

Pre-Immigration Tax Planning:

Ten Things You Should Know Before Moving to the US

Leah and Hanne LeLoup, CPAs
International Tax Partners

lleloup@hbllp.com	hleloup@hbllp.com
1.619.849.6527	1.619.849.6505

1. US RESIDENTS ARE TAXED ON WORLDWIDE INCOME

- Residency is determined by:
 - the “green card test” or
 - “substantial presence test”
- Residency can be triggered before visa received
- Long term green card holders may be subject to an exit tax

AMERICA IS THE LAND OF
OPPORTUNITY



EVERYONE CAN BECOME A TAXPAYER

2. THE US – DENMARK TAX TREATY OFFERS SOME RELIEF FROM DOUBLE TAXATION

- Nonresident Aliens are usually allowed credits for taxes already paid in Denmark
- Treaty modifies domestic tax law
- Treaty can also exempt nonresidents from US taxation on certain items of income.

3. SOME TRANSACTIONS THAT ARE NOT TAXABLE IN DENMARK, ARE TAXED IN THE US

- Certain capital gains (i.e. sale of vacation home)
- Current earnings on some Danish pensions
- Danish holding company income
- Mortgage currency gain on payoff of mortgage

Foreign Exchange Gain on Payoff of Mortgage

Assume sale closed on January 14, 2018					
LOAN #1:	DKK			DATE	US\$
Mortgage Acquisition	Mortgage Sale Date		FX @ Acquisition Date		
	4,500,000		5.06700	1/31/08	\$888,099
Mortgage Payoff	Mortgage Sale Date		FX @ Sale Date		
	<u>4,500,000</u>		<u>7.12300</u>	<u>1/14/18</u>	<u>\$631,756</u>
Gain on mortgage					<u>\$256,343</u>
Effective tax rate between federal and state				49%	<u>\$125,608</u>

4. US and STATE TAXES COMBINED MAY BE MORE THAN DANISH TAX

- US Federal tax is calculated using two systems:
 - Regular baseline tax and
 - Alternative Minimum Tax

You pay whichever results in the highest amount
(ranges from 10 - 37%)
- Net Investment Income Tax (3.8%)
- State tax rates vary (ranges from 0% – 13.3%)

100% Skat!?



5. US TAXES ARE COMPLEX

- No automatic calculation like Denmark
- Taxpayers can file as married filing separately or file jointly
- Immediate family members can be claimed as deductions, but will need US Tax Identification Numbers (ITIN's)

6. STATES HAVE DIFFERENT TAX RULES

- Most states have their own separate tax returns.
- State tax rates vary; some states do not have an income tax
- Some states do not offer treaty relief
- May have filing requirements in more than one state, since income is sourced to where the services are provided resulting in multistate filings
- State taxes are a deduction under the federal regular tax rules, but not under the AMT rules
- State tax residency may begin before US tax residency

7. INTERNATIONAL REPORTING FORMS TYPICALLY HAVE \$10,000 PENALTIES FOR NON-FILING

- FBAR – foreign bank accounts
- FATCA (Form 8938) – foreign assets
- Foreign entity reporting - typical is the Danish Holding Company
- Foreign pensions – some require trust reporting

8. NON-US MUTUAL FUNDS ARE TAXED IN A BURDENSOME WAY

- The income is deemed to have been earned over the life of the investment
- A tax is calculated for each year of ownership – at the highest rate for that year
- An interest charge is added for deferred tax
- Our advice? - Get rid of them!

9. DUE TO THE HIGH COST OF COMPLIANCE, COMPANIES WILL OFTEN PAY THE ACCOUNTING FEES FOR THEIR EXECUTIVES' TAX RETURNS

- The year of entry into the US is particularly complex as a dual status year
- The dual status year offers an opportunity to calculate tax in the manner which will have the smallest tax liability
- Tax fees typically fall between \$5,000 and \$20,000

10. THE TOTALIZATION AGREEMENT BETWEEN THE US AND DK MAY BE USED TO PREVENT PAYMENTS INTO THE US SOCIAL SECURITY SYSTEM

- Generally available to postings of 3 years or less
- On the US side, saves both the employer and employee the cost of social security taxes
- Requires the employee to give the employer a “Certificate of Coverage” indicating coverage in the other country

In Summary

- Plan ahead
- Seek advice from both a US and DK tax advisor with international expertise
- Eliminate investments (non-US mutual funds) with burdensome compliance
- Keep it simple

QUESTIONS?

