



## **ISSUES IN OWNERSHIP OF REAL ESTATE**

### **DENMARK**

#### **Kromann Reumert**

##### **CONTACT INFORMATION:**

**Jacob Møller**

Kromann Reumert

Rådhuspladsen 3

DK-8000 Århus, Denmark

Tel: 45.70.12.12.11 Fax: 45.70.12.14.11

Email: [jmo@kromannreumert.com](mailto:jmo@kromannreumert.com)

Web Site: [www.kromannreumert.com](http://www.kromannreumert.com)

- 1. Is perpetual fee simple ownership of real property permitted? If not, what are the principal forms of ownership, or other principal form of ownership, of real property?**

Yes.

- 2. What instruments are used to convey fee simple ownership, or other principal form of ownership, of real estate?**

In Denmark, real estate is typically purchased by a purchase agreement, followed by a deed of transfer, which is entered into the Danish land register.

- 3. How in this jurisdiction is the ownership of real property recorded or searched? Who generally performs the search?**

In Denmark, the ownership of real property is recorded in the land register, where all Danish properties are registered. The land register - which is open to the public - shows the identity of the registered owner.

The land register is fully computerized, and most attorneys and real estate agents are able to obtain online information from the register.

**4. What assurances of ownership are available to purchasers of real property (e.g., title insurance or title opinions)? What is the cost of obtaining such assurances?**

In Denmark, there are no forms of assurances of ownership to purchasers of real property. However, the land register serves an important function in terms of securing the purchaser's title to the real property. Once the formal transfer document (the deed of transfer) has been registered for the real property, third parties - both other purchasers and creditors of the seller - will have to respect the purchaser's title to the real property.

**5. What are the most common forms of investment vehicles? What are the most common entities employed to own investment real estate in a tax efficient manner?**

The most common forms of investment vehicles in Denmark are:

- Direct investment.
- Ownership by a limited liability company.
- Ownership by a limited partnership.

The preferred ownership structure depends on various aspects and should be determined on a case by case basis. Some of the aspects which should be taken into consideration by foreign investors are described below.

In Denmark, persons or companies resident outside Denmark are not subject to limited tax liability on capital gains from shares. If for instance, the real property is owned by a Danish limited liability company the foreign owner(s) of the company will not be taxed on any capital gains on the shares, if they are not subject to full tax liability in Denmark and if the shares cannot be allocated to a Danish permanent establishment. Further, no stamp duty or sales tax applies to the transfer of shares.

However, deductions of interests paid by Danish companies etc. may be limited according to Danish thin capitalization rules which mean that a direct investment or investment through a partnership or another tax transparent entity might be preferable. Further, a 30% withholding tax applies to interest payments made between controlled companies, but due to a number of exceptions the withholding tax generally only applies to interest payments to affiliated companies in low tax countries. A 28 % withholding tax also applies to dividends distributed to certain persons and companies. Therefore, in order to avoid such limitations and withholding taxes a direct investment or investment through a tax transparent entity might be preferable. In such case a limited tax liability will apply with respect to any income and gains relating to the real in property.

In Denmark it is also possible to invest in bonds or other securities issued by property companies.

**6. Has this jurisdiction adopted, or is it considering, legislation permitting the creation of real estate investment trusts or similar entities?**

Denmark has not adopted - and is not considering - legislation permitting the creation of real estate investment trusts or similar entities. However, the Danish Federation of Danish Investment Associations ("Investerings Foreningsrådet") has a dialogue concerning REITs with the Ministry of Economic and Business Affairs.

**7. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the direct transfer of real estate?**

The rate of stamp duty on registration of ownership of real estate is 0.6 % of the purchase price + DKK 1,400 (USD 1 = approx. DKK 5.18). This tax is either paid in full by the buyer or split between the seller and the buyer.

**8. What state or local transfer, stamp or similar taxes are levied generally on sellers or buyers upon the transfer of interests in entities which own real estate?**

In Denmark, no such taxes are levied generally on sellers or buyers upon the transfer of interests in entities which own real estate.

**9. How significant is local regulation and taxation of real estate? How significant is the variation of real estate law among political subdivisions of this jurisdiction?**

Real estate owners have to pay local taxes on the property value of their land. Depending on the local authorities, the tax rate is between 1.6 and 3.4%. In addition, a maximum tax of 1% of the value of the buildings may be charged locally on some types of commercial properties (the difference between the public land assessment value and the land value).

Homeowners are liable to pay a tax on the value of their houses. The tax rate is 1%. However, the tax rate is 3% of the part of the value that exceeds a limit of DKK 3,040,000 (USD 1 = DKK 5,18).

**10. Must ultimate beneficial owners of entities which own real estate be disclosed as a matter of public record?**

Ultimate beneficial owners of entities which own real estate must not be disclosed as a matter of public record.