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The Danish Ministry of Taxation's monitoring of compliance

1. Introduction and conclusion

1.1. Purpose and conclusion

1. The report concerns the Danish Ministry of Taxation's monitoring of Danish companies' compliance with the regulations governing reporting of information on employees' A-tax liability and labour market contributions (in the following, collectively referred to as A-tax).

2. The Ministry of Taxation has for several years strived to improve the Danish taxpayers' compliance in relation to taxation of personal income; the ministry has made reporting easier for those who want to comply with the rules and reduced the risk of unintentional errors and deliberate tax evasion for those who are not inclined to comply with the rules. The ministry has applied an approach where the taxpayers' annual tax assessment notices are based on third-party reports. It has done so on the assumption that reports provided by third parties like, for instance, employers and banks are more likely to result in correct taxation of the taxpayers. The number of boxes reserved for third-party reporting in the annual tax assessment notices – which the taxpayers cannot access – has therefore been increased over the years.

The Ministry of Taxation's surveys show that tax compliance in relation to personal income is high. The surveys show that the fact that much third-party information is automatically communicated to the Danish Tax Agency makes it easy for the taxpayers to fill in their annual tax assessment notice in compliance with the regulations. Furthermore, through this set-up, the taxpayers can be reasonably confident that information reported by third parties is correct.

For instance, the companies withhold A-tax from their employees' wages and report and transfer the A-tax withheld to the Danish Tax Agency. Third-party reporting provides the basis for the settlement of A-tax in the amount of approx. DKK 485 billion annually. This amount makes up approx. 95% of all income taxes in Denmark. The balance of approx. 5% - corresponding to approx. DKK 25 billion - consists of taxes calculated on the basis of information reported by the taxpayers. Third-party reporting accounts for approx. 50% of the government's total tax revenue.

A-tax (A-skat)

Direct tax levied on income at source.

Labour market contributions

All working taxpayers pay labour market contributions. The employer deducts the contributions from the employee's pay.

Information on taxes reported by the companies appears from the taxpayers' annual tax assessment notice. This allows the taxpayers to check whether the tax information filed by the companies is correct, which generally contributes to reducing the risk of error and personal income tax fraud. However, errors and A-tax fraud can occur, if the control opportunities inherent in the system are inadequate; if, for instance, the taxpayers fail to check the information or take no interest in their tax affairs, or if employee and employer have a joint interest in evading taxation.

3. The purpose of the study is to assess whether the Ministry of Taxation is adequately checking whether companies report correct withheld A-tax. The report answers the following questions:

- Are companies that apply for A-tax registration adequately assessed by the Danish Tax Agency?
- Is the Danish Tax Agency adequately following up on companies that fail to report A-tax, as they are obliged to do?
- Is the Danish Tax Agency's guidance and control of companies reporting A-tax sufficiently based on risk and materiality?

4. Rigsrevisionen initiated the study in October 2019.



Main conclusion

The Ministry of Taxation is not adequately checking that Danish companies report correct A-tax. The consequence of this is that reported A-tax may be affected by error and fraud, which could lead to a loss of tax revenue.

The Danish Tax Agency is not adequately checking companies that apply for registration for A-tax, because the agency cannot be certain that all the companies that pose a risk of A-tax fraud or arrears are being checked

When companies applying for registration for A-tax are selected for control, the Danish Tax Agency fails to document its manually conducted risk assessments. Nor is the Danish Tax Agency able to document that all companies posing a risk are checked subsequently. It is therefore uncertain whether all applications are risk assessed and whether the companies posing a risk are checked.

Because documentation on risk is available only for companies that have been selected for additional control, no documentation is available to the Danish Tax Agency's follow-up on companies, whose applications have been approved despite the fact that they are considered to pose a risk.

The Danish Tax Agency's follow-up on companies that are obliged to report A-tax, but fail to do so, is inadequate, because the agency has not followed up on the majority of the companies, and the statute of limitations on many of the preliminary tax assessments has run out

Some of the companies that fail to report A-tax on time are not dunned by the Danish Tax Agency. Moreover, the agency is not ensuring that preliminary assessments of A-tax are replaced with the correct tax amounts reported by the companies. In the period from 2014 to 2019, 143,000 preliminary assessments were not replaced with the correct reported amounts, and for close to almost 48,000 of the assessments relating to the period from 2014 to 2016, the statute of limitations had run out. In some cases, the Danish Tax Agency determines the companies' A-tax liability based on a standard rate of DKK 8,000. Because the agency does not ensure that the preliminary assessments are replaced, some companies risk underreporting A-tax. Some of these cases do not lead to a loss of revenue, because the companies have not paid any wages to employees, but other companies may have paid wages and therefore should have reported withheld tax. The Danish Tax Agency has no knowledge of the size of the loss of revenue caused by the latter, which will also affect the correctness of the taxpayers' annual tax assessment notices. Moreover, although the agency has legal authority to do so, it does not impose penalty payments on the companies whose tax liability has been preliminarily assessed several times.

Preliminary assessment of tax liability

If a company fails to report tax, the Danish Tax Agency fixes a preliminary A-tax amount of DKK 8,000 for:

- companies that have not previously reported tax, or recently registered companies that fail to report A-tax for the first time
- companies that four times in a row have failed to report A-tax.

In other cases, the A-tax is determined for a preliminary period based on an average of the latest tax filings.

The Danish Tax Agency's guidance and monitoring of companies reporting A-tax is not sufficiently based on materiality and risk of A-tax fraud

The taxpayers' annual tax assessment notices contribute to reducing the risk of A-tax fraud, because incorrectly filed information will in most cases appear clearly from the annual tax assessment notice, which gives the taxpayer an opportunity to react. If a company makes an adjustment to the information reported after expiry of the short tax assessment period of 18 months, a proposal for a new annual tax assessment notice will not automatically be generated. In this situation, the company reporting the information has an obligation to inform the taxpayer, and it is then up to the taxpayer to contact the Danish Tax Agency and ask for a new annual tax assessment notice and repayment of excess tax paid. The Danish Tax Agency has informed Rigsrevisionen that the number of reports and affected taxpayers will be analysed in 2021. On the basis of the results of this analysis, the agency will determine how the reports should be handled in the future.

The Danish Tax Agency performs input data checks to reduce the number of errors occurring in connection with reporting to eIndkomst (eIncome) and thus assure the quality of data in the reports. The agency also checks staff benefits etc. reported by the companies, because these are generally affected by many, but financially small, errors. The agency has also worked with its guidance to a limited number of companies, but it still has no targeted approach to checking reports for A-tax fraud. The agency's checking of reported data can be strengthened through ongoing control of the extent to which fictitious reports uploaded to eIncome may have released, for instance, public benefits to wage earners that are not entitled to receive such benefits.

The Danish Tax Agency has limited knowledge of the extent of fraud in the area and the number of fictitious reports uploaded. The missing information on A-tax fraud makes the agency's calculation of compliance at 99.8% uncertain.

The companies have opportunity to correct their reports and claim back incorrectly reported A-tax. Up until 2019, the agency did not monitor this area. In 2019, the agency introduced checks of A-tax that had been transferred back to the companies. In 2019, private companies claimed back approx. DKK 0.9 billion.