

## **SHARE-BASED PAYMENT TO BECOME POPULAR AND FAVOURABLE AGAIN, BOTH TO EMPLOYEES AND TO COMPANIES LOOKING TO RETAIN THEIR EMPLOYEES**

The Danish Finance Act 2016 reintroduces the possibility of tax advantages for share-based payments to employees. The bill is expected to be proposed in the spring of 2016.

Today, employees who are granted shares, options, or warrants are taxed at the time of exercise or, with regard to shares, at the time when the employee acquires the right to the shares. Tax is calculated as normal payroll tax, which is up to approximately 56%. Regardless of whether a company assigns shares, options, or warrants, the company can deduct the costs.

With the proposed changes, employees will not be taxed until a sale of shares and only of the actual gain. Further, taxation will be subject to tax on equity income instead of on salary which will imply a lower taxation rate of either 27% or 42%, depending on the volume of the share gain.

The new regulations are expected to be very similar to those applied in Denmark before 2012. Companies are expected to be allowed to decide whether employee shares, options, or warrants are to be offered to all employees or only selected employees, and each individual employee is expected to be able to acquire shares, options, or warrants up to a total value of maximum 10% of the individual employee's base salary. In addition, a number of other conditions must also be met. It is expected, however, that companies will not be able to deduct the costs related to the distribution of the shares, options, or warrants.

Moalem Weitemeyer Bendtsen has extensive experience with setting up, drafting, negotiating, and ensuring compliance of share options programmes and similar incentive programmes, and you are welcome to contact us with any questions.

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