

Information on residency for tax purposes

Section I – Criteria for Individuals to be considered a tax resident

As a general rule, all individuals who establish a home in the Faroe Islands are deemed to be residents in the Faroe Islands.

Even if the individual has not established a home in the Faroe Islands he is still deemed to be resident in the Faroe Islands if:

- The individual is staying in the Faroe Islands for a period of at least 180 days
- The individual is serving or permanently staying on board a ship based in the Faroe Islands if the his latest country of residence were the Faroe Islands.

If an individual is considered a tax resident in the Faroe Islands and at the same time is considered a tax resident in another country the individual is dual resident.

If the Faroe Islands do not have a Double Taxation Agreement (DTA) with the other country the Faroe Islands are entitled to tax the individual's worldwide income. This means that all income, regardless of country of origin, may be taxed in the Faroe Islands.

If the Faroe Islands have a DTA with the other country the DTA will determine where the individual is resident for tax purposes.

The right of taxation is determined by:

- where the individual concerned is resident for tax purposes in accordance with the DTA (the home or centre of vital interests)
- where the income is earned
- type of income

Relevant tax provisions:

Section 1 (1), subparagraphs (1-6) in the Faroese Tax Act (Løgtingslóg um landsskatt og kommunuskatt)

Article 4 of the OECD Model Tax Convention

Section II – Criteria for Entities to be considered tax residents

Companies etc. can be either fully or partially taxed in the Faroe Islands.

Companies may be subject to full tax liability either because they are registered in the Faroe Islands or because their place of management is in the Faroe Islands.

Whether a company's place of effective management is situated in the Faroe Islands depends on an individual assessment with emphasis on the day-to-day management of the company.

According to section 1 of the Faroese Tax Act (Løgtingslóg um landsskatt og kommunuskatt) companies and associations domiciled in the Faroe Islands are subject to full tax liability to the Faroe Islands:

- Public limited companies
- Savings banks, cooperative savings banks, etc.
- Cooperative societies
- Associations
- Mutual funds
- Other associations, corporations, foundations, and private institutions

Foreign companies domiciled in the Faroe Islands are considered domestic companies and are subject to full tax liability.

Limited tax liability

Foreign companies and associations of a similar nature as those that are subject to full tax liability are subject to limited tax liability in the Faroe Islands when they have income from the Faroe Islands, cf. section 2 of the Faroese Tax Act.

The tax liability applies to taxpayers who receive consulting fees, own real estate or carry out commercial activities with a permanent establishment in the Faroe Islands.

Foundations

Foundations and associations covered by e.g. the Commercial Foundations Act (Fyriskipan um ígildissetan fyri Føroyar av lóg um vinnurekandi grunnar) are taxable under the Faroese Tax Act

The term "foundation" means a legal person owning assets which are irrevocably separated from the founder's personal assets.

A number of foundations, etc. are not subject to the foundations legislation. These include religious communities and educational institutions. As a general rule these meet the requirements for tax exemption under section 3 of the Faroese Tax Act.

A number of institutions are excluded from the scope of the Commercial Foundations Act. These include halls of residence for young people, elderly homes, sports facilities, power stations, etc.

In specific cases the Faroese Tax Council may find that an entity is not a foundation but e.g. a charitable collection. Such a collection would not be subject to tax liability because it would be considered to be temporary.

The act on taxable nonstock corporations only lays down rules on the taxation of foundations and associations based in the Faroe Islands. If foreign foundations and associations have activities in the Faroe Islands they are subject to limited tax liability on these activities.

Foreign foundations are taxable under the Faroese Tax Act if their place of management is in the Faroe Islands regardless of where the foundation or private foundation may be registered.

More information

The text above is described in detail in the Faroes Tax Authority's legal guide (Líkningsvegleiðingin) at www.TAKS.fo in particular in Sections C. "Subjective tax liability". Please note that the guide is only available in Faroese.

Section III – Entity types that are as a rule not considered tax residents

Transparent entities

The transparency principle means that the income earned by an entity for tax purposes is deemed to be earned by the unit's owner(s).

E.g. limited partnership companies (Kommanditfeløg) are transparent as the general partner is personally liable and limited partner shareholders are taxed personally on their ideal share of the company's results.

The same applies to partnerships (Íognarfeløg) where the partners are taxable.

If a company is reclassified to be a transparent company the owners of the transparent company will be subject to limited tax liability to the Faroe Islands as they are deemed to have a permanent establishment in the Faroe Islands if a permanent establishment exists according to a double taxation agreement.

Exempt companies and institutions

Section 3 of the Faroese Tax Act lays down a number of companies, associations and institutions which are exempt from tax liability.

Unconditional absolute exemption applies to for example:

- The Faroe Islands and its institutions
- Municipalities and their institutions ½
- Independed churches

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Section IV – Contact point for further information

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