

The New Danish Tax Regime

-Attitudes and Opinions of Different Swedish Interested Parties

Andrea Edstrom and Johan Skans

Accounting and Finance
Masters Thesis

The New Danish Tax Regime
-Attitudes and Opinions of Different Swedish
Interested Parties

Andrea Edstrom and Johan Skans

Acknowledgement

This thesis concludes our three semester Integrated Master Program with one semester being devoted to our thesis, which had an emphasis on the new Danish tax regime of 1999. Many hours were spent pulling hair between collecting, reading, and analyzing material, which finally came together as a complete thesis: *The New Danish Tax Regime-Attitudes and Opinions of Different Swedish Interested Parties*.

Before presenting our thesis we would like to take the opportunity to extend our warmest Thank You to our tutors at Handelshögskolan in Göteborg, Ulla Törnqvist and Robert Pålsson. They stood by us adding valuable advice and comments throughout our work, which enhanced our thesis as well as our research learning process. We would also like to thank Maria Landén at Ernst and Young for her support, which among other things gave us the opportunity to interview one of her colleagues. Last, but not least, many thanks to everyone who participated in the many interviews that we conducted.

Abstract

On January 1, 1999, Denmark introduced a new tax regime. Among other things it included less stringent tax laws in regards to dividends. This has been acknowledged around Europe, and Denmark is, with their new favorable laws, now a strong contender in the race of attracting holding companies.

Whereas if this new regulation will hold strong against pressure from the EU and the tax harmonization process that is ongoing by means of the Code of Conduct, introduced in 1997, is still to be determined. The question is whether this new legislation will be classified as harmful tax competition or not. Pending the decision, the legislation has received a great deal of attention because favorable tax laws such as this new Danish tax regime is of importance to different interested parties such as multinational companies, financial analysts, tax consultants, and state authorities. Positive or negative, they are all affected by changes in nations tax laws.

Various Swedish interested parties are affected in different ways, but despite the fact that Denmark now offers a more lenient tax regulation, in regards to dividends, they claim that they are not highly affected. As can be concluded from our research, the government is the one interested party that has taken most consideration and action in relation to the new Danish tax regime. Depending on the result from the Code of Conduct, we expect to see changes in the various interested parties' behavior, and only the future can tell us what the changes may be.

Key words: The new Danish tax regime, holding company, dividends, tax harmonization, tax competition, multinational company, financial analyst, tax consultant, and state authorities

TABLE OF CONTENTS

1. INTRODUCTION	8
1.1 PROBLEM ANALYSIS	10
1.2 PURPOSE.....	12
1.3 SCOPE AND LIMITATIONS	13
2. METHODOLOGY	15
2.1 RESEARCH APPROACH/STRATEGY	15
2.2 SCIENTIFIC PERSPECTIVE.....	17
2.3 CHOICE OF RESEARCH METHOD	18
2.4 DATA COLLECTION	19
2.4.1 Primary Data.....	19
2.4.2 Secondary Data	20
2.4.3 Data Selection Group	21
2.5 QUALITY OF RESEARCH	24
2.5.1 Validity.....	25
2.5.2 Reliability	25
3. THEORETICAL FRAMEWORK	27
3.1 DEFINITIONS	27
3.1.1 Multinational Company	27
3.1.2 Holding Company.....	28
3.2 THE PURPOSE OF A HOLDING COMPANY	29
3.3 TAX COMPETITION	31
3.4 TAX PLANNING	33
3.5 TAX HARMONIZATION WITHIN EU.....	34
3.6 THE CURRENT DANISH TAX LAWS FOR HOLDING COMPANIES	35
3.6.1 Tax on Dividend Income	36
3.6.2 Definitions of Financial Activity and Low Taxation	37

3.6.2.1 Financial Activity	37
3.6.2.2 Low Taxation	38
3.6.3 <i>Withholding Tax on Dividends</i>	38
3.7 THE DEBATE CONCERNING THE NEW DANISH TAX REGIME	39
3.8 THE SWEDISH INTERNATIONAL COMPANY TAXATION	40
3.8.1 <i>Tax on Dividend Income</i>	43
3.8.1.1 The Main Rule.....	43
3.8.1.2 The Presumption Rule	44
3.8.2 <i>Withholding Tax on Dividends</i>	45
3.9 COMPARISON	46
3.9.1 <i>Tax on Dividend Income</i>	46
3.9.2 <i>Withholding Tax on Dividends</i>	49
3.10 TAX TREATIES	51
4. EMPIRICAL STUDY	53
4.1 INTRODUCTION	53
4.2 COMPANIES.....	54
4.2.1 <i>Structure and Philosophy</i>	54
4.2.2 <i>The New Danish Tax Regime</i>	56
4.2.3 <i>EU and the Swedish Tax Climate</i>	60
4.3 FINANCIAL ANALYST.....	63
4.3.1 <i>Structure and Philosophy</i>	63
4.3.2 <i>The New Danish Tax Regime</i>	65
4.3.3 <i>EU and the Swedish Tax Climate</i>	66
4.4 TAX CONSULTANT	67
4.4.1 <i>Structure and Philosophy</i>	67
4.4.2 <i>The New Danish Tax Regime</i>	69
4.4.3 <i>EU and the Swedish Tax Climate</i>	71
4.5 STATE AUTHORITIES	72
4.5.1 <i>Structure and Philosophy</i>	72
4.5.2 <i>The New Danish Tax Regime</i>	74

4.5.3 EU and the Swedish Tax Climate	77
5. ANALYSIS	79
5.1 TAX AN IMPORTANT ISSUE	79
5.2 THE IMPACT OF THE NEW DANISH TAX REGIME.....	80
5.2.1 Companies' Attitudes and Opinions	80
5.2.2 The Financial Analyst's Attitudes and Opinions	82
5.2.3 The Tax Consultant's Attitudes and Opinions	83
5.2.4 The State Authorities' Attitudes and Opinions.....	83
5.3 GENERAL DISCUSSION.....	85
6. CONCLUSIONS AND REFLECTIONS	88
BIBLIOGRAPHY	91
APPENDIX	

1. Introduction

Today, we live in a world that is constantly changing. Almost every part of society is affected in one way or another, and the world of accounting and finance is no exception. There was a time when we did not have to worry about other nations and how they did business, their legal systems or political systems. That time has come and gone, and we are miles past those days. We can no longer ignore those same nations and we must instead see the opportunities they provide, because then and only then will business have an even greater chance to flourish and expand. Basically, a new way of doing business has developed. Companies no longer merely look to their backyard for business; instead the whole world serves as a marketplace for many companies.

However, changes like this are not always positive, and this new situation has created many challenges and problems to solve. Therefore, different organizations and associations are trying to bring different states, and their systems, together in an effort to harmonize, which they hope will solve many of the deficiencies in the current global marketplace. This work has been done in different organizations, and even at governmental levels, for instance: the European Union (EU), the Organization for Economic Development (OECD), and the International Accounting Standards Committee (IASC). The EU has tried to unify the member states in many ways such as economically through the Euro, and politically through the parliament and other activities in Brussels.

Harmonization is a topic that also evolves the world of taxation, more so now than ever. In order to operate effectively as a unified and well functioning union, it is perhaps necessary to harmonize tax laws as well. It may be looked upon as unfair if the union continues to accept extremely advantageous

corporate tax systems, since it will lead to disproportionate direct investment opportunities. Tax competition has been discussed within the EU for years, but they have not made much progress in the process of establishing directives or standards to reduce tax competition. The first step taken in the efforts to harmonize taxes within the EU was the 1967 proposal on the harmonization of companies' taxation. In 1990, three proposals were introduced, and they were the Parent Subsidiary Directive; the Merger Directive; and, the Arbitrage Convention on the elimination of double taxation. They represented a more pragmatic look in the field of harmonization of taxes, and they took a step away from the earlier objectives, as they "were described by the commission as removing ...tax obstacles currently preventing or impeding cross frontier business activity within the community...". Another important factor was that these directives were not to affect the essence of each nation's tax systems. In addition, they would only have small budgetary consequences, which should facilitate the adoption of these measures (Anthony and Roels, 1998/1999).

A few other strides towards reducing harmful tax competition have been taken over the years, such as the Code of Conduct which was introduced in 1997. The purpose of this Code is to take certain coordinating measures against harmful tax competition within the European Union in order to realize certain goals such as reducing distortions on the internal market and prevent significant reductions in income tax or making the tax systems work towards the goal of full employment (EU Council, 1997).

Despite the struggle to harmonize, we acknowledged a new Danish tax reform that took place in the beginning of 1999 which seems to go in a different direction. According to the Danish government, the purpose of this reform was to equalize the internal laws of taxation of dividends from foreign subsidiaries and capital gains from foreign subsidiaries. However, the affect has been that Denmark is now a strong contender for the choice of establishment place for holding companies (Steenholdt and Josephsen, 1999).

The Danish government is trying to attract foreign corporations to invest in Denmark by using favorable corporate tax laws. This type of activity has become common today, and it is what we refer to as tax competition. All around the world countries engage in similar activities, and this is by no means a new phenomenon. So-called tax havens have existed for quite some time, and Europe is not the only place where such favorable corporate tax systems have arisen. But, the fact that Denmark has now become closer to what is often portrayed as a tax haven has attracted attention, not the least in the Swedish media. An example is the article by Gunnar Wrede (1998) in a Swedish financial newspaper where we could read about the reactions in Sweden even at the proposal stage of the regulation.

1.1 Problem Analysis

On the 1st of January 1999, Denmark presented new tax rules in the governing of Danish holding companies and operative companies; the same rules apply to both these types of companies. These new rules purport that Denmark is trying to attract foreign corporations with the help of a favorable tax environment. The Danish "offer" applies to "...EU companies operating outside the EU and to non-EU companies operating either inside or outside of the EU" (Hjortshoj and Bjornholm, 1999, p. 1). Hence, multinational companies may take advantage of these new rules and the benefits of a Danish holding company should be considered. In short, the new rules mean that no withholding tax is levied when a Danish company pays dividends to the parent and no corporate income tax is levied on a Danish company with respect to dividends received from a subsidiary.

During the 1990s, nine European countries (Austria, Belgium, France, Germany, Luxembourg, the Netherlands, Spain, Switzerland, and the UK) have attempted to attract multinational's international holding companies by changing their tax laws. The changes have been relatively small, but they are

still important in the competition for holding company business. But, as Ned Shelton, an International Tax Counsel in Copenhagen, Denmark, explains, the steps taken by Denmark has increased competition especially since “the consequence of the Danish changes, in terms of making the country attractive as a holding location for multinationals, is far more dramatic and important than anything seen from the other nine during the past decade” (1998, p.30).

A deregulation of this kind can be of great importance to globally operating companies. Competition is increasing and companies are always trying to cut costs, rationalize their operations, develop new inventions and so on in order to earn more money and increase the wealth of the shareholders. In general, tax is considered a cost, and it is therefore important for companies to find new ways to reduce the amount of tax paid. Since these amounts could be of a substantial size, the new Danish tax law and other similar favorable tax laws should be a factor to consider for global companies in their tax planning activities. In making investment decisions and legal structure changes it is a competitive advantage to contemplate favorable tax laws.

One natural way to increase profits is to reduce the costs, which in turn satisfies the purpose of maximizing shareholder value, which is what the financial analysts are interested in. Therefore, we are curious to discern how the financial analysts look upon competitive tax laws and how it affects them. Since they focus on costs, among many other aspects, and tax expense can be a substantial post, most likely tax planning will be of interest to them as well. Further, tax planning is complex and companies often turn to tax consultants for advice. For them, favorable tax law changes are both positive and negative; tax planning is their livelihood and changes in tax laws add to their workload. On the other hand, too many changes may create complications which are impossible to oversee.

At the same time, other issues arise in relation to favorable tax laws. For instance, if a global company chooses to locate a holding company or a subsidiary in Denmark, the government in the other country could forego large amounts of tax, which in a prior situation would have been paid to the state. Another problem could be the one concerning employees and lost job opportunities. Further, in the case of an expansion or restructuring of the group, is the reality that companies are likely to choose Denmark, or other countries with similar advantageous tax systems as their choice of investment? So, not only is it a concern for corporations, governments must also be aware of other nations tax laws, since it could indirectly affect the society as a whole.

With the above discussion in mind, one can see that a deregulation like the one in Denmark has effects on many interested parties, and we wonder how this tax reform in Denmark may impact them. We think the situation is especially interesting since Denmark is geographically and culturally close to Sweden, and so it will probably have a greater impact on Sweden than if it had been a more distant country. With the new Danish tax reform as our springboard, we hope to find out how laws such as this one are regarded by Swedish interested parties. Our research question is then formulated as follows:

What impact will the new Danish tax regime have on different Swedish interested parties?

1.2 Purpose

The purpose of the thesis is:

To investigate and understand what the attitudes and opinions of different interested parties are in regards to the new Danish tax regime that was introduced in the beginning of 1999, which will lead us to a better

understanding of the importance of tax laws such as this new Danish one. We would like to know if the new Danish tax law is as significant as the current debate makes it out to be. Since this is an area where only limited research has been conducted we hope the attitudes and opinions that we collect will raise further research questions.

1.3 Scope and Limitations

Our discussion will be limited to include Swedish interested parties' perspectives on the new favorable Danish tax regime. Since Sweden is located close to Denmark and has a similar environment, we are interested in the different Swedish interested parties' opinions. Because the new tax law in Denmark evolves around holding companies and taxes paid on dividends, we will concentrate on the taxes in those areas. However, we would like to point out once again that the same new tax rules apply to both holding companies and operative companies. The reason for our focus on holding companies is that holding companies are commonly used in legal group structures today as part of the multinational companies' tax planning. "The incorporation of a foreign holding company as parent of a group's overseas subsidiaries is a common tax planning strategy for almost any growing business operating internationally, whether a multinational or family-owned business"(Cinnamon, 1999, p. 9).

Furthermore, double taxation treaties are a crucial part in international taxation, and therefore, we will introduce the topic in the first part of the thesis, but no further details on certain treaties will be covered. This is due to the fact that they are complex and too time consuming to cover in this thesis, and it does not serve the purpose of our thesis.

Favorable tax laws, such as the new Danish tax regime, are part of the bigger picture of tax planning, tax competition and tax harmonization. Therefore, we

have decided to include not only the new Danish tax regulation but also these areas throughout our thesis. This will enhance the readers ability to understand what the attitudes and opinions are based upon and to grasp the whole picture of favorable tax regimes.

2. Methodology

2.1 Research approach/strategy

The choice of research approach/strategy depends on the degree of precision with which the original research question can be formulated, and how much knowledge already exists in the area of research. The research strategies can be divided into three major groups (Wiedersheim-Paul and Eriksson, 1991):

- Exploratory
- Descriptive
- Explanatory

The exploratory approach is often used in cases where little knowledge or theory has been developed. The researcher often uses several techniques to gather data, and because of that the research sheds light on all aspects of the research question. The purpose of this type of study is often to gain knowledge, which can serve as basis for further research, and because of this creativity is an important element (Patel and Davidsson, 1994).

The descriptive approach, on the other hand, assumes some degree of knowledge and an already developed theory about the problem. The research question in this case is structured and the researcher has a clear objective with the research but does not yet know the answer.

The last group, the explanatory approach, calls for a clear structure of the problem and the researcher usually has a clear goal in mind and wants to study a cause and effect relationship. One common method used to gather data and answer the research question is experiments, and hypotheses are used in the testing (Wiedersheim-Paul and Eriksson, 1991).

In most research work it is not merely one of these approaches, but a combination of two or more, are utilized, which is the case in this thesis. Our method takes the standpoint in the descriptive and exploratory world of science because we will first describe the subject and theories, and then conduct interviews with different interested parties which we will analyze in an exploratory way.

To increase our understanding of corporate tax legislation, we conducted an exploratory study of the Swedish' and Danish' tax laws, focusing on the areas which were of interest for our research problem. This part included collecting material and reading books and articles. From this study we have seen that our chosen area of research is a current and highly debated subject. This not only gave us an insight into our research area, but also, improved our ability to perform the interviews with quality.

In order to fulfill our objective, we divided the thesis into two sections. In the first part, the Swedish and Danish legal systems, in regards to taxes on dividends with a focus on holding companies, are outlined, as well as an introduction to tax competition, tax planning, and double taxation. This presentation is of a descriptive nature, and it serves the reader as a frame of reference to better understand the second part of the thesis.

In the second part, several interviews are conducted with different interested parties and this work will be summarized, compared, and analyzed. The purpose of trying to catch their knowledge and attitudes about the new Danish tax regulation on holding companies introduced in 1999 can best be described as an exploratory study. To our knowledge, not much research has been done in this area. The departure of the interviews is open-minded and what is withdrawn will hopefully shed some light in the area of international taxation.

2.2 Scientific Perspective

The society of science is broadly divided into two different groups; supporters of the positivistic approach and the hermeneutic approach respectively. The positivistic approach is minted by measurability and there is a clear link between science and things that are not science. This approach is a product of the empirical/natural science tradition. The researcher is supposed to be objective, which means that the result should not be affected by the researchers own values. The positivistic approach is built on formal logic and facts that are the result of measurement (Patel and Davidson, 1994).

The other approach is the hermeneutic approach. The hermeneutic approach is developed in connection with the interpretation of problems that arose when people in theology tried to understand the meaning of old texts. This approach begins with the assumption that all actions, social norms, and values have a human origin. The researcher is supposed to understand other people's actions. The starting point is the so-called pre knowledge. This knowledge increases as more studies are done on the subject and the researcher is able to reach a higher level of knowledge. Some supporters of the hermeneutic approach say that the meaning of one part can only be understood in a close relation to the overall view and because of this, one can not understand the overall view if one cannot understand the different parts (Patel and Davidson, 1994).

Our research is based on a hermeneutic research view, which means that we will perform interviews with different interested parties to attempt to reach a full picture of our area of research. Our point of departure will be our own pre-knowledge, understanding, impressions, thoughts, and attitudes that we possess which are used to interpret and understand the objects of our research. The interviewees will subjectively answer questions based on his or her pre-knowledge that is based on previous working experience in the area of

international taxation. Furthermore, we will interpret the material from the interviews by first reading and understanding the entire text, and then it will be broken down into smaller parts which will be analyzed and compared separately. The way of moving from the full text to a certain part, making interpretations that increase the understanding and then going back and forth in this way is explained as the hermeneutic spiral (Patel and Davidsson, 1994).

2.3 Choice of Research Method

The choice of research method depends on the research problem and what method of analysis is necessary for answering the research question. The world of research differentiates between two types of methods: the quantitative and qualitative. The Quantitative method seeks to analyze the problem from data that can be measured in figures, while a qualitative method uses data that is represented by non-measurable verbal descriptions (Patel and Davidsson, 1994).

Since our purpose is to investigate and understand attitudes and opinions regarding the new Danish tax regime, rather than measure the effects of it, we have chosen a qualitative research method. This is in the same line of reasoning as the usage of the hermeneutic research approach, where the researcher intends to interpret and understand the objects of the research. Qualitative interviews are characterized by simple and straightforward questions which lead to complex and comprehensive answers (Trost, 1997). Our non-structured interviews with open-ended questions where we seek deeper knowledge to be able to understand attitudes about a certain matter, lead us to take a standpoint in the qualitative research method. We refrain ourselves from using a pure mathematical and statistical data collection, since our purpose is to reach an understanding of a phenomenon as a whole, and not fragmented knowledge which is often generated by quantitative methods.

2.4 Data Collection

Different techniques of how to collect data exist, and the chosen alternative depends on which method best answers the questions at hand (Patel and Davidson, 1994). The data collected in research can either be of a primary nature-data that already exists, or a secondary nature-data that requires collection (Wiedersheim-Paul and Eriksson, 1991). In this thesis, both types are used in combination.

2.4.1 Primary Data

Primary data is usually collected by the researcher for a specific project through interviews, surveys, and observations. It is mainly used as the basis for the analysis in a thesis. Interviews provide the advantage of giving the researcher the possibility to clarify uncertainties, and consequently avoid misunderstandings and incorrect interpretations. In other words, interviews do not attempt to possess any valuations or false interpretations. However, it can become expensive and time consuming to collect data this way. It is also possible that the interviewer affects the interviewee in some way, and difficulties can also arise when sensitive questions are posed (Befrin, 1994). Surveys, on the other hand, run the risk of being misunderstood, and since the interviewer is not available to clarify such misunderstandings the disadvantage can be that the questions are not answered correctly. But, surveys are less expensive per interviewee compared to personal interviews, even though they may also be time-consuming. Observations are most commonly used to study a particular behavior in a natural setting. The researcher has the advantage of being able to map behavior as it takes place. This differs from the interview and survey techniques where the researcher relies on each individual and how he or she remembers the situation. The picture in the individual's mind must also be restated so that the interviewer understands the situation correctly.

Here again the disadvantage is that it is expensive and time-consuming, which is why it is usually rejected (Patel and Davidsson, 1994).

The analysis of our paper is built upon primary data from personal interviews with multinational companies, state authorities, a financial analyst, and a tax consultant. To fulfill our objective of investigating the attitudes and opinions of these different interested parties, we decided the best method would be to conduct personal interviews. These interviews are non-structured with pre-prepared questions that are open-ended, which leaves room for the interviewee to answer the questions freely, and he/she is not bound to any particular answer. This type of interview usually provides a pleasant climate for conversation and gives a total picture with nuances of the situation (Rubenowitz, 1980). Depending on which group the interviewee belonged to we used a different set of questions. Thus, the companies received one set of questions, the state authorities a second, and lastly the tax consultant and financial analyst also received a separate set of questions. The reason for this is that they each have a different perspective on our research subject. Our choice of interview technique is based upon our stated problem and purpose. We seek to detect nuances of opinions and attitudes, in terms of the new Danish tax regime, of the different interested parties, which can best be accomplished with personal interviews. Our questions were complex and required some degree of explanatory work. This would have been impossible had we not been personally present.

2.4.2 Secondary Data

Secondary data is classified as information that has been collected and used for other purposes than the current thesis. All types of data previously published and with no original intention of being connected to the research in question can be classified as secondary data; books and magazines for instance. Secondary data is commonly used at the beginning of the research

project since it is easier and less expensive to gather (Befrin, 1994). Here, an apparent risk of using inaccurate data and data which the originator has twisted by imposing his/her own values in the transformation process exist (Wiedersheim-Paul and Eriksson, 1991).

At the beginning stage of our research we tried to gather as much useful secondary data as possible that covered our topic. By reading articles, books, other research papers, the Swedish law, and annual reports, we increased our awareness and knowledge of our chosen topic and from there we were able to formulate a research problem. The secondary data helped us understand the complexity of the new Danish tax regime and the material we read covered both accounting and tax issues. Most of our readings are found at the library of Handelshögskolan, but some are extracts from governmental issues and others are publications from Ernst & Young.

2.4.3 Data Selection Group

To begin with, we identified several Swedish interested parties that we believed would be affected in one way or the other by the new Danish tax regime. We considered the areas of tax planning, tax competition, and tax harmonization to locate these interest groups. Based on this criterion, we recognized four different interest parties who we believed would be influenced by this new Danish tax regime and similar tax regulations. They are:

- the multinational company
- the financial analyst
- the tax consultant
- the State authorities

At first our intention was to only interview Swedish multinational companies, but through further penetration of the problem we realized this would only

give us one perspective, and therefore, we decided to include other interest parties who also may be affected by this new Danish tax regime in our interviews. We believe that by including different interest parties in our interviews, we will understand the problem from different angles, which will enhance our analysis.

We will enlighten our problem, not only from a company perspective but also from a state authority perspective, as well as from an outsider's perspective such as the financial analyst and the tax consultant. Basically, two groups with different views can be identified, the group that gains from tax competition and the group that usually opposes tax competition. In the first group we find the multinational companies, the financial analyst, and the tax consultant; and the state authorities represent the second group.

The multinational companies use the tax system to minimize the amount of tax to pay. The tax consultant and financial analyst also take an interest in reducing the tax expense. Here, the focus is on the economical perspective of saving money.

The companies selected are therefore based on the figures in their 1998 annual reports. We looked at net sales and also the amount of tax paid for the year. The higher these numbers, the more interested we were in including them in our data selection group. We are aware of these numbers being specific for this year only, and that they are subject to change depending on where in the process the company is of restructuring, reorganizing, investing, and changing its operative environment. But, we still believe these numbers give us an indication that the chosen companies have a potential of being highly affected by tax laws. Since these companies have large turnover, any reduction in the effective tax rate can result in significant savings.

Another criterion that we took into consideration was whether the companies were operative in Denmark at the moment or not. We believed that by already being present on the Danish market, the chances would increase that the companies would be affected by the new regulation. Therefore, all the companies elected had some type of activity in Denmark.

Following our selection criterion, we elected seven multinational companies who play an important role for the Swedish economy. We searched the Internet to find contact information, and depending on the information present we contacted the companies either by email or by telephone. Our goal was to interview at least four companies which we thought would give us a good indication of how multinational companies perceive this new Danish tax regime. We received five positive responses. Due to the wish of remaining anonymous we cannot reveal who the people interviewed are and what companies they represent.

Once our selection criteria were set a decision of whom to approach within the different companies was made. We felt a couple of options were available, one was to interview managers who were decision-makers and the other one was to interview the tax experts within each company. We took the second approach of finding the experts in the area of international taxation. Some of our interview subjects had a background in business while others had degrees in law. We understand that the people asked to participate in our interviews may not make the final decisions, but we believe they are the ones with the knowledge and in many instances will influence the decision-makers to take certain actions.

The financial analyst chosen is employed by "Aktiespararna", a growing private organization for shareholders with 126,000 members, who has a large influence on the Swedish stock market. He analyzes all types of listed companies, which gives him broad and well-rounded knowledge. This would

not have been the case had we chosen an individual who focuses on a small number of companies or a certain trade. Finally, the tax consultant works for a well-respected auditing firm with many clients among international companies in Sweden. Their tax department is in a stage of expansion and has many qualified specialists in the area of international taxation (Ernst & Young, 1998). Both the financial analyst and the tax consultant were contacted by phone and willing to participate in our interviews.

The other group, with a quite different perspective, is state authorities. For them it would be more important to ensure a certain level of tax income, hence international tax competition can become an obstacle or a tool. Therefore, we wanted to include their perspective in our thesis and map their attitudes and opinions on the new Danish tax regime. We turned to the Swedish National Tax Board since they are the link between the Swedish tax authorities and other countries' tax authorities. The other state authority interviewed was the international unit within the Ministry of Finance. Our reason for choosing them was that they work directly under the government with international tax issues, such as writing double taxation agreements and they also work with tax issues on EU's agenda.

2.5 Quality of research

In doing research, it is crucial that the data collected is relevant and closely related to the research problem, especially since the data often is used for the purpose of creating conclusions and report on findings. If the data collection is not performed appropriately the whole research can be rejected. The level of credibility of the data gathered is extremely important and is expressed in terms of validity and reliability (Befring, 1994). To achieve a high level of reliability and validity, we have taken certain measures which will be presented together with a more detailed description of the two terms below.

2.5.1 Validity

Validity can be defined as an instrument that measures what is supposed to be measured (Wiedersheim-Paul and Eriksson, 1994). The real problem is to find out whether the result measured is affected by other factors than the ones the researcher intends to research. Validity is basically a term used to assess the credibility of the data collected (Befring, 1994).

In order to pose relevant questions in our interviews, we have constructed different questions depending on who the interviewee is. Each set of questions is closely linked to the expertise and interest of each group, and at the same time we have tried to stay focused on our research problem. This should create questions that are closely connected to our research problem and improve the level of validity. In addition, the interviewee is able to answer the questions in his/her own way since they are open-ended, which also will boost the level of validity. And, since the interviews are personal we avoid the risk of misunderstandings, which could also affect the degree of validity. The questions are included in the appendix for further scrutiny.

2.5.2 Reliability

Reliability, on the other hand, is used to describe how reliable the measurements in the research are. Traditionally, a measurement is reliable if it is not affected by coincidence. For example, all interviews are conducted in the same way using the same questions. In order for research to be perceived as highly reliable it is necessary that two independent researchers reach the same result in doing the same research. A high level of reliability is characterized by a reliable measurement, and the data can be further used to illustrate the scientific problem (Trost, 1997). Interestingly, it is possible to achieve a high level of reliability without having a high level of validity. But,

in order to reach a high level of validity, a high level of reliability must serve as a prerequisite (Patel and Davidsson, 1994).

The basic idea with reliability is that the research is quantitative, which provides measurable data. This also means that the interviews should be standardized with less room for flexibility. However, qualitative interviews which we will conduct assume a low degree of standardization. Therefore, to discuss reliability in situations that requires qualitative research becomes somewhat difficult (Trost, 1997).

Still, it is important to prove reliability and that the data used in the research is relevant to the problem. We will be as objective as possible when conducting the interviews, and also in presenting the material from the interviews which should improve reliability. Another device used to avoid subjectivity was the tape recorder. Because of this technique we were able to go back to what was said in the interviews at any time, which ensured that nothing was missed or falsely interpreted. But, one disadvantage with taping an interview which the reader should be aware of is that the interviewee may feel somewhat restricted and may not be as spontaneous in his/her answers (Patel and Davidsson, 1994). Based on the tape recordings, we also typed the interviews and passed them on to the interviewees for their scrutiny. This once again improved reliability by reducing the chances of misunderstandings.

3. Theoretical framework

The purpose of this chapter is to provide the reader with a background to our problem. First, we will define a couple of keywords used throughout the thesis. Following this section, the issues of tax competition, tax planning, and tax harmonization within the EU will be described. Thereafter, the reader will find a presentation of the new Danish tax regime and the Swedish rules in the same area, including some basic international taxation rules. These parts will be the basis for the theoretical framework which should enhance the understanding of the summary and analysis of our interviews. Also included in this chapter is the ongoing debate of the new Danish tax law, which shows how topical this area is.

3.1 Definitions

To start with, we will present two definitions that are important for the total understanding of our thesis. We will define the terms *multinational company* and *holding company* so that the reader will be able to understand the contents and the meaning of those terms since they are used continuously throughout the thesis.

3.1.1 Multinational Company

Usually when we refer to multinational companies we think of enterprises that are involved in business across borders. In our thesis, the term multinational company will be used to refer to a multinational corporation, which limits the discussion to certain organizations, not including, for example, partnerships. Radebaugh and Gray describe this type of business in more details, and to be considered an international business, activities should involve a “worldwide view of production, the sourcing of raw materials and components, final markets”. In terms of figures, no clear definition is available as to what would

be classified as a multinational company. But, as a rule of thumb, to be classified as a pure multinational company, at least 10 per cent of indicators such as sales, assets, earnings, and employees must have some international engagement. The amount of international involvement can also be measured by looking at the degree of international experience of key executives (Radebaugh and Gray, 1997).

3.1.2 Holding Company

A holding company is commonly used as part of the legal structure of a group of companies. One economic dictionary defines a holding company as “a company whose sole function is holding shares in other companies” (Oxford dictionary of economics, 1997). This can also be referred to as a pure holding company. A holding company could also, in certain situations, have features such as employees, production and real estate (Romano, 1999). However, when we are discussing holding companies we refer to the pure holding company unless something else is stated. A legal definition of the same term was found in a legal dictionary and it reads as follows: “A company (H) is a holding company, and S is its subsidiary organization if: H is a member of S and controls the composition of S’s board of directors, or H holds more than half in nominal value of S’s equity share capital, or S is a subsidiary of any company which is H’s subsidiary” (Dictionary of Law, 1988).

To further clarify the term “holding company”, we also turned to some business literature. In an advanced accounting book, the term holding company refers to a parent company that “is organized for the sole purpose of holding stock in subsidiaries” (Griffin et. al., 1971, p.209). Sören Bjarnäs, Staffan Estberg and Per Snellman wrote that if a company is to establish a number of subsidiaries abroad, the possibilities of using a holding company as part of the owner structure, should be considered (Bjarnäs et. al.,1992). From

this literature, we understand the importance of a holding company, and that it is something commonly used by multinational companies.

The Swedish definition of a holding company can be found in art. 7 sec. 8 paragraph 2 of the State Income Tax Act. It says that a holding company is a Swedish corporation or a Swedish incorporated economic association that does nothing but manages stock or similar commercial papers or personal property and has no or only insignificant indirect or direct operations (Wiman, 1991).

A holding company can either be a national holding company or an international holding company. When we say national holding company, we mean a company that a multinational company establishes as a parent company of a group of operative companies located in the same country. The other type is the international holding company, which holds stock in a number of companies in different countries. The reason for its existence is mainly of a tax nature. It reduces the amount of withholding tax for example. (see below) (Tivéus, 1997).

3.2 The Purpose of a Holding Company

There are a number of reasons why companies investing in Europe establish holding companies. One important reason is to minimize the amount of tax due for the group as a whole, tax planning. Sören Bjarnäs, Staffan Estberg, and Per Snellman (1992) explain three examples of when the use of a holding company can be tax advantageous.

The first example is when the country (A) where the holding company is located has more favorable double taxation agreements than the home country (B) has with the country of establishment (C), where the operational activities are conducted, in terms of withholding tax on dividends. In other words,

having a holding company in between the parent and the subsidiary in a third country can reduce the withholding tax.

The second example refers to a situation where the group has several subsidiaries in the same country. In this case a holding company can be established to tie the group together for the purpose of income equalization (Bjarnäs et. al., 1992). These types of holding companies are referred to as national holding companies which were described above. The group is viewed as one fiscal unit and losses in one company can be deducted from profits in another company of the same group. Great Britain is an example of a country where this is possible, but there are also countries where group taxation is non-existing such as Sweden, Belgium, Italy, and Japan. However, Sweden employs group contributions in certain instances according to art. 2 sec. 3 of the State Income Tax Act, which can be compared to profit equalization, but we will not go into detail on when or how these rules are applied.

The third example refers to a situation where one or several profitable foreign companies in one country are exposed to a high level of income tax and where income equalization is possible. In this case it can be advantageous to establish a holding company in that country. The holding company then buys the shares in these profitable companies with borrowed capital. By increasing the financing costs in the foreign country, the tax base in the foreign country is reduced. At the same time, the tax base in the parent company location is increased and if that country has a lower rate of corporate income tax the group can take advantage of this shift of income (Bjarnäs et. al., 1992).

Reasons other than tax reductions for establishing holding companies include gaining legal and economic control of other companies. Still, it appears as if the decisive factors in choosing a holding company location are specific tax elements such as special incentives for headquarters, reducing or abolishing

withholding tax on dividends, conversion of income, and reducing taxes paid on dividends (Romano, 1999).

3.3 Tax Competition

At first, tax policies were developed primarily to address domestic economic and social concerns. The main issue was to establish a desired level of publicly provided goods and transfers while regarding the aims of allocation, stabilization, and redistribution considered appropriate for the country. The question was whether to apply a high tax rate, which meant higher level of governmental spending, or a low tax rate and limited public outlays. These decisions were primarily domestic (OECD, 1998).

Today, the situation is different. With the accelerating process of international trade and investments the old domestic tax systems are suddenly affecting each other and dramatic changes are made to them in many countries for the reason of staying competitive by offering a favorable tax environment. Globalization has increased the mobility of capital and the financial market. This has encouraged countries to adjust tax policies and even change tax laws in order to improve the fiscal environment for foreign investors. Companies, especially multinational companies, are developing global strategies, and consequently the domestic country is not the only country of importance. As a result, countries exploit these opportunities by developing tax policies aimed at diverting financial and other geographically mobile capital. This means that companies and individuals are given the opportunity to take advantage of countries' different tax policies and thus minimize or avoid taxes.

According to OECD (1998), tax competition can be harmful to the world economy as a whole. They state that tax competition of this sort can result in changes in tax structures in which all countries may be forced to modify their tax laws. Furthermore, the OECD declares that they do not expect any two

given countries to have the same level and structure of taxation, and that countries should remain free to design their own tax systems as long as they do not differ too much from internationally accepted standards declared by OECD.

The main problem is that tax competition and the interaction of tax systems can have effects that some countries may view as negative or harmful, while at the same time other countries are of a different opinion. For instance, one country may offer investment incentives as an instrument to stimulate the domestic economy. However, for another country this same incentive might reduce investments and consequently capital will be redirected from one place to another. If a country tailors their tax policies to attract investments or savings originating elsewhere, or facilitates the avoidance of other countries taxes it is labeled as harmful tax competition (EU Council, 1997).

According to the OECD (1998), tax havens and harmful preferential tax regimes have the potential to cause harm in many different ways. For instance, it is stated that these countries distort the financial, and indirectly, real investment flows as well as undermining the integrity and fairness of tax structures. Furthermore, they discourage compliance by all taxpayers. As we mentioned earlier, tax havens and preferential tax regimes also reshape the desired level and mix of taxes and public spending, and they also cause undesired shifts of part of the tax burden to less mobile tax bases, such as labor, property, and consumption. Finally, OECD declares that increased administrative costs and compliance burdens on tax authorities and taxpayers are another product of harmful tax competition. These harmful effects range along a spectrum and the effects will differ depending on which country is the focus.

3.4 Tax Planning

Tax planning refers to the action of taking the tax effects of economic decisions into consideration. Through tax planning companies tend to avoid situations that are tax disadvantageous and that bring about risks for unforeseen tax consequences. The chosen alternative should, therefore, always result in the best tax situation, given that the operations still run smoothly. However, proper tax planning always follows the laws, which is avoiding circumstances that result in unexpected outlays. Also, in order to reach the ultimate tax situation companies should consider not only the micro/macro economical effects, but also the civil laws and other practical consequences (Malmer et al, 1994). Because of the existence of tax competition between nations, it has become increasingly important for multinational companies to tax plan. Tax competition provides an opportunity for companies to effectively plan their operations and structures so that the amount of tax paid is reduced.

To plan effectively, multinational companies must understand not only the intricacies of their own operations worldwide, but also the different tax systems and how to interpret the tax regulations in different countries. They must be acquainted with the national tax regulation where the parent is located as well as the host countries tax regulation. They must also be aware of how the parent company is taxed on foreign source income by the country of location. This knowledge should then be used in order to organize, as effectively as possible, the foreign operations so that the legal structure will be optimal for each company as well as for the group as a whole. Basically the goal of tax planning is to reduce the amount of tax paid on worldwide income (Eitemann et. al., 1998). Therefore, a company may consider the usage of a special-purpose corporation or even a tax-haven affiliate. Such a special-purpose corporation can be a holding company.

One example of how tax planning can be used in practice is described in an article in "Svenska Dagbladet". Lasse Svärd (1999) wrote that Volvo, a Swedish company, employs zero taxation for 104 out of their 106 companies in the group and only paid 25.3 percent in income tax for 1998, even though the normal corporate income tax is 28 percent in Sweden. Volvo's tax average over the last three years has only been 19.6 percent. Company tax is an important national economic issue, and the companies should take responsibility and contribute to the development of society. If the focus is only on keeping taxes to a minimum, the companies will have a difficult time being considered credible when they demand tax reductions and at the same time demand that more resources are spent on higher education (Svärd, 1999). The article was not explicit, but we assume that social welfare, pensions, and infrastructure are, among other things, part of what the companies' demand.

3.5 Tax Harmonization within EU

Apart from the process of harmonization of indirect taxes, EU has adopted the directive on Mutual assistance in direct tax matters. From July 1990, three important measures regarding company taxation have been adopted. The first one, the Parent-Subsidiary Directive (90/435/EEC), ensures that the member state of the parent company either refrains from taxing the dividends of the subsidiary that is resident in another member state, or if it taxes such dividends, that it authorizes the parent company a tax credit in the amount of corporate tax paid by the subsidiary in the other member state. In addition, this directive has abolished withholding taxes on dividend flows and income tax on dividends between the companies residing in different countries in the group granted a minimum of a 25 percent share ownership. The second one, "...the EC merger Directive (90/434/EEC), requires member states to allow for the deferral of gains in a merger, division, transfer of assets, and exchange of shares within Europe". Finally, the third one is the convention on the Elimination of Double Taxation in Connection with the Adjustment of Profits

of Associated Enterprises (90/436/EEC). This measure eliminates double taxation in cases where the tax authorities adjust the taxable income of associated enterprises (Romano, 1999).

The EU has also taken action in order to prevent harmful tax competition. On the 1st of December 1997, the EU council agreed on a package of measures in their effort to manage harmful tax competition. The goal is to reduce distortions in the single market, to prevent excessive losses of tax revenue and to develop tax structures in a more employment-friendly way. The measures include a Code of Conduct that deals with business taxation, taxation of income, the treatment of withholding taxes on cross-border interest, and royalty payments. The Code of Conduct defines harmful tax competition and contains examples of what harmful tax regulations could be in the field of business taxation. These are factors used for the assessment of harmful regulations. There is also a commitment to not introduce new harmful tax rules and to rollback existing ones (OECD, 1998).

Despite this fact there are still many favorable tax regimes around Europe. Following the realization of a common market among EU member states, the establishment of holding companies has become increasingly attractive throughout Europe. Before the new Danish tax regime for holding companies was adopted, the most favorable country for establishing a holding company was the Netherlands. But Denmark is now a strong contender with a favorable holding company tax climate in the competition between countries to attract multinationals to establish holding companies (Shelton, 1998/1999).

3.6 The Current Danish Tax Laws for Holding Companies

In the new Danish tax law that was passed by the Danish parliament (Folketing) on December 18, 1998, two main features are introduced. In addition to these, several other aspects of a favorable tax climate are present in

the Danish system. What makes Denmark an attractive place for starting up a holding company are these two main features:

1. "No corporate income tax (or other tax) levied on a Danish holding company with respect to dividends received from a subsidiary, irrespective of the subsidiary's jurisdiction.
2. No withholding tax levied when the Danish holding company pays dividends to the parent, irrespective of the parent's jurisdiction " (Hjortshoj and Bjornholm, 1999, p. 1).

In addition to these points, no taxes are imposed on share capital gains if the shares have been held for more than 36 months unless the holding company is a stockbroker or if CFC taxation (will be further explained below) applies to the holding company. Also, no tax is levied on the parent's capital gains at the time of disposal of the Danish holding company. In other words liquidation proceeds from a Danish holding company is not subject to Danish taxation, nor gains realized by a sale of shares in the Danish holding company.

3.6.1 Tax on Dividend Income

The first feature of this favorable Danish Tax law package concerns corporate income tax on dividends from a foreign subsidiary to a holding company. In the case where a holding company owns at least 25 per cent of the shares in the subsidiary for a consecutive period of one year or more during which the dividends are paid, the holding company is not subject to income tax on dividends paid by the foreign subsidiary to the holding company. "The 12-month requirement may be met subsequent to the time the dividends are declared" (Ernst & Young- Tax department, 1999). In addition, for this ruling to hold true the foreign subsidiary which distributes the dividends must not be engaged in solely financial activities and simultaneously be taxed at a low rate

(see definitions below). If these last two conditions exist and the Danish parent company owns at least 25% of the share capital in the foreign subsidiary, the company will fall under CFC taxation. CFC stands for Controlled Foreign Company where the parent exercises control or has a controlling interest over a foreign subsidiary. This occurs if the parent company directly or indirectly owns at least 25% of the share capital, or if it directly or indirectly controls more than 50% of the voting rights in the subsidiary. If a foreign subsidiary is subject to CFC taxation, any profits of the foreign subsidiary will be added to the tax base of the Danish parent company and be subject to Danish corporate income tax of 32 percent. However, after three years all dividends from the foreign subsidiary are tax-exempt (Steenholt and Josephsen, 1999).

3.6.2 Definitions of Financial Activity and Low Taxation

The following two terms that we will define are used in relation to tax-exempt dividends and CFC taxation, and they are part of the above described Danish regulation concerning holding companies.

3.6.2.1 Financial Activity

“The activity of a foreign subsidiary is deemed to be mainly of a financial nature if more than 1/3 of the market value of its gross assets is deemed to be financial assets or if more than 1/3 of its gross income is deemed to be financial income” (Steenholt and Josephsen, 1999, p. 148). Holding companies are mainly considered to be engaged in financial activities and those dividends are not tax-exempt. In order to define whether a foreign subsidiary is involved in mainly financial activities, a consolidated basis is applied. This means that if the foreign subsidiary acts as a holding company and has several sub-subsidiaries in the same country, the activities of each

sub-subsidiary as well as the foreign subsidiary is considered (Steenholt and Josephsen, 1999).

3.6.2.2 Low Taxation

As a general rule, a company is considered to be subject to low taxation if it is taxed at a rate of 24 per cent of a tax base comparable to the Danish standards for calculating a tax base. In other words, the minimum tax rate should be at least 75 per cent of the Danish corporate tax rate of 32 per cent. The effective foreign tax rate should be calculated and be consistent over several years. In certain cases, simply the fact that the principles of taxation vary between the foreign jurisdiction and Denmark may be an indication that the foreign company is taxed at a low rate. For example, if the foreign company has high depreciation rates, tax loss carry-back rules, tax loss carry-forward rules, the reduction of tax losses in case of a change in ownership, the taxation of capital gains are more favorable than the Danish tax laws (Steenholt and Josephsen, 1999).

3.6.3 Withholding Tax on Dividends

Under the condition that the foreign company holds a minimum of 25% of the shares in the dividend-declaring Danish company, those dividends are not subject to a withholding tax. In addition, for this law to be applicable it is necessary that the Danish company is registered under the definition of an eligible company in Art. 2 of the Parent-Subsidiary Directive (90/435/EEC). This extends to a Danish public limited company ("aktieselskab") or a Danish private limited company ("anpartsselskab"), and it may also include an EU company having its effective management in Denmark. This means that a parent company may receive dividends that have not been subject to a withholding tax irrespective of which country the parent is located in and the level of taxation in that country (Hjortshøj and Bjørnholm, 1999).

3.7 The Debate Concerning the New Danish Tax Regime

One law that could be considered tax competitive is the new Danish tax regime that was introduced in the beginning of 1999. This regulation has several characteristics which many portray as favorable; they will be presented in a later section of the thesis. For the purpose of tax planning, these new rules and similar favorable tax laws are what ought to be considered. Bech-Brunn & Trolle Law Firm (1999), operating out of Copenhagen, urge multinational companies to consider the benefits of a Danish holding company.

Nevertheless, Ned Shelton (1999), an International Tax Counsel of Copenhagen, Denmark, expects multinational firms from the United States, Japan, Canada, and other investors who invest via tax havens into countries with a dividend withholding tax to contemplate the advantageous features of new Danish regulation. In his article Shelton suggests that we will see holding companies move from Netherlands to Denmark. The consensus appears to be that the new Danish tax regulation offers a little more than the earlier group of favorable holding company tax regimes. Previously, this description used to fit the Netherlands, but those days are over.

An evident example of the statement above is an article published in the Swedish financial newspaper, "Dagens Industri". The article explains how an American company, Fox Entertainment Group, is moving its holding company from the Netherlands to Denmark. They claim the reason for this move is that Denmark is the world's most favorable tax haven for holding companies, even more favorable than the Netherlands. American companies normally pay a withholding tax in Europe, so for them the Danish regulation with an elimination of withholding tax on dividends is tailor-made. As a result of the new Danish tax rules, about 2000 new holding companies have been established in Denmark until this date. The article also claims that several

Swedish companies are considering a Danish holding company location (Wrede, 1999). And we can probably expect other companies to follow in the steps of Fox Entertainment. Erik Overgaard (1999), a lawyer at Danish Plesner & Groenborg, states that they have had several inquiries on how to set up Danish holding companies. However, according to The Ministry of Finance, the situation in Sweden has not dramatically changed because of the new Danish regulation, but the development will be carefully monitored (Ringholm, 1999).

Historically, Denmark has had an advantageous tax regulation for international companies. Because of this, companies like the furniture company IKEA and the petroleum company Borealis have located their headquarters in Denmark. Since it took over the governing of Denmark in 1993, the Danish current government has consequently followed the objective to provide Danish business with internationally competitive taxation rules. They want Denmark to be an attractive location for business, and this new Danish tax regulation that came into effect in 1999 follows the objective of the Danish government (Stavad, 1999).

3.8 The Swedish International Company Taxation

The purpose of this section is to describe some aspects of the Swedish international company taxation, thereby giving the reader an opportunity to understand the multinational companies' tax situation in Sweden. By understanding how nations' tax laws are comprised, it is possible to see how tax-planning activities develop. Naturally we have chosen to describe part of the Swedish tax regulation since our study is based on, among other things, Swedish multinational companies. By including this section on the Swedish regulation in this area, the reader will also be able to put the Danish holding company tax laws into perspective regarding other holding company tax regimes.

In Sweden the corporate income tax is today 28 %, and each corporation is a tax unit, which means that Swedish group companies are not taxed on a consolidated basis. However, group companies in Sweden can, in certain instances, exploit the rules on group contributions, and are thereby able to apply profit equalization. When looking at how a foreign company is taxed in Sweden, it is important to understand the difference in treatment depending on whether or not the company is considered to have full tax liability or limited tax liability. Swedish legal entities, apart from partnerships and sole proprietorships, are always considered to be unlimited. However, foreign legal entities are generally treated as having a limited tax liability, which means they are only liable to pay tax on income covered in the Swedish laws (Tivécus, 1994).

A Swedish legal person who has unlimited tax liability must pay taxes on the total income independent of where in the world it is generated (Art 6 sec. 1b of the State Income Tax Act.) In order to determine the nationality of a legal person there is one relevant criterion to look at and that is whether or not the company is registered in Sweden.

If the nationality determined is anything but Swedish, a further classification must be made. Is the foreign legal person also a foreign company? The term foreign legal person has a wider implication than foreign company. It refers to an association that, according to the legislation in the country where it is domiciled, has rights and obligations and can speak for the court and other governmental units. In other words it possesses its own legal capacity, and is an association where the individual owners do not have the right to freely dispose of its capital. Both these requirements must be fulfilled in order for a company to be defined as a foreign legal person. The result of this is that a foreign subsidiary's income is exclusively taxed in the foreign country and according to their laws as long as the income does not leave the country of

establishment unless CFC taxation is applied. The Swedish CFC-rules apply when a foreign subsidiary is subject to low taxation. In this case, the parent company will be subject to taxation on profits in the foreign company even though they are not distributed. These rules are governed in art. 16 sec. 2 of the State Income Tax Act and art. 53 subparagraph 10 of the Municipal Tax Act.

However, in order for a foreign legal person to be classified as a foreign company, one of the following conditions must be met:

- The foreign legal person is, in its country of domicile, subject to a taxation that is similar to the taxation faced by the Swedish corporations or,
- The foreign legal person resides in one of the countries represented in one of the double taxation agreements signed by Sweden, under the condition that the foreign legal person is an entity where the agreements' delimitations on the right to tax are applied (Tivéus, 1994).

Both the foreign legal person and the foreign company have a limited tax liability according to art. 6 sec. 1 c and d in Swedish State Income Tax Act, but the scope varies depending on which type one is referring to (Mattson, 1997). The foreign company escapes CFC taxation; the shareholders of a foreign company are not taxed on the income generated by the foreign company (see above). This differs from a foreign legal person other than a foreign company where CFC taxation may be applied. However, they are both taxed in Sweden on income from operations managed in a permanent establishment located in Sweden, on income from sale of real estate in Sweden, on income from dividend on shares in a Swedish economical association, and on a refund of tax (Tivéus, 1994).

A permanent establishment is defined in art. 53 subparagraph 3 of the

Municipal Tax Act and it reads as follows: The term permanent establishment for commerce refers to a permanent place of business, from where all or part of the operation is conducted (Rabe, 1997).

To summarize, the basic international tax laws differentiate between a company with limited tax liability and a company with unlimited tax liability. Once this distinction is made and the focus is on the companies with a limited tax liability, the next step is to determine whether or not the company represented is a foreign legal person and at the same time a foreign company. Another important dimension that determines the right to impose taxes is whether or not the company operates from a permanent establishment. This is basically the foundation of the Swedish international taxation, and from here the specific laws are applied depending on what type of company that is present.

3.8.1 Tax on Dividend Income

The Swedish tax legislation in regards to dividends from a foreign legal person consists of a main rule and a presumption rule.

3.8.1.1 The Main Rule

According to art. 7 sec. 8 paragraph 6 of the State Income Tax, the main rule is stated as follows:

A Swedish corporation is exempt from tax on dividends received from shares or similar participation rights in a foreign legal person (including a foreign company), granted the following conditions are met:

- The dividends would have been tax exempt had the distributing company (foreign legal person) been Swedish and;

- The taxation of income that the foreign legal person is subject to is comparable to the taxation that would have taken place had the income been generated in Sweden.

The requirement of a comparable taxation has caused concerns because both the tax base and the tax rate must be taken into consideration. The bill of legislation suggests that a comparable taxation exists if a minimum of a 15 percent tax rate is used on a tax base calculated according to Swedish rules. If this level is not met, the distributable profit will be subject to tax in the Swedish company, but 13 percent of the gross dividends received can be used as a deduction (Mattson, 1997). However, it is not only the taxation situation in the country where the foreign company is located which is of importance. In addition, the taxation situation in the country distributing dividends to the foreign company should be considered. The fact that the dividends received by the foreign company may have been tax-free, and at the same time only a low or no income tax was applied in the company where the income was generated cause a concern and should be considered when determining if a comparable taxation exist.

3.8.1.2 The Presumption Rule

In order to facilitate the practical complications of applying the requirement of a comparable taxation a presumption rule was added; it is found in art. 7 sec.8 paragraph 7 of the State Income Tax Act (Mattson, 1997). It reads as follows:

A foreign legal entity located in any of the countries with whom Sweden has established double taxation agreements, shall be assumed subject to an income taxation that is comparable to the one applied according to the Swedish law.

This presumption is applicable if the entity's income is derived from operations conducted in Sweden or the other country in the agreement, and that the operations are subject to a normal income tax in the countries where it takes place. In this case, a non-substantial part of the income is derived from operations taking place in any other country than the parties of the agreement, or if a non-substantial part of the income is derived from a tax advantageous situation it should still be considered subject to comparable taxation (Rabe, 1997).

Furthermore, two additional paragraphs, 8 and 9, were added to art. 7 sec. 8 of the Swedish Income Tax Act in 1994. The reason for the addition was to adjust the Swedish law to the requirements of the Parent-Subsidiary Directive. In practice, the parent company located in Sweden can receive tax-free dividends from a subsidiary located in a different member state even if the shares owned are not shares necessary for the business conducted by the owner. In addition, it is not necessary to have a 25 percent share of the voting rights; the requirement is only a 25 percent share of capital in these types of companies.

3.8.2 Withholding Tax on Dividends

The Withholding Tax Act (1970:624) administrates situations when dividends are paid to a foreign legal person (including a foreign company). The main purpose of this law is to tax dividends which are distributed to entities not located in Sweden. The reason for the existence of withholding tax is that governments recognize that most international investors will not file a tax return in each country of investment, and therefore, to secure a minimum amount of tax income, a withholding tax is imposed. Swedish companies paying dividends to foreign legal entities are obliged to withhold 30 percent in taxes unless the dividends are derived from business conducted by the owner at a permanent establishment in Sweden (Rabe, 1997). The parent-subsidiary

directive is also taken into consideration and if the legal entity is located within a country that is a member of the European Union and owns at least 25 percent of the shares of the dividend distributing company no withholding tax is imposed (Rabe, 1997). However, at the moment a proposal of abolishing withholding tax in general is circulating. The result pending is not expected to meet any opposition.

3.9 Comparison

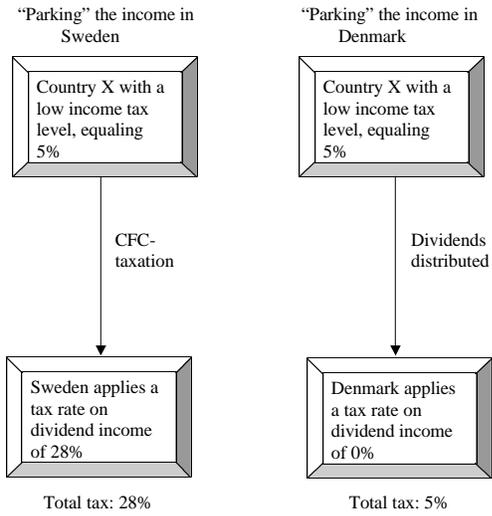
In this section we will point out some differences between the Swedish and Danish regulation in terms of tax on dividend income and withholding tax on dividends. We will illustrate, with some simplified examples, what the result of these differences can be. These are only a few examples of many different situations that may occur, but they clearly depict different tax consequences stemming from the differences in the two nations' tax rules. The reasons for the illustrations are to make the differences in tax laws understandable to the reader and they depict the reason for our study; it is what make our research worthwhile.

3.9.1 Tax on Dividend Income

The major difference between the Swedish and the Danish holding company tax regulation is that holding companies in Denmark are not taxed on dividend income regardless of the tax rate in the country where the income is generated. In Sweden the dividend income is only tax-free when the foreign legal entity is subject to a tax rate that is comparable to the Swedish tax rate. Again, the comparable tax rate is set at 15 percent based on the net income calculated according to Swedish rules. The following examples will illustrate the difference between the two countries, and this scenario only considers the income arriving in Denmark and Sweden. We will not reflect on what occurs after that point. It is also assumed that the foreign subsidiary is not solely

engaged in financial activities, and therefore CFC taxation is still applied in Sweden but not in Denmark. This is due to the fact that the Danish CFC regulation only applies when the subsidiary is engaged in financial activities and taxed at a low rate while the Swedish CFC taxation is general.

Figure: Comparison of tax on dividend income 1



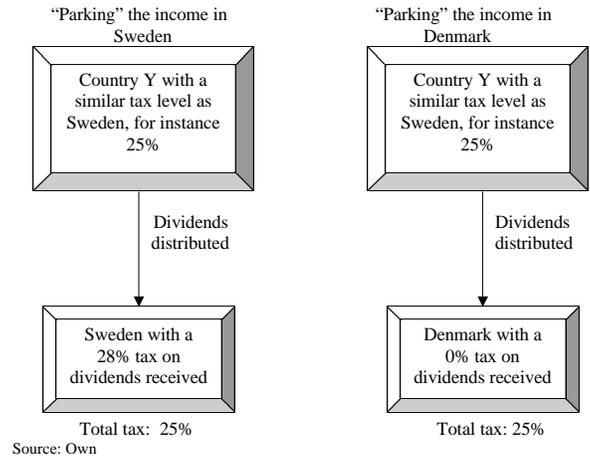
Source: Own

Since the income generated in country X is not subject to comparable taxation following the Swedish rules, CFC taxation is applied according to art. 16 sec. 2 paragraph 2 of the State Income Tax Act and art. 53 subparagraph 10 of the

Municipal Tax Act. Therefore, in this case the Swedish shareholders are taxed on the profits generated in country X even if they are not distributed. The tax paid for the group is 5 percent in country X plus 28 percent in Sweden and according to the Credit of Tax Act (Rabe, 1997) the 5 percent paid in country X can be deducted, the total tax then equals to 28 percent. This can be compared with the Danish situation where CFC taxation is not applied and no tax is levied in Denmark, and the total tax then only equals 5 percent.

In another situation where the income generated is subject to a comparable tax rate calculated according to the Swedish rules, the result differs from the example above.

Figure: Comparison of tax on dividend income 2



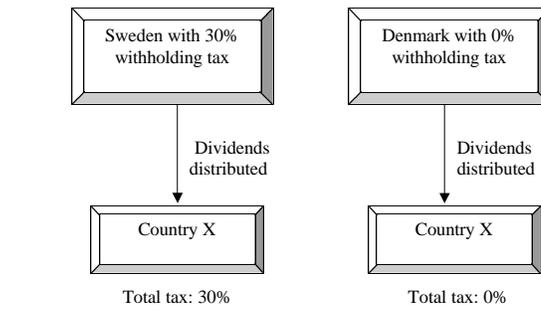
In this case CFC taxation does not apply in any of the countries since the income in country Y is not considered to be faced with low taxation. The total tax is the same, 25 percent regardless of which country receives the dividend income.

The first example is a clear illustration of a situation in which the Danish regulation would be preferable over the Swedish regulation from a pure tax planning perspective. While the second example describes a situation where neither is better than the other.

3.9.2 Withholding Tax on Dividends

In Sweden, a 30 percent withholding tax is levied in certain situations, (see the Swedish withholding tax section above) on dividends paid to a foreign legal entity, which differs from the Danish tax law where no withholding tax is imposed at all. Below is an example which illustrates these two situations:

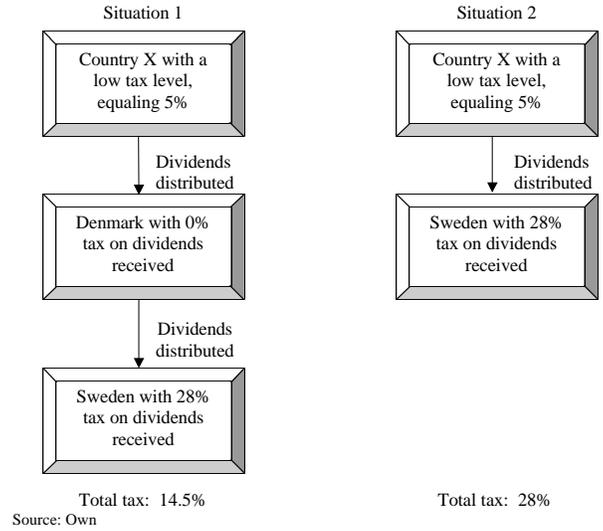
Figure: Comparison of withholding tax on dividends



Source: Own

However, withholding tax is often reduced or eliminated through the many tax treaties that exist between countries. The next section will briefly describe what a tax treaty is and how they can be used.

To conclude this section we want to illustrate how the Danish tax regulation in fact can make a difference for a Swedish multinational company in a tax planning purpose. This illustration presents a situation where a Danish holding company is used to reduce the amount of total tax paid for the group. This example assumes that the Danish CFC rules are not applied while the Swedish ones are applied.



By taking the dividends through a Danish holding company, the Swedish company can circumvent the Swedish CFC rules and reduce the amount of total tax paid. In Situation 1, the Swedish company will be subject to a tax equaling 14.5 percent. The calculation will be as follows: $(28\% - 5\%) \times 95 - (95 \times 13\%) = 9.5\%$ taxes paid in Sweden plus 5% paid in country X equaling 14.5%. This calculation is done according to art. 1 sec. 3 of the Credit of Tax Act where it is stated that a 13 percent reduction of the gross amount of the received dividend ($100 - 5 = 95$) is allowed as well as a reduction of the taxes paid in the foreign country. Situation 1 can then be compared to situation 2 where the Swedish company will be subject to CFC taxation. The income generated in the foreign subsidiary will then be taxed at a rate of 28 percent even if dividends are not distributed to the Swedish company (Rabe, 1997).

3.10 Tax Treaties

Now that we have covered some parts of the company law in Denmark and Sweden, we will complicate matters by introducing another topic: tax treaties. This brings a different dimension to international tax issues, in that these treaties may nullify everything previously stated from the different national laws. "Differences in philosophy about how income should be taxed have given rise to tax treaties between countries to minimize the effect of double taxation on the taxpayer as well as protecting each country's right to collect taxes and provide ways to resolve jurisdictional issues" (Radebaugh and Gray, 1997, p. 618) These treaties can be multilateral or bilateral, but we will focus on the bilateral treaties, as they are the most common and comprehensive ones. Double taxation emerges when a national of one country receives income or owns capital that is taxable by more than one country; basically the same income is taxed in more than one country.

Tax treaties are used to specify which income, earned by a person or a company, to tax if the entity is a national of one country but earns income in

another. “Sometimes treaties are comprehensive; other times they amend existing treaties or deal with specific issues” (Eiteman et al, 1995, p. 619). Among other things, they serve to reduce the rate of tax imposed on income and sometimes also to minimize the amount of withholding tax. In addition, tax treaties tend to reduce or eliminate the taxes on dividends, interest and royalty payments. Tax treaties can also have a broader purpose in that “the negotiation of the treaty itself could serve as a forum for opening and expanding business relationships between the two countries” (Eiteman et al, 1995, p.575)

Because of the comprehensive role these tax treaties play, it is important to be aware of the tax treaties’ existence, how they are designed and in what way they will effect a certain tax situation, especially since the tax treaties often override the national legislation. Yet double taxation conventions are not created to extend a country’s right to taxation. They should simply maintain or limit the possibility to impose tax in double taxation situations. This is called the golden rule of Double Taxation Agreements (Lindencroona, 1994)

There is a network of bilateral tax treaties throughout the world, which are modeled after one proposed by the Organization for Economic Cooperation and Development (OECD). The OECD model treaty was developed in an effort to try to create a common model describing how a tax treaty should be formulated, and it should be used as a recommendation by the member countries. Apart from describing which persons and taxes are covered in each treaty, it also provides a recommendation of which method to use in order to clear a double taxation situation. According to the OECD model convention, two general principles may be used to eliminate a double taxation situation, the *exemption method* and the *credit method*. The main difference between the two principles is that the exemption method uses the income as a base for “tax reduction” while the credit method uses the actual tax applied as a base.

4. Empirical Study

4.1 Introduction

This part provides the reader with a summary of the information retrieved from the interviews. We will present the material by following the structure of our interviews. The interested parties will be presented one by one, and first we will focus on the multinational companies, then the financial analyst, the tax consultant, and the State Authorities will follow in that order. Each of the interested parties' answers will be divided in three sections.

The first section includes a description of how they structure their work around international tax issues and their philosophies on tax. We think that the different interested parties' structure and general view of tax are important to look into since these factors affect the general knowledge and work concerning tax issues. This will put the interviewees' answers in perspective regarding how they perceive the new Danish tax regime. Second, we will turn to the new Danish tax rules concerning holding companies and a discussion about holding companies in general. This section presents what the companies know and think about these new rules. Finally, we will present the opinions of EU's efforts in tax harmonization, and a discussion concerning the Swedish tax climate. The new Danish tax regime is classified as tax competition and may be even harmful tax competition which the EU is trying to prevent through their harmonization work. In order to understand whether Sweden will be affected by this tax competition stemming from Denmark we have posed questions concerning the Swedish tax climate of today.

Since our questions have been modified to suit each interest party, the sections will vary to some degree depending on which group we are presenting.

However, we think that by using this structure, this chapter will be easier for the reader to follow.

4.2 Companies

4.2.1 Structure and Philosophy

As mentioned above, we began our interviews by trying to find out how the different companies are structured in dealing with tax issues. Among other things, our intention was to discover if they had certain departments dealing with those issues, and to what extent they consulted outside tax experts, and if they coordinated the work between different departments.

All five of the interviewed companies have specific tax departments which deal with tax issues. These are simply named Tax Departments, but one company includes a wider perspective and names their unit for Tax and Group-Structuring Department. The tax departments are at a parent company level, but some subsidiaries also have specific people handling only tax questions. However, most subsidiaries have someone in their finance department who handles tax issues which mostly consist of tax filing and dealing with local tax problems. At the parent company level the tax departments plan and coordinate tax issues with overarching characteristics. When it comes to important decisions in regards to taxation, they are usually made by the central tax department which is part of the administration in the headquarters of the parent company. The number of employees in the central tax departments ranged from 3 to 4 people, and their background varied, some came from the business school, while others had a legal background. All of them agreed that without seeing the whole picture, both economical and judicial, no sound business decisions can be made. Each tax department at the parent company level is an independent department, but they cooperate with both the finance and legal departments. One company goes even further to

reach optimal tax decisions in that they have people from the tax department attend meetings of other functional departments within their company.

All the interviewed companies use, more or less, external tax consultants. It appears that they are used restrictively. But, in certain situations or in certain areas companies may feel that they lack the specific knowledge needed and from time to time it may be necessary to consult external tax experts. It may be to simply get a second opinion. Still, since each of the interviewed companies have expertise internally, and they have professionals handling tax issues, consultation is used restrictively and never more than necessary.

The tax philosophies are expressed in a similar way for all the companies. The consensus is that tax is simply an ordinary expense and should be reduced to the lowest cost possible, granted it is done within the legal framework. It is important to maintain a reputation of being a “good citizen” in all countries of operations. In addition, tax planning should not interfere with operations and productivity, which should always be prioritized. However, each business transaction entails a variety of solutions and taxes can be the decisive factor in deciding on which route to take. One company stressed the importance of keeping a stable and well-balanced low tax level. The focus is on the group’s effective tax rate and not each country’s own tax rate. Furthermore, two of the companies include the owner’s perspective at this level and state that the owner’s interests must be safeguarded even here.

In the world of tax planning, we were curious of how and to what extent it is possible to influence a reduction in tax expense, and if there are certain taxes that are easier to influence than others. According to the companies interviewed this can be done in various ways, and among the taxes that are most commonly considered for the purpose of tax planning are withholding tax, tax on capital gains, and corporate income tax. Tax on capital gains appears to be the one expense most easily influenced in attempts to reduce tax

costs as part of the tax planning activities. Tax on capital gains is important because it is usually associated with large profits, which are taxable in a short period of time. Companies in general are not “big fans” of this type of double taxation and focus on ways to reduce this tax, especially since they think it is unnecessary and should not exist in the first place. The general opinion is that structural changes, such as when a company sells one of their subsidiaries, should not be subject to taxation since no actual business has taken place. In terms of income tax, it can be influenced in different ways. One way is to simply move the operations to a place with a low income tax. Another way mentioned is the capital structure which can affect the amount of income tax paid. It refers to how the subsidiaries are financed, by loan or equity; in Sweden for example interest expenses are deductible.

4.2.2 The New Danish Tax Regime

The companies interviewed are all present on the Danish market in the form of sales companies. Three of them are involved with national holding companies for the purpose of profit equalization. They believe it would enhance the opportunity to manage a holding company if the company is already present in Denmark. It may not be necessary with any personnel in the holding company, but if you already have an organization in the country they may be able to run the holding company as well.

All the interviewees are aware of the new Danish tax laws that were introduced at the beginning of 1999. None of them had focused on the details, but they all knew about the substantial parts of the law, the tax exemption on dividend income as well as the exemption of withholding tax on dividends.

In groups with extensive international operations which includes all of the interviewed companies, it is self evident to keep updated on tax systems in countries of operations as well as potential ones. They received the

information on the new Danish tax legislation from subscriptions on tax journals, databases, contacts with consultants, and colleagues in other countries. The most common source used was tax news received from their hired auditing firms. A majority of them also stressed the importance of a good network of consultants to keep updated on other nations' tax laws. If a situation arose where they considered establishing a holding company in Denmark, they would consult with experts in that country. Another source of information which two of the companies mentioned they had used was an international organization located in the Netherlands named IBF. IBF offers companies subscriptions of each country's tax rules.

The benefits seem to exceed the costs of being updated on other nations' tax laws. Simply by reducing the tax with a small percentage can save the companies substantial amounts because of their large profits (at least for 1998). The costs of retrieving information are relatively small and the benefits can be substantial since it helps to minimize tax or avoid additional taxes due to the lack of knowledge of tax law changes. However, it may be difficult to measure the benefits in figures since a comparison cannot be made to anything concrete, since tax planning involves the action of avoiding situations that would have arisen had certain procedures not taken place. One company explains that Chief Financial Officers and other financial managers tend to focus on the expense of tax and not on the income which would have been greater had it not been paid in taxes.

The companies describe two main reasons for establishing holding companies, the first one is the national holding company which only serves the purpose of profit equalization. The second one is the international holding company which is used to organize the group into an ultimate structure (compare with definitions in the theoretical framework section). In any case, holding companies are mostly used to reduce the amount of worldwide tax paid. Among the interviewees the reasons for establishing holding companies

varied. For instance, one company uses national holding companies to tie subsidiaries in one country together for the purpose of profit equalization, while the other companies structured their groups by using international holding companies to reduce tax expenses. In addition, a third reason was mentioned, which is when a holding company acts as a financial institute and loans money to subsidiaries. This could lead to a reduction in tax paid on interest income and the company borrowing money may be able to deduct the interest expense, which in turn reduces the amount of total tax.

The most common country to establish an international holding company appears to be the Netherlands. This falls in line with Netherlands as a country with favorable tax rules regarding holding companies. Another country that is popular for holding company establishments is Germany. Moreover, national holding companies are widespread and exist in many other countries. All but one of the interviewed companies have existing international holding companies in countries with favorable tax regimes, such as the Netherlands.

The companies state that the two main factors to consider at the establishment of a holding company are what the laws are in terms of dividends and capital gains. However, many other factors are also important, such as a well-developed net of double taxation agreements, a politically stable climate, the availability of a professional workforce and expertise in areas such as taxation and law, possibilities of consultation, no share transfer duty, and interest deductions. Here, a distinction can be made between national and international holding companies. The ideal climate for a national holding company would offer no taxes on received dividends, a low rate of withholding tax, and a well-developed net of double taxation agreements. A perfect climate for international holding companies, on the other hand, supplies tax-free capital gains, a stable environment, and no share transfer duty. Withholding tax used to be another important factor to consider before the establishment of the

many double taxation agreements, but today these agreements reduce or even eliminate withholding tax.

None of the chosen interviewees are affected by the new tax regime for holding companies in Denmark, and they are not intending to establish a holding company in Denmark simply because of the new favorable laws. Even though the new law has been under their surveillance they have not taken any action because of it. But the laws are new and need to mature before any particular decisions are dependent on them. In particular, companies must be convinced that the regulations within this area are long-standing before any major decisions will be taken.

According to the interviewees, the new Danish law has been given more attention than it is important. In order to make a change, it would be necessary with more dramatic alterations. And the fact that Denmark is close to Sweden, both in distance and culture, does not affect their decisions. However, one company stated that this law might be more important for companies that are starting from scratch. In that case, Denmark may be a choice for establishment of a holding company. But for companies that already have a set well-functioning group structure, the costs of such a change would probably exceed the benefits. The same company would not be committed to any internal restructurings, but in the case of acquisitions, Denmark could possibly be an alternative. However, the interviewee did believe that Denmark would attract some "dirty" investments.

The answer to the question of which part, the tax on dividend income or withholding tax on dividends of the new Danish tax regulation would be of most importance varied, but the consensus was that it depends on the situation and what type of companies that are involved. For instance, if double taxation agreements already exist between the countries in question, withholding tax is usually eliminated or reduced to a minimum, therefore the abolishment of the

withholding tax would not be of any value. For another company who already receives tax-free dividends this part of the new law would not bring any additional advantages. Consequently, it depends on the group structure, where the dividends are distributed from and who is receiving them. This concept is similar if the factor of tax on capital gains is considered. A company that plans for the long-term and will not sell off any shares in the near future, would not seek out favorable laws in this area. On the other hand, if a company accumulates large capital gains it would be valuable with low tax on such income.

4.2.3 EU and the Swedish Tax Climate

All of the interviewed companies are of the opinion that competitive tax rules are advantageous to corporations. It gives corporations the opportunity to exploit different tax laws to their advantage. Competition favors the customers by giving them alternatives to choose from in order to reduce expenses. It is a competitive business world and whatever can be done to succeed is done. In other words, they do not feel that tax competition of this kind would be harmful. Furthermore, as stated by one of the interviewees, even if these laws are harmful in any way, a harmful situation already exists and this new law does not change any of that. Tax competition between countries is by no means a new phenomenon. However, if free competition is taken too far, it may be harmful in the long run. The result may be that nations are forced to impose different types of taxes; it may be a shift from taxes on mobile income, to taxes on immobile assets such as tax on real estate.

The companies are unanimous in terms of the question of harmonization of taxes in the EU. They all agree that it would be beneficial with unified tax laws across the borders. This would, in practice, simplify the tax work for the parties involved. One interviewee is of the opinion that it would be fairer for each state, and from a Swedish perspective it would prevent companies from

moving operations abroad. Another company feels that the problems with transfer pricing would be the best area to harmonize since some operative projects are held back because of the different nations' tax laws. But, they do not foresee that this will happen in the near future since different countries have varying interests. Furthermore, income is involved and through harmonization some countries will face a reduction in tax income while others will gain. Naturally, countries that will lose money would want to be compensated whereas the countries gaining are not willingly going to give up income. Moreover, one company explained the lack of support for the EU in many countries, and before everyone moves in the same direction it will be difficult for the EU to accomplish radical changes towards harmonization since it rocks whole political systems. Another aspect brought up was that if tax competition is reduced, we might face a problem of the different states agreeing on raising tax rates any way they want. On the other hand, in case of reduced harmful tax competition within the EU, other nations outside the EU may still provide harmful tax competition.

Sweden has a low income tax for companies which was agreed upon by all interviewees, however one company said that it would not hurt to reduce it even more (15 percent was suggested). While another one stated that part of the problem is not the corporate income tax, but the personal income tax and social security fees are too high and this is why it is difficult to attract professionals and multinational companies to Sweden. This problem inhibits economic growth in Sweden.

It appears as if the interviewees feel that the Swedish tax regulation has several pluses, such as the corporate income tax described above. Tax-free dividends is another bonus with the Swedish tax system, as well as the right to interest deductions. But they still do not think that Sweden stands out as a place for establishment tax wise. One negative aspect brought up was the fact that the Swedish tax regulation allows for a double taxation situation to arise.

In other words, capital gains are not tax-free. Over the last few months we have seen many companies choose to locate their headquarters in countries other than Sweden. One company explains that the government does not feel it is important where the parent company is located. Moreover, the government appreciates the fact that research and development and the production sites are located in Sweden. According to the interviewee, though, these functions are important in the short-term, but in the long-run they believe it is important where the parent company operates from as well. They also said that today's companies objectively choose the best place for positioning the company, and no sentimental values steer any decisions. In the past, the Swedish multinational companies felt loyal to Sweden and a company with a long history of being Swedish should be kept that way. But today the situation is different; traditional Swedish companies do not hesitate to move part of their headquarters abroad.

The general opinion is that the Swedish tax laws change too frequently to offer a stable climate for companies to operate in, and all companies declare that they find it frustrating with many changes and they would prefer a more stable environment. Changes especially create problems for the companies when they make decisions for the future. It becomes difficult to plan operations when the rules keep changing, and many times a change in the tax rules have negative economical effects. It is not appreciated when the expected tax expense change for a certain investment. At that point, the company must review the situation and decide if it is necessary to take measures. One company claims that the opinion from companies abroad is often that Sweden is politically unstable in terms of tax legislation, and another company agrees with this statement; Sweden is politically risky and unstable with many changes in the legislation. However, this is only one side of the coin, as it was pointed out to us by one of the interviewees, if it were not for the many changes, the tax planning work would be minimal and less exciting.

All of the interviewees are, in one way or another, involved in some type of lobbying activity. The most common way of trying to influence the decision-makers are through the Federation of Swedish Industries. They, in turn, forward suggestions and complaints to the Ministry of Finance where the actual double taxation agreements are created. At other times companies directly contact the State Authorities with their opinion, and this is sometimes done in conjunction; companies that are of the same opinions approach the State Authorities together. One company mentions that they even work with different tax groups within the Swedish Employers' Confederation. The sentiment among all the companies is that the State Authorities listen to their ideas and opinions. One company mentions that the Ministry of Finance, and then especially the international department within that group that writes the double taxation agreements, listens and is quite aware of the problems that the companies face. They look after the interests of the trade and industry to ensure that they are given a fair position and support for their business.

4.3 Financial analyst

4.3.1 Structure and Philosophy

The financial analyst represents a member organization and he analyzes and evaluates companies from a shareholder perspective. He analyzes mostly annual reports and reviews all factors of importance, including tax numbers and tax issues, to be able to present a fair picture of the company that serves as a potential investment opportunity. The companies analyzed are listed on the Swedish stock exchange and they are usually large and complex, and therefore, regarding tax matters, it is impossible with the material available to reach a complete understanding. He claims that few people in Sweden possess a full knowledge of company taxation. Therefore, this organization puts trust in the auditors and their work. They have three lawyers, where one of them has deeper knowledge in the world of taxation, foremost the Swedish

tax laws and not so much international tax issues. Despite this fact, they have a basic knowledge in the area of taxation and frequently pose questions if there is something that appears unclear in the annual reports. These questions are in regards to issues around group structures, effective tax rates, and profit equalization. In addition, in situations where companies are involved in legal processes further questions may be raised concerning possible large future tax expenses.

From an owner's perspective tax is similar to other expenses, which should be reduced to the extent possible. Taxes are not looked upon as different compared to other expenses such as electricity, personnel, rents, etc and should not be given excessive attention. However, tax is a sensitive subject, especially in terms of the mass media, and it is not enough to follow the existing laws to be considered "clean" in the eyes of the mass media. According to them, companies must not only follow the law, but also have an attitude which ethically represents a willingness to pay taxes as a "good citizen". In other words, companies should not take advantage of loopholes in the tax system which reduce the amount of tax.

Information on tax issues facing companies such as if a company is involved in any legal processes, is retrieved from the annual reports and this information is usually necessary for the purpose of analyzing companies. Since all shareholders and financial analysts basically have the same right to the same information, according to the Swedish Company Law, no extra information can be given to the financial analyst. Companies must be careful not to disclose information that would be considered insider information, that is information that is not public and at the same time information that could potentially affect the stock price. But this distinction, of what is acceptable to disclose to other interested parties than the general market, is debated and it is not easy to determine. Therefore, even for financial analysts who concentrate on only a few companies or a trade, and who are deeply involved in one

particular business where they are regarded as experts, it is complicated to retrieve additional information.

The Swedish annual reports are satisfactory and among the best in the world in terms of information, despite the fact that only a small part is devoted to taxes. Mostly what can be derived in regards to taxes is how much tax the company pays, if they are involved in any legal processes, or if the amount of tax paid is extremely high or low considering the circumstances. Today, many multinational companies account separately for taxes paid in Sweden and taxes paid abroad. This creates an opportunity to compare how much tax is paid in Sweden and how much is paid elsewhere. But, at the same time it is difficult to compare these numbers since countries use such different tax systems. In general, anything that affects the business or evaluation of the company should be included in the annual reports. And, he claims, even though the information supplied normally is sufficient, in certain instances it would be preferable to include more details on what is included in the tax expense line and what affects the tax level. Especially when the company makes a distinction between the taxes paid in Sweden and taxes paid abroad.

4.3.2 The New Danish Tax Regime

Not much attention has been given to the new Danish tax law, but when we posed the question of which companies the financial analyst thought would be mostly affected by this law, one particular reflection was made. Denmark has a long tradition of a market consisting of many small companies, which is different from Sweden who has a larger portion of large companies. Sweden is unique in this respect because we have an environment where people have long been trained to manage large companies. This does not exist in Denmark, and maybe this has a negative side to it such as when large multinational companies consider Denmark as a place for investment.

Another opinion expressed is that simply to move and restructure an organization based on taxes is fairly risky; especially today when an ongoing harmonization process is taking place within the EU, which may provoke a change in the laws within short. Favorable tax laws will have a limited prospect in the future, since the work of harmonization refutes individual taxation. But, this is what tax experts work with on a daily basis.

4.3.3 EU and the Swedish Tax Climate

Sweden, as a country, has a few advantages it can offer to potential investors, but maybe the disadvantages are greater, because as we see today, many mergers seem to choose to locate the headquarters in locations other than Sweden. Sweden has a reputation of having a well-educated and knowledgeable workforce. It also has a low corporate income tax, one of the lowest in Europe, but apparently this is not enough to attract foreign capital. Unfortunately, Sweden is located in a cold and bitter climate and geographically distant from many of the larger multinational firms' main operations, which does not enhance the possibilities to attract investing companies to locate their business here. So, in order to protect Sweden's interests for the future, it is necessary to introduce a friendlier corporate tax climate. Part of the discussion has been to lower the corporate income tax to 25%. But, more importantly, the personal income tax is at the higher end of the scale and probably scares many companies away from establishing headquarters in Sweden.

Another drawback is the politically unstable climate, which cause considerable variations in different regulations. Not to mention the high taxes on capital gains which keeps many foreign companies from investing in Sweden, especially if it is not long-term. Compared to other countries within the OECD, Sweden's tax rate is three times higher on capital gains than the average OECD country. Today it is 30% in Sweden and the average for the

OECD countries is 10%. According to the financial analyst, this has a great impact on the capital accumulation and the pricing of corporations. Since Sweden has a high tax on capital gains, foreign investors demand a higher rate of return. Consequently, the Swedish stock market has a low number of foreign investors and a low pricing of the large corporations in the international market, and instead many of them are taken over by foreigners. So, Swedish companies are left with no choice, either they will be taken over or they will have to become larger by acquiring other companies.

4.4 Tax consultant

4.4.1 Structure and Philosophy

The international tax department in the auditing firm is part of the tax and legal department which is one of four major departments: auditing, management consulting, corporate finance and tax and legal. There are 25 employees working with international tax issues, such as corporate taxation in relation to group accounting, mergers and acquisitions, and foreign establishments. When necessary, the different departments work closely together, and in certain situations, they cooperate with offices within the same group in other countries. Most of them have a legal background, but a couple of them are educated in business administration.

They work with all types of companies; anything from small companies to multinational stock listed corporations. It is becoming more and more common for small companies to ask for consultation in relation to an establishment abroad in addition to the daily problems. The larger companies with an internal tax and/or finance department, on the other hand, often need assistance with specific tax issues since the day-to-day operations are taken care of within the building.

Tax planning is part of the activities within this department. Their work is not restricted by a written policy, but a general consensus exists where the goal is to minimize the amount of tax paid in a correct manner; they never present any illegal solutions. If the regulation is unclear, alternative solutions are often presented with explanations of the various possible opinions that could be laid forward by the tax authorities. The choice is then left to the companies and how aggressive they are is based on what philosophy they represent. It is important that the consultant's work is of high quality, because if this is not the case, besides losing business, they may be held legally responsible for their actions.

The effective tax rate for the whole group is used as the point of departure for the work of the tax consultants. Certain taxes are easier to reduce than others, this includes withholding tax on dividends, royalties, and interest. Others that provide a similar ability to reduce easily are transfer duties on real estate acquisitions and shares. The advantage of working with withholding tax is that they are easily identifiable and often have fixed rates which facilitates the work. However, what form of tax planning that is employed depends on the company in question. For instance, if the company has a strong brand name the focus is on the taxation on royalties, licenses for the brand, and payments from the sales company. With this in mind, they try to develop useful and suitable solutions.

The frequent changes in tax laws, which occur both in Sweden and other nations, affect the consultants' work tremendously. These changes are used as a political tool, and can therefore sometimes happen quickly. It is not enough to be aware of the existing legislation. One must also be able to foresee future changes. Likewise, it is crucial to only focus on the changes that could potentially be of significance. Naturally, large changes are more important than small ones, but in this area even small alterations can have a great impact in an international perspective. Because of the complications with the many

changes, the consultants, whose daily work consists of being updated on existing and new tax laws, are given an edge and can thereby easier sell their services; basically this is how they survive. But at times a change can cause a large workload since companies are interested in adjusting their operations according to the change immediately and many at the same time. Information on different nations' tax laws is mostly gathered from colleagues within the same group, but, in other countries. They hold meetings to exchange new information and they also utilize a database presenting news.

4.4.2 The New Danish Tax Regime

The tax consultant was familiar with the new Danish tax regime for holding companies. He was uncertain whether it would play an important role in the companies' tax planning activities. To some extent, he thought it would because Denmark would now be placed in the same bracket as other established countries with favorable holding company tax regimes. Today the most common countries to establish holding companies in are Netherlands, Germany, Luxembourg, Switzerland, Austria, and Spain. Basically Denmark is now an alternative in the decision of where to locate a holding company in Europe. And it appears as if Denmark has already attracted a number of new holding companies, then especially American companies. But on the other hand, the new rules do not present anything revolutionizing. The regulation does not in particular differ from many other nations' holding company tax laws, and much of what is offered already exists in other places.

The fact that Denmark is close to Sweden in terms of distance, and that Sweden has a similar language and culture does not influence the decision to establish a holding company there. Neither does it matter whether a company beforehand is operative in Denmark, although the filing of taxes may be facilitated if this can be done jointly. The main features to consider in the decision of where to locate a holding company include: a broad network of

double taxation treaties and that the company is covered therein, dividends received from subsidiaries should be tax free, no tax on capital gains, a minimum of withholding taxes, the costs of financing should be deductible, and no share transfer duty. Furthermore, it is rather important to have a politically stable environment.

If we look at Sweden and its laws, it is common that foreign companies establish national holding companies in relation to acquisitions, because in Sweden it is possible to deduct the financing costs, which is quite unusual. In addition, dividends can be received tax free within the group. This leads to a reduction in the effective tax rate for the group as a whole. Nevertheless, Sweden still has to abolish taxes on capital gains. Compared to Denmark, this could be a drawback for Sweden, because in Denmark no tax is levied on capital gains if the shares have been held for a period of at least three years, and the activity of the subsidiaries is not primarily of a financial nature.

Notwithstanding, the Swedish regulation has somewhat been influenced by the new Danish tax rules. A proposal has been presented where withholding tax on dividends will be abolished, and nobody seems to oppose the proposal. The reason for its introduction was mainly to prevent American companies from choosing Denmark over Sweden. The new Danish rules still have an advantage in that even dividends derived from a so-called "tax haven" can be received tax-free. But few companies will probably choose Denmark simply because of that. Seen from a Swedish perspective, since tax-free dividends already exist in Sweden (in most cases), the most important feature of the new Danish tax regime is the other side with withholding tax.

It is fairly common to assist companies in the process of establishing holding companies. This is one of the reasons why it is important to understand the details of the Danish law change. It is a fairly simple process if it involves a first time establishment abroad, or if they are given the opportunity to enter at

an early stage of the process. On the contrary, it becomes more complicated to plan out a new structure if a well-established and complex group already exists. It is important to consider all the possible effects before a change can be made.

4.4.3 EU and the Swedish Tax Climate

Since the new Danish tax regime truly does not present any radical features, the tax consultant had the impression that it is not more harmful for competition than that which already exists. Taxes are still a national concern and as long as a complete harmonization does not exist each country is basically free to implement any type of regulation they want. Harmonization in all areas is at this point politically impossible. The tax systems are too different and to harmonize the rates on corporate income tax would be difficult, instead the focus should be on harmonizing transactions that flow between the countries. In order to harmonize the countries must be unified, which will be difficult to reach.

The Swedish tax climate is foremost favorable in that it has a low corporate income tax. The preconception among foreigners is that Sweden is a country with high income tax rates, which is true if we refer to personal income tax, but the corporate income tax is at the lower end. But more important is the effective tax rates which is a wider concept. Also, the Swedish rules on transfer pricing are imprecise and difficult to apply in practice.

In order to bring forward problems in legislation, articles are submitted to the press, such as "Dagens Industri" and other financial papers. And at times they participate in general discussions through Swedish Employers' Confederation and the Federation of Swedish Industries. Other than that, they do not engage in any particular lobby activities.

4.5 State Authorities

4.5.1 Structure and Philosophy

The Ministry of Finance works directly under the government; they have 350-400 people employed, and out of that number about 80 people work with tax and customs questions. Specific international tax questions are today part of almost every department. For example, the sales tax department deals with sales tax issues both at a national as well as an international level. But general tax issues such as double taxation treaties and issues on EU's agenda are handled within the international tax department where eight people work today. They have the opportunity to influence the European Commission, even though Sweden as a member country can not put together proposals.

Another State Authority who deals with international tax issues is the National Tax Board. They provide support and coordinate functions within the local tax authorities. The tradition has been that each local tax authority has had a special group dealing with foreign issues, but that has changed. Nevertheless, they are expected to solve international tax issues. Since it is impossible to have full knowledge in all areas of taxation this means that in practice the local Tax Authorities often turn to the National Tax Board for help with international tax issues. However, neither the Ministry of Finance nor the National Tax Board intervenes in the work of the local Tax Authorities; they have full responsibility for their work and operate as independent units. But, the work between the different entities, the local Tax Authorities, the National Tax Board, and the Ministry of Finance is built upon collaboration.

In terms of particular tax questions the local tax authorities are the National Tax Board's face to the companies. They are the ones with the resources to support the companies. Companies (small as well as large) are obliged to primarily contact the local tax authorities with issues, and if they lack the

knowledge necessary to answer the questions they pass them on to the National Tax Board. Even though it happens on occasion, the companies rarely keep direct contact with the National Tax Board. The local Tax Authorities or the companies can also rely on the preparatory work for answers to certain questions, but the problem is that the preparatory work often take a long time, and sometimes answers are needed immediately. The tradition has been that the work taking place within the international tax department at the National Tax Board has mostly affected the multinational companies. But today the international department can see a shift; their work also aims at the small and middle-sized companies to a greater degree.

The companies' channel of communication with the Ministry of Finance, on the other hand, usually is the Federation of Swedish Industries or their hired auditing firms. The people at the Federation of Swedish Industries turn to the Ministry of Finance with proposals on changes of the legislation. Sometimes the line of communication goes the other way. For example, if the Ministry of Finance is looking for opinions on certain issues they may contact the Federation of Swedish Industries. Also, if a proposal on law changes has been put forward it is usually sent to different interest parties for comments. At times, the companies contact the Ministry of Finance directly with interpretation questions that are directly related to double taxation agreements.

Today, a proposal on abolishing withholding tax from the year 2000 is circulating for comments. Another issue that is under investigation is tax on dividends received. The rules state that in order for dividend income to be tax free the country of origin must apply a taxation that is comparable to the Swedish taxation. This part is quite complex in practice and requires complicated calculations, therefore, it is part of the investigation that has been ongoing for a year.

4.5.2 The New Danish Tax Regime

The State Authorities point to the fact that tax issues are still a national concern and that they do not have any opinions on the new Danish tax regime. What they can say though, is that these changes have received a great deal of attention in the media and in different journals, and the Swedish State Authorities closely monitored the law all along, even at the proposal stage. However, it has been given more attention than it is important; it has been somewhat blown out of proportions. The Ministry of Finance claims that according to their colleagues in Denmark they cannot see an increase in the number of registered holding companies because holding companies are not registered separately from operative companies. The interesting part is to see whether it is in accordance with the Code of Conduct. The EU is currently investigating whether this regulation is harmful tax competition and State Authorities are curiously awaiting the result.

The most important feature is the abolishment of withholding tax, which applies to both holding companies and operative companies. This fact that a zero tax rate is applied to operative companies as well, is part of the biggest threat. The reason for this statement is that the result can be that Denmark is chosen over Sweden when American companies decide on where to locate their headquarters, since Sweden still applies a 5 percent withholding tax on American companies. The United States is basically the only country that concerns the Ministry of Finance, because they can gain from the new Danish tax regime. This is the main reason why the Swedish government has proposed an abolishment of withholding tax in Sweden as well. This was one of a couple of minuses that the State Authorities can foresee with the new Danish regulation; the United States can come to pick Denmark over Sweden in terms of establishing operative corporations. Another drawback is in the case of mergers similar to the ones we have seen between Swedish and

Finnish companies, but between Swedish and Danish companies, Sweden would again be at a disadvantage due to the new rules in Denmark.

Favorable tax laws always affect company decisions, but whether Swedish multinational companies will choose Denmark as the place for establishing holding companies the future will have to determine. The fact that Sweden is close to Denmark both culture and distant wise, and has a similar language does not impact such a decision. Neither does it make a difference that Sweden has many companies that operate in Denmark. The State Authorities believe that the choice of holding company location is independent of such factors, since a holding company has no true substance. In any case, it will not impact Sweden negatively if a multinational company decides to move their holding company location from for example, the Netherlands to Denmark, and it will not result in capital leaving Sweden. Holding companies do not in particular create any job opportunities, unless the result turns out to be a tremendous increase in holding companies, which naturally creates work for tax lawyers, corporate lawyers, and similar people.

The question of whether this new Danish tax law is harmful for competition is posed too early. The State Authorities are awaiting the result from the investigation within the EU. Holding companies are in a special situation though, and the code is not intended to be applied on holding companies. The reason for this is that the code is supposed to restrict countries from exercising harmful tax competition and the country in question is where the income is generated. Holding companies are different in that they do not generate income on their own. So the question is whether the country where the holding company is located is responsible for avoiding harmful tax competition or if the responsibility lies upon the country where the income is generated. This dilemma is not expressed in the Code of Conduct and it is part of the process, taking place within the EU, to determine how to approach this. Consequently, if the income is fully taxed in the country of origin it is no

issue. The problem arises when the income originates from a country with no or low-income taxation. If it is determined that the responsibility should be carried by the holding company country; it becomes the responsibility of the holding company State to ensure that tax-free income at least will be taxed when the income is distributed and received by the holding company.

Depending on the outcome of the investigation of holding companies in the EU, and whether or not the new Danish tax regime is in conflict with the Code of Conduct or not, we may see other countries exercising similar alleviation. But, the interviewee at the Ministry of Finance hopes nobody will act upon this until the process is completed and everyone knows what is permitted and what is not. It is possible that Sweden will be one of the countries following in Denmark's footsteps, and the abolishment of the withholding tax is a move in that direction. If there was a way of getting around cases with apparent abuse of tax laws it would also be preferable to change the rules for tax on dividend income by abolishing the comparable tax requirement with complicated calculations. However, State Authorities do not see a point in forming the same holding company tax system that is available in Denmark.

The application of the new Danish tax rules naturally avoid that a double taxation situation occurs, but the question is what to do with income that is subject to low taxation or no taxation at all. Sweden employs the exempt method to avoid double taxation, which also is common among other countries such as Germany, France, and the Benelux countries. The other method used by the United States is called the credit method, which takes a complete opposite standpoint (see section on tax treaties). The philosophy preferred depends on the situation the country is in, for example what type of companies are present and what does the home market look like. Simply creating special tax laws to avoid double taxation is not to recommend according to the State Authorities.

It is difficult to determine which tax that generates most income for the State, the tax on dividend income or withholding tax on dividends. The Ministry of Finance reviewed these numbers in connection with the proposal of abolishing the withholding tax, and a rough figure of 1.9 billion SEK (the Swedish currency), but the number of withholding tax on shares necessary for the business conducted by the owner only was about 231 million SEK, and out of that 228 million SEK came from the United States (these are approximate numbers). Tax on dividend income is neither a large source of income for the government. But, the reason for these types of taxes is not to generate a large amount of income; it is to prevent companies from abusing the legislation.

4.5.3 EU and the Swedish Tax Climate

The negative implication with varying tax rules from one country to the other is foremost that it creates distorted competition; some countries gain from certain rules while others lose. But as a matter of principle the State Authorities believe that each nation should decide for their own taxes. At the same time, they are unambiguous in terms of supporting EU's efforts in eliminating harmful tax competition. A complete harmonization is currently impossible, since countries have too different tax systems as it is. For instance, Sweden has built a welfare state based on a certain tax base, which is not easily given up. So a harmonization of direct taxes is not even discussed, instead the term referred to is tax coordination. Tax harmonization refers to indirect taxation, and the focus should be to harmonize taxes that give special treatment to a certain group. The "Code" is the tool in these efforts, and today nations react and oppose when governments within the EU change tax laws only to attract business. If something is in conflict with the "Code", it is reported and an investigation is undertaken to determine if something is in disagreement with the "Code". On the whole, nations should only apply general rules, which they are free to determine and to ensure that they conform to the Code of Conduct.

Sweden has a low corporate income tax, 28 percent, which is the lowest within the whole OECD region. Only Finland and Norway have the same low rate, and Finland is in the process of increasing its rate to 29 percent. But it is more important to consider the effective tax rate which is difficult to measure. However, according to the interviewee at the Ministry of Finance, some attempts have been made and the result of a couple of them shows that Sweden falls somewhere in the middle. The State Authorities are not in favor of special treatment in tax laws; they should be general and applied equally to everyone. Therefore, favorable tax laws are not an ingredient in the Swedish tax legislation. Despite this fact, a discussion of lowering the personal income tax for foreigners is ongoing, and this will hopefully attract multinational companies. According to the State Authorities, however, many people feel dubious about such an introduction to the Swedish tax legislation and it does conflict with the philosophy of general tax rules.

5. Analysis

In this section we will analyze the interview material, which includes finding a correlation between events and explaining, what we believe, are interesting phenomena. Our focus is on finding similarities and differences in opinions that the different interest parties have, in terms of the new Danish tax regime and related issues, and finding out why they differ or are similar.

5.1 Tax an Important Issue

We believe that tax is an important issue to all companies since all of them have specific departments handling tax questions. When a tax issue involves a significant amount of money the decision of how to act is sometimes taken by the board of directors which also emphasize the importance of taxation. But the most obvious factor which points to the importance of tax, is that different countries' tax systems are taken into consideration in the legal structuring of groups. For example, a holding company structure would probably be used scarcely had it not been tax beneficial. One of the interviewed companies even name their unit Tax and Group-Structuring Department. Each tax department had a close working relationship with both the finance and legal department, which we believe enhances the opportunity to better understand the total effects of tax decisions. As described, the companies handle tax issues in a similar way, which we believe will enhance further comparisons between them.

The philosophy, which appears to unify the one group of interest parties, with the goal of increasing profits, is that tax is an expense, which should be reduced within the legal framework. It seems as if the general public is of a different opinion, and companies who aggressively tax plan are often criticized in the media. A typical example that depicts this fact is the article in

“Svenska Dagbladet” where Lasse Svärd (1999) wrote that Volvo employs zero taxation for 104 out of their 106 companies in the group and only paid 25.3 percent in income tax for 1998, even though the normal corporate income tax is 28 percent in Sweden. Volvo’s tax average over the last three years has only been 19.6 percent. Among our interviewees, the feeling was that it is not enough to follow the tax legislation to be considered a “good citizen”, you have to have an ethical philosophy that it is appropriate to pay tax.

5.2 The Impact of the New Danish Tax Regime

Changes in nations’ tax regulation, which provide tax competition, are always followed and reviewed by our interest parties, with one exception the financial analyst. Below, the attitudes and opinions on the new Danish Tax Regime of the different interest parties will be described and analyzed.

5.2.1 Companies’ Attitudes and Opinions

Sometimes a small change in tax rules can have enormous effects on some companies, while large changes may not affect the same companies at all, basically it depends on the situation and the legal structure of the companies. We can conclude from the summary of the interviews that none of the interviewed companies take much interest in the new Danish tax law. Several reasons support this standpoint and we believe it is the combination that the new Danish tax regime does not present anything revolutionizing and the companies already have well-established group structures. We believe it is costly to break up longstanding group structures and in order for this to happen the benefits of such a change must supercede the costs, basically the marginal effects must be large enough otherwise a change is not interesting. Even more so if the companies already have well functioning systems what is the point in changing them, unless the advantages are significant. Also, all but one of the interviewed companies have existing international holding

companies in countries with favorable tax regimes, such as the Netherlands. And, the differences are small between the Danish tax regime and the Dutch system, basically they belong to the same category and the major difference is in the withholding tax (Steenholdt and Josephsen, 1999). So to make a move from the Netherlands to Denmark may not even be advantageous and may only work for a small amount of companies; it very much depends on the situation.

The consensus among the multinational companies are that the Danish tax regime could have been even more attractive if other features would have been included, such as the abolishment of taxes on capital gains. Most companies are in favor of tax-free capital gains since they do not believe in double taxation. They want to be free to invest and restructure at any time without being taxed. Since no business has taken place in those instances, they feel that a tax is unnecessary. As it is in Denmark today, the shares must have been held for a minimum period of three years before any capital gains become tax-free. Still, Denmark can now be compared to the other favorable holding company tax regimes, and the new rules put them in the same category. Consequently, the multinational companies state that this regulation could have been revolutionizing had the capital gains been tax-free.

Another reason for the indifferent attitude on this new Danish tax regulation can be that the regulation is under investigation with the EU. And before the EU has made the decision of whether the new Danish regulation is in accordance with the Code of Conduct or not, the companies see no point in making alterations that may be short lived. Since taxes are politically driven changes could occur with short notice. Multinational companies are complex and it is time-consuming to adjust operations and legal structures to new rules and regulations. Needless to say, to rearrange the legal structure of a group would require a substantial amount of resources. But the law has only been in effect since the beginning of 1999, and with time, when the situation is more

certain, the new law might become more interesting to the Swedish companies.

Finally, the companies also consider non-economic factors and foremost they prefer a stable environment with few changes. Countries that have a reputation for making frequent changes to their tax laws in the areas affecting holding companies are likely to receive less favorable consideration than those with a generally stable regime. Denmark does not have a reputation of offering a stable climate, at least not as of yet, because they do not have a long tradition of being an interesting place for holding companies. Once again, a comparison can be made with the Netherlands, who have a long history of maintaining a stable environment. They are also known for adjusting their regulations when other countries try to put themselves ahead of the Netherlands to stay at the top of the holding company fray. In time though, Denmark has a chance of establishing the same reputation.

5.2.2 The Financial Analyst's Attitudes and Opinions

The financial analyst is not involved in tax planning in the same way as the other interest groups. And understanding favorable tax laws is part of the tax planning activities. Naturally, he had not reflected over this new Danish tax regime to the same extent as the other groups. But he still agrees with the other interviewees that the new Danish regulation is not that significant, and he stated, in the same way as the multinational companies, that it could have been revolutionizing had the capital gains been tax-free. However, in the same way as the State Authorities, he questions whether the introduction of the new regulation is in accordance with EU's movement towards harmonization. He also believed that in the future the harmonization process will minimize the flexibility of exploiting tax competition.

5.2.3 The Tax Consultant's Attitudes and Opinions

As previously mentioned, tax consultants use favorable tax laws for the purpose of tax planning, which is part of their daily work. We believe this affects how they perceive tax law changes which can be confirmed by reading the presentations of the new Danish tax regime that the consulting firms in Denmark have distributed. This material resembles the marketing of a product, where the tax consultant attempts to promote the new rules. It is presented as something revolutionizing, for instance it can be read: "As from 1999, Denmark has become a unique country for the establishment of holding companies"(Ernst & Young- Tax department, 1999, p.1). Or, "The consequences of the Danish changes, in terms of making the country attractive as a holding company location for multinationals, is far more dramatic and important than anything seen from the other nine (most favorable holding company tax regimes) during the past decade."(Shelton, 1998/1999, p. 30) Or, in addition to the new Danish tax laws "...Denmark offers a favorable tax and corporate environment, including tax exemption on capital gains and easy and cost efficient- entry and exit for Danish holding companies."(Hjortshoj and Bjornholm, 1999, p.1) This can explain why the Danish consultants are of a different opinion in terms of the regulation compared to their Swedish colleague. The Swedish tax consultant was more in the same line of reasoning as the other Swedish interested parties, but had the same changes taken place in Sweden maybe his opinions would have been different.

5.2.4 The State Authorities' Attitudes and Opinions

The State Authorities were of the same opinion as the other interest groups; the new Danish tax regime did not bring about anything new. Despite this fact, it appears as if it has influenced the Swedish government by speeding up the process of creating a proposal on abolishing withholding tax. Even though this has been a topic of consideration for quite some time, it was not until

Denmark established the new regulation that the proposal was finished. We find this contradictory and somewhat strange. Why has the new Danish Tax law speeded up the proposal of abolishing withholding tax on dividends, if the new regulation did not bring about anything new?

The reason for this proposal is mainly because of one country, the United States. As of today the withholding tax on dividends to the United States is 5 percent according to the double taxation agreement between the U.S. and Sweden. Denmark will naturally be ahead of Sweden if the choice of establishment is between Sweden and Denmark. Therefore, in order for Sweden not to lose ground to Denmark it appears as if it will be important to introduce the same alleviation.

Simply having a favorable tax regime for holding companies does not lead to any significant advantages in terms of an increase in employment or economic growth. No other concrete measures have been taken, than the withholding tax proposal, and no other plans are considered either because of the changes in Denmark. The Ministry of Finance has not yet seen any negative impacts in relation to the new Danish regulation, but the development will be carefully monitored (Ringholm, 1999). But the government has appointed a committee who is currently reviewing the Swedish tax regulation on dividend income. And maybe we will see changes in this area in the future.

In the Swedish financial paper "Dagens Industri" we can read that, according to "Köbmansstandes oplysnings bureau", two thousand new holding companies have been registered during this year (Wrede, 1999). Also, Erik Overgaard (1999) lawyer at Danish Plesner & Groenborg, states that they have had several inquiries on how to set up Danish holding companies. But the Ministry of Finance on the other hand, claims that their colleagues in Denmark find it difficult to yet determine if an increase in the number of registered holding companies has occurred, because holding companies are

not registered separately from operative companies. But one concrete example of its success is that the American company Fox Entertainment Group recently established a holding company named Fox Kids, which was previously located in the Netherlands Antilles. Another similar example is the Norwegian shipping company Odfjell, who moved from the British Virgin Islands to Denmark (Wrede, 1999). Despite whether the actual result is an increase in international investments in Denmark or not, the goal with the new regulation is to attract business (Stavad, 1999). We believe by being a attractive place for holding companies, Denmark hopes to increase their income even though some taxes are eliminated. Since holding companies, in general, do not generate income on their own other advantages must be present. Otherwise, we see no reason for Denmark to introduce such a favorable holding company tax regime. As already mentioned, tax is not the only crucial issue companies consider when deciding on where in Europe to invest, but psychologically it can be positive with a low tax regime.

5.3 General Discussion

From our interviews and articles we can conclude that the most important factors to consider when deciding on a holding company location are the regulation on capital gains and dividend taxation rules. The new Danish legislation includes two different features of dividend taxation rules (see section of the Current Danish Tax Law). Despite the apparent fact that the dividend taxation rules are important to consider in the decision of where to locate a holding company and that it is a feature of the new Danish tax law, non of the interviewees are exceptionally positive towards the new Danish tax legislation. From this we draw the conclusion that other factors also effect a decision of where to locate a holding company.

In addition, some non-tax factors are also important to consider. While most of our interviewees consider a politically stable environment as crucial, we

can read in different articles that geographic location, culture, and language also could affect such a decision (Shelton et. al, 1999 & Cinnamon, 1999). When we posed the question if the fact that Denmark is close to Sweden in many aspects such as geographically, culture, and language wise matters in deciding on a holding company jurisdiction, all but one company agreed that those factors were not important. The one company that was of a different opinion stated that it is crucial to contemplate the ease of communication, and if the company already is familiar with the culture and language one can avoid costly confusions. We think the reason why the four companies did not agree with the articles is because those interviewees only think of holding companies as companies engaged in solely, or mainly, holding of the shares in other companies, while the articles also take into consideration other types of holding companies with slightly different functions. We agree with our interviewees that the location of a pure holding company, a company that solely or mainly engaged in the activities of holding shares, is indifferent to the geographic, culture, and language factors, because those companies have no substance (Romano, 1999). But for other holding companies which may have features such as employees, production, and real estate etc., the choice of location should take into consideration other non-tax factors than just a politically stable environment.

Another interesting aspect is that the new Danish tax regime is presented in business and tax journals in a way that leads the reader to believe that it is only directed towards holding companies, which is not true. For example, the Ministry of Finance states that in the Danish tax legislation holding companies are not even mentioned, and the same applies for the bill of legislation. According to the State Authorities, the most important part for Sweden as a neighboring country is that the new Danish tax regime includes operative companies. This is the reason why the new regulation may be perceived as a threat. So why is it profiled in a way that leads the reader to believe that it only covers holding companies? We can merely speculate on this, and maybe

one reason is that Europe has become known for their favorable holding company tax regimes, in fact the top eight most interesting holding company tax regimes in the world are European (Shelton, 1998/1999). And maybe, in order to be a strong contender for international business it is an effective way to become known as an interesting place for the establishment of a holding company. Because of Europe's reputation, this may be what other countries look at first. Then once a holding company is established, maybe Denmark hopes the multinational company discovers other advantages with being operative in Denmark and moves other parts of their business there as well. Also, it is easier to establish a holding company than moving part of the operations to a new country, because, in most cases a holding company has no substance and do not need any employees. They do require that somebody run the company, but a whole staff is unnecessary.

Another factor that may have influenced this phenomenon is that maybe Denmark does not have a reputation of having a credible workforce for managing large multinational companies, at least not in comparison with other countries. The reason for this statement is based upon the statement made by the financial analyst; the tradition has been that Denmark's market is comprised of many middle-sized and smaller companies, and therefore they may lack people with an experience of running large multinational companies. So, if the focus of the new Danish tax regulation is on holding companies the multinational companies should not be deterred by the possible lack of experienced managers, since holding companies can be established without any employees.

In this chapter we have covered aspects that we believe are interesting and relevant for the purpose of our thesis. The reader may find other aspects worth discussing, but we have chosen to focus on the above.

6. Conclusions and Reflections

Our conclusions to the question of what impact the new Danish tax regime of 1999 has on the different Swedish interested parties will be presented in this chapter.

The different Swedish interested parties, the multinational companies, the financial analyst, the tax consultant, and the State Authorities gave us different angles to the same problem. Even though their perspectives differed, their attitudes and opinions on the importance of the new Danish tax regulation were fairly similar.

It appears as if the new Danish tax regulation has been given more attention than it is worth. In the field of international taxation the importance of the law is somewhat exaggerated. The interviewed multinational companies are unified in that this regulation will not influence their business within the near future. The financial analyst also does not foresee any dramatic changes in companies turning to Denmark to establish holding companies. The tax consultant is more uncertain of the outcome of the new Danish tax legislation. But, as of today, he has not put his knowledge of the law into practice: he has not helped any clients to establish holding companies in Denmark.

The State Authorities, on the other hand, are the ones that have been mostly affected by the new Danish tax regime. From their point of view, the fact that the regulation includes operative companies and not only holding companies, which has been the focus of the debate around the law, is the real threat. The effect of the new Danish regulation is that it has expedited the work of abolishing withholding tax on dividends, and at the moment a proposal is awaiting approval. The proposal is expected to be implemented by the year 2000. But despite this fact the State Authorities are of the same opinion as the

other interested parties; the Danish tax regulation does not deserve the attention it has been given.

From the investigation it can be concluded that it is difficult to discover what effects tax competitive laws, such as the Danish one, will have, and if they are significant. It depends mainly on what country is used as the point of departure and what tax rules regulate the tax legislation of that country. For example, the Danish tax regime favors American companies, and for them it may have a significant impact, which in turn affects the other interest groups in the US.

We did not receive a clear answer as to what the result with the new Danish tax regulation has been. Some people claim that it has attracted numerous holding companies, while others say that this cannot be confirmed. But we have found at least a few of examples which illustrate how the new Danish tax regulation has attracted foreign holding companies.

Since the Danish tax regulation has only been in effect since the beginning of 1999, it is difficult to foresee, at this date, what the effects will be. Especially since the tax regulation is under scrutiny by the EU. The investigation will determine whether the Danish tax regulation is in accordance with the Code of Conduct, and until the result is accounted for, the effects of the new regulation are difficult to determine.

The Danish tax law was intended to change company behavior; the law was introduced to attract foreign business. But following the attitudes and opinions of the interviewed Swedish interest parties the Danish law has not fulfilled its intended purpose. For example, the companies do not foresee any changes in their legal group structures due to the new Danish tax regulation, and the tax consultant does not urge clients to move holding companies to Denmark. Instead, the most dramatic effect has been within the State

Authorities. The strongest reactions were noticed within this group and they have also acted upon the new Danish tax regulation by proposing an abolishment of the withholding tax on dividends. Our reflections are that it appears as though it is not laws that provoke changes in human behavior but the conception of what the law can do to people. In this case, the State Authorities have acted on what they believe will happen in the future, and how changes today will affect behavior, and not upon what actually has happened.

We believe that an important group to convince to reach success with the new Danish tax law is the tax consultants. As we have understood they are often consulted in regards to complicated tax matters, and if they do not purpose Denmark as the best alternative for a holding company location then companies will probably choose other alternatives. They are the ones that “promote” favorable tax regulations, and if a new regulation is not perceived as advantageous it will not be suggested. The tax consultants are also an important source of information since new regulations are presented in their publications and distributed to their clients.

As mentioned above, the new Danish regulation is under investigation with the Code of Conduct, and for future research, it would be interesting to study the result of the investigation and what factors have influenced the result. Other interesting topics that we have discovered along the way, that could be potential research areas are looking at the actual effects of the law in Denmark; how many holding companies has the new regulation attracted, and has Denmark gained from it? Furthermore, our research focused on the holding company aspect of the new Danish tax regulation, but another idea is to conduct a similar research, but with a focus on operative companies. Finally, instead of conducting a qualitative study, a quantitative study can be done answering a similar research question such as what the impact of the new Danish tax regulation has on a company that has chosen to locate a holding company in Denmark in terms of figures.

Bibliography

Books

- Befrin, E. (1994) Forskningsmetodik och statistik, Studentlitteratur, Lund
- Bjarnäs, S., Estberg, S., Snellman, P. (1992) Utlandsetablering - En introduktion för småoch medelstora företag, Ernst & Young skriftserien nr. 19
- Dictionary of Law (1988) third edition, LB Curzon, Macdonald and Evans Ltd
- Eitemann, D. K., Stonhill, A. I., and Moffett, M. H. (1998) Multinational Business Finance, Addison-Wesley Publishing Company
- Griffin, C. H. Et al. (1971) Advanced Accounting, Richard D. Irwin, Inc.
- Lindencroona, G. (1994) Dubbelbeskattningsavtal,
- Malmer, H., Persson, A., Tengblad, Å. (1994) Århundradets skattereform-Effekter påskattesystemets driftskostnader, skatteplanering och skattefusk, CE Fritzes AB, Stockholm
- Mattsson, N. (1997) Svensk Internationell Beskattningsrätt,
- OECD. (1998) Harmful Tax Competition – an emerging global issue,
- Oxford Dictionary of Economics (1997) John Black Oxford University Press
- Patel, R., Davidsson, B. (1994) Forskningmetodikens Grunder - Att planera, genomföra, och rapportera en undersökning, Studentlitteratur, Lund,
- Rabe, G. (1997) Skattelagstiftning 97:2, Juristförlaget, Stockholm
- Radebaugh, L. H., Gray, S. J. (1997) International Accounting and Multinational Enterprises, John Wiley & Sons Inc.

Rubenowitz, S. (1980) Utrednings- och Forskningsmetodik, Studentlitteratur, Lund

Tivéus, U. (1997) Internationella Skattehandboken, Nordstedts Juridik, Stockholm

Tivéus, U. (1994) Internationella Skattehandboken, Nordstedts Juridik, Stockholm

Trost, J. (1997) Kvalitativa Intervjuer,

Wiedersheim-Paul, F., Eriksson, L-T. (1991) Att Utredda Forska och Rapportera, Liber – Hermods AB

Wiman, B. (1991) Koncernbeskattning, Iustus Förlag AB, Uppsala

Articles

Anonymous (1999) *Danish plot to steal Dutch offices*, Corporate Location, Jan/Feb 1999

Anthony, D., Roels, J. (1998/1999) *EMU and harmonization*, International tax review, Dec. 1998/Jan. 1999

Cinnamon, A. (1999) *Tasty Regimes Tempt Holding Companies*, International Tax Review, May 1999

Hjortshøj, J., Bjørnholm, N. (1999) *New Danish Tax-Efficient Holding Structure*, Tax Newsletter-Bech-Brunn & Trolle Law Firm, Feb. 1999

Romano, C. (1999) *Holding Company Regimes in Europe: A Comparative Survey*, European Taxation, jul 1999

Shelton, N. (1998/1999) *Denmark enters the holding fray*, International Tax Review, Dec 1998/Jan 1999

Shelton, N. (1999) *What's Going On In...Denmark-Holding Company Regime Introduced*, European Taxation, Jan. 1999

Stavad, Ole. (1999) *International beskatning af udbytter og aktieavancer*, Skat Udland, Jan. 1999

Steenholdt, S., Josephsen, N. (1999) *The New Holding Company Regime- The best of Both worlds*, European Taxation, Apr/May 1999

Svärd, L. (1999) *Volvo betalar minst i skatt*, Svenska Dagbladet, May 15, 1999

Wrede, G. (1999) *Dansk skatt lockar jättar*, Dagens Industri, Nov. 18, 1999

Other Publications

Europeiska Unionen Rådet (1997) Ekofin-rådets slutsater av den 1 december 1997 om skattepolitik

Ernst & Young Tax Department (1999) Danish Holding Company Provisions

Ernst & Young-kompetensföretaget (1998)

Ringholm, B. (1999) Svar på Fråga 1998/99:682 av Bertil Persson om företagsbeskattningen i Danmark, Finansdepartementet, June 11, 1999.

