

**Order no. 1656 of 19 December 2018**

In force

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Danish Ministry of Taxation

**Order on Approval Etc. under Section 8 A(2) and Section 12(3) of the Tax Assessment Act of Charitable and Non-profit Organisations, Associations, Foundations, Institutions and Religious Communities Etc. in Denmark or in Another EU/EEA Member State**

Under section 8 A(3) and section 12(4) of the Tax Assessment Act, see Consolidation Act no. 1162 of 1 September 2016, the following is laid down:

Part 1

*Conditions for approval*

*Basic conditions for approval of organisations, associations, foundations and institutions etc. under section 8 A(2) of the Tax Assessment Act*

**1.** Approval under section 8 A(2) of the Tax Assessment Act of charitable and non-profit organisations, associations, foundations and institutions etc. requires that their object or conduct is not contrary to or does not undermine democracy or fundamental freedoms and human rights.

Approval also requires that the following basic conditions must have been met:

- 1) The funds must be used for the benefit of a group of people which is not limited geographically or in any other way to a population level of less than 35,000.
- 2) The number of donors in the EU/EEA must exceed 100 each year.
- 3) The individual donor must have made a donation of at least DKK 200 during the year to the relevant charitable and non-profit organisation, association, foundation or institution etc.
- 4) By way of submission of a declaration, it must be disclosed whether one or more donations exceeding a total of DKK 20,000 have been received from the same foreign donor in the previous calendar year.
- 5) The annual gross income or the assets (equity) must exceed DKK 150,000.

**2.** For organisations which are independent legal entities, the following additional conditions must be met:

- 1) The board of the organisation must not primarily be self-electing.
- 2) The number of fee-paying members in the EU/EEA must exceed 300, and the fee must be of an amount that overall covers the organisation's normal administrative expenses.
- 3) The organisation must not be a member of a previously approved main organisation. This condition will not apply, however, where the applying organisation is a national organisation.

**3.** In addition to compliance with the conditions set out in section 1, it is a requirement for foundations, associations and institutions etc. that they are either covered by the General Foundations Act or the Commercial Foundations Act or are managed by a governing body of which at least one member is independent and impartial in relation to the founders.

*Basic conditions for approval of organisations, associations, foundations and institutions etc. under section 12(3) of the Tax Assessment Act*

**4.-(1)** Approval under section 12(3) of the Tax Assessment Act is conditional on the charitable and non-profit organisations, associations, foundations and institutions etc. using their funds for the following purposes:

- 1) humanitarian purposes, i.e. the relief of human suffering,
  - 2) research, i.e. scientific research or study, or
  - 3) protection of the natural environment, i.e. combating water, air and soil pollution, including the protection of endangered animal and plant species.
- (2) Organisations must moreover comply with the conditions set out in sections 1 and 2.  
(3) Foundations, associations and institutions etc. must also meet the conditions laid down in sections 1 and 3.

*Religious communities*

**5.-(1)** Religious orders or societies, churches, assemblies and circuits etc. can be approved without further conditions under both section 8 A(2) and section 12(3) of the Tax Assessment Act where the following conditions have been met:

- 1) Religious orders or societies outside the Evangelical Lutheran Church in Denmark are registered as recognised religious communities under the Act on Religious Communities outside the Evangelical Lutheran Church in Denmark or in accordance with similar rules in another EU/EEA member state, or churches, assemblies or circuits etc. outside the Evangelical Lutheran Church in Denmark which are recognised as part of this recognition of a religious order or society.
  - 2) The condition in section 1, first sentence, on object or conduct that is not contrary to or does not undermine democracy or fundamental freedoms and human rights has been met.
  - 3) The condition in section 1 para (4) on foreign donations has been met.
  - 4) The requirements for the statutes in section 6 have been met.
- (2) Congregations covered by the Act on Free Congregations may, without further conditions, be approved under section 8 A(2) and section 12(3) of the Tax Assessment Act where the conditions in subsection (1) paras (2)-(4) have been met.
- (3) Religious organisations and associations of religious organisations, may, without additional conditions, be approved under section 8 A(2) and section 12(3) of the Tax Assessment Act when the conditions in subsection (1) paras (2)-(4) and the following conditions have been met:
- 1) The religious organisation has an affiliation to the Evangelical Lutheran Church in Denmark and/or one or more religious orders or societies outside the Evangelical Lutheran Church in Denmark which are registered as recognised under the Act on Religious Communities outside the Evangelical Lutheran Church in Denmark or in accordance with similar rules in another EU/EEA member state.
  - 2) The primary object is religious worship according to further formulated teachings. If there is any doubt as to whether a religious organisation has an affiliation as mentioned in para (1) or whether, under the Act on Religious Communities outside the Evangelical Lutheran Church in Denmark, the religious organisation is a religious order or society, church, assembly or circuit etc., the matter may be submitted to the Ministry of Ecclesiastical Affairs.
  - 3) The number of legally competent members of the religious organisation must be at least 50. For associations of religious organisations, or where an organisation has been set up by one or more religious organisations, the number of legally competent members will be calculated as one organisation. In religious organisations registered as foundations, legally competent persons who are affiliated to the organisation on membership-like terms will be included in the calculation.

*Requirements for statutes or similar regulations*

**6.** Where the conditions set out in sections 1-4 and section 5, respectively, have been met, approval under section 8 A(2) and section 12(3) of the Tax Assessment Act of charitable and non-profit organisations, associations, foundations and institutions etc, and of religious communities, respectively, may be granted where the following conditions have been met and appear from the statutes, charter or similar regulations:

- 1) The object of the organisation must be charitable or non-profit, i.e. the funds must be used only to support a large group of people in financial need or in difficult financial circumstances or for a purpose which, based on a general perception among the population, can be characterised as beneficial and which benefits a certain large group of people.
- 2) Any yield from surplus assets on winding-up or profit upon dissolution must accrue to another organisation, association, foundation, institution etc. or religious community which is domiciled in Denmark or in another EU/EEA member state and has a charitable or otherwise non-profit object.
- 3) The organisation, association, foundation, institution etc. or the religious community being domiciled in Denmark or in another EU/EEA member state means that most of the governing bodies and the head office must be based in Denmark or in another EU/EEA member state.

## Part 2

### *Provisions for application for approval etc.*

**7.-(1)** An application for approval under section 8 A(2) and/or section 12(3) of the Tax Assessment Act and appendices must be submitted digitally via [www.skat.dk](http://www.skat.dk). The following must always be enclosed with the application:

- 1) Signed and dated statutes.
- 2) Most recent financial statements. If the organisation has just been set up, documentation of assets or annual gross income must be submitted instead.
- 3) Documentation showing that the conditions in section 1 paras (2)-(4) can be met.
- 4) Foreign organisations, associations, foundations, institutions etc. and religious communities domiciled in other EU/EEA member states must submit documentation that they have been approved in their home country as charitable or non-profit organisations, associations, foundations, institutions etc. or as religious communities etc., e.g. through a declaration of income tax exemption. Foreign organisations, associations, foundations, institutions etc. and religious communities must meet the same objective rules as Danish organisations, associations, foundations, institutions etc. and religious communities.

(2) Approvals have effect from and including the calendar year in which the application has been received, provided that the application has been received by the Danish Tax Agency by 1 October. It is a condition for approval that the organisation, association, foundation, institution etc. and the religious community, respectively, has been founded, that the general statutory requirements for the contents of the statutes have been met and that the conditions etc. set out in sections 1-4 and section 5, respectively, have been met at the time of application. As regards newly founded organisations, associations, foundations, institutions etc. and religious communities, the approval will become effective from the time of foundation at the earliest.

(3) The approval will remain effective until specifically terminated and will not be subject to annual renewal. The Danish Tax Agency annually publishes a list of approvals under section 8 A(2) and section 12(3) of the Tax Assessment Act.

**8.-(1)** The Danish Tax Agency monitors the continued compliance with the conditions for approval. For this purpose, the organisation, association, foundation, institution etc. and the religious community must, on request, submit its financial statements, itemisations etc. to the Danish Tax Agency.

(2) Each year no later than on 31 May, approved organisations, associations, foundations, institutions etc. must under section 8 A(2) and section 12(3) of the Tax Assessment Act submit to the Danish Tax Agency information on municipality of domicile, assets, annual gross income, the number of fee-paying members, the number of donors under section 1 paras (2) and (3), information about foreign donations under section 1 para (4), the total donated amount under section 8 A(1) of the Tax Assessment Act, the total regular donations under section 12(2) of the Tax Assessment Act and the total amount distributed in accordance with the objects clause for the previous calendar year. The information (donation form) must be submitted digitally via [www.skat.dk](http://www.skat.dk).

(3) Each year no later than on 31 May, religious communities must submit information to the Danish Tax Agency on the total donated amount under section 8 A(1) of the Tax Assessment Act, the total regular donations under section 12(2) of the Tax Assessment Act and the total amount distributed in accordance with the objects clause as well as information about foreign donations

under section 1 para (4). The information (donation form) must be submitted digitally via [www.skat.dk](http://www.skat.dk).

(4) Approved organisations, associations, foundations, institutions etc. and religious communities must also submit annual reporting under section 26 of the Tax Reporting Act.

(5) The Danish Tax Agency may specifically demand the submission of more specific information about the financial statements, e.g. where the organisation, association, foundation, institution etc. and the religious community uses its funds for activities outside EU/EEA member states. An applying organisation, association, foundation, institution etc. and a religious community or an already approved organisation, association, foundation, institution etc. and a religious community must, upon request from the Danish Tax Agency, submit documentation for the charitable or non-profit purpose with information about the project outside EU/EEA member states, including the purpose of the project, the project manager, budget framework, names of beneficiaries of the funds etc.

(6) Where the conditions are no longer met, the Danish Tax Agency will revoke the approval. In general, such revocation will take effect from the subsequent quarter.

### Part 3

#### *Commencement etc.*

**9.-(1)** The Executive Order enters into force on 1 January 2019.

(2) Order no. 282 of 26 March 2014 on Approval Etc. under Section 8 A and Section 12(3) of the Tax Assessment Act of Charitable and Non-profit Organisations, Associations, Foundations, Institutions and Religious Communities Etc. in Denmark or in Another EU/EEA Member State will be repealed.

(3) Approvals issued to religious communities under section 6 of Order no. 282 of 26 March 2014 on Approval Etc. under Section 8 A and Section 12(3) of the Tax Assessment Act of Charitable and Non-profit Organisations, Associations, Foundations, Institutions and Religious Communities Etc. in Denmark or in Another EU/EEA Member State will no longer apply unless the religious order or society, church, assembly or circuit is registered as recognised under the Act on Religious Communities outside the Evangelical Lutheran Church in Denmark, see, however, the second sentence. The first sentence does not apply to congregations covered by the Act on Free Congregations and religious organisations which meet the conditions in section 5(3).

*Danish Tax Agency, 19 December 2018*

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