

Transfer Pricing Country Profile
(to be posted on the OECD Internet site www.oecd.org/ctp/tp/countryprofiles)

Name of Country: DENMARK **Date of profile:** January 2013

1. Reference to the Arm's Length Principle

. Article 2 of the Tax Assessment Act (*Ligningsloven – hereafter LL*) refers to the arm's length principle. Article 3B of the Tax Control Act (*Skattekontrolloven – hereafter SKL*) requires taxpayers to a) disclose information about transfer pricing in their tax returns and b) prepare transfer pricing documentation. Article 3B also authorises the tax authorities (*SKAT*) to issue rules regarding the content of such documentation. Those rules were issued under Statutory Order nr. 42 of 24 January 2006 (hereafter SO 42).

2. Reference to the OECD Transfer Pricing Guidelines (if any)

In the explanatory memoranda of our transfer pricing legislation.

3. Definition of related parties

Article 2, LL and Article 3B, paragraphs 2 and 3, SKL.

4. Transfer pricing methods

Danish law does not require that a specific method be used for transfer pricing purposes. Reference is made to the OECD transfer pricing guidelines and methods therein.

5. Transfer pricing documentation requirements

Under Section 3B, paragraph 5, SKL, taxpayers must keep written documentation of the way in which the prices and terms of their controlled transactions have been determined, to be submitted to the Danish tax authorities upon request within 60 days. It must form the basis of an assessment on arm's length pricing. Database searches only needs to be done if requested by the tax authorities, subject to a minimum time limit of 60 days. Certain exemptions apply to small taxpayers and insignificant transactions.

SO 42 stipulates the Danish transfer pricing documentation requirements. Alternatively the EU Masterfile system or the Pacific Association of Tax Administrators (PATA) Transfer Pricing Documentation Package rules may be followed.

As of 2013, Article 3B, paragraph 8, SKL, enables SKAT to request taxpayers to obtain an independent auditor's statement on the quality of its TP documentation. Such taxpayers should either have made losses for at least 4 consecutive years or transacted with related parties outside the EEA and other Danish tax treaty countries.

Transfer pricing documentation guidelines are available in Danish online at <http://skat.dk/SKAT.aspx?oId=1845128&vId=0> (www.skat.dk > Virksomhed > Told og udland > Transfer pricing).

6. Specific transfer pricing audit procedures and / or specific transfer pricing penalties

There are no specific TP audit procedures.

There are specific TP penalties: Article 17, paragraph 3, SKL penalises shortcomings in TP documentation; Article 14, paragraph 4, SKL penalises wrongful use of documentation relief for SME's

7. Relevant regulations on Advance Pricing Arrangements

Guidelines are available (in Danish) under http://www.skat.dk/SKAT.aspx?oId=2060565&vId=205780&search=APA*, or www.skat.dk > Jura, tal og statistik > Juridiske vejledninger > Den juridiske vejledning 2012-2 > C.D Selskabs-, fonds- og foreningsbeskatning > C.D.11 Transfer Pricing > C.D.11.7 Hvordan undgås transfer pricing-dobbeltbeskatning > C.D.11.7.3 Advance Pricing Arrangements

8. Link to relevant Government Internet sites

Danish Tax and Customs Administration: www.skat.dk

Danish Tax Ministry: www.skm.dk

9. Other relevant information

The authoritative Tax Guidance (in Danish only) is available on: <http://www.skat.dk/SKAT.aspx?oId=12707&vId=0#pos> or www.skat.dk > Jura, tal og statistic > Juridiske vejledning.

Note

1. Relevant provisions of domestic legislation referring to the Arm's Length Principle.
2. Reference if any to the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations in domestic legislation or regulations.
3. Relevant legislation or regulations containing a definition of related parties or associated enterprises.
4. Relevant legislation or regulations containing guidance on transfer pricing methods including hierarchy among them if any.
5. Relevant regulations if any in relation to transfer pricing documentation requirements.
6. Relevant regulations if any on specific transfer pricing audit procedures and / or specific transfer pricing penalties.
7. Relevant regulations if any on Advance Pricing Arrangements.
8. Addresses of the Internet sites of the relevant authorities in charge of transfer pricing policy, its administration and Advance Pricing Arrangements.
9. Other relevant information, for instance having gone through a peer review, or having new transfer pricing regulations in preparation.