Duties in the financial sector

Practice area under Tax

VAT and payroll tax play important parts in the financial sector. The limited right to deduct input VAT and the liability to pay payroll tax contribute to heavy expenditure in the sector. This is why the Danish Customs and Tax Administration (SKAT) has also been focusing on this area and has instituted several test cases concerning VAT and payroll tax.

Plesner conducts legal proceedings about VAT and payroll tax in the financial sector before the Danish courts on a regular basis. So far, such cases have resulted in the Danish State having had to repay billions of Danish kroner relating to unlawfully collected duties to the financial undertakings.

VAT - the ATP case

One of the most discussed cases is the ATP case where the Court of Justice of the European Union (ECJ) set aside the Danish authorities' practice and upheld ATP PensionService's contention that the services it provides to PensionDanmark are exempt from VAT as services relating to transactions concerning payments and transfers or as the management of an investment fund. ATP PensionService and the Danish Ministry of Taxation settled the matter and SKAT had to repay a triple-digit million amount to ATP PensionService. On this background DKK 1.3bn has been earmarked in the Danish Finance Bill for 2016 for repayment of unlawfully collected VAT to other undertakings. Read a comprehensive presentation of the case The Danish Ministry of Taxation and the ECJ may end up in a new VAT dispute.

Due to the judgment and the settlement SKAT has had to relax its practice in respect of VAT exemption for payment transactions and the management of unit trusts even if SKAT, in our opinion, interprets the ECJ's judgment somewhat restrictively.

In the guidelines subsequently issued in respect of the ATP case the Danish Ministry of Taxation does accept that a pension fund or another pension provider can be deemed to be an "investment fund". However, SKAT denies that the ECJ has set aside SKAT's interpretation of the concept of management, finding that the services provided by ATP PensionService may be included in the existing practice in respect of which services that may be deemed to constitute the "management of unit trusts". Furthermore, SKAT recognises that the ECJ has set aside SKAT's practice with respect to "transactions concerning payments and transfers " but SKAT restricts its new practice to services corresponding to the services provided by ATP PensionService to PensionDanmark. In doing so, it is our opinion that SKAT fails to recognise the principle expressed by the ECJ's judgment on this point.

Plesner has regularly received requests from the financial sector and providers to financial undertakings about the scope of the judgment since it was passed by the ECJ. The settlement and the guidelines issued by SKAT mean that the implementation of the ECJ's judgment can be initiated in respect of the rest of the financial sector and its providers. We expect that SKAT's restrictive interpretation of the judgment will give rise to additional cases about the correct understanding of the VAT exemptions.

See also EU tax litigation

Payroll tax

Plesner is also conducting a number of leading cases about payroll tax and the question of how financial undertakings are to distribute their payroll in the calculation of payroll tax (lønsumsafgift) when the employees are involved in both activities that are subject to VAT and activities that are VAT exempt (liable to payroll tax). The legislation stipulates that payroll tax is to be paid on the part of an undertaking's payroll that is used for the activities that are liable to payroll tax (VAT exempt).

SKAT claims in the cases that the financial undertakings cannot apply the percentage for deduction of VAT as an allocation method and has instead ordered the financial undertakings to make distributions on the basis of a discretionary assessment made by SKAT.

Plesner represents the banks involved and we have requested that the courts, firstly, consider whether the financial undertakings are entitled to use the percentage for deduction of VAT as an allocation method. Secondly, the courts have been requested to consider the criteria for SKAT to carry out and enforce an estimate deviating from the discretionary assessment made by the financial undertaking itself.

Most recent Spar Nord Bank A/S was successful before the Danish Western High Court in that the bank's discretionary allocation of payroll costs on taxable and non-taxable activities based on the breakdown of turnover under section 38 of the Danish VAT Act could not be set aside as the Danish Costums and Tax Administration had not proved that the Administration's estimate was more correct than the bank's.

Case News 30.09.2026

The City Court of Copenhagen rules in favour of IT consultant in tax and VAT case

Case News 11.06.2026

High Court rules in favour of pharmaceutical multinational in landmark transfer pricing case

Case News 20.04.2026

Eastern High Court rules in favour of former UN staff in landmark pension tax case

Case News 07.04.2026

The National Tax Tribunal overturns tax increases in a case concerning alleged disguised dividends and taxation of shareholder contributions

Case News 17.03.2026

Transfer pricing dispute resolved through settlement before the Western High Court

Case News 03.10.2025

Plesner advises SCHWENK Zement in first Danish CCS farm-in on Bifrost

Case News 21.05.2025

The Supreme Court rules entirely in favour of EET Group A/S in landmark transfer pricing case

Case News 08.05.2025

Board members can deduct damages

Case News 01.04.2025

RWE sells 49% of the largest offshore wind farm in Denmark - Thor Wind Farm

Case News 18.06.2024

Sampo plc announces a public exchange offer to the shareholders of Topdanmark A/S

Case News 13.10.2023

The National Tax Tribunal reverses the case law of the Danish Tax Agency on additional taxation of foundations' tied-up funds on dissolution

Case News 30.06.2023

The Supreme Court finds in favour of the Ministry of Taxation in another "beneficial owner" case

Ratings

2026 **The Legal 500**

Within Tax, Plesner is a first tier firm.

"Very professional and skilled to work with"

"Best at litigation in the market"

"The team we work with is highly specialised within their field and has an in-depth knowledge of our sector. Understanding our sector is essential in linking tax legislation/practice to our business and being able to move forward with our specific needs"

"The team is very knowledgeable within tax, and their input is generally of a very high standard"

"Plesner has shown significant capabilities to combine tax technical knowledge with legal and commercial considerations, in order to identify the sweet spot or balance for optimal decision-making. Plesner team was responsive and proactive"

2026 **Chambers Europe**

Plesner is listed in "Band 1" as regards Tax.

"Plesner is top of its field. The lawyers are extremely knowledgeable and service-oriented; they're just the best in the business"

"Its lawyers are able to communicate complex issues in a manner that is understandable and does not over-complicate the case"

"The lawyers both dive deep and maintain a pragmatic approach"

"It is a technically strong team that has a deep understanding of tax litigation and court strategy"

"What really stands out is the team's willingness and ability to understand the client's business"

2026 **World Tax**

Plesner is ranked in Tier 1 in the World Tax ranking as the only Danish firm across the four tax categories (General Corporate Tax, Transfer Pricing, Indirect Tax, and Tax Controversy).

2025 **The Legal 500**

Within Tax, Plesner is a first tier firm.

"The tax team is the top pick in Denmark. They know the area and work with all the leading companies. Hereby they gain a unique understanding of tax issues"

"Very strong team especially within the area of disputes"

"Great insight and always up to date"

"Best in class within tax litigation"

"The team successfully familiarised themselves with a completely new area and the intricacies of the same. They not only got a very good grasp of how it worked but managed to tie it all together with the functionality and administration of reinsurance. I am confident that they will be able to do the same in other areas as well"

"Dedication, craving for knowledge and understanding of the area in question. Experts within the area of transfer pricing. Excellent in court, where they managed to draw the attention to the important matters. All in all a stellar performance both in the preparation and the execution"

2025 **Chambers Europe**

Plesner is listed in "Band 1" as regards Tax.

"Plesner is well-versed and extremely experienced in highly technical areas of law. It is able to make difficult concepts and strategic decisions digestible for non-experts"

"Plesner has significant experience and is very strong on the subject matter"

"Plesner delivers a very high standard and is best-in-class in Denmark"

2025 **World Tax**

Plesner is ranked in Tier 1 in the World Tax ranking as the only Danish firm across the three tax categories (General Corporate Tax, Transfer Pricing and Tax Controversy).

2024 **The Legal 500**

Within Tax, Plesner is a first tier firm.

"Their industry and practice knowledge is very strong"

"They have a detailed knowledge of tax and, combined with an incredible business understanding, they are able to turn a complex matter into a simple line of arguments to make a convincing story"

"Very experienced and competent within tax litigation and transfer pricing. Strong mindset around people"

"Responsive, convey technical legal matters well in general business terms"

2024 **Chambers Europe**

Plesner is listed in "Band 1" as regards Tax.

"The team is very experienced, knowledgeable and proactive in its approach"

"The lawyers are able to understand a problem holistically, and are very knowledgeable regarding practical case handling. They are always responsive and good at explaining complex matters to business teams"

2024 **World Tax**

Plesner is ranked in Tier 1 in the World Tax ranking as the only Danish firm across two tax categories (General Corporate Tax and Tax Controversy).

"Plesner is widely regarded as the leading Danish law firm for all areas of tax law, including tax litigation"



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