

## Employment of foreign Staff

If you or your enterprise employ people from other countries to work in Denmark, you might be responsible for paying gross income tax on their salaries. The way in which you employ people determines whether you are responsible for ensuring that your foreign employees pay A-tax (tax at source), labour market contributions (AM-bidrag) and labour market supplementary pension contributions (ATP).

- You must pay gross income tax on salaries earned by your employees in Denmark.
- The form Registration of the conditions of employment must be completed and returned to SKAT.

### Hiring foreign labour

- international hiring-out of labour

If as a Danish enterprise you hire an employee who does not live in Denmark and who has an employer from another country than Denmark, the employee is liable to pay tax according to the rules on international hiring-out of labour.

The employee is liable to pay 8% labour market contributions (AM-bidrag) and 30% hiring-out of labour tax.

Your enterprise must make sure that the tax is paid.

The rules on hiring-out of labour apply even though the foreign employer is registered for VAT in Denmark

### What is international hiring-out of labour?

International hiring-out of labour is the term used if the employees of a foreign enterprise are made available to a Danish enterprise, and the employees perform work which forms an integral part of the Danish enterprise.

The work may be part of the core services of the enterprise, or it may be a natural part of the running of the enterprise, for example bookkeeping, cleaning or canteen management.

### **Hiring-out of labour involves three parties:**

a Danish enterprise hiring the labour

an employer from another country than Denmark who hires out labour. It could be a temp agency or any other enterprise

an employee who is employed by the employer and who is not living in Denmark.

It is insignificant whether the contract is referred to as a hiring-out of labour contract or a project contract. If the work forms an integral part of the activities of the Danish enterprise, it is considered international hiring-out of labour.

### Examples of international hiring-out of labour

<b>Examples of international hiring-out of labour</b>
1. A Danish nursery garden hires labour from a foreign enterprise to perform nursery work. Nursery work is considered an integral part of the nursery garden business.
2. A Danish shipyard buys ship paint from a foreign enterprise whose own foreign employees perform the painting in the dock. Painting ships is an integral part of the shipyard's business.
3. A Danish bricklaying company A receives a contract to build a house. A hires a foreign bricklayer/subcontractor B to perform all the work. B is not paid until the owner has approved the work. A's employees have the capabilities and could have built the house themselves if they had the time, therefore it is an integral part of the bricklaying company's business.
4. A Danish enterprise hires an IT employee from a Danish temp agency which passes him on from his foreign employer. The IT employee lives in another country. He is supporting the company's IT systems. IT is a necessary part of the ordinary running of the company therefore it is an integral part of the company's activities.
5. A construction company hires an engineer to perform construction management during a period when the company's own employees do not have time for all ongoing projects. He performs the same work as the company's own construction managers and represents the company outwardly.

When are the services sufficiently separated from the Danish enterprise

Sometimes you can question whether the services are sufficiently separated from the Danish enterprise. This may be the case if two enterprises delivering services within the same area entered into a contract.

In such a situation other factors may be considered when determining whether it is international hiring-out of labour or contract work. For this purpose it may be relevant to look at:

Who has the right to instruct the employee on how to perform the work?

Who controls and is responsible for the workplace?

Is the Danish enterprise invoiced for the salaries/wages?

Who supplies tools and machinery?

Who has influence on the amount of hired labour to be used and the qualifications needed?

Who has the right to pick the person who is going to perform the work, and who has the right to remove that person from the work?

Who has the right to impose sanctions on the employee in relation to the work?

Who determines the working hours and holidays?

If you want to be sure whether it is international hiring-out of labour or not, you can apply for a [binding ruling](#).

## When do the rules not apply?

The rules on 30% International hiring-out of labour tax do not apply in the following situations:

If the hired-out employee is subject to full tax liability in Denmark. The hired-out employee becomes subject to full tax liability in Denmark, if he moves to Denmark, or if he stays in Denmark for a consecutive period of at least six months. The six-month period includes short stays abroad for leisure or holiday.

If the employee is hired out to a foreign enterprise which is not liable to pay tax in

Denmark, and the employee performs work for this enterprise, the person in question is not liable to pay hiring-out of labour tax. If he stays in Denmark for more than 183 days within a twelve-month period, he is liable to pay tax as a person subject to limited tax liability.

If a self-employed worker makes his own labour available to the Danish enterprise. Even though the person is registered as a self-employed worker in his home country, he is liable to tax as an employee in Denmark, if, according to Danish rules, he is considered an employee. The Danish enterprise must then withhold tax via the E-income system. If he is self-employed according to the Danish rules, he is responsible for his own tax.

If the salaries/wages are paid by a Danish enterprise acting as an agent for a foreign employer. In this situation the agent must withhold tax according to the general rules on full tax liability or limited tax liability.

If the foreign employer has a permanent establishment in Denmark. The employer can obtain a permanent establishment in Denmark in consequence of the enterprise's current activities for the Danish enterprise. This may be the case if for example the Danish enterprise outsources a task on a more permanent basis which is to be performed somewhere in Denmark. Therefore, it is not decisive whether the foreign enterprise is already registered with a permanent establishment at the conclusion of the contract.

If the hired-out employee is a performing artist, musician or a sportsman.

Examples of situations not considered international hiring-out of labour

<b>Examples of situations not considered international hiring-out of labour:</b>
1. A production company enters into a contract with an IT company about training employees in the use of new advanced software. The training takes place in the Danish company. IT training is not an integral part of the company's activities.
2. A Danish company produces soft drinks in a highly specialised production with few technicians employed. The company's market strategy for a new product is initiated by an employee from a foreign sister company which is responsible for the entire marketing of the group. The Danish production company has no knowledge of marketing, therefore the work performed by the sister company is not considered an integral part of the Danish company's activities.
3. A Danish production company sells its lorries, fires its lorry drivers and stops delivering

its articles to its customers. The task is outsourced to a foreign carrier who is managing the deliveries and the employees. This is not considered international hiring-out of labour.

### Check if the employee has residence and work permits

If you employ or hire an employee who does not hold an EEA or EU passport, you need ensure that the employee has residence and work permits. You can do so by contacting, for example, the Danish Immigration Service.

### Transitional rules

The rules on international hiring-out of labour described here apply to contracts entered into after 19 September 2012.

For contracts entered into on 19 September 2012 at the latest, the former rules apply until the contract expires, however not beyond 1 October 2013.

### How to declare and pay international hiring-out of labour tax

As a Danish employer hiring foreign labour, it is your responsibility to withhold and pay the tax.

You declare the tax by completing the form below.

You must pay the tax no later than the 10th of the month following the month in which you withhold the tax and pay the invoice to the foreign enterprise.

Large enterprises covered by the rules of advanced payment must pay the tax no later than the last bank day of the withholding month.

### How to declare

You must make a list of hired employees and their taxes every month. The gross income and the tax must be in Danish kroner, and you must use the exchange rate applicable on the day

when you withhold the tax.

**Use form:**

[Form 01.010 \(Arbejdsudleje/International Hiring-out of Labour\)](#)

### How much to pay

You must withhold and pay 8% labour market contributions and 30% hiring-out of labour tax on behalf of the employee to SKAT. This applies both when you hire the foreign labour directly from the foreign employer, and when the hire contract has been arranged and invoiced through another enterprise or temp agency.

You must pay the tax yourself if you forget to withhold it when paying the employer.

### How to pay

The tax is payable in Danish kroner to your tax account (skattekonto). You can find the payment line in the 'Stamoplysninger' (Master data) menu item on the tax account.

### Payments from a foreign bank account

Payments of tax from a foreign bank account should be transferred to account below. Remember to state CVR number and 'hiring-out of labour' in the remarks field.

<b>Pay SKAT from a foreign account</b>
IBAN: DK87 0216 4069 1633 94
BIC/SWIFT code: DABADKKK
Account number: 02164069163394
Account holder: SKAT

## How to calculate international hiring-out of labour tax

The foreign employer must provide you with documentation showing the gross income of the employee.

If you do not receive documentation of the employee's gross income, you must calculate the hiring out of labour tax on the basis of the invoice amount. You must withhold the tax in the payment to the foreign employer.

If the foreign employee chooses to have the tax calculated according to the general rules on limited tax liability, or if the employee is subject to full tax liability, you must withhold and declare the tax as if the employee was Danish.

## The employee's gross income

The employee's gross income consists of:

- salaries/wages, etc., including
  - time off in lieu earned in connection with work performed in Denmark
  - holiday pay earned in Denmark
- travel and transport allowances
- value of free food and accommodation if the employee is not considered to be travelling
- other kinds of taxable employee benefits

Example of how to calculate the tax:

Hans lives in Germany, and his German employer hires him out to you. The price amounts to DKK 30,000, which can be either remuneration for a number of hours of odd jobs or remuneration for performing a certain job. Hans is paid DKK 18,000 and the value of free food amounts to DKK 2,000. In total the gross income amounts to DKK 20,000.

<b>Calculation of Hans's Danish tax</b>	<b>Amount</b>
Labour market contributions (8% on gross income of DKK 20,000)	DKK 1,600
International hiring-out of labour tax (30% on gross income of DKK 20,000 less labour market contributions of DKK 1,600)	DKK 5,520
Total tax is 35.6% on gross income	DKK 7,120

<b>Settlement</b>	<b>Amount</b>
You pay the hire of DKK 30,000 to the German employer less Hans's tax of DKK 7,120.	DKK 22,880
You pay the tax withheld to SKAT	DKK 7,120
The German employer pays the salaries plus transport allowance of a total of DKK 20,000 to Hans less the Danish tax of DKK 7,120.	DKK 12,880
The German employer's profit of DKK 10,000 is not taxable.	

### Documentation of international hiring-out of labour tax

#### Documentation for the employee

The employee will be given the following documentation of paid international hiring-out of labour tax in Denmark:

Every month the foreign employer will give the employee a payslip showing the



salary earned in Denmark and the Danish tax withheld from this salary.

In March or April following the, income year, the employee will get a statement in English from SKAT. The statement will be sent via the Danish principal to the foreign employer to ensure that it reaches the employee's current address.

Documentation for the foreign employer

To document the amount (A-tax relating to international hiring -out of labour) which the Danish principal sets off against the invoice from the foreign principal, the Danish principal may use the following documentation:

copy of form 01.010 (form to be completed by Danish enterprises liable to withhold tax when hiring foreign labour to perform work in Denmark), and

a receipt which the Danish principal can print from his Tax account (Skattekonto) showing the amount paid: "A-skat (Arbejdsudleje)" ("A-tax (International hiring-out of labour)").

Documentation for the Nordic tax authorities

SKAT may issue an "NT3 statement" to document that A-tax (tax deducted from income at source) for employees from the Nordic countries will be withdrawn in Denmark.

You are hired out to a Danish enterprise

If you live outside Denmark, are employed by an enterprise which is not Danish, and you are going to perform work in a Danish enterprise, you are liable to pay labour market contributions and international hiring-out of labour tax, a total of 35.6%. The Danish enterprise pays the tax on your behalf. After that, your employer deducts the Danish tax before he pays you the salary/wage.

You are liable to pay 35.6% Danish tax on your gross income.

The Danish enterprise makes sure that your Danish tax is paid.

You do not need to file a tax return, but you will receive a statement of Danish taxes paid.

You can choose to pay tax according to the general rules on limited tax liability, which will entitle you to certain deductions and variable tax rates.

You can obtain tax relief in your home country.



## The rules on 30% international hiring-out of labour tax

The rules on 30% international hiring-out of Labour tax do not apply in the following situations:

If you move to Denmark or stay in Denmark for a consecutive period of at least six months. The six-month period includes short stays abroad for leisure or holiday.

If your salaries/wages are paid by a Danish enterprise authorised by the foreign employer.

If your foreign employer has a permanent establishment in Denmark.

If you are hired out to a foreign enterprise which is not liable to tax in Denmark or which pays tax according to the rules on hydrocarbon tax.

If you are a performing artist, musician or a sportsman who is hired out to perform work in Denmarkmark.

If you work as self-employed in Denmark.

If you are employed by the Danish enterprise.

If you live in a Nordic country and work offshore Denmark in connection with oil extraction, you are only subject to tax if you stay in Denmark for more than 30 days within a twelve-month period.

## International hiring-out of labour tax

You are liable to pay 8% labour market contributions and 30% international hiring-out of labour tax on your total salaries/wages, including taxable employee benefits such as company car, free free food and accommodation, which you earn by working for the Danish enterprise.

The Danish enterprise hiring your labour must make sure to pay your tax and deduct the tax when paying your employer. Your employer will then deduct the Danish tax before the pays you the salary/wage.

<u>How to calculate your tax if you earn DKK 20,000</u>	<u>Amount</u>
Labour market contributions: 8% on gross income of DKK 20,000	DKK 1,600
International hiring-out of labour tax: 30% on (DKK 20,000 less labour market contributions of DKK 1,600)	DKK 5,520
Total tax is 35.6% on gross income	DKK 7,120

You do not have to file an income tax return, but you will receive a statement of Danish taxes paid

You do not need to have a Danish civil reg. no. (CPR number), nor to file a tax return. Your employer will give you a statement of Danish taxes paid issued by SKAT, which shows your taxable income and how much Danish tax you paid. You can obtain tax relief in your home country on presentation of this statement.

You can choose to have your earned income taxed according to the rules on limited tax liability

You can choose to have your tax calculated according to the rules on limited tax liability. The tax will then be calculated according to the general Danish tax rules, which will entitle you to certain deductions and variable tax rates. You can also choose to pay tax according to the rules for cross-border workers if at least 75% of your gross income is from Denmark.

Transitional rules

If you entered into your contract before 20 September 2012 and you have not previously had to pay international hiring-out of labour tax, you can continue with the contract until it expires, however not beyond 1 October 2013. After this date, you must follow the rules

described above.

Fonte: <http://skat.dk/SKAT.aspx?oId=2085184&vId=0>