



Extract from the report to the
Public Accounts Committee on
the public property assessment

August
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I. Introduction and conclusion

1. This report concerns public property assessment in Denmark. Property assessments are carried out by SKAT (the Danish Customs and Tax Administration) and affect all citizens and businesses that own real estate in Denmark, as SKAT's assessments provide the basis for the calculation of property taxes (land tax, council tax and property value tax) levied on property owners in Denmark. In 2012, property taxes generated revenues of approximately DKK 38 billion.

The public property assessments are not only providing the basis for property taxes, but is also used by public authorities for calculating a wide range of other taxes and levies like, for instance, registration fees, inheritance tax, taxation of rent-free accommodation, capital gains and the value of real estate in connection with the transfer of property rights between family members.

2. Rigsrevisionen has previously, in its report no. 2/2011, examined a specific problem in the area of public assessments of property value regarding illegal collection of property taxes. In connection with the presentation of that report, Rigsrevisionen called upon the Ministry of Taxation to focus on improving the administration of the area. Rigsrevisionen has therefore, in December 2012, taken the initiative to launch this study of SKAT's general administration of the public property assessments.

3. The objective of the study is to assess whether the Ministry of Taxation has administered public property assessments in a satisfactory manner. The report answers the following questions

- Has the Ministry of Taxation and SKAT organised the property assessment task in a satisfactory manner?
- Are SKAT's assessments of property value reflecting the market prices?
- Has SKAT handled property assessment complaints in compliance with the relevant administrative procedures?
- Has the Ministry of Taxation addressed the property assessment problems in a satisfactory manner?

Land tax is levied by the municipal authorities; it is calculated as a fixed percentage of the value of the land. The land tax rate varies from one municipality to the next, but must be fixed within a range of 1.6% and 3.4%.

Council tax is a municipal charge levied on government-owned buildings and business buildings that are exempt from land taxes. The charge covers part of the costs that these buildings impose on the municipality. It is calculated as the difference between the property value and land value and is capped at 1%.

Property value tax is a government imposed tax that is calculated on the basis of the assessed value of a property. In 2012, property value tax accounted for 1% of the property value below DKK 3,040,000 and 3% of the value above this limit.

MAIN CONCLUSION

Rigsrevisionen's report raises severe criticism against the Ministry of Taxation for its administration of public property assessments. The Ministry was aware that the area had been a cause for concern for several years, yet failed to take action. The citizens and businesses therefore cannot rely on being treated equally and fairly when SKAT assesses the value of their property.

According to the Ministry of Taxation, public property assessment is an administratively complex area. SKAT is required to assess the value of more than 1.7 million properties in uneven years and approximately 500,000 commercial properties etc. in even years, and it is therefore not possible for SKAT to pinpoint the potential market price of each individual property. SKAT is required to assess the value of homes and properties that may not have been on the market for many years, and take into consideration also variations in price level and price developments across geographical areas. SKAT is also required to assess the value of the individual lots as if they were undeveloped, despite the fact that most lots are developed when they are sold.

The problems in the area have been known for many years. The Ministry of Taxation took over the task in 2003 in order to increase the quality and consistency of the assessments of property value. The Ministry has had knowledge of the general problems in the area since 2003 and been aware of the more specific problems since 2007.

The study showed that the Ministry of Taxation and SKAT have not, for instance, defined quality and performance targets in order to improve the administration of the public property assessment. On the contrary, SKAT has either lowered the quality of the assessments, as in 2010 and 2011, or opted out parts of the assessment task. Besides, the task has not – according to the Ministry – in all cases been performed in compliance with the legislation. To this should be added, that the legal adviser to the government has concluded that, the practice pursued by SKAT in cases concerning requests for extraordinary reviews of former assessment decisions, has been in direct conflict with the law and is therefore actionable.

In the opinion of Rigsrevisionen, the actual foundation for carrying out the property assessments is inadequate, which accounts for the inaccuracy of SKAT's assessments. SKAT has divided the country into so-called land value areas on the basis of type of property, price and price development. However, the properties have been categorised correctly in only 17 out of 98 municipalities and consequently SKAT may value two identical lots differently. Moreover, the assessments of the value of the properties are – according to SKAT – based on unreliable sales price data.

Rigsrevisionen has examined the outcome of the public property assessment. The study shows great differences between the public property assessments and the actual sales prices. In 2011, SKAT's assessments of the value of three out of four single-family homes did not reflect market prices. The accuracy of SKAT's assessments was thus not satisfactory. Moreover the number of over-valued properties has increased since SKAT took over the task in 2003.

SKAT does not agree with Rigsrevisionen that the quality of the assessments can be determined on the basis of the actual individual sales prices achieved. Rigsrevisionen is, however, of the opinion that in order to determine whether SKAT observes the requirements of the Assessment Act, the assessments must be compared with the actual sales prices. According to the Assessment Act, the assessed value of the majority of properties should be on the low side of the market price level, and no assessments should exceed this level. Rigsrevisionen therefore recommends that SKAT should set targets for the accuracy of its assessments that reflect the requirements expressed in the Assessment Act.

SKAT's property assessments affect a large group of property owners – irrespective of the tax freeze that took effect in 2002 and the tax ceiling that was introduced in 2003. All owners of business properties that are paying council tax, which is calculated on the basis of the difference between property value and land value, are thus taxed on the basis of SKAT's most recent assessments. At the same time, municipal property tax – calculated on the basis of SKAT's most recent land value assessments – was levied on close to every fifth single-home owner in 2012, and more will be affected in the coming years. When SKAT's assessment of land value is inaccurate, and property tax based on the most recent assessment is imposed on the single-home owners, there is great risk that some owners are taxed too heavily while others are undertaxed.

Citizens and businesses may file a property assessment complaint against the public assessment of the value of their property. SKAT has, however, only handled around half of the complaints concerning the 2010 and 2011 assessments in compliance with the administrative procedures. Thus, SKAT is not complying with the basic administrative principles of complaints handling, and consequently there is a risk that decisions on complaints are not made on an objective basis.

Property taxes generate annual revenues of approximately DKK 38 billion and represent a significant source of revenue to the government. To this should be added that the public property assessment provides the basis for calculating various taxes and levies both within and outside the tax policy area. It is therefore essential that the public property assessments are accurate and founded on reliable data.

The Ministry of Taxation has emphasised that SKAT has launched several activities both in the property assessment area specifically and in SKAT in general that – according to the Ministry – will enhance the administration of the area. In 2012, SKAT implemented a recovery plan for the public property assessment area. The plan includes a re-organisation of the public property assessment area, which is meant to improve the consistency of SKAT's property assessments. Commencing in the third quarter of 2012, SKAT's management has also taken steps to enhance SKAT's internal quality assurance procedures, including complaints handling, and in January 2013, SKAT launched activities to restore the foundation for the assessment of land value. Last, SKAT has decided to review all property sales individually and eliminate any incorrectly registered sales data in an effort to ensure the best possible basis for the 2013-assessments.

It is not at this point possible to assess the outcomes of these activities.

The main conclusion is based on the following sub-conclusions:

Has the Ministry of Taxation and SKAT organised the property assessment task in a satisfactory manner?

The Ministry of Taxation and SKAT have not organised the property assessment task in a satisfactory manner.

The Ministry of Taxation and SKAT have not defined targets for the quality and performance of the property assessments. SKAT has, in 2013, launched a project to implement performance management in the area. Rigsrevisionen is of the opinion that SKAT should have implemented performance management much earlier, but finds it positive that performance management may, in the future, contribute to ensuring that SKAT focuses on the quality and performance of its property assessment activities.

In the Ministry of Taxation's own opinion, the practice applied to property assessments has failed to meet the requirements of the legislation in two areas. In 2010, SKAT's assessment of the value of co-operative dwellings was not based on objective facts, but served the purpose of avoiding subsequent complaints over the assessments. Similarly, irrelevant considerations entered into the assessment of the value of business properties, as SKAT prioritised assessing the value of business properties located in municipalities that charged council tax. In hindsight, SKAT now considers its conduct actionable and estimates that it may be held liable to pay compensation to house owners that can demonstrate a connection between the assessment of their properties and possible losses.

The quality of the 2010 and 2011 property assessments was below the usual standard, as SKAT had either downgraded or opted out various elements of the assessment task. According to SKAT, the quality of the assessments has improved since 2012.

Are SKAT's assessments of property value reflecting the market prices?

When comparing the assessed property value of owner-occupied houses with the actual sales prices achieved for the same houses, it turns out that the accuracy of SKAT's property assessments is low. Rigsrevisionen's analysis showed that 41 per cent of all single-family houses that changed owner in the second half of 2011 were overvalued, i.e. the assessed property value exceeded the actual sales price. 34 per cent of the single-family houses that were sold, were undervalued, i.e. the property assessment was more than 15 per cent lower than the actual sales price. For 25 per cent of the single-family houses that were sold, the assessment was on the low side of the actual sales price, which is in compliance with the requirements of the Assessment Act. The analysis also showed that the share of overvalued owner-occupied houses has increased since SKAT took over the property assessment task.

The Ministry of Tax and SKAT do not agree in principle with Rigsrevisionen's method of analysis; they do not think that the accuracy of the assessments can be determined on the basis of how well the assessed value reflects the actual sales price achieved. SKAT generally makes reservations for the fact that the sales data, which provides the basis for SKAT's assessments and sales statistics, is largely unreliable.

However, Rigsrevisionen maintains that it is necessary to compare the assessed value with the actual sales price achieved for the individual property in order to determine whether SKAT meets with the requirements of the Assessment Act, i.e. that no property should be valued above the market price, and the value of the majority of properties should be assessed on the low side of the market price level.

Rigsrevisionen finds that the accuracy of the assessments is too low, when three out of four properties are either undervalued or overvalued. Rigsrevisionen does not expect the individual assessments to pinpoint the individual sales prices achieved, but SKAT should define targets for an acceptable level of accuracy of their assessments.

Since SKAT's assessments are primarily based on the division of the country into land-value areas and data on sales prices, Rigsrevisionen finds that SKAT should finalise the on-going activities that are aiming to restore the land-value areas and – in collaboration with the Danish Land Registration Court – launch activities to enhance the quality of sales data.

Has SKAT handled property assessment complaints in compliance with the relevant administrative procedures?

SKAT has not handled complaints over the 2010 and 2011 assessments in compliance with the basic administrative procedures.

Rigsrevisionen's examination showed that documentation for the decisions on complaints made by SKAT was missing for just under half of the complaints, and that one of the key principles of administrative law – the inquisitorial procedure – had been ignored. It is in such cases impossible to determine whether SKAT has considered the complaints on their merits. To this should be added that SKAT, in many cases, fails to adequately explain the reasoning behind its decision, and that two out of five complaints were not reviewed within the 16-week deadline. Last, Rigsrevisionen established that only around 20 per cent of the underlying documentation relating to complaints – including in- and outgoing correspondence – had been filed.

SKAT's quality assurance system is designed to ensure that complaints are handled correctly. However, the system has failed to secure the required quality of complaints handling. Since autumn 2012, SKAT has taken several initiatives to enhance the quality of its complaints handling.

Has the Ministry of Taxation addressed the property assessment problems in a satisfactory manner?

Rigsrevisionen raises criticism against the Ministry of Taxation for omitting to address and correct the state of affairs although it knew quite well that the area was characterised by severe problems.

The Ministry of Taxation was aware, already in 2003 when SKAT took over the property assessment task from the municipalities, that there were general problems with the property assessments, including the validity of land values. Since 2004 and onwards, the internal auditors of the Ministry of Taxation have in several reports highlighted problematic – and with regard to the 2010 assessment – critical matters relating to the property assessments, which the Ministry has, however, failed to follow up on to the extent necessary.

The Ministry of Taxation and SKAT have prepared various proposals for changing or eliminating the public property assessments. This indicates that the Ministry and SKAT, at least since 2007, have been aware of the existence of concrete problems in the area, yet failed to take action. The Ministry has stated that no projects aiming to improve the quality of property assessment were launched, because the political level – in the years 2008 to 2011 – was considering changing and possibly eliminating public property assessments. The Ministry has also informed Rigsrevisionen that the Ministry in 2012 took up previous plans to modernise the IT systems that support the public property assessments and simplify the rules governing the area.

Rigsrevisionen is of the opinion that the Ministry of Taxation – irrespective of the political considerations in the period 2008 – 2011 to change or eliminate property assessment – should have managed the property assessment area in compliance with the legislation passed by the Danish parliament. If doing so was impossible, the alternative would be changing the legislation.