



1. Types of tax

In Denmark, both gift and inheritance tax 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 taxation of up to 51.5%.

2. Inheritance tax

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

The Danish inheritance tax consists of an estate tax of 15% imposed on the net value exceeding DKK264,100 of the estate of a deceased person 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 when the estate after the first deceased spouse is transferred to the heirs. The estate after the first deceased spouse must be transferred to the heirs if the surviving spouse dies or if the surviving spouse, who retained undivided possession of the estate, chooses to get married again.

2.1 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 if 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 3.1) or 36.25% for gifts to stepparents' grandparents. All other persons are subject to ordinary income tax on gifts at a progressive tax rate up to 51.5%.

2.2 Estates

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

The registration transfer duty is DKK1,400 + 0.6% of the transfer sum or at least the last public valuation of the estate.

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.

2.2.1 Exemption from the variable transfer duty

In the following situations, only the fixed duty of DKK1,400 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.

3. Who is liable?

3.1 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.

3.2 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*) are subject to Danish inheritance tax.

4. Rates

4.1 Gift tax

Gift tax is 15% of the value of the gift exceeding DKK58,700 (2011) per year on gifts given to:

- ▶ Children, stepchildren and their children
- ▶ Deceased child or stepchild's living spouse
- ▶ Parents
- ▶ Certain persons with the same address as the gift donor
- ▶ Foster children, if certain conditions are met

Gifts to the above-mentioned persons are not taxed if the value of the gift to each person is below DKK58,700 (2011) 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 DKK20,500 (2011) within one calendar year are not taxed. Gifts with a value exceeding DKK20,500 are taxed at 15%.

Gifts to stepparents and grandparents are taxed at 36.25%. There is a lower limit for taxation of DKK58,700 (2011).

Gifts to persons besides the above-mentioned are liable to ordinary income tax. The taxation is progressive up to 51.5% depending on the person's taxable income.

The taxation of gifts can be summarized as follows:

Gift recipient	Tax	Lower limit for taxation (2011)
Spouse	0%	n/a
Closely related	15%	DKK58,700
Children in-law	15%	DKK20,500
Stepparents and grandparents	36.25%	DKK58,700
Distant relatives and others	Income tax 0-51.5%	Depending on income



4.2 Inheritance tax

The inheritance tax is either 0%, 15% or 36.5% depending on the person inheriting the estate. A basis allowance of DKK264,100 (2011) is deducted before the 15% estate tax is calculated.

The 15% estate tax of the total net estate value exceeding DKK264,100 (2011) is final if the estate is passed on to the following persons (close relatives):

1. Children, stepchildren and their children
2. Parents
3. A deceased child's own children or stepchildren's spouses
4. Persons that have been living together with the deceased person for at least two years before the death
5. Divorced spouse
6. Foster children, if certain conditions are met

If the value of the estate is below DKK264,100 (2011), there is no inheritance tax when the estate is transferred to the above-mentioned persons.

If the estate is transferred to persons other than the above-mentioned, the inheritance tax is 36.25%, consisting of the 15% estate tax and the 25% additional tax.

If the value of the estate exceeds DKK2,595,100 (2011), excluding the value of the deceased person's own residence, the estate itself may be subject to ordinary income and capital gains tax.

The estate tax can be summarized as follows:

Heir	Inheritance tax	Lower limit for taxation (2011)
Spouse	0%	n/a
Closely related	15%	DKK264,100
Distant relatives and others	36.25%	n/a
Organization of public utility and the state	0%	n/a
Other organizations	36.25%	n/a

5. Exemptions and reliefs

5.1 Gifts

Gifts to:

- ▶ Children, stepchildren and their children
- ▶ Deceased child or stepchild's living spouse
- ▶ Parents
- ▶ Certain persons with the same address as the gift donor
- ▶ Foster children, if certain conditions are met



These gifts are not taxed if the value is below DKK58,700 (2011) 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 DKK20,500 (2011) within one calendar year are not taxed. Gifts exceeding DKK20,500 are taxed at 15%.

5.2 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 DKK264,100 (2011), there is no inheritance tax when the estate is transferred to the above-mentioned persons.

6. Filing procedures

6.1 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 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.

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.

6.2 Inheritance tax

If the estate of the deceased person is privately administered, the heirs must file an opening statement showing the estate's assets and liabilities at the time of death no later than six months after the estate is distributed to private administration.

Within 15 months after the time of death, the heirs must make a final estate inventory showing the estate's assets, liabilities, revenues and expenses, including the distribution between the legatees and heirs.

A copy of the estate inventory signed by all of the heirs must be sent to the local Danish tax authority (SKAT) and the probate court.

7. Assessments and valuations

The calculation of gift and inheritance tax is based on the market value.

The gift value is determined as the market value at the time of the receipt of the gift.

The estate's assets and liabilities are assessed according to the market value at the time when they are transferred to the heirs. Expenses related to the administration of an estate, e.g., legal fees, can be deducted on the basis for calculation of the inheritance tax.

8. Trusts, foundations and private purpose funds

Certain charitable institutions, funds and religious communities are exempt from inheritance tax. Every year a list with the exempt institutions is published by SKAT.

Gifts to charitable institutions are deductible for the gift donor. The maximum deductible amount per year is DKK14,500 (in 2011, a lower limit of DKK500 applies for the deduction right. The lower limit is abolished for 2012). The deduction is conditional upon the gift recipient reporting the gift and the identification of the donor to SKAT.



9. Life insurance

If the deceased person had life insurance, the insured sum is paid directly to the person who is listed as the beneficiary. The insured sum is not included in the estate unless no beneficiary exists.

If the surviving spouse of the deceased person receives the insured sum, no estate tax has to be paid.

If anyone other than the surviving spouse is to receive the insured sum, the sum is subject to estate tax. The rate of the inheritance tax depends on how closely related the beneficiary is to the deceased person (see above).

The lower limit for taxation of DKK264,100 (2011) is not applicable on payments from life insurance.

10. Danish civil law on succession

10.1 Distribution of the estate to the heirs

When a person dies, the estate will be distributed to the heirs according to specific rules in the Inheritance Act. The distribution of the inheritance depends on the deceased person's family relations. According to the Inheritance Act, the estate will be distributed as follows if the deceased person has made no other decision by will:

1. 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.
2. If the deceased person does not have any children, grandchildren, great-grandchildren or great-great-grandchildren, the spouse will inherit the entire estate.
3. 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 children, grandchildren, great-grandchildren or great-great-grandchildren.
4. 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 children and grandchildren, if there are any.
5. If there are no parents, brother or sister or children of a brother or sister, the estate will be divided equally between the grandparents.
6. If there are no grandparents and they leave no children, the estate will go to the state.
7. 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).



10.3 Matrimonial regimes and civil partnerships

Registered partnerships are treated the same way as matrimonial regimes.

By marriage, the spouses get community property unless the spouses have entered into a separate property settlement. Community property and separate property are 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 after the deceased person.

10.4 Intestacy

A person may dispose of his or her assets after death by will with the limitations following from the rules in the Danish Inheritance Act about forced heirship (see above under Section 10.2).

10.5 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.

11.2 Double taxation treaties

Denmark has concluded inheritance and gift tax treaties with the following countries:

The Nordic countries, Germany, the United States, Switzerland (the treaty only applies to inheritance tax – gift tax is not included) and Italy (the treaty only applies to inheritance tax – gift tax is not included).

Contacts

Copenhagen

Ernst & Young
Gyngemose Parkvej 50
Søborg
Copenhagen
DK2860
Denmark

Henrik Louv
henrik.louv@dk.ey.com
+45 3587 2788