



**MINISTRY OF FOREIGN AFFAIRS
OF DENMARK**
Invest in Denmark

2020

A GUIDE ON HOW TO ESTABLISH A BUSINESS IN DENMARK

www.investindk.com



CONTENTS

Why establish a business in Denmark	4
Public and private limited companies	6
Branch offices	8
Representative offices	9
Tax considerations	10
Three ways to get started	10
Audits of annual reports	11
Examples of business areas	11
Alternative business forms	12
Specialist support for setting up in Denmark	14



WHY ESTABLISH A BUSINESS IN DENMARK

Foreign investors have many possibilities to start a business in Denmark. Establishment procedures are fast, informal and cost-efficient – one of the reasons why Denmark tops the World Bank's 'Ease of doing business' ranking.

New companies can be ready to do business within hours of online registration, and it takes just a few weeks for residence and work permits to be issued.

This fact sheet is a guide to the legal entities relevant to foreign investors and how to choose between them.

Denmark tops the World Bank's 'Ease of doing business' ranking.

THE KEY BENEFITS DENMARK CAN PROVIDE

- Easy plug'n'play registration of new companies
- No resident requirements for founders, management or board members
- Shareholder and board meetings can be conducted online
- No notarial deeds
- Flexible language requirements when registering the corporate documents of limited liability companies
- Dividends may be distributed on an interim basis after the first financial year
- Tax-efficient location compared to other Nordic countries

OVERVIEW OF CORPORATE ENTITIES

Danish company law allows a range of corporate entities to do business in Denmark. These include private and public limited companies (ApS and A/S), limited partnership companies (PS), branch offices, partnerships (I/S), limited partnerships (K/S), representative offices and European companies (SE and SCE). Public and private limited companies are the most commonly selected corporate forms. Please note that it is no longer possible to establish entrepreneur companies (IVS) (see page 10).

The Danish Companies Act (Selskabsloven) regulates public and private limited companies and branches of foreign entities in compliance with EU legislation. The entities that foreign investors typically choose to establish are: (i) private limited companies, (ii) public limited companies, (iii) branch offices and (iv) representative offices. The most important characteristics of these entities are listed in table 1.

TABLE 1 – KEY CHARACTERISTICS OF CORPORATE ENTITIES IN DENMARK

	Public limited company (A/S)	Private limited company (Aps)	Branch	Representative office
Main purpose	Small and middle-sized companies that carry out all types of business activity	Small and middle-sized companies that carry out all types of business activity or function as a holding company or special purpose vehicle. Exceptions are banking and some other financial institutions	Carry out business activities in Denmark on behalf of a foreign entity	Activities of only limited preparatory and auxiliary nature
Incorporation	Registration with the Danish Business Authority	Registration with the Danish Business Authority	Registration with the Danish Business Authority	Registration is not required for corporate validity. Registration for other purposes may be required
Capital requirement	Minimum DKK 400,000, although only 25% needs to be paid in. Payment includes cash and other assets of financial value (must be documented by an auditor statement)	Minimum DKK 40,000 Payment also includes assets of financial value (must be documented by an auditor statement)	None	None
Company liability	Limited	Limited	Unlimited for parent company	Unlimited
Management	Mandatory two-tier system, managed by a Board of Directors (not less than three members) and an Executive Board	Optional one or two-tier system, managed by a Board of Directors and an Executive Board or managed by an Executive Board alone	Managed by one or more branch managers	None
Place of management	No requirements regarding the residency of members of the Executive Board, Board of Directors and Supervisory Board	No requirements regarding the residency of members of the Executive Board, Board of Directors and Supervisory Board	No requirements regarding the residency of the branch manager	No requirements
Accounting	Annual financial statement – audit may be optional	Annual financial statement – audit may be optional	A copy of the parent corporation's financial statement must be filed with the Danish Business Authority each year	None
Taxation	Subject to corporate income tax rate of 22%. Dividend payments to a parent company are generally not subject to any withholding tax	Subject to corporate income tax rate of 22%. Dividend payments to a parent company are generally not subject to any withholding tax	Subject to income tax rate of 22% on income from permanent establishment in Denmark	Generally not subject to Danish corporate taxation
Corporate law	The Danish Companies Act	The Danish Companies Act	The Danish Companies Act	No corporate regulation of representative offices

PUBLIC AND PRIVATE LIMITED COMPANIES



Most foreign companies and investors choose to form a private or public limited company when setting up business in Denmark.

Public and private limited companies can be used to conduct all types of business activity in Denmark, although a few activities may only be performed by a public limited company. For example, most financial institutions must be established as public limited companies and require a specific regulatory permit. Only public limited companies may be listed on a regulated or alternative market.

A private limited company is less regulated than public limited companies and is a good choice if business requirements are limited or a special purpose vehicle is required.

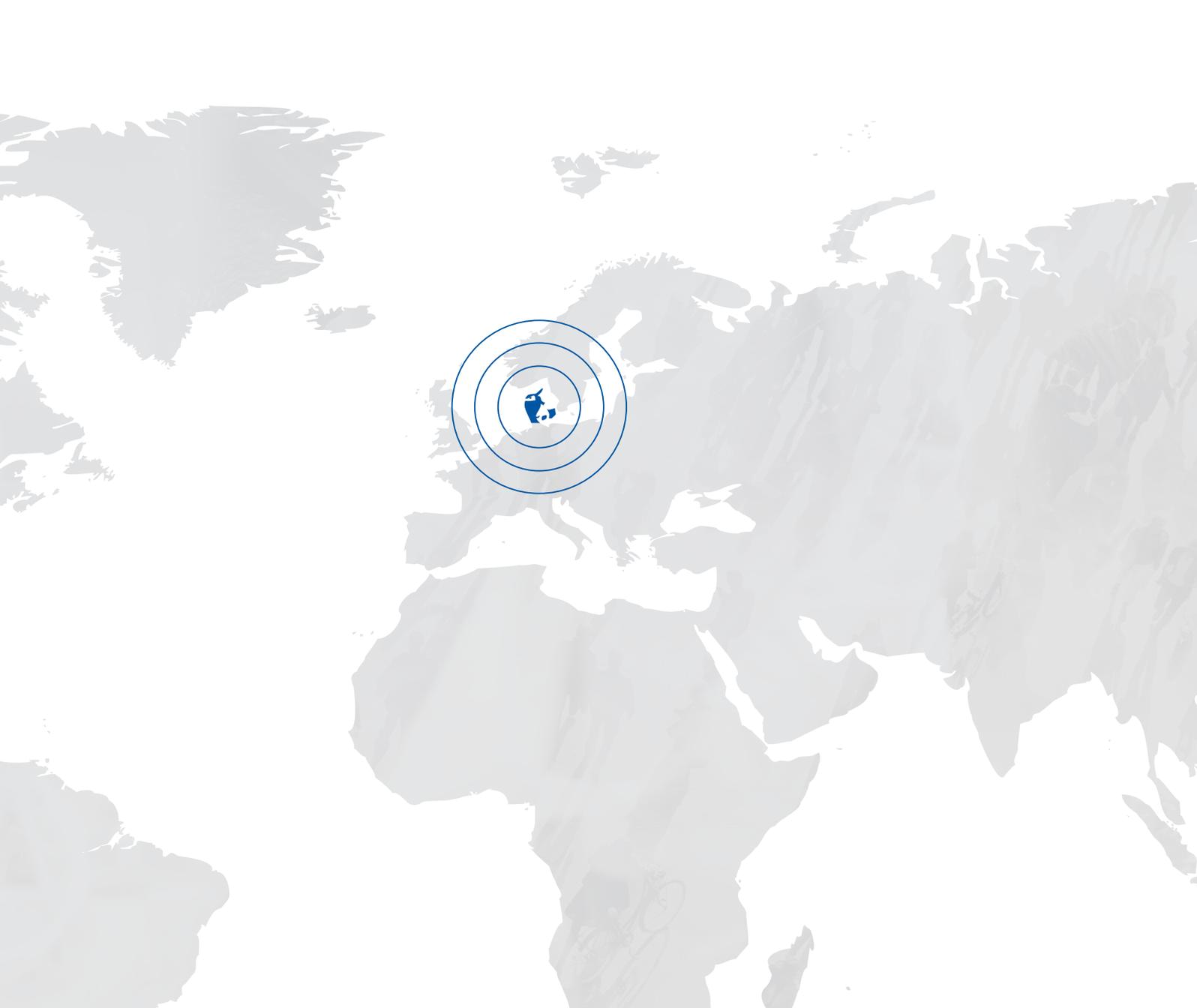
If, at a later stage, it becomes more relevant to have a public limited company, then converting a private limited company is easy, providing capital and management requirements are met and the Articles of Association are adjusted.

REGISTRATION REQUIREMENTS

The Danish Business Authority (Erhvervsstyrelsen) registers all public and private limited companies. This requires that a Memorandum of Association (including the company's Articles of Association) is filed. Registration is fast and can be performed online, with few requirements for the establishing party to be present in person. Original signatures are not required on the Memorandum of Association (or other corporate documents) filed with the Danish Business Authority. However, the company must keep a copy of duly signed corporate documents.

A public limited company is subject to a mandatory two-tier system, comprising management by a board of directors (with at least three members) and an executive Board (which may consist of one or more members). A private limited company can choose between a one-tier or two-tier system. If a one-tier system is chosen, the company is managed solely by an executive board or single executive manager.

There are no requirements regarding the residency or nationality of the board of directors or the executive board. All members may be non-Danish and non-EU residents and nationals.



Hence, a company may distribute funds to shareholders as ongoing extraordinary dividends after the end of the first financial year.

Public and private limited companies may distribute funds to shareholders in the following ways:

- as dividends based on the latest approved financial statement
- as extraordinary dividends
- in connection with capital reductions
- in connection with the dissolution of the company

Hence, a company may distribute funds to shareholders as ongoing extraordinary dividends after the end of the first financial year.

DOCUMENT LANGUAGE

Language requirements are flexible when registering the corporate documents of limited liability companies (A/S and ApS). Swedish or Norwegian may be used instead of Danish, and some documents may be registered in English. Only the Articles of Association and Memorandum of Association must be in Danish – or in dual languages, where Danish is one of the languages.

BRANCH OFFICES

Foreign companies and investors will often consider whether to operate via a Danish limited company or a branch office. Although limited companies are the most typical choice, branches are not uncommon.

Companies that are permitted to operate via a branch in Denmark must fall into one of the following categories:

- Foreign public limited companies
- Limited partnership companies
- Private limited companies
- Companies with a similar corporate form that are based in an EU/EEA country, the United States of America, Switzerland, Georgia or South Korea

Certain other companies may operate in Denmark via a branch, if the Danish Business Authority believes a Danish limited company enjoys a similar right in the relevant country or if permission is otherwise granted.

A branch must register with the Danish Business Authority, including filing specific information about the foreign company or investor.

A branch must be managed by one or more branch managers and is bound by the signature of a sole branch manager or the joint signatures of two or more branch managers, who are responsible for the activities on behalf of a foreign entity.

POINTS TO CONSIDER WHEN DECIDING WHETHER TO ESTABLISH A DANISH LIMITED COMPANY OR BRANCH:

- A Danish company can in principle be established in one day, whereas it takes several weeks to establish a branch.
- A Danish company can be registered with the Danish Business Authority based on a Memorandum of Association (including the Articles of Association) and by providing limited additional information regarding the Danish address and identity of directors and managers.
- A branch is a part of a foreign entity, which means the foreign entity's name, objectives, accounts and share capital plus the name and address of those authorised to bind the foreign entity must be filed with the Danish Business Authority. Certain documents must also be filed, such as an official document that is no more than 3 months old and which states that the entity is lawfully registered in its home country.
- Changes to registered information about the foreign entity must be registered with the Danish Business Authority.

A Danish company can in principle be established in one day, whereas it takes several weeks to establish a branch.

- A Danish company (but not a Danish branch) may establish branches in other EU/EEA countries, including the Nordic countries. A Danish company can then function as a Nordic head office, avoiding the need to establish several branches.
- A branch must be managed by one or more branch managers who have been granted power of attorney to act as signatories on behalf of the parent company. The authority of the branch manager(s) must be unrestricted. The branch is subject to local Danish law and Danish jurisdiction.
- The foreign entity is liable for the obligations of a Danish branch but not of a Danish subsidiary.

REPRESENTATIVE OFFICES

The Danish Companies Act provides very limited guidance on the types of activity that may be conducted via a representative office (i.e. without establishing a Danish company or branch). However, the Danish Business Authority has issued the following guidelines:

- Receiving orders where invoicing, for example, is managed in a foreign country
- Performance of construction contracts or other stand-alone business activities for a limited period
- Acquisition of Danish products through a resident agent
- Work of a purely administrative nature, such as market processing

If the contemplated activities are of a certain limited nature, a foreign company is entitled to conduct these activities from an office in Denmark without any physical presence or establishing a branch or subsidiary.

The foreign company is responsible for assessing whether its activities in Denmark can be conducted without registering a branch or company.

A representative office is not required to be registered with the Danish Business Authority for corporate purposes. Furthermore, a representative office is generally not subject to Danish corporate taxation or required to register for corporate tax purposes. Registration for other purposes may, however, be required.

A representative office is rarely used due to the limited nature of the activities it may carry out.

A representative office is rarely used due to the limited nature of the activities it may carry out.

TAX CONSIDERATIONS

For more information about tax, please refer to our 'Facts about taxation in Denmark' fact sheet, which is available at our [website](#).

THREE WAYS TO GET STARTED

ONLINE REGISTRATION

Using the online electronic registration system provided by the Danish Business Authority, a new company can be incorporated and ready to operate within a few hours. Due to its ease, this is the most common way to establish a company.

Online registration is only open to certain service providers, such as law firms or others with a digital signature (NemID). The process includes registering the legal owners and possible real owner or controllers of the company, i.e. direct or indirect beneficial owners or controllers of more than 25% of the company. Foreign board members and real owners without a Danish personal identity number (CPR no.) must provide a copy of their passport. Personal NemID is required to access the Danish Business Authority's IT system, with the exception of law firms which may use their business license NemID to access the system directly.

PAPER REGISTRATION

Traditional paper registration of a limited liability company by the Danish Business Authority remains an option. This will usually take up to five weeks. Until the company is registered, it must trade as a 'company under formation', and the incorporators may be liable for activities carried out by the company until registration is complete.

ACQUIRING A SHELF COMPANY

As an alternative to founding a limited liability company, it is possible to acquire an 'off the shelf' company. This is an existing registered company with no previous operations or activities. Such an 'off the shelf' company may be acquired from day to day.

AUDITS OF ANNUAL REPORTS

As a general rule, it is mandatory for the company to select an auditor to audit its annual reports. However, the company may decide not to have its annual report audited.

As a general rule, it is mandatory for the company to select an auditor to audit its annual reports.

However, the company may decide not to have its annual report audited. Providing the company does not exceed two of the following conditions during two consecutive years, the company is not obliged to elect an auditor:

- A balance sheet amount of DKK 4,000,000
- A net turnover of DKK 8,000,000
- An average of 12 full-time employees during the financial year

This exception applies as long as the company does not specify otherwise in the Memorandum of Association or at the annual general meeting.

EXAMPLES OF BUSINESS AREAS

MANUFACTURING

In Denmark, manufacturing may be conducted in various ways. A foreign company may establish separate production facilities, either by building, acquiring or leasing such facilities, or having products manufactured by Danish contract manufacturers. Production facilities in Denmark are most often established by setting up a Danish company (A/S or ApS) and allowing the company to acquire or lease the facilities.

SERVICES

Services may be provided in Denmark through a distribution centre, a regional head office or a shared services centre, for example. In most cases, services are conducted through a Danish company (A/S or ApS), but may also be performed via a branch or representative office.

ALTERNATIVE BUSINESS FORMS

SE COMPANY – THE EUROPEAN PUBLIC LIMITED COMPANY

Denmark has fully implemented the EU rules regarding European public limited companies (SE companies). The legal framework of an SE company is largely subject to national company law, but allows the nationality and place of residence of a company to be changed without liquidation and re-founding. SE companies must be registered with the Danish Business Authority, if the official address is in Denmark. The minimum capital requirement is EUR 120,000, and shareholder liability is limited to shareholdings. An SE company must prepare annual financial statements which are audited by a state authorised public accountant or registered accountant (may be optional if the conditions stated under 'Audits of annual reports' apply). An SE company registered in Denmark is subject to the same corporate tax rate as an A/S and ApS company.

Denmark has fully implemented the EU rules regarding European public limited companies (SE companies).

EUROPEAN ECONOMIC INTEREST GROUPINGS (EEIG)

EEIG is a cross-border partnership formed by European business people and/or business entities in order to perform specific business tasks in the EU, with the exception of capital accumulation. The entity must be registered with the Danish Business Authority if the head office is in Denmark. No capital is required, one manager must be appointed and there is no requirement to prepare separate financial accounts. Each member of the EEIG is subject to individual taxation. For tax purposes, an EEIG is treated as a transparent partnership.

STARTUP COMPANIES (IVS)

In 2014, Denmark introduced the IVS ('Iværksætterselskab' or startup company) – a limited liability company similar to an ApS. The minimum share capital, however, was just DKK 1 (EUR 0.13). The IVS was mainly relevant for Danish startup businesses with limited access to financial resources. Since a public report documented several instances of systematic fraud by creditors due to the limited capital requirements, the Danish government has decided to phase out this company type. This means all IVS companies must change their legal status no later than spring 2021 or risk being automatically dissolved.

JOINT VENTURE

A joint venture is often set up by companies of different nationalities that wish to pool their expertise and resources to carry out specified business activities. If the corporate form of the joint venture is a legal entity, then it should be properly registered. A joint venture is often established as an A/S, ApS or a general partnership. There is no separate legislation for joint ventures.

PERSONAL BUSINESS ENTITIES

Sole proprietorships are often used for small businesses run by a single entrepreneur, where there are no capital requirements. The sole proprietor has unlimited liability for the debts and obligations of the business. This is similar to

the general partnerships often used for joint ventures, where liability for debts and obligations is joint and unlimited for the partners.

Regarding limited partnerships, liability for debts and obligations is unlimited for the general partner but limited to the stake contributed by the limited partners. Requirements may apply for preparing and filing financial statements, and adequate books and records must be kept in compliance with Danish book-keeping law. Participating parties are taxed individually.



SPECIALIST SUPPORT FOR SETTING UP IN DENMARK

Invest in Denmark provides all the support you need for locating your business in Denmark. So, if you are considering setting up or expanding your activities in Denmark, make us your first stop.

Our specialised, international staff can advise you on every aspect of locating in Denmark. Not only when you set up, but also as your business grows.

Our tailor-made solutions include connecting companies with key local contacts, arranging fact-finding tours and providing comprehensive benchmark analyses. We make sense of local legislation and the advantages of locating in Denmark – all free of charge and fully confidential.

DENMARK: BEST COUNTRY FOR BUSINESS



Gateway to the Nordics

Four international airports serve tourism, business and cargo. Copenhagen Airport has direct international routes to more than 177 destinations, making it by far the largest airport and logistics hub in the Nordics.

ONE OF THE MOST DIGITAL COUNTRIES IN THE EU

Digital Economy and Society Index (2019)

USD 56,307

Per capita GDP
(2017)

One of the most flexible labour markets in the world

IMD (2018)

#1 in Europe for ease of doing business

The World Bank (2012-2019)

22%
corporate
tax



#2 in the world on work-life balance

OECD Better Life Index (2018)



**Denmark aims to be powered entirely by
renewable sources by 2050**



Language

9 out of 10 people speak English and
6 out of 10 speak German.

Strong infrastructure

Denmark has a strong infrastructure, including four international airports, sea ports, bridges and an integrated railway system. Together, they enable easy distribution of goods and services to the Nordic markets.

HEADQUARTERS

Invest in Denmark
 Ministry of Foreign Affairs
 Asiatisk Plads 2, 1448 Copenhagen K
 + 45 33 92 11 16
 indk@um.dk
 www.investindk.com

ASIA-PACIFIC

Shanghai +86 21 8025 0688
 Beijing +86 10 8532 9900
 Tokyo +81 3 3496 3001
 Bangalore +91 80 4113 6068
 Seoul +82 0 2 795 4187
 Taipei +886 2 2718 2101

EUROPE

Paris +33 1 4431 2121
 Munich +49 89 5458 540
 London +44 207 333 0200
 Oslo +47 22 54 08 00
 Barcelona +34 93 487 54 86

NORTH AMERICA

New York +1 212 223 4545
 Silicon Valley +1 650 543 3180
 Toronto +1 416 962 5661

OUR GLOBAL PRESENCE

WE LOOK FORWARD TO WELCOMING YOU TO DENMARK

INVEST IN DENMARK

Asiatisk Plads 2
 DK-1448 Copenhagen K
 Denmark
 Tel: +45 33 92 00 00
 indk@um.dk

This fact sheet has been made in cooperation with independent experts in our service provider network. The information stated here may contain errors or omissions. Invest in Denmark and our partners disclaim any and all liability for any loss or damage caused by such errors or omissions.



www.investindk.com



MAGNUSSON