PensionDanmark

Tax Policy

Background and framework

PensionDanmark currently manages retirement savings for more than 738,000 Danish wage-earners and plays a significant role as a national and international investor. The main purpose of PensionDanmark is to ensure the highest possible return for its members on any investment made by PensionDanmark. At the same time, PensionDanmark wants to act as a responsible investor—also when it comes to taxation, and to this end, PensionDanmark has decided to publish its tax policy.

The tax policy describes PensionDanmark's position with respect to tax a as a company and as an investor.

The tax policy of PensionDanmark forms part of the overall financial strategy for the PensionDanmark group.

Objectives

Overall, the tax policy includes the following objectives:

› **Responsibility**
PensionDanmark wants to act responsibly, also in relation to tax management. PensionDanmark acknowledges that tax revenues constitute a fundamental and essential building block and source of funding in achieving the UN’s Sustainable Development Goals. PensionDanmark acknowledges the need for a common framework for responsible tax behaviour and wants to support and contribute to this development as part of its responsible investment strategy.

› **Compliance**
PensionDanmark wants to actively support the major international initiatives in the field of taxation and arrange its investments in accordance with the principles of these initiatives, in particular the initiatives to discourage aggressive tax planning and enhance transparency in taxation, including the OECD’s Base Erosion and Profit Shifting (BEPS) Project and EU directives to avoid eroding the tax base and aggressive tax planning.

› **Securing members’ pension savings**
PensionDanmark is obliged to ensure the best possible competitive return for its members. This means that PensionDanmark seeks to ensure the following:

- › Compliance with the law of all the countries in which PensionDanmark invests.
- › Optimisation of the overall tax position of PensionDanmark.

- Acting promptly and with due care so as to avoid and minimise tax risks that may adversely affect the return on a given investment.
- Ensuring a competitive, robust tax level. This implies that PensionDanmark's framework must be stable and not involve a significant risk of disregard of the Danish (or foreign) tax authorities. Furthermore, it implies the inclusion of global trends when considering various options, also in relation to exit.

The specific importance of these objectives is detailed in the following:

Responsibility

The behavioural standards within taxation are constantly changing. PensionDanmark follows this development and wants to contribute actively to the establishment of a common framework for responsible tax behaviour. In addition to adjusting its taxation behaviour in accordance with this, PensionDanmark has, at the time of adopting this tax policy, participated in the following initiatives:

- In collaboration with a number of other Danish pension funds, PensionDanmark has this year developed guidelines (Tax Code of Conduct) for external investment managers.
- PensionDanmark is regularly engaged in dialogue with public authorities and industrial organisations for purposes of clarifying tax legislation and tax practices to ensure a robust and clear tax position.
- PensionDanmark reports and publishes its tax payments and developments in area of responsible tax behaviour in its Report on social responsibility.

Compliance

PensionDanmark adapts its behaviour and transactions in accordance with applicable tax law in all the countries in which PensionDanmark has activities and makes investments. PensionDanmark condemns any form of tax avoidance.

Tax legislation is complex and at times open to interpretation. PensionDanmark attempts to follow the most prevalent interpretation and consults external advisers in Denmark and abroad if and when required. Care should be exercised in situations where the practice or position of the tax authorities is likely to differ from that of PensionDanmark, and whenever possible, PensionDanmark will draw on the authorities to clarify matters in such cases. As a matter of principle, PensionDanmark does not engage in transactions unless, in terms of taxation, it is more likely than not that these would be upheld in the event of a legal dispute. In certain cases, however, transactions may be entered into which do not satisfy this objective. This will be the case if no rules have been issued, or if there is ambiguity or uncertainty in the area.

PensionDanmark examines and is constantly considering whether its investment framework is sustainable in the long term, or whether it involves a risk of being disregarded by the Danish or foreign tax authorities.

Securing members' pension savings

PensionDanmark is obligated to optimise members' return. PensionDanmark must therefore attempt to reduce the tax payments in accordance with the boundaries of the law.

PensionDanmark pays Danish tax on the return of pension investments ("PAL tax"). This applies to all return on investments regardless of the source of origin. As an investor, PensionDanmark is generally subject to local taxation in the (non-Danish) investment jurisdictions. This means that in certain situations PensionDanmark will be taxed twice on the return on foreign investments. Double taxation has only been resolved in some of the double tax treaties, which Denmark has entered into with other countries. At the same time, and due to the structure of the tax system, PensionDanmark has limited possibilities to credit the Danish PAL tax by its foreign tax payment. PensionDanmark finds this inappropriate. Hence, reducing double taxation on its investments is a central part of PensionDanmark's investment planning.

PensionDanmark's position on tax planning

PensionDanmark accepts tax planning which aims to ensure fair competition and avoid double taxation as exemplified below (the list is not exhaustive):

› General use of holding companies
› General use of available double tax treaties where the substance of the business justifies the application of a specific double tax treaty
› General application of tax losses to reduce taxable income
› General use of debt financing
› Use of hybrid entities for non-aggressive tax planning

PensionDanmark does not accept aggressive tax planning. PensionDanmark defines aggressive tax planning as the exploitation of technicalities of a tax system or the inconsistency between several tax systems in order to limit tax liabilities. Thus, PensionDanmark does not engage in aggressive tax planning or structuring as illustrated in the examples below, or which are contrary to applicable tax law.

› Misapplication of double tax treaties, where holding companies are used for the purpose of reducing or altogether avoiding withholding taxes, and where such holding companies do not have sufficient substance judged by the principles of the OECD's so-called Principal Purpose Test (according to which the main purpose of a transaction or an arrangement must not be to reduce or avoid withholding tax)
› Use of transfer pricing planning for aggressive tax planning purposes
› Use of financial instruments for aggressive tax planning purposes
› Use of hybrid mismatch arrangements for the purpose of aggressive tax planning
› Dividend arbitrage, including share lending

Enhanced transparency

PensionDanmark supports enhanced tax transparency and wants to contribute to this development as part of its responsible investment strategy.

PensionDanmark adapts its tax reporting and investments in accordance with the principles of EU and OECD initiatives in the field of tax transparency, including the requirements for mandatory automatic exchange of information as stipulated in European Council Directive (EU) 2018/822 and the rules for country-by-country reporting laid down by the OECD and implemented in Danish law.

PensionDanmark supports the process of enhancing transparency in relation to external administrators. In its Tax Code of Conduct, PensionDanmark calls for transparency in the field of tax and urges external administrators to observe the current taxation standards outlined by the EU and the OECD.

Use of tax havens

PensionDanmark supports enhanced transparency and the international initiatives being implemented under the auspices of the OECD and at European level towards obtaining enhanced transparency. In accordance with these principles, PensionDanmark does not invest in companies incorporated in or, for tax purposes, domiciled in:

(a) Jurisdictions that are deemed ”not compliant” according to the OECD’s Global Forum on Transparency and Exchange of Information for Tax Purposes peer review process at the time of the investment[1], or

(b) Jurisdictions listed on the EU’s list of non-cooperative tax jurisdictions at the time of the investment.[2]

The Tax Code of Conduct encourages external managers to observe these principles.

Some of the funds that PensionDanmark invests in use entities registered in so-called tax havens such as Luxembourg and/or are involved in investments that go through these countries. PensionDanmark is generally not able to influence the choice of jurisdiction but does also not consider the use of these jurisdictions aggressive.

It is essential for PensionDanmark that the administrators of investment structures involving countries such as those mentioned above comply with the rules of access to the benefits of tax agreements as laid down in the OECD’s BEPS Project and, in general, do not establish such structures to enable tax avoidance. PensionDanmark conducts in-depth investigations into the tax aspects of such investments.

Tax incentive schemes

PensionDanmark believes that tax should be paid in the countries in which the income is generated in accordance with applicable tax principles. PensionDanmark acknowledges that countries have tax regimes that stimulate the development in certain industries or areas through the implementation of tax incentive schemes such as depreciation and tax credits, and PensionDanmark makes use of such schemes in connection with its investments. According to PensionDanmark, caution should be exercised when using tax incentive schemes in developing countries, and in its Tax Code of Conduct, PensionDanmark encourages its managers to exercise caution when using such schemes.

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[1] Reference is made to the OECD’s website: http://www.oecd.org/tax/transparency/exchange-of-information-on-request/ratings

[2] Reference is made to the European Commission’s website: https://ec.europa.eu/taxation_customs/tax-common-eu-list_en

Role assignment and responsibility

PensionDanmark's CFO is responsible for the overall implementation of the tax policy and must report to PensionDanmark’s Risk and Audit Committee. The tax department, under the management of the CFO, is responsible for day-to-day compliance with this tax policy.

Commencement

Taxation is a dynamic and complex area where societal standards evolve over time. PensionDanmark continuously monitors the tax area and audits the tax policy at least once a year.

This policy has been updated on 24 February 2020 and applies to all investments made after this date.

Adopted by the board of PensionDanmark on 24 February 2020.

Per Christensen	Lars Storr-Hansen
Chairman	Vice Chairman