

Guide to the application for approval of organisations, foundations, institutions etc. for research purposes pursuant to Section 8 H of the Danish Tax Assessment Act

Section 8 H of the Danish Tax Assessment Act (*Ligningsloven*) opens up for the deduction of donations for research made to charitable or non-profit organisations, foundations, institutions etc., the assets of which are used for research, in connection with the determination of the taxable income of natural and legal persons, see section 8 H of the Danish Tax Assessment Act

The rule on deductions for donations for research does not apply if the donor and the recipient share common interests.

It is a condition that the receiving organisation etc. has received approval from the Danish Tax Agency, for the calendar year in which the donation is made, for receiving donations for research which have the effect that the donor is granted a deduction.

It is a further condition that the organisation, foundation, institution etc. has declared the donation to the Danish Tax Agency in accordance with the rules laid down by the Danish Minister for Taxation according to section 8 Æ(1) and (3) of the Danish Tax Control Act.

Where to apply

The authority to approve charitable or non-profit organisations, foundations, institutions etc. according to section 8 H of the Danish Tax Assessment Act lies with the Danish Tax Agency.

Application form, form no. 03.078 EN, can be downloaded from the Danish Tax Agency's website at www.skat.dk/form03078.

The application should be sent to

Skattestyrelsen

Nykøbingvej 76
Bygning 45
4990 Sakskøbing
Denmark

When to apply

Applications for approval according to section 8 H of the Danish Tax Assessment Act must be received by the Danish Tax Agency no later than 1 October for the calendar year for which approval is sought.

As the approval in respect of other private and self-governing institutions etc. applies only for the year of application, a renewed application must be made every year for the institutions etc. mentioned above.

The Danish Tax Agency receives and processes the applications. A processing time of five months should normally be expected.

Who can apply?

Charitable or non-profit organisations, foundations, institutions, associations etc. can apply for approval according to section 8 H of the Danish Tax Assessment Act; both institutions etc. conducting research and institutions etc. supporting research are comprised.

Who has preliminary approval?

The following institutions etc. have been granted preliminary approval from the Danish Council for Independent Research (DFF) according to section 8 H of the Danish Tax Assessment Act. Institutions etc. with preliminary approval need not apply.

1. Public institutions

Public institutions which have obtained approval from public authorities for conducting and/or supporting research, including universities, institutions of higher education, government research institutions, university hospitals, the Danish Council for Independent Research (DFF), the Danish Council for Strategic Research (DSF), the Danish Council for Technology and Innovation (RTI), the Danish National Research Foundation and the Danish National Advanced Technology Foundation.

2. Approved Technological Service Institutes

The Alexandra Institute, Bioneer, DBI – Danish Institute of Fire and Security Technology, DFM – Danish Fundamental Metrology, DHI, FORCE Technology and the Danish Technological Institute.

3. Museums

Museums comprised by the Danish Museum Act (*Museumsloven*) (Act. no. 358 of 8 April 2014). Other museums need to obtain approval individually from the Danish Tax Agency.

What is meant by research?

In relation to section 8 H of the Danish Tax Assessment Act, research is broadly defined, and research thus means scientific research and study. Such research can form part of actual basic research. It can also be directed at practical targets and applications, cf. the explanatory notes to section 8 H of the Act (bill no. L6 introduced on 7 October 1987). Basic research is defined in clause 14.4 (section 8 B of the Danish Tax Assessment Act – test and research expenses) in the Danish Ministry of Taxation's circular no. 72 of 17 April 1996.

Which conditions are considered in connection with the assessment of applications?

The following three conditions must be met in order to obtain approval according to section 8 H of the Danish Tax Assessment Act.

1. Domiciled in Denmark or in another EU/EEA member state

The expression domiciled in Denmark or in another EU/EEA member state corresponds to the wording used in section 1 of the Danish Corporation Tax Act (*Selskabsskatteloven*). In accordance with normal practice, it is therefore crucial that both the Board of Directors – at least the majority of the members of the Board of Directors – and the head office are located in Denmark or in another EU/EEA member state.

2. Non-profit/charitable

Organisations etc. must be charitable or non-profit. An organisation etc. is deemed to be non-profit if its activity in society can be characterised as being beneficial based on a general perception among the population. In addition, the purpose of the organisation must benefit a wide/large group of people. The terms charitable and non-profit must be interpreted in the same way as they are interpreted in section 8 A of the Danish Tax Assessment Act on the right to deduct donations made to charitable or in other ways non-profit organisations, see the Danish Tax Agency's legal guide, section C.A.4.3.5.8. Please note that the guide is only available in Danish.

3. Using assets for research

Organisations etc. must use their assets to conduct research or support research conducted by others. The assessment made by the Danish Council for Independent Research includes, among other things, assessing whether research forms part of the object of the organisation, whether the Board of Directors, for example, or other bodies comprise members with research expertise, how large a part of the annual expenses has been allocated to research and what research activities the organisation is supporting or conducting. The Danish Council for Independent Research uses OECD's Frascati Manual (latest version) in its assessment of research.

Requirements for the application

For use in connection with the Danish Tax Agency's and the Danish Council for Independent Research's assessment, the following documents must be enclosed with the application:

- Completed application form
- Signed and dated articles of association
- Most recent annual review and set of financial statements
- A description of the research conducted or supported by the institution etc., the amounts donated to research and the research competency held by the institution.

- Foreign institutions etc. domiciled in EU/EEA member states must document that they have been approved in their home country as charitable or non-profit organisations, e.g. in the form of a declaration of income tax exemption.

In connection with their processing of the application, the Danish Tax Agency and the Danish Council for Independent Research may request further information etc. from the applicant.

The applicant will receive a letter with information on whether or not the application can be approved.

How is the application processed?

The application is sent to the Danish Tax Agency (Juridisk Administration), which processes the application. Before the Danish Tax Agency decision on the matter, the Danish Tax Agency must obtain an opinion from the Danish Council for Independent Research as to whether the organisation, foundation, institution etc. uses its assets for research. The Danish Tax Agency will subsequently send a letter to the applicant announcing whether or not the application has been approved.

Where can the rules be found?

Section 8 H of the Danish Tax Assessment Act. Please note that the Act is only available in Danish.

Clause 14.4 of the Danish Ministry of Taxation's circular no. 72 of 17 April 1996 section 8 B of the Danish Tax Assessment Act – test and research expenses. (only available in Danish).

The Danish Tax Agency's legal guide, section C.A.4.3.5.11 and C.A.4.3.5.12 (only available in Danish).

Filing an appeal

Appeals against the Danish Tax Agency's decision can be filed with the Danish Tax Appeals Agency (*Skatteankestyrelsen*) at the address

Skatteankestyrelsen
Ved Vesterport 6, 6. sal
DK-1612 Copenhagen V
Denmark.

Questions can be directed to Skattestyrelsen

Tel: 72221818

and research-related questions to

Danish Agency for Higher Education and Science

Tel: 72318330.