

# Denmark

## Contacts

### Copenhagen

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## 1. Types of tax

In Denmark, both gift and inheritance taxes are levied on transfer of assets at death or by gift. The tax is either 0%, 15% or 36.25%. However, gifts may be subject to ordinary income taxation of up to 52.7% (2016).

### 1.1 Inheritance tax

Danish inheritance tax is based on the taxation of the estate left by the deceased. The basis for the calculation of inheritance tax is the total net value of assets that are passed on to heirs of the deceased.

The Danish inheritance tax consists of an estate tax of 15% imposed on the net value exceeding DKK276,600 of the estate of the deceased together with an additional tax of 25% on the estate passed on to persons other than certain close relatives. The maximum tax burden is 36.25%, as the 15% estate tax is deducted before the 25% additional tax is calculated.

Inheritance tax is levied when a person dies. Taxation can be deferred if the surviving spouse chooses to retain undivided possession of the estate. In this case, the estate is taxed after the estate is transferred to the heirs of the first deceased spouse. The estate must be transferred to the heirs after the first deceased spouse if the surviving spouse dies or if the surviving spouse, who retained undivided possession of the estate, chooses to get married again.

### 1.2 Gift tax

From a Danish perspective, a gift is given when a living person transfers assets without payment to another person. This is also the case even when the person giving the gift (the donor) reserves the right to make use of the asset or claims the future income from the asset. Generally, gifts are liable to gift tax or ordinary income tax.

The gift tax is a proportional tax and is either 0% for gifts between spouses, 15% for gifts to close relatives (specified below in Section 4.1) or 36.25% for gifts to stepparents and grandparents. All other persons are subject to ordinary income tax on gifts at a progressive tax rate up to 52.7% (2016).



## 1.3 Estates

In Denmark, no real estate transfer tax exists. Instead, a registration transfer duty (stamp duty) will be levied on transfers of real estate.

The stamp duty is a combination of variable and fixed duties calculated as DKK1,660 + 0.6% (2016) of the transfer sum, with the last public valuation of the estate as the minimum in relation to estates other than single and multi-family houses and holiday houses.

If the real property is a gift subject to gift tax, the variable part of the transfer duty can be deducted from the gift tax unless either the gift donor or the recipient conducts business with rental of real estate.

### 1.3.1 Exemption from the variable transfer duty

In the following situations, only the fixed stamp duty of DKK1,660 is applicable on transfer of real estate:

- ▶ A surviving spouse enters into the deceased spouse's rights and obligations (the spouse retains undivided possession of the estate).
- ▶ If the gift recipient is an approved charitable organization, a Danish national church or a recognized religious community in Denmark.

## 2. Who is liable?

### 2.1 Gift tax

Gift tax is applicable if either the gift donor or the recipient of the gift is domiciled in Denmark. Gifts in the form of real estate situated in Denmark and assets connected to a Danish permanent establishment (Danish *situs*) are subject to Danish gift tax regardless of whether the gift donor or the recipient of the gift is domiciled in Denmark.

### 2.2 Inheritance tax

If the deceased person is domiciled in Denmark at the time of death, the market value of his or her worldwide net estate is subject to inheritance tax in Denmark. If the deceased person is domiciled outside of Denmark at the time of death, only the value of Danish real estate and assets with permanent establishment in Denmark (Danish *situs*) is subject to Danish inheritance tax, unless the administration of the estate happens in Denmark.

## 3. Rates

### 3.1 Gift tax

Gift tax is 15% of the value of the gift exceeding DKK61,500 (2016) per year on gifts given to:

- ▶ Children, stepchildren and their children
- ▶ Deceased child's or stepchild's surviving spouse
- ▶ Parents
- ▶ Certain individuals sharing a common residence with the gift donor, for at least two years prior to receiving the gift
- ▶ Foster children, if certain conditions are met





The inheritance tax can be summarized as follows:

Heir	Inheritance tax	Lower limit for taxation (2016)
Spouse	0%	N/A
Closely related	15%	DKK276,600
Distant relatives and others	36.25%	N/A
Organization of public utility and the state	0%	N/A
Other organizations	36.25%	N/A

## 4. Exemptions and reliefs

### 4.1 Gifts

Gifts to:

- ▶ Children, stepchildren and their children
- ▶ Deceased child's or stepchild's surviving spouse
- ▶ Parents
- ▶ Certain individuals sharing a common residence with the gift donor, for at least two years prior to receiving the gift
- ▶ Foster children, if certain conditions are met
- ▶ Stepparents and grandparents

These gifts are not taxed if the value is below DKK61,500 (2016) and the gift is given within one calendar year. Married couples (including registered partners) are not taxed on gifts to each other.

Gifts to a child's spouse or stepchild's spouse with a value below DKK21,500 (2016) within one calendar year are not taxed. Gifts exceeding DKK21,500 are taxed at 15%.

### 4.2 Inheritance tax

There is no inheritance tax if the estate is passed on to a spouse, an organization of public utility or the state.

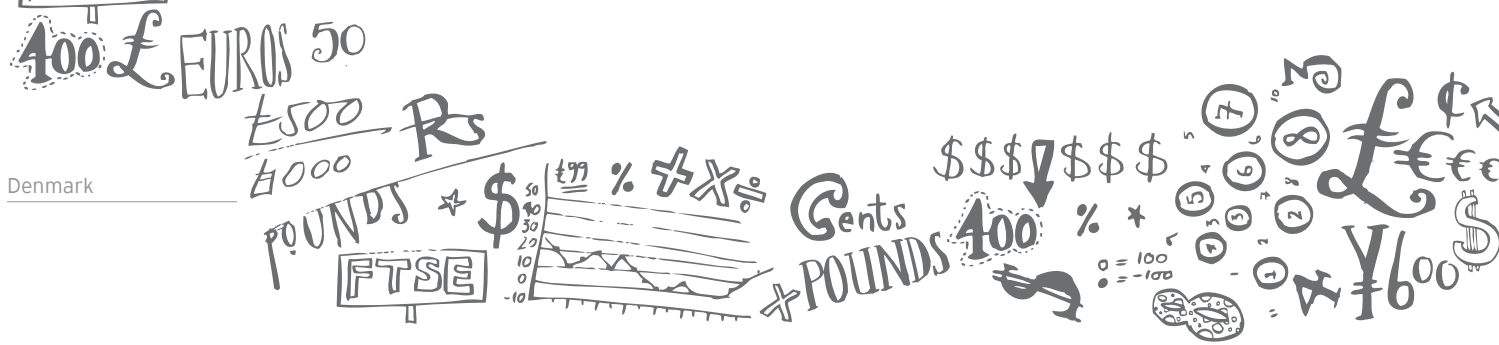
If the value of the estate is below DKK276,600 (2016), there is no inheritance tax.

## 5. Filing procedures

### 5.1 Gifts

Gifts that are subject to gift tax must be reported to the tax authorities no later than 1 May in the year following the calendar year the gift was given. The tax is due for payment at the time the gift is registered with the tax authorities. The gift recipient is liable for paying the tax. However, the gift donor is jointly liable for the payment of gift tax.

Gifts that are subject to income taxation must be reported by the recipient on the income tax return in the year the gift was given.





- ▶ If the deceased person leaves both a spouse and children, the estate must be divided between them. The spouse inherits half of the estate of the deceased person, while the rest of the estate is divided equally among the children. The surviving spouse can usually choose to retain undivided possession of the estate. In this case, the children will inherit when the surviving spouse dies or remarries.
- ▶ If the deceased person does not have any surviving children, grandchildren or other lineal descendants, the spouse will inherit the entire estate.
- ▶ If a person dies unmarried but leaves behind children, then the estate will be divided equally between the children. If a child is dead, the child's part of the estate will go to his or her lineal descendants.
- ▶ If there is no spouse, children, grandchildren or great-grandchildren, the estate will be divided equally between the deceased person's parents. If they are dead, their part will go to their lineal descendants, if there are any.
- ▶ If there are no parents, brother or sister or children of a brother or sister, the estate will be divided equally between the grandparents.
- ▶ If there are no grandparents and they leave no children, the estate will go to the state.
- ▶ If the deceased person has made a will, this may change the distribution of the estate.

## 10.2 Forced heirship

The Danish Inheritance Act contains provisions that limit a person's right to dispose of an estate by will to a certain extent.

The limitation regards one-quarter of a person's estate (i.e., a person can only dispose of three-quarters of an estate by will if the deceased leaves a spouse or children). This one-quarter may be reduced to DKK1,210,000 (2016) per child.

As long as this statutory limit is observed, a person may freely dispose of his or her assets by will.

## 10.3 Matrimonial regimes and civil partnerships

Registered partnerships are treated the same way as matrimonial regimes.

By marriage, the spouse gets community property unless he or she enters into a separate property settlement. Whether an asset is part of the community property or separate property is significant when a married person dies or if the marriage is dissolved.

When the first spouse dies, the separate property as a general rule must be distributed to the heirs, while the distribution of the assets included in the community property can be either retained with the longest living spouse or passed on to the heirs.

## 10.4 Probate

When a person dies, the probate court convenes the deceased person's closest heirs for a meeting to determine the administration of the estate after the deceased person. The administration may be private or public. Public administration is enforced in certain situations (e.g., if one of the heirs requests it or if the deceased person has determined it by will).

# 11. Estate tax treaties

## 11.1 Unilateral rules

Inheritance tax and gift tax paid to a foreign state, Greenland or the Faroe Islands on assets located outside Denmark can be deducted from the Danish inheritance and gift tax. The deduction cannot exceed the Danish inheritance or gift tax on the assets.