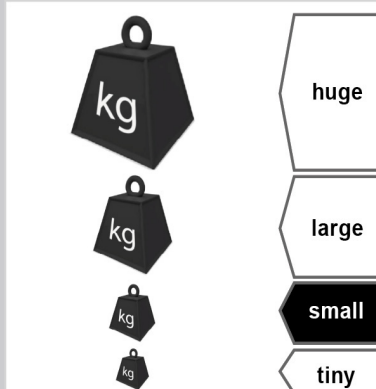


Chart 2 - How Big?



Denmark accounts for less than 1 per cent of the global market for offshore financial services, making it a small player compared with other secrecy jurisdictions.

The ranking is based on a combination of its secrecy score and scale weighting.

Full data on Denmark is available here: <http://www.financialsecrecyindex.com/database>.

To find out more about the Financial Secrecy Index, please visit <http://www.financial-secrecyindex.com>.

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income for the previous year of all companies liable for corporate taxes in Denmark<sup>3</sup>. In 2014, the corporate tax records available were expanded to cover the past two tax years<sup>4</sup>. While making corporate tax payment data available to the public has contributed to increased transparency, it has been difficult to ascertain the actual impact on firm behaviour or the wider public debate. The initiative has also been met with strong corporate opposition, with some commentators comparing the open tax lists to a public pillory and predicting it may hurt investment in Denmark<sup>5</sup>. However, despite ongoing concerns, the current centre-right government has not moved to remove the open tax lists.

#### **Tax administration scandals**

The past few years have seen a number of significant scandals related to the Danish tax administration. These scandals have caused a considerable amount of concern with issues of tax compliance and international taxation amongst the public and politicians. The largest scandal involved the Danish tax administration being defrauded of almost €1.8bn through an extensive scheme involving fraudulent dividend withholding tax refunds.<sup>6</sup> A number of international investors forged documents of their supposed share ownership of various Danish corporates distributing dividends, entitling them under tax treaties to a refund of their withheld dividend tax (which was in fact never paid). Due to a combination of lax oversight, poor risk governance and overworked staff, the fraudsters escaped with a total of €1.8bn from 2012 to 2015, before the scheme was shut down. Other scandals include faulty property valuations, an explosion of tax debts and arrears and suspected large-scale negative VAT fraud.

In response to these scandals, Parliament has passed several investment packages that will introduce new staff and resources to the tax administration after several years of downsizing. In addition, the tax administration is being restructured completely in 2018. The department will be broken down into seven autonomous units from the previous one single organisation.<sup>7</sup>

#### **Goldman Sachs buys Danish infrastructure via Luxembourg, Delaware and the Cayman Islands**

Another key issue of public concern has been the Danish government's 2013 sale of a 19% stake in DONG Energy, a majority-owned state enterprise and the country's largest energy company, to Goldman Sachs. Amid media speculation, the investment structure behind the deal was revealed, with Goldman Sachs purchasing the shares through

a number of recently established holding companies in Luxembourg, Delaware and the Cayman Islands. The sale was criticised for many reasons<sup>8</sup> but a key point was the lack of knowledge of the beneficial ownership. Furthermore, the structure effectively allowed Goldman Sachs to avoid Danish dividend taxation.<sup>9</sup>

#### **Beneficial ownership cases**

Beyond the DONG case, beneficial ownership has been a hot topic in the Danish tax community since 2007, when the Danish tax administration instigated the first of a series of cases involving the payment of dividends or interest from Danish companies to their parent companies. The payments were made without withholding taxes as they were sent to companies domiciled in other EU Member States.<sup>10</sup> In the cases brought against the companies, which include TDC, the largest Danish telecoms company, and ISS, the facility services giant, the Danish tax administration has claimed taxes should have been withheld as the parent companies were mere conduit companies and not the ultimate beneficial owner. The first case, involving ISS, was won by the taxpayer in 2011,<sup>11</sup> while most of the remaining cases are before the Danish courts or awaiting the EU court system in order to probe the principle of the Danish interpretation of the beneficial ownership concept and rules.

#### **Leaks**

Beyond these 'internal' scandals, the Danish tax administration and society more broadly has been affected by recent leaks from tax havens, in particular the Panama Papers (2016) and the Paradise Papers (2017), both of which were widely broadcasted in Danish media, in particular through ICIJ partners DR (Danish Broadcasting Company) and Politiken.

The fallout from the leaks in Denmark was largely centred on stricter rules for tax advisors and intermediaries, in particular banks and other financial institutions, though relatively little new legislative action was initiated. Of note, an existing code of conduct for tax advisors was revisited at the behest of the Minister for Taxation, and an existing project ("Money Transfer") was expanded to investigate financial transfers by Danes to selected tax havens.<sup>12</sup> Furthermore, a new centre for international tax evasion and fraud was included in part of the retooled organisational set-up of the tax administration. Of course, the Danish tax administration is also reviewing the leaked documents to probe for any non-compliance involving Danes. In that context, the Danish tax administration extraordinarily spent €1m purchasing

relevant documents from the Panama Papers from the whistleblower(s)<sup>13</sup>.

### International agreements

While the Danish Parliament itself has taken initiative to address tax evasion, avoidance and other perceived issues in the Danish tax system, many of the most significant pushes for reforms have come from the international level, specifically the EU and the OECD, where Denmark has been a progressive supporter of international action. Over the past few years, Denmark has diligently implemented (where applicable) the minimum standards from the OECD/G20 Base Erosion and Profit Shifting (BEPS) project, including country-by-country reporting (CBCR) and the provisions from the European Union's Anti-Tax Avoidance Directive I and II on hybrid mismatches, interest deductions and so forth. Denmark has also implemented and is an active participant in the OECD/G20's Automatic Exchange of Information (AEOI) through the Common Reporting Standard (CRS). Finally, Denmark was one of the first countries to implement a public register of beneficial owners as required by the EU's fourth Anti-Money Laundering (AML) Directive, which was launched in 2017<sup>14</sup>.

### Banks and money laundering

However, although Denmark has been at the forefront of enacting AML rules in recent years, national media revelations have illustrated historical as well as ongoing issues with implementation, in particular in large Danish banks. In 2017, two of the country's largest banks, Danske Bank and Nordea, were shown in an investigation by Berlingske newspaper to have been abused by money launderers who laundered €1bn through the banks.<sup>15</sup> Both had previously had issues complying with AML regulations, in particular Danske Bank's Estonian branch. Both banks issued public apologies and promises to rectify their affairs and procedures.

### Endnotes:

- 1 <http://cphpost.dk/news/business/denmark-billed-as-perfect-tax-haven.html>; 30.1.2018.
- 2 <http://www.skm.dk/aktuelt/nyheder/2017/november/nye-tiltag-skal-daemme-op-for-svindel-med-kommanditselskaber>; 30.1.2018.
- 3 <http://techpresident.com/news/wegov/23358/increase-corporate-transparency-denmark-making-companies-tax-records-available-online>; 30.1.2018.
- 4 [http://politiken.dk/oekonomi/fokus\\_oekonomi/Luxembourg\\_laekage/ECE2471384/regeringen-oeger-aabenhed-om-virksomheders-skat/](http://politiken.dk/oekonomi/fokus_oekonomi/Luxembourg_laekage/ECE2471384/regeringen-oeger-aabenhed-om-virksomheders-skat/); 30.1.2018.
- 5 <http://politiken.dk/indland/politik/ECE1847274/borgerlige-ordfoerere-aabne-skattelister-er-ren-gabes-tok-og-hetz/>; 30.1.2018.
- 6 <http://www.taxnotes.com/tax-notes-international/dividends/denmark-investigating-933-million-dividend-tax-fraud/2015/08/31/spmc>; <https://www.theguardian.com/business/2015/aug/27/denmark-fears-it-has-been-victim-of-biggest-ever-800m-tax>; 30.1.2018.
- 7 <https://www.thelocal.dk/20170614/heres-how-denmarks-reformed-tax-administration-will-look>; 30.1.2018.
- 8 <http://www.ft.com/intl/cms/s/0/92816e68-8a6e-11e3-9c29-00144feab7de.html> <http://www.bloomberg.com/news/articles/2014-01-29/goldman-1-5-billion-bid-imperils-danish-government-re-election>; <http://www.economist.com/blogs/charlemagne/2014/01/danish-politics>; <http://www.ibtimes.co.uk/how-goldman-sachs-grabbed-denmarks-dong-energy-almost-collapsed-helle-thorning-schmidts-1434674>; 30.1.2018.
- 9 This corporate structure, which allowed the shifting of dividends out of the EU through Luxembourg without taxation, has most likely been addressed with the amendment of the EU Parent-Subsidiary Directive in 2015.
- 10 [https://www.plesner.com/speciale/tax%20law/beneficial%20owner%20cases?sc\\_lang=en](https://www.plesner.com/speciale/tax%20law/beneficial%20owner%20cases?sc_lang=en); 30.1.2018.
- 11 [https://www.plesner.com/insights/highlights/2011/12/stre%20landsret%20har%20afsagt%20dom%20i%20den%20frste%20beneficial%20owner%20sag?sc\\_lang=da-DK](https://www.plesner.com/insights/highlights/2011/12/stre%20landsret%20har%20afsagt%20dom%20i%20den%20frste%20beneficial%20owner%20sag?sc_lang=da-DK); 30.1.2018.
- 12 <http://skat.dk/SKAT.aspx?old=2234731&vld=0>; 30.1.2018.
- 13 <https://www.theguardian.com/news/2016/sep/07/panama-papers-denmark-becomes-first-country-to-buy-leaked-data>; 30.1.2018.
- 14 <https://en.kromannreumert.com/News/2017/06/New-rules-on-beneficial-owners-have-taken-effect>; 30.1.2018.
- 15 <http://cphpost.dk/news/business/danish-banks-in-gigantic-money-laundering-scandal.html>; 30.1.2018.

PART 2: DENMARK'S SECRECY SCORE

OWNERSHIP REGISTRATION

- 60% 1. Banking Secrecy
- 75% 2. Trust and Foundations Register
- 100% 3. Recorded Company Ownership
- 50% 4. Other Wealth Ownership
- 100% 5. Limited Partnership Transparency

LEGAL ENTITY TRANSPARENCY

- 100% 6. Public Company Ownership
- 100% 7. Public Company Accounts
- 50% 8. Country-by-Country Reporting
- 25% 9. Corporate Tax Disclosure
- 75% 10. Legal Entity Identifier

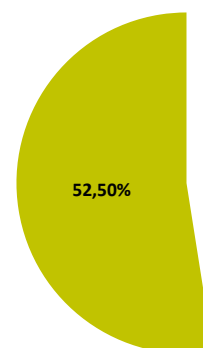
INTEGRITY OF TAX AND FINANCIAL REGULATION

- 63% 11. Tax Administration Capacity
- 0% 12. Consistent Personal Income Tax
- 30% 13. Avoids Promoting Tax Evasion
- 100% 14. Tax Court Secrecy
- 25% 15. Harmful Structures
- 30% 16. Public Statistics

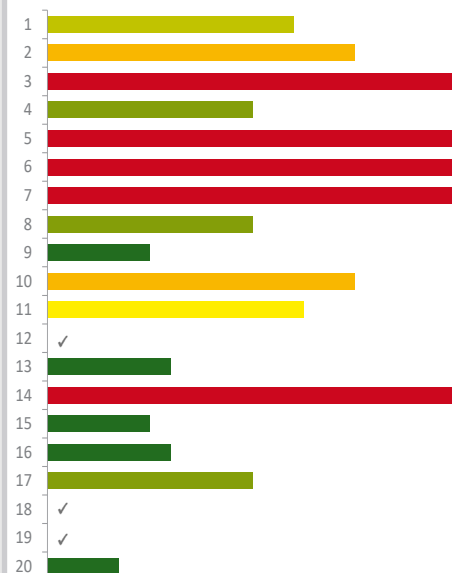
INTERNATIONAL STANDARDS AND COOPERATION

- 50% 17. Anti-Money Laundering
- 0% 18. Automatic Information Exchange
- 0% 19. Bilateral Treaties
- 18% 20. International Legal Cooperation

Denmark - Secrecy Score



Denmark KFSI-Assessment Secrecy Scores



Notes and Sources

The ranking is based on a combination of its secrecy score and scale weighting (click [here](#) to see our full methodology).

The secrecy score of 53 per cent has been computed as the average score of 20 Key Financial Secrecy Indicators (KFSI), listed on the left. Each KFSI is explained in more detail by clicking on the name of the indicator.

A grey tick indicates full compliance with the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); colours in between partial compliance.

This paper draws on data sources including regulatory reports, legislation, regulation and news available as of 30.09.2017.

Full data on Denmark is available here: <http://www.financialsecrecyindex.com/database>.

To find out more about the Financial Secrecy Index, please visit <http://www.financialsecrecyindex.com>.