



Extract from the report to the
Public Accounts Committee on the Danish
Central Tax and Customs Administration's
management of refunds of dividend with-
holding tax and the Ministry of Taxation's
supervision of the refunds

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1. Introduction and conclusion

1.1. Purpose and conclusion

1. In September 2015, the Danish Public Accounts Committee asked Rigsrevisionen to examine how the Danish Central Tax and Customs Administration (SKAT) had managed claims for refund of dividend withholding tax (DWT) in the period 1 January 2010 to 5 August 2015 and how the Ministry of Taxation had supervised the area in the same period. The suspected tax fraud of DKK 6.2 billion relating to claims for refund of Danish dividend withholding tax that SKAT reported to the Danish State Prosecutor for Serious Economic International Crime (SØIK) on 24 August 2015, formed the basis for the request by the Public Accounts Committee. SKAT subsequently filed another report with SØIK regarding suspected fraud of additionally DKK 2.9 billion. According to the Ministry of Taxation, more incidents of fraud are likely to be identified as a result of the current investigations.

2. The purpose of the study is to assess whether claims for refund of DWT have been adequately managed by SKAT and whether the Ministry of Taxation's supervision of SKAT in this respect has been satisfactory. Among other issues, Rigsrevisionen has examined the following:

- Whether internal controls at SKAT were adequate.
- Whether the Ministry of Taxation acted on the information gained through its general supervision and acted on other indicators of problems with the claims for refund of DWT.

Rigsrevisionen has also examined whether SKAT has estimated the total suspected fraudulent amount relating to the refund of DWT.

Refund of DWT

During the period of investigation, nonresident shareholders have had the option to request refund of DWT either by submitting a form directly to SKAT or by requesting the refund through a custody bank.

The arrangement with the custody banks, which SKAT terminated in September 2015, was an agreement between SKAT and three banks that were allowed to submit refund claims to SKAT on behalf of non-resident shareholders.

CONCLUSION

Overall, Rigsrevisionen is very critical of SKAT's management of claims for refund of DWT and the Ministry of Taxation's supervision of the refunds. SKAT's control of payments made in relation to the refunds and the Ministry of Taxation's supervision of the area have been extremely inadequate.

So far, SKAT has reported suspected tax fraud of DKK 9.1 billion. However, the Ministry of Taxation has indicated that additional incidents of suspected fraud may be identified following SKAT's current investigations into the remaining payments of DKK 5.1 billion made on the basis of forms submitted to SKAT by non-resident shareholders.

SKAT and the Ministry of Taxation have been aware that there were problems with the refund of DWT, at least since 2010. Yet, SKAT did not give the matter its full attention before it was warned about the fraud by sources outside the organisation. There are no indications in Rigsrevisionen's study that SKAT or the Ministry of Taxation would have reacted to the considerable increase in refunds from DKK 0.68 billion in 2010 to DKK 9.3 billion during the first approximately seven months of 2015, i.e. an increase of 1,300 per cent, if they had not received this information. Quite the reverse, when SKAT was informed about the suspected fraud, it was in the process of training new staff to handle the increasing number of refund requests

DWT amounting to DKK 14.2 billion was refunded by SKAT based on claims made through the form during the period where the suspected fraud took place. These payments were made on an entirely inadequate basis and SKAT failed to check basic information submitted in the forms concerning, for instance, ownership of the shares and whether dividend tax had been withheld.

During the same period, SKAT refunded DWT of DKK 5.4 billion to non-resident shareholders through its arrangement with three custody banks. An arrangement that SKAT terminated late in September 2015 after having concluded that it had delegated its authority and obligation to control data to the three banks without proper legal basis. In the autumn of 2015, SKAT arrived at the conclusion that its agreement with the three banks was not legal and the agreement was terminated late in September 2015. During the time of the arrangement, SKAT failed to check whether the three banks performed the regulatory tasks delegated to them. SKAT has informed Rigsrevisionen that refunds made under the bank arrangement will be scrutinized in order to determine whether they may be fraudulent, in which case further control of the basis for the refunds will be required.

In the period between the time when SKAT was informed of the suspected fraud and the time when refund payments were suspended, SKAT refunded withheld dividend tax of DKK 3.2 million. The Ministry of Taxation has informed Rigsrevisionen that the information it received over the summer of 2015 was inadequate and did not until 6 August provide a reliable basis for suspending payment of refunds. Rigsrevisionen has established that SKAT was aware that the number of refund claims as well as the total amount of dividend tax to be refunded had increased significantly, when sources outside the organisation informed SKAT of the suspected fraud. SKAT was also aware that its internal controls were inadequate. Rigsrevisionen finds that SKAT should have started an investigation and suspended processing of all claims for DWT refunds when it received information from the sources outside the organisation.

The supervision by the Ministry of Taxation has not effectively addressed the development in DWT and refund claims. Thus, the Ministry of Taxation had not responded to the changes in DWT refunds that were brought to its attention repeatedly in the accounts that are submitted to the ministry by SKAT on a monthly basis. It appeared from these accounts that DWT refund claims were on the increase and that refunds during just one month in 2015 had increased by 200 per cent compared to the same month the year before. Nor has the Ministry of Taxation, for instance, addressed or reacted to the negative development in net income generated from DWT in connection with its approval of the monthly summaries of net income from taxes and fees that are submitted to the Fiscal Affairs Committee under the Danish parliament. To this should be added that the Ministry of Taxation has failed to act on several indications of problems relating to refunding of DWT.

Overall, Rigsrevisionen must conclude that the supervision by the Ministry of Taxation has been fragmented and reactive. The Ministry of Taxation has not looked at the information obtained during its general supervision in conjunction with the indications of the problems with the DWT that were reported to the ministry throughout the years. If the Ministry of Taxation had been more proactive in its supervision and compared the information it received from various sources, it would have been quite clear to the ministry that further examination of the area was required. Rigsrevisionen's study shows that the outcome of even simple analyses of the development in refunds of DWT would have indicated that there were problems, which should have led to further examination of the area.