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KLAR

ADVOKATER



KLAR ADVOKATER is a Danish commercial and litigation firm based in Copenhagen. We combine traditional attorney's virtues such as high ethics, discretion, thoroughness and thoughtfulness with clear, comprehensible and qualified counseling customized to the client's needs. Our client base comprises listed international business enterprises as well as small and medium-sized companies and start-up companies.

Several of our lawyers have worked as in-house legal counsel at large international companies. Such experience gives us a unique insight into the clients' needs and expectations from their external legal counsel. It is our constant aim that KLAR would also be our preferred law firm if we were the clients.

Practice Areas

KLAR Law Firm provides legal services within most areas of business law, but our primary focus areas are:

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|---------------------------------|----------------------------|
| ■ Competition, Procurement & EU | ■ Litigation & Arbitration |
| ■ Corporate & Commercial | ■ Mergers & Acquisitions |
| ■ Employment & Labour | ■ Real Estate |

The name

The Danish word KLAR means "*ready*", "*comprehensible*", "*clear*", "*transparent*" and "*prepared*". It is our mission to always provide advice to our clients that is KLAR in every sense of the word:

- We are fast and easily accessible
- We give qualified and lucid advice
- Comprehensible prices and business conditions, including in relation to billing
- Transparent work processes – our clients have online access to check on the status of their cases and we are happy to work on the case together with our clients and at their offices
- Our work always makes a clear difference to our clients

For more information please visit our website www.klaradvokater.dk.

→ Corporate Law

In Denmark one can choose between a range of different legal entities for one's business. These vary from small entities with no share capital to companies with a minimum share capital of DKK 500.000. The most common entity types are the ApS (Private Limited Company) and A/S (Public Limited Company) entities. However many small businesses with only one owner operate as personal one-man businesses.

The two tables below illustrate the most common entity types, and list the most relevant characteristics of each type. Table 1 describes types of limited liability entities and Table 2 describes other types of entity forms, including a limited partnership. Each type of entity is further described below the tables.

Table 1	A/S (Public Limited Company)	P/S (Limited Partnership Company)	ApS (Private Limited Company)
Use	Middle-sized and large companies (may be listed on the stock exchange, though this is not mandatory)	Small and middle-sized companies – primarily used for consultancy companies	Small and middle-sized companies
Minimum capital requirement	DKK 500,000 (only 25 % of the total capital has to be deposited)	DKK 500,000 (only 25 % of the total capital has to be deposited)	DKK 80,000 (only 25 % but not less than DKK 80,000 has to be deposited). (The minimum share capital is DKK 50,000 from around January 2014)
Liability	Limited to the value of the share capital	Limited to the value of the share capital of the mother company and the capital of the general partner	Limited to the value of the share capital
Management	Either: A Board of Directors with minimum 3 persons and an Executive Board with minimum 1 person Or: A Board of Supervisors with minimum 3 persons and an Executive Board with minimum 1 person	Either: A Board of Directors with minimum 3 persons and an Executive Board with minimum 1 person Or: A Board of Supervisors with minimum 3 persons and an Executive Board with minimum 1 person	Either: A Board of Directors and an Executive Board with minimum 1 person Or: An Executive Board with minimum 1 person
Change in articles of association	Depends on what is agreed in the articles of association. If nothing is agreed: 2/3 of the submitted votes and 2/3 of the share capital represented on the general meeting. Some extensive changes requires a higher number of votes	Depends on what is agreed in the articles of association. If nothing is agreed: 2/3 of the submitted votes and 2/3 of the share capital represented on the general meeting. Some extensive changes require a higher number of votes	Depends on what is agreed in the articles of association. If nothing is agreed: 2/3 of the submitted votes and 2/3 of the share capital represented on the general meeting. Some extensive changes require a higher number of votes.

Change in articles of association	Depends on what is agreed in the articles of association. If nothing is agreed: 2/3 of the submitted votes and 2/3 of the share capital represented on the general meeting. Some extensive changes requires a higher number of votes	Depends on what is agreed in the articles of association. If nothing is agreed: 2/3 of the submitted votes and 2/3 of the share capital represented on the general meeting. Some extensive changes require a higher number of votes	Depends on what is agreed in the articles of association. If nothing is agreed: 2/3 of the submitted votes and 2/3 of the share capital represented on the general meeting. Some extensive changes require a higher number of votes.
Share classes	Different classes (A-, B-, C- etc.) One class can have no right to vote while other classes do.	Different classes (A-, B-, C- etc.) One class can have no right to vote while other classes do.	Different classes (A-, B-, C- etc.) One class can have no right to vote while other classes do.
Shareholders agreement	Valid inter partes but cannot override mandatory corporate law. Not valid against third parties	Valid inter partes but cannot override mandatory corporate law. Not valid against third parties	Valid inter partes but cannot override mandatory corporate law. Not valid against third parties
Accounting	Annual audit may be mandatory, depending on company's turnover	Annual audit may be mandatory, depending on company's turnover	Annual audit may be mandatory, depending on company's turnover
Company tax	Corporate income tax 25 %*	All income is taxed as personal income / income in the shareholder companies	Corporate income tax 25 %*
Tax on capital gains	27 % up to DKK 48,300 42 % in excess of DKK 48,300	Either: Personal income tax if a person is partner Or: Corporate 25 %* if a company is partner	27 % up to DKK 48,300 42 % in excess of DKK 48,300
Registration	Must be registered with the Danish Business Authority	Must be registered with the Danish Business Authority	Must be registered with the Danish Business Authority
Legislation	The Danish Companies Act	The Danish Companies Act	The Danish Companies Act

Table 2	I/S (Partnership)	K/S (Limited Partnership)	Branch
Use	Small companies (at least two owners who can be either private persons or limited liability companies)	Small companies (at least two owners, either private persons or limited liability companies)	Used for representing the head office when this is located in another country (mainly in the EU)
Minimum capital requirement	No minimum requirement	No minimum requirement	No share capital (No minimum requirement)
Liability	Unlimited, joint and several liability	Limited to the value of the share capital of the general partner company/companies. Joint and several liability if there is more than one.	The head office of the branch is fully liable according to the rules of its country
Management	No regulation, if nothing is agreed each partner can legally enter into binding obligations on behalf of the partnership.	Management is regulated by the general partner/partners. If nothing is agreed, all general partners can legally enter into binding obligations on behalf of the partnership together.	No requirements
Change in articles of association	Method of changes is as agreed upon in the articles of association	Method of changes is as agreed upon in the articles of association	No articles of association
Share classes	Can be agreed upon in the articles of association	To be agreed upon in the articles of association	No share capital
Shareholders agreement	Valid inter partes but cannot override mandatory corporate law. Not valid against third parties	Valid inter partes but cannot override mandatory corporate law. Not valid against third parties	No shareholders agreement
Accounting	No requirements	No requirements	A copy of the financial statements of the head office must be filed
Company tax	All income is taxed as personal income / income in the shareholder companies	All income is taxed as personal income / income in the shareholder companies	Corporate income tax 25 %*
Tax on capital gains	Personal income tax	Personal income tax	The branch is taxed as a Danish company by 25 %*
Registration	No requirements	No requirements	No requirements
Legislation	Executive Order on the Act on Certain Commercial Undertakings	Executive Order on the Act on Certain Commercial Undertakings	The Danish Companies Act

Choice of legal entity

Before starting a business the preferred type of legal entity must be considered. The choice can depend on many different factors but the most common factors are one or more of the following:

- Liability
- Taxation of the company and the owners
- Is it sufficient to establish a branch (foreign companies only)
- Start-up capital and running costs (share capital, registration costs etc.)
- Overall reputation in the market

Types of companies

As earlier mentioned there are several different types of legal entities. The types most commonly chosen for medium-sized and large companies are either a private limited company (ApS) or a public limited company (A/S). These two types of company are regulated by the same rules but differ in some aspects, as described below:

A/S (PUBLIC LIMITED COMPANY): Most large companies in Denmark (and all stock-exchange listed companies) are established as an A/S (Public Limited Company), which is a well-reputed entity type. The total required share capital is minimum DKK 500,000, though it is possible not to deposit more than 25 % of the total share capital. The shareholders' liability is limited to their investment in shares. An A/S must have either a Management Board or a Board of Supervisors with at least three members. Furthermore the A/S must have an Executive Board with at least one member.

An A/S pays 25 %* in corporate taxes based on the company's yearly profit. The shareholders return on shares and share premiums are subject to taxation as follows: In 2012 the first DKK 48,300 are taxed by 27 % and share income exceeding DKK 48,300 is taxed by 42 %. An A/S is obliged to publish its annual accounts and may be subject to annual audit depending on its turnover.

APS (PRIVATE LIMITED COMPANY): Many small and middle-sized companies chose to run their business as an ApS, which requires a share capital of DKK 80,000 (the minimum share capital will be reduced to DKK 50.000 as a result of changes to the Danish Companies Act. These changes will come into force around January 2014). The shareholders' liability is limited to their investment in shares. An ApS must have a Management Board and/or an Executive Board.

The lower amount of required share capital makes this entity type very attractive to founders who either cannot or will not tie up more capital than necessary, but who still want to limit their liability risks. An ApS pays 25 %* in corporate taxes based on the company's yearly profit. The

shareholders return on shares and share premiums are subject to taxation as follows: In 2012 the first DKK 48,300 are taxed by 27% and share income exceeding 48,300 is taxed by 42 %. An ApS is obliged to publish its annual accounts and may be subject to annual audit depending on its turnover.

A/S (PUBLIC LIMITED COMPANY) VS. APS (PRIVATE LIMITED COMPANY): An A/S is subject to the same rules as an ApS but differs mainly concerning the following conditions:

Minimum share capital

- A/S: DKK 500,000 (only 25% has to be deposited)
- ApS: DKK 80,000

Shares for public subscription (e.g. on a stock exchange)

- A/S: Yes
- ApS: No

Management

- A/S: Management Board/Board of Supervisors + Executive Board
- ApS: Management Board and/or Executive Board

P/S (LIMITED PARTNERSHIP COMPANY): A P/S is a hybrid between an A/S (Limited Liability Company) and a I/S (Partnership). This corporate structure is primarily chosen by companies owned by people who work in the company (partners), such as law-firms accountants and other consultancy companies. By choosing the P/S the liability is limited to the shareholders' share capital, which is required to be at least DKK 500,000 in total. However, at least one participant acts as a general partner whose liability is unlimited (he is liable with his all of his/her personal capital), and there is also at least one limited partner, whom is only liable with his value of shares in the P/S. Both the general partner and the limited partner can be a physical person or an ApS or an A/S. Usually the general manager is either an A/S or an ApS because these companies have a limited liability.

The P/S does not pay corporate taxes, but instead the owners' (who can be either physical persons or companies) profit is taxed as income, for which reason the owners can deduct their profit from the P/S from other negative income. A P/S is obliged to publish its annual accounts and may be subject to annual audit depending on its turnover.

P/S (LIMITED PARTNERSHIP COMPANY) VS. A/S (PUBLIC LIMITED COMPANY): A P/S is subject to the same rules as an A/S but differs mainly concerning the following conditions:

Shares for public subscription (e.g. on a stock exchange)

- A/S: Yes
- P/S: No

Taxation

■ A/S: The company is taxed by 25 % - the shareholders are taxed with 27 % up to DKK 48,300 and with 42 % in excess of DKK 48,300

■ P/S: Personal income tax if a person is partner (income is deductible in negative income)

Or: 25 % corporate tax if partner is an A/S or an ApS (income is deductible in negative income)

Ownership and influence

■ A/S: Owned by shareholders only

■ P/S: Owned by shareholders and a general partner, who may have a significant influence on the company's management.

Both A/S ApS and P/S are required to file their articles of association with the Danish Business Authority and any changes have to be filed within 14 days from the decision date.

I/S (PARTNERSHIP): An I/S can be the easiest way to start a business that will have more than one owner. An I/S can be owned by either physical persons, by companies or by a mixture of persons and companies. All owners, be they persons or companies, are liable for any claims. However, if the owner is a limited liability company, e.g. an ApS (private limited company) this owner will only be liable with the share capital of the owner company. On the other hand, when the owner is a physical person they are liable with their whole personal capital. As well as having unlimited liability, the owners of an I/S are joint and several liable towards any claims.

The income of an I/S is taxed in the same way as a P/S (Limited Partnership Company): as either personal income (when the owner is a physical persons) or as corporate income (when the owner is a company). An I/S is not obliged to submit a registration to the Danish Business Authority regarding its start-up. However the I/S business is obliged to submit a VAT registration if turn over reaches or exceeds DKK 50.000 a year. Finally, an I/S is not obliged to publish its annual accounts.

K/S (LIMITED PARTNERSHIP): A K/S (Limited Partnership) is an entity type used primarily by investment companies. A K/S has at least one general partner and one limited partner. In a K/S the general manager/managers are liable with all of their capital and the limited partners' liability is limited to their investment in the K/S. Both the general partner and the limited partner can be a physical person or an ApS or an A/S. Most often, the general manager is either an A/S or an ApS because these companies have a limited liability.

The K/S does not pay corporate taxes, but instead the owners' (who can be either physical persons or companies) profit is taxed as income. This means that the owners can deduct their profit from the K/S from other negative income. If there are more than 10 participants in the K/S, it is not possible to deduct positive income from negative income.

BRANCH: A company from another country in the European Economic Area can establish a branch in Denmark instead of establishing an actual company. A branch is doing business at the risk and responsibility of the foreign company and is therefore not a legal entity in and of itself. A branch is taxed as a limited company at a rate of 25 %* but does not require any share capital to start up. A branch is obliged to mention the word "filial" (meaning "branch") and the full name of the company for which it is doing business in its name.

The Central Company Register (CVR)

CVR is the government's master register for company details and contains information about all companies in Denmark. The CVR contains information about all companies with a duty to register as well as associations that voluntarily have elected to register. All companies in the CVR register have a unique identification number – a CVR number. A CVR number always has eight digits. To search for a Danish company visit www.cvr.dk

** The corporate tax rate at currently 25 % is reduced to 24.5 % in 2014, 23.5 % in 2015 and 22 % in 2016.*

→ Foreign Investment

Foreign investment is encouraged in Denmark and it is attractive due to, among others, relatively low corporate taxes, a competent workforce, a flexible labour market and a reliable currency. Denmark is a world leader in cleantech, information and communication technologies (ICT) and life sciences. English proficiency is in the world's top three. Four out of five Danes speak English and half the Danes speak German.

The Danish currency – the "krone". Denmark is a member of the European Exchange Rate Mechanism II. This implies that the Danish krone's currency is locked to the Euro at a currency at 1 Euro = 7,46038 DKK (1 DKK = 0,13404 Euro). The currency rate of the Danish krone may vary +/- 2.25 % from that of the Euro.

Registration of investment

As a main rule there are no requirements for foreign investors to make registrations or obtain the authorities' permission for making investments and there are no restrictions on the foreign ownership of Danish shares or bonds.

Danish companies must submit a registration to the Danish Business Authority and to the tax authorities before starting the operation. Further, the management must be registered with the Danish Business Authority (please see the chapter about Corporate law for further information). With regard to investments in Danish real estates, there are some restrictions

on what types of estates foreigners are allowed to buy (please see the chapter regarding Real Estate for further information).

Setting up a business

It is easy to set up a business in Denmark. A standard company takes only a few hours to register with the Danish Business Authority and the tax authorities before it is up and running.

Foreign employees

Nationals of other countries within the EU or European Economic Area (EEA) are allowed to work and live in Denmark without obtaining a work permit or other permissions. However, restrictions on the free movement of workers may apply to workers who have joined the EU within the last 7 years. At the moment such restrictions apply to Bulgaria and Romania, who both joined the EU on 1 January 2007.

Nationals of countries outside the EU or EEA will need a visa and/or a work permit to enter Denmark and to work in Denmark depending on inter alia the applicant's country of residence, educational background and the type of work to be performed in Denmark.

→ Labour Law

There are three different categories of employees in Denmark, namely salaried employees ("white-collar"), non-salaried workers ("blue-collar") and executive officers. It is important to determine the status of the employee in order to know the applicable legal framework.

All employees (except for executive officers) are subject to a number of statutory rules that determine the standards of protection of the employees. Further, collective bargaining agreements also play an important role when determining the rights and obligations of the employer and employees. Below is a brief overview of some of the main statutory acts and obligations which employers must know when employing persons in Denmark.

Collective Bargaining Agreements

More than 2/3 of Danish employees are members of a trade union, and many collective bargaining agreements are in force within the Danish labour market. The collective bargaining agreements typically apply to specific areas of work, e.g. office work, the type of industry, etc. The collective bargaining agreements contain terms such as wages, working hours, notice periods, pension, overtime payment, etc. A collective bargaining agreement will only apply if the employer has entered into an agreement with the relevant employers association or trade union. It is voluntary for the employer to enter into a collective bargaining agreement, but in

practice it may prove difficult to refuse if a trade union presents such a request, as the employer will then probably face industrial action initiated by the trade union.

The Employers' and Salaried Employees Act

The Employers' and Salaried Employees Act will normally apply to employees who work within business and office areas for more than 8 hours per week. The act contains a range of mandatory rules for the protection of the salaried employees.

The employment of salaried employees may at the same time also be governed by a collective bargaining agreement.

Executive officers

The Employers' and Salaried Employees Act does not typically apply to executive officers of a company, unless otherwise agreed in the employment contract, collective bargaining agreements, or other acts protecting the employees. The reason for this is that an executive director is considered an employer and not an employee per se. As a consequence thereof, the employment contract between a company and its executive officers typically contains detailed provisions on the rights and obligations of the executive officer.

The Employers' Obligation to inform the Employees of the Employment Terms

According to the Act on the Employers' Obligation to inform the Employee of the Employment Terms, the employer is legally obliged to inform its employees of all essential employment terms. Such information must be provided in writing, typically in the employment contract or as an amendment to the contract. The statute specifies a number of terms that the employee must be notified of the list of terms is not exhaustive, so the employer must consider the character of all terms of employment and subsequent changes therein when determining whether a written notification is required. If the employer does not comply with the obligation to inform the employee of the essential employment terms, the employer may become liable to pay a compensation of up to 20 weeks salary.

Wages and Working Hours

Danish law does not specify any minimum wage. However, minimum wages are often prescribed in collective bargaining agreements. The Danish wage levels are typically rather high compared to other jurisdictions, including the wages levels of other member states of the European Union.

The most common number of working hours in the employment contract and collective bargaining agreements is 37 or 37½ hours per week including small breaks but excluding lunch

breaks. As there are no statutory rules in Denmark for working hours, the working hours and terms for overtime are to be agreed upon in the employment contract or in a collective bargaining agreement. However, the average working week in Denmark should not exceed 48 hours.

Holiday

The Danish Holiday Act applies to all employees in Denmark except executive officers. Under the Holiday Act, employees are entitled to 25 days holiday each year. Whether the holiday is paid by the employer or not depends on whether the employee has been employed during the preceding year. The Danish holiday system is rather complex with several mandatory rules for the protection of the employees. The employer may be liable for payment of a fine if the rules are not complied with.

Maternity, Paternity and Parental Leave

Employees who become parents have the following rights:

- Women are entitled to absence from work from 4 weeks before the expected birth with a statutory right of payment of 50 % of the salary during this period.
- Women are entitled to 14 weeks maternity leave after the child is born with a statutory right of payment of 50 % of the salary in this period.
- Men are entitled to take a total of 2 weeks of paternity leave at the same time as the mothers 14 weeks of maternity leave with no statutory right of payment of a salary.
- After the first 14 weeks, each parent is entitled to parental leave for 32 weeks which may be prolonged by up to 14 weeks.
- The parents are jointly entitled to up to 52 weeks parental pay from the government in connection with each childbirth.

The rules on leave in connection with childbirth are very flexible for the parents, who to a wide extent determine how they wish to divide the parental leave between them. Employment contracts or collective bargaining rules often give the parents further rights of absence and compensation than the statutory rules.

If an employer chooses to terminate the employment of a pregnant employee or an employee on a leave, the employer has the burden of proof that the pregnancy or birth had no influence on the decision. In practice this burden of proof can be very difficult to satisfy. In case of unjustified termination of the employment, the employer will be liable to pay the employee a compensation, which will amount to at least 6 to 9 months' salary.

Non-discrimination

It is prohibited to discriminate, directly or indirectly, on the grounds of gender, race (and skin colour), sexual orientation, age, handicap, religion (and religious beliefs), political beliefs or

national, social or ethnic origin. Non-compliance with the law is punishable by a payment of a fine or by paying compensation to the employee (or job applicant).

Termination of employment

The Danish rules on termination of the employment relationship are relatively lenient from an employer's perspective when compared to many other jurisdictions. The notice period will normally be determined by the Employers' and Salaried Employees Act, an applicable collective bargaining agreement or the individual employment agreement. Depending on the duration of the employment, the notice period of salaried employees is 1-6 months. It is possible to agree on a longer notice period than what is prescribed in the Employers' and Salaried Employees Act. If the employee has been employed for more than 12, 15 or 18 years he or she is entitled to an allowance of respectively 1, 2 or 3 months' salary.

After one year of employment a dismissal must be reasonably justified by the company's or the employee's circumstances. If a court determines that the dismissal is unjustified, the employer may be liable to pay compensation of up to 6 months' salary to the employee. If the employer makes essential changes to the terms of employment, it may be considered a dismissal and the employer must comply with the applicable requirements for dismissals. The salaried employee may resign with one month's notice regardless of the duration of employment. It is possible to agree on a longer notice period. The notice periods contained in collective bargaining agreements vary, but are often shorter than these of the Employers' and Salaried Employees Act.

Collective Redundancies

The Collective Redundancies Act may be applicable when employees are made redundant, depending on the number of affected employees. This act requires that the employer is obligated to inform and consult the employees before contemplated redundancies become effective. The procedure varies depending on the number of affected employees.

Many collective bargaining agreements also contain rules on redundancies. If the employer is party to a collective bargaining agreement with rules on redundancies, such rules will prevail instead of the statutory rules.

Transfers of undertakings

The Danish Transfer of Undertakings Act, which implements the EU Acquired Rights Directive, protects employees' rights in the event of a transfer of a business or part of a business. In the event of a transfer of a business or undertaking, the general principle of Danish law is that the employment rights and obligations of the employees of the business or the part of the business being transferred will automatically be transferred to the new owner of the business who will automatically assume those rights and obligations instead of the vendor.

As a result, the main rule is that the vendor will be released from employer obligations and any claims made by the employees that date back to the period before the transfer. These will have to be presented to the new owner. If the new owner decides to make essential changes to the employees' employment terms, it may be considered as a dismissal and the new owner must comply with the applicable requirements for dismissals.

→ Real Estate Law

Types of real estate

In Denmark one can either own or rent real estate, regardless of whether it is for business or private purposes. However, there are exceptions in regard to holiday houses. The most relevant rules for foreign businesses are described in general in the following chapter.

Ownership restrictions

Foreign persons who are not citizens of the European Economic Area (EEA) or foreign companies who are resident in Denmark or in an EEA country, or have previously resided in Denmark or an EEA country for a minimum of five years, are allowed to buy real estate without restrictions. Citizens of EU and EEA countries can buy real estate in Denmark irrespective of the residential period. Further, companies legally registered in an EU and EEA country that are establishing a business in Denmark (e.g. a branch) can also buy real estate irrespective of the residential period.

A subsidiary company established and registered in Denmark by a foreign parent company can freely buy property. Other foreign persons or companies are only allowed to buy real estate in Denmark with the approval of the Ministry of Justice. However, only Danish residents are allowed to buy holiday houses in Denmark. This means that a non-Danish citizen must acquire and maintain their residency in Denmark in order to purchase and own a holiday home. However, the residency requirement is not applicable to foreigners who inherit real estate in Denmark. Furthermore, Danish and foreign companies are not allowed to own holiday houses without the approval of the Danish Nature Agency. Because of this, it is not possible for foreigners to buy e.g. holiday houses through a Danish company.

Use restrictions

RESIDENTIAL PROPERTY: As a general rule homes are only for residential use. However, the owner can obtain an approval for full or partial business use. Furthermore, the majority of the residential property in Denmark is subject to a residence requirement. This means that if a residential property is not occupied by the owner, the owner is obliged to enter into a lease agreement with a tenant. If the property is left empty by the owner, the municipality in question

may find a tenant and force the owner to enter into a lease agreement. The purpose of this rule is to maintain a population certain population standard in each municipality. Residential property must be used year round. However an approval for temporary use can be obtained if certain requirements are met.

HOLIDAY HOUSES: Holiday houses may not be used as year-round residences. However, senior citizens may, if certain conditions are met, obtain permission for year-round use.

COMMERCIAL PROPERTIES: Commercial properties may not be used for residence purposes. Contrary to residential properties, there is no requirement to use the property and it may be left empty by the owner.

FARMS: Farms are subject to detailed regulation concerning residence. They are mixed properties, since the farmhouse shall be used for residence and the rest of the property is a commercial property. As a general rule, the owner or tenant is obliged to live at the farm as well as to use it for farming.

District Plans

The Danish Planning Act ensures an appropriate development in all parts of Denmark by planning future infrastructure, the use of different districts, preservation of urban areas etc. The act sets the ground rules which public authorities must follow for district planning.

Denmark is divided in to four levels of districts.

NATIONAL LEVEL: A national district plan includes the whole country and must be enacted by the government. In practice there is more than one national district plan to simplify the preparation and enacting process.

REGIONAL LEVEL: Denmark is divided in to five regions, which each have their own regional district plan. A regional district plan must be enacted by the county.

MUNICIPAL LEVEL: Denmark is divided in to 98 municipalities, which each have their own municipal district plan. Municipal district plans must be enacted by the relevant municipality.

LOCAL LEVEL: Besides municipal levels, each municipality can enact local district plans. On a very detailed level such district plans are used to determine how specific properties can be used.

Besides being divided in to four planning districts, Denmark is divided in to the three land-use zones. All real estate can be assigned to one of these zones, and each zone restricts real estate usage in a different way.

CITY ZONES: The city zones can be used for everything except from holiday houses.

LAND ZONES: As a main rule land zones can only be used for farming, forest management and for gardens centres.

HOLIDAY HOUSE ZONES: As a main rule holiday house zones are not allowed to be used for permanent residences.

PLANNING PERMISSIONS: Managing of planning permissions is handled by the municipality. Permission has to be given before the construction can begin. In case that no permission has been given, the municipality can demand that the building is demolished.

Mortgage financing

The Danish mortgage credit system is unique in several aspects. The loan limits for home loans financed through issuing Danish mortgage bonds are set at 80% of the market value and it is possible to issue Danish mortgage bonds with maturities of up to 30 years, which greatly reduces the annual user costs of ownership housing. A loan-to-value ratio of 80% and maturity of up to 30 years are the usual terms for residential properties, while the loan-to-value limit for commercial properties is 60% and 40% for clean sites with no properties.

Additionally, the introduction of more flexible mortgage-loan options has been instrumental in reducing the costs of housing ownership. These loan options include interest-only mortgage financing, mortgage financing with floating interest rates and mortgage financing with capped interest rates. The floating interest rate mortgage loans are based on non-convertible mortgage bonds, where the interest rates are adjusted to market interest rates at pre-defined intervals.

Registration in the Danish Land Register

In Denmark, real property (land) is typically purchased pursuant to a purchase agreement, followed by a deed of transfer, which is entered in the Danish land register. This register shows the identity of the owner, all registered mortgages and other rights and obligations such as purchase options, owner's bankruptcy etc. In most cases, all other burdens and easements such as right of way, local restrictions on construction etc. will also appear in the register.

The property register system also serves as an easy and dependable way of providing security to lenders, as the ranking of priority of lenders will appear clearly on the property's list of mortgagees. As is the case for transfer documents, the registration of the mortgage will protect the mortgagee's rights to the property against subsequent purchasers and against the mortgagor's other creditors.

Commercial Leases

Commercial leases are subject to the Danish Business Lease Act, which allows for a high degree of contractual freedom. Almost all terms and conditions of commercial leasehold are subject to the parties' negotiations, including terms and conditions regarding rent, adjustment of rent, maintenance obligations, right of assignment, subletting, etc. However, with respect to the landlord's termination and payment of damages/compensation, the Danish Business Lease Act gives the tenants a high degree of protection.

DURATION: Under the Danish lease law, there are only few restrictions in regards to the duration of a leasing contract. The majority of all commercial leases in Denmark run for an indefinite period of time.

FIXED-TERM LEASE CONTRACTS: Fixed-term leasing contracts are not common in Denmark. A fixed-term leasing contract may not be terminated under the term, unless otherwise agreed to. However, a fixed-term lease is not valid under Danish law unless the fixed-term is based on the landlord's situation. Consequently, a fixed-term may be set aside if the fixed-term is not found to be warranted by the landlord's own situation at the time when the lease contract was entered into.

THE RENT: The parties are entitled to agree how the rent is to be determined and paid. Typically, rent is paid in advance on a monthly or a quarterly basis. It is also commonly agreed that the annual rent shall be adjusted every year, e.g. in accordance with changes in the official Danish 'Net Price Index' or a certain percentage thereof, or that the annual rent shall be increased by a fixed percentage.

ADJUSTMENT TO THE MARKET RENT: According to the Business Leases Act, the rent may be adjusted on the basis of the 'market rent'. Such adjustments cannot take place until four years after commencement of the leasing agreement. These adjustment provisions in the act can be set aside by an express individual agreement in respect to both parties' access to claim such rent adjustments. It may also be agreed that only the landlord (or the tenant) is entitled to claim adjustment to market rent.

TAXES AND CHARGES: The landlord pays all taxes and fees pertaining to the property. Unless otherwise agreed, such taxes and fees are included in the rent to the effect that either party may claim adjustment of rent if the taxes and fees are changed.

OPERATING COSTS: Normally, the tenant, in addition to rent on account, pays for the supply and use of heating and hot water based on consumption. Usually, the tenant also pays all expenses for supply of electricity/power to the leased premises and is registered with the relevant utility companies as an independent user.

It is typically agreed that the tenant shall pay the leased premises' proportional (based on area) share of taxes and fees pertaining to the entire real property and other operating costs such as expenses for janitors, snow clearing, various building maintenance etc.

SUBLEASE AND ASSIGNMENT: The tenant is not entitled to sublease the leased premises without the prior consent of the landlord. However, the lease agreement often contains provisions regarding the tenant's right to sublease. It follows from the Business Lease Act that the tenant is entitled to allow another tenant carrying out the same type of business as stated in the lease agreement to take over the lease contract on equal conditions, a so-called 'assignment' (as opposed to subleasing). According to the Act, the landlord is entitled to reject such assignment, if he has substantial and reasoned grounds for doing so, such as the incoming tenant's financial position or lack of business experience. The parties can agree that the provision in the Business Lease Act regarding assignment shall not apply. In such case, the tenant cannot assign the lease contract without the prior discretionary consent of the landlord. Further, the parties can agree on other assignment conditions as stipulated in the Act.

USE AND CONSTRUCTION: Unless otherwise agreed in the lease agreement, the landlord is responsible for ensuring the legality of the agreed use of the property and the construction and furnishing of the premises, e.g. asbestos in the walls. However, it is often agreed that the tenant, apart from being responsible for the legality of his actual use and furnishing of the premises, also is responsible for any order issued from public authorities after the date of commencement.

ALTERATIONS: As a general rule, unless otherwise agreed the tenant is not entitled to make alterations of the premises during the lease period apart from certain usual changes without the landlord's consent. Further, unless otherwise agreed in the lease agreement, the landlord is only entitled to claim re-establishment upon vacating the premises for alterations carried out during the lease period and approved by the landlord if the landlord at the time of approval has specifically reserved the right to claim re-establishment.

TENANT'S TERMINATION: The tenants may terminate a lease without stating any particular reason. However, it is quite normal that the parties agree that the lease cannot be terminated within a certain period of time. If this is the case, the tenant cannot terminate the lease during this period.

LANDLORD'S TERMINATION: It is also quite normal that the landlord must comply to a non-termination period. Furthermore, irrespective of an agreed non-terminability period, the landlord is only entitled to terminate the lease if the termination is based on specific reasons specified in the Business Leases Act, of which the relevant are:

- If landlord wishes to use the leased premises himself and the termination is deemed reasonable based on an evaluation of the situation of both parties.

■ If the leased premises must be vacated due to a demolition of or an alteration of the building. However, if the premises in question are to be leased again after the rebuilding or alteration, the landlord is obliged to offer the tenant to lease premises of the same nature as those terminated in connection with the termination

■ If other strong reasons make it particularly important for the landlord to terminate the lease

DAMAGES AND COMPENSATION TO THE TENANT DUE TO THE LANDLORD'S TERMINATION: According to the Business Lease Act, a tenant may claim damages incurred as a result of the landlord's termination. In addition, tenants who are business protected may claim compensation for loss of goodwill.

The Danish environmental law

SOIL CONTAMINATION: Under the Soil Contamination Act the Regional authorities are under an obligation to register/map all (potentially) contaminated areas in Denmark, with the exception of lightly contaminated sites. Registration can be made on level 1, if an area is likely to be contaminated due to the historic use, or on level 2, if it is known that an area is contaminated.

A registration in itself does not imply a liability or an obligation to remediate. Instead, a registration implies a number of restrictions relating to the use of the area in question. A registration does not in any way restrict the current use of the registered area, but a change of the current use, to a use considered 'sensitive' (a 'sensitive' use would be a use that potentially exposes people to the contamination) requires a special permit from the authorities. Similarly, commencement of building and construction sites on a registered area that situated within an area with special drinking water reserves requires a special permit. Such permits may be conditioned upon the prior exercise of contamination investigation and/or remediation. The costs incurred in this respect must be paid by the owner/builder.

ENVIRONMENTAL LIABILITY: The Soil Contamination Act /The Environmental Protection Act authorise the environmental authorities to issue administrative orders requiring investigative or remedial actions to be taken in relation to soil and ground water contamination. Such requirements may be issued to the polluter. Basically, a polluter is any party who, for commercial or public purposes, operates or operated the company or uses or used the plant from which the contamination originated. This requires that the contamination must have been released entirely or in part during the period of operation in question. Where a contamination can be attributed to more than one polluter, administrative orders may be issued to all of them.

→ Tax Law

Corporate Residence

As a main rule European companies and foreign companies which have a management effectively placed in Denmark or that carry on business activities through a branch in Denmark are subject to corporate tax in Denmark.

Different Company Types

LIMITED LIABILITY COMPANIES: Most Danish limited liability companies, such as A/S (Public Limited Liability Company) and ApS (Private Limited Liability Company) are subject to corporate taxation.

PARTNERSHIPS AND LIMITED PARTNERSHIP COMPANIES: In most cases partnerships and limited partnership companies are transparent in terms of tax which means that only the owners/partners are subject to tax and not the company itself.

BRANCHES: Foreign companies with a branch in Denmark are, with regard to the income deriving from the branch, subject to corporate taxation in Denmark. Income from a Danish company's foreign branch is under certain conditions not subject to Danish corporate taxation.

CORPORATE TAXATION

Danish corporation tax is currently set at a flat rate of 25 %*. Business expenses and depreciations are tax deductible, which means that only the corporations' net income is to be taxed. Furthermore, Danish companies can carry losses forward for an unlimited period, so that these can be deducted from later positive net incomes.

Depreciation

As a main rule companies' expenses are tax deductible. Machinery and equipment used for the operation of the company is depreciated with 25 %. However the depreciation of assets with a long life span, such as airplanes, ships etc. is being gradually reduced from 25 % to 15 % in the period from 2008 until 2016. Infrastructure facilities are depreciated with 7 % and buildings are as a rule depreciated by up to 4 %. Goodwill and other intangibles are depreciated equally over 7 years.

Tax Returns

Companies are obliged to submit a tax return for each fiscal year. However, small and medium-sized companies are exempted from this obligation and only have to submit financial and operating data via the tax authorities' homepage (www.skat.dk). An English version is also

available. Furthermore, companies are obliged to pay taxes on account, which are charged every 20 March and 20 November.

Capital gains

Capital gains from a subsidiary or group company are exempted from tax. As a main rule capital gains deriving from bonds and debts owned by a company are taxed as corporate income tax at a rate of 25 %*. Shareholders who are not resident in Denmark are as a main rule not subject to Danish tax for capital gains on shares in Danish companies. [* The corporate tax rate at currently 25 % is reduced to 24.5 % in 2014, 23.5 % in 2015 and 22 % in 2016].

Dividends

As a main rule, a parent company is exempted from tax on dividends from a subsidiary or group company. If the parent company is a foreign company, it is usually a condition for the tax exemption that the distributing company is not able to deduct the dividends from its taxable income.

Joint Taxation

Danish companies are taxed jointly with their Danish group companies or branches. Negative income of one company or branch can be deducted in positive income of another affiliated company or branch. It is optional for a Danish company to choose whether to be jointly taxed with a foreign affiliated company/branch or not. If the companies choose to be jointly taxed this taxation must include all companies and branches within the group globally and joint taxation must typically apply for a 10-year period.

Transfer Pricing

The Danish rules on Transfer Pricing are based on the OECD Transfer Pricing Guidelines. Transactions between affiliated companies must comply with the arms-length principle which implies that products or services must be transferred at the relevant market price. Some groups may be subject to documentation requirements.

Thin Capitalisation

If a group's controlled debts exceed DKK 10 million and the debt to equity ratio exceeds 4-to-1 at the end of the fiscal year, thin capitalisation rules may apply.

CFC Taxation

Financial companies (companies where more than 50 % of the income is financial and where at least 10% of the assets are financial) controlled by a Danish company are subject to CFC

Taxation. If a company holds the majority of the voting rights in a subsidiary company it is considered as a controlling company. According to the CFC taxation, the total income of the subsidiary is subject to Danish tax.

Double Taxation Relief

If a company is subject to taxation in both Denmark and another country, double taxation may be relieved in accordance with a tax treaty, if such a tax treaty has been entered into between Denmark and the other relevant country. If a company is subject to double taxation in Denmark and a country with which Denmark has not entered a tax treaty with, a tax credit may be granted according to specific Danish rules.

PERSONAL TAXATION

Income taxes

Persons who are tax liable in Denmark pay up to 55,4 % in income taxes depending on their level of income and right to tax deductions. As an indicator of the taxation level all income up to DKK 423,804 per year are taxed with approximately 42 % and income exceeding DKK 423,804 are taxed with a marginal tax rate at approximately 55 %.

Relaxed taxation of foreigners

In spite of the high level of income tax in Denmark, foreigners who move to Denmark to work may apply for favourable income taxation. In Danish this taxation is called "*Forskerordningen*" (i.e. the "scientist arrangement") and contains a flat rate income tax at 32 %. In return for this low income tax level the employee has no tax deductions at all and can only be subject to these special rules for a period of up to 60 months.

In this context, the term "scientist" has a relatively broad definition and also includes other professions, e.g. professional footballers. However, there are numerous requirements that have to be met for the person to be subject to these rules. One of the requirements is that the employee's fixed gross salary must exceed DKK 69,300 (approx. EUR 9,300) per month.

Taxes on personal dividends and/or capital gains

Shares owned by persons who are tax liable in Denmark, dividends and/or capital gains will be taxed with 27 % of an amount up to DKK 48,300 and with 42 % of amounts exceeding DKK 48,300.

→ Foreign Investment

Foreign investment is encouraged in Denmark and is attractive due to several factors, including relatively low corporate taxes, a competent workforce, a flexible labour market and a reliable currency. Denmark is a world leader in clean technology, information and communication technologies (ICT) and life sciences. Denmark is among the world's top three countries in English language proficiency. Four out of five Danes speak English and half of all Danes speak German.

The Danish currency – the “krone”

Denmark is a member of the European Exchange Rate Mechanism II. This means that the Danish krone's currency is locked to the Euro at a currency at 1 Euro = 7,46038 DKK (1 DKK = 0,13404 Euro). The currency rate of the Danish krone may vary +/- 2.25 % from that of the Euro.

Registration of investment

As a main rule there are no requirements for foreign investors to register or obtain the authorities' permission for making investments, and there are no restrictions on the foreign ownership of Danish shares or bonds. Danish companies must submit a registration to the Danish Business Authority and to the tax authorities before the start of operations. Furthermore, the management must be registered with the Danish Business Authority (please see the chapter about Corporate law for further information). With regard to investments in Danish real estate, there are some restrictions on what types of properties foreigners are allowed to buy (please see the chapter regarding Real Estate for further information).

Setting up a business

It is easy to set up a business in Denmark. A standard company takes only a few hours to register with the Danish Business Authority and the tax authorities before it is up and running.

Foreign employees

Nationals of other countries within the EU or European Economic Area (EEA) are allowed to work and live in Denmark without obtaining a work permit or other permits. However, restrictions on the free movement of workers may apply to workers who have joined the EU within the last 7 years. Currently, such restrictions apply to Bulgaria and Romania, who both joined the EU on 1 January 2007.

Nationals of countries outside the EU or EEA will need a visa and/or a work permit to enter and work in Denmark. The type of visa or work permit required depend on inter alia the applicant's country of residence, educational background and the type of work to be performed in Denmark.