

Denmark

Transfer Pricing Country Profile

July 2021

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <p>The Tax Assessment Act, Section 2, contains the Danish arm's length provision and in the explanatory memoranda (preparatory legislative work) there is a direct reference to the arm's length principle contained and described in the OECD Transfer Pricing Guidelines (hereafter TPG).</p> <p>In Denmark the arm's length provision is interpreted according to the arm's length principle contained and described in the TPG.</p> <p>The Danish Tax Control Act, Section 37-52, requires taxpayers to a) disclose information about transfer pricing in their tax returns and b) prepare and submit transfer pricing documentation and c) prepare and submit CbC reports.</p> <p>Transfer pricing regulations, guidance and practices/case laws in Denmark are described in Legal Guidance (DJV). The Legal Guidance is based on and fully aligned with the guidance provided in TPG.</p>	<p>The arm's length principle is governed by the Tax Assessment Act (Ligningsloven), Section 2.</p> <p>Transfer pricing documentation requirements are governed by the Tax Control Act (Skattekontrolloven), Section 37-52.</p> <p>Guidance on transfer pricing is provided in Legal Guidance (DJV), Section C.D.11. (Transfer Pricing).</p>
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	<p>The Danish Tax Assessment Act, Section 2, includes a direct reference to the TPG in the explanatory memoranda.</p> <p>In Denmark the arm's length provision is interpreted according to the arm's length principle contained and described in the OECD TPG.</p>	<p>Guidance on the role of the OECD TPG in application of the arm's principle contained in the Tax Assessment Act (Ligningsloven), Section 2, is provided in DJV, Section C.D.11.2.1.1 (Armslængdeprincippet og Transfer Pricing Guidelines).</p>
3	Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Coinciding definition of related parties are provided in both the Tax Assessment Act</p>

	definition contained under your domestic law or regulation.	According to the Tax Assessment Act, Section 2, and the Tax Control Act, Section 37, related parties are defined based on either formal control (>50% shareholding) or actual control (ex. control based on shareholder agreement)	(Ligningsloven), Section 2, and in the Tax Control Act (Skattekontrolloven), Section 37. Guidance on the definition of related parties is provided in DJV , Section C.D.11.1.2 (Hvem er omfattet af armslængdeprincippet).												
Transfer Pricing Methods															
4	Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If affirmative, please check those provided for in your legislation: <table border="1" data-bbox="692 544 1543 703" style="margin-left: 20px;"> <thead> <tr> <th>CUP</th> <th>Resale Price</th> <th>Cost Plus</th> <th>TNMM</th> <th>Profit Split</th> <th>Other (If so, please describe)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table> <p>The above methods are to be used in Denmark, cf. the reference to the TPG in the explanatory memoranda to the Tax Assessment Act, Section 2.</p> <p>As also provided for in the TPG, Denmark uses various valuation techniques for determining the arm's length price/value of businesses and (intangible) assets.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Guidance on the choice of transfer pricing method is provided in DJV , Section C.D.11.4.1 (Valg af transfer pricing-metode).				
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)										
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>										
5	Which criterion is used in your jurisdiction for the application of transfer pricing methods?	Please check all that apply: <ul style="list-style-type: none"> <input type="checkbox"/> Hierarchy of methods <input checked="" type="checkbox"/> Most appropriate method <input type="checkbox"/> Other (if so, please explain) <p>The Tax Assessment Act, Section 2, refers to the arm's length principle as contained and described in the TPG.</p> <p>The criterion used in Denmark for the application of transfer pricing methods is fully aligned with the guidance outlined in Chapter II of the TPG.</p>													

6	<p>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</p>	<p><input checked="" type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input checked="" type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (<i>if so, please explain</i>)</p> <p><input type="checkbox"/> Other (<i>if so, please explain</i>)</p> <hr/> <p>Special tax legislation governs the pricing of activities related to the extraction of oil and gas.</p>	<p>Hydrocarbons Tax Act (Kulbrinteskatteloven)</p>
Comparability Analysis			
7	<p>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>The Tax Assessment Act, Section 2, refers to the arm's length principle as contained and described in the TPG.</p> <p>The guidance and standard for performing a comparability analysis in Denmark is fully aligned with the guidance outlined in Chapter III of the TPG.</p>	<p>Guidance on comparability analysis is provided in DJV, Section C.D.11.5 (Sammenlignelighedsanalyse).</p>
8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <hr/> <p>There is a preference for comparable data including data from transactions on comparable markets.</p> <p>Whether or not a market is sufficiently comparable is determined based on the transactions in question, characteristics of the market and availability of comparable data.</p>	
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <hr/> <p>Secret comparables have not been used for transfer pricing assessment purposes.</p>	
10	<p>Does your legislation allow or require the use of an arm's length range and/or</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	<p>Guidance on use of arm's length range and/or statistical measures is provided in DJV, Section</p>

	statistical measure for determining arm's length remuneration?	Use of range and statistical tools are applied in the pricing of controlled transactions, where the use of such measures is considered appropriate, cf. the TPG.	C.D.11.5.9 (Tolkning og anvendelse af data til at fastlægge armslængdepriser og vilkår).
11	Are comparability adjustments required under your domestic legislation or regulations?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Guidance on comparability adjustments is provided in DJV , Section C.D.11.5.8 (Sammenlignelighedsjusteringer).
		Comparability adjustments are required under the circumstances described in the TPG.	
Intangible Property			
12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Guidance on valuation techniques to be used in controlled transactions involving intangibles is provided in administrative ordinance E nr. 238 Transfer Pricing; kontrollerede transaktioner værdiansættelse . Guidance on valuation of intangibles is also provided in DJV , Section 11.6. (Armslængdeprincippet i relation til immaterielle aktiver).
		Valuation guidance is provided to the pricing of controlled transactions involving intangibles. The guidance is considered fully aligned with the guidance provided in the TPG on the use of valuation techniques.	
13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Guidance on the arm's length principle in relation to hard to value intangibles is provided in DJV , Section C.D.11.6.6 (Immaterielle aktiver, der er svære at værdiansætte). HTVI Implementation Questionnaire
		Guidance on the arm's length principle – including pricing of HTVI – is applicable in Denmark, cf. the Danish Tax Assessment Act, Section 2, which contains a direct reference to the TPG in the explanatory memoranda.	
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Tax Depreciation Act (Afskrivningsloven), Section 40. State Tax Act (Statsskatteloven), Section 4.
		Capital gains or losses on the disposal of goodwill, know-how, patents, copyrights, designs or models, trademarks and similar rights are included in the calculation of taxable income, cf. the Tax Depreciation Act (afskrivningsloven), Section 40, paragraph 6 combined with paragraph 1 and 2, and/or the State Tax Act (Statsskatteloven), Section 4. Tax Depreciation Act, Section 40, paragraph 1, 2 and 6. (Non-official translation)	Guidance on the arm's length principle in relation to intangibles is provided in DJV , Section C.D.11.6. (Armslængdeprincippet i relation til immaterielle aktiver)

		<p><i>Paragraph 1. When acquiring goodwill, the acquirer may, with effect from the income year in which a final transfer agreement has been concluded, depreciate the purchase price when calculating the taxable income by up to 1/7 annually.</i></p> <p><i>Paragraph 2. When acquiring other intangible assets such as special manufacturing methods or similar (know-how), patent law, copyright and art rights and rights to designs or trademarks... the acquirer may, with effect from the income year in which a final transfer agreement has been concluded, depreciate the purchase price when calculating the taxable income by up to 1/7 annually...</i></p> <p><i>Paragraph 6. Gains and losses from sale or disposal of assets covered by paragraph 1 and 2 are included when calculating the taxable income. Gains or losses are calculated as the difference between the sales price and the acquisition price less depreciations...</i></p> <p>State Tax Act, Section 4</p> <p><i>Paragraph 1. Taxable income, with the following exceptions and limitations, is considered to be the total annual income of the taxpayer, whether from this country or not, consisting of money or property of monetary value, such as.....</i></p> <p>(The State Tax Act, Section 5 and 6 contains general provisions on tax exemptions and deductions.)</p>	
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Intra-group Services

15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Guidance on the arm's length principle in relation to intra-group services is provided in DJV, Section C.D.11.8 (Armslængdeprincippet i relation til serviceydelser).</p>
		<p>The explanatory memoranda to the Tax Assessment Act, Section 2 refers to the arm's length principle as contained and described in the TPG.</p> <p>Guidance provided on pricing of intra-group services in Denmark is fully aligned with the guidance outlined in Chapter VII of the TPG.</p>	
16	Do you have any simplified approach for low value-adding intra-group services?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Guidance on the arm's length principle in relation to simplified approach for low value-adding intra-group services is provided in DJV, Section C.D.11.8.4 (Særligt om interne serviceydelser med lav værdi).</p>
		<p>Denmark uses the simplified approach for low value-adding intra-group services in accordance with the guidance provided in the TPG.</p>	

17	<p>Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Tax deductibility of service payments is determined under the conditions provided in the State Tax Act, Section 6.</p> <p>Operating expenses are defined as the expenses used to acquire, secure and maintain taxable income.</p> <p>Costs related to stewardship / shareholder interests would typically not be tax deductible in Denmark.</p>	<p>State Tax Act (Statsskatteloven), Section 6.</p>
Financial transactions			
18	<p>[NEW] Does your domestic legislation or regulations provide guidance specific to financial transactions?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Guidance specific to financial transactions is provided in the Legal Guidance (DJV), section C.D.11.10.</p> <p>The guidance provided on pricing of financial transactions in Denmark is fully aligned with the guidance outlined in Chapter X of the TPG.</p>	<p>Guidance on the arm's length principle in relation to financial transactions is provided in DJV, Section C.D.11.10 (Særligt om finansielle transaktioner)</p>
19	<p>[NEW] Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of financial transactions?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Anti-avoidance provisions limiting interest deductions under certain circumstances.</p> <p>Anti-avoidance provision disallowing deductions for intercompany insurances premiums.</p> <p>Provisions on withholding tax on interest payments.</p> <p>GAAR provision whereby artificial arrangements can be disregarded.</p>	<p>Anti avoidance rules related to financial transactions can be found in the Corporate Income Tax Act (Selskabsskatteloven) and in the Tax Assessment Act (Ligningsloven):</p> <p>CITA, Section 2, paragraph 1, litra d (withholding tax on intercompany interest payment),</p> <p>CITA, Section 11 (thin cap),</p> <p>CITA, Section 11 A (intercompany insurance premiums),</p> <p>CITA, Section 11 B and 11 C (interest deduction limitations),</p> <p>TAA, Section 3 (GAAR – artificial/abusive arrangements etc.)</p> <p>Guidance on the above rules are described in DJV, Section C.D.2.4.4 and Section C.I.</p>

Cost Contribution Agreements			
20	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Guidance on the arm's length principle in relation to CCAs is provided in DJV , Section C.D.11.9 (Armslængdeprincippet i relation til CCA'er)
Transfer Pricing Documentation			
21	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If affirmative, please check all that apply:</i> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG <input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG <input checked="" type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input checked="" type="checkbox"/> Other (specify): An independent accountant statement on the transfer pricing documentation provided by the company can be required under certain circumstances. (Transactions with certain jurisdictions and losses in four consecutive years). 	<p>The Tax Control Act (Skattekontrolloven), Section 37-52, requires taxpayers to a) disclose information about transfer pricing in their tax returns and b) prepare and submit transfer pricing documentation and c) prepare and submit CbC reports.</p> <p>The specific transfer pricing documentation requirements in Denmark are described in an administrative ordinance on the documentation of the pricing of controlled transactions (Bekendtgørelse nr 1297 af 31/10/2018 om dokumentation af prisfastsættelsen af kontrollerede transaktioner).</p> <p>Further guidance on transfer pricing documentation requirements is provided in DJV, Section C.D.11.13.</p> <p>The Danish transfer pricing documentation requirements are fully aligned with OECD standards as described in TPG chapter V and Annex I-IV to chapter V.</p>
22	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	<p>Danish documentation requirements are provided in an administrative ordinance on documentation for the pricing of controlled transactions.</p> <p>The Danish documentation requirements are aligned with the OECD three-tier approach and can be submitted in Danish, Norwegian, Swedish or English.</p> <p>Submission of transfer pricing documentation is mandatory for fiscal years starting on or after 1. January 2021.</p> <p>The master and local file must be submitted within 60 days after the deadline for filing the corporate income tax return.</p>	<p>Filing of master and local file is governed by the Tax Control Act (Skattekontrolloven), Section 37-42, and an administrative ordinance on documentation for the pricing of controlled transactions (Bekendtgørelse nr 1297 af 31/10/2018 om dokumentation af prisfastsættelsen af kontrollerede transaktioner).</p> <p>Filing of country by country reports is governed by the Tax Control Act (Skattekontrolloven), section 47-52, and administrative ordinance on</p>

		<p>The Country-by-Country report must be submitted no later than 12 months after the last day of the fiscal year reported for.</p> <p>In a sheet annexed to the tax return, companies must provide standardized information on the nature and extent of their commercial or economic transactions with related parties.</p>	<p>country by country reporting (Bekendtgørelse nr 1304 af 14/11/2018 om land for land-rapportering).</p>
23	<p>Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>The penalties for failure to comply with the submission deadline and/or transfer pricing documentation requirements can amount to DKK 250,000 (~EUR 33 600) per company per year, plus an additional amount equal to 10% of income adjustments related to non-compliance with the arm's length principle for the fiscal year.</p> <p>Furthermore, the burden of proof shifts to the taxpayer in transfer pricing cases, where the required transfer pricing documentation has not been submitted before the deadline.</p>	<p>Tax Control Act (Skattekontrolloven), section 84.</p> <p>Further guidance on penalties and sanctions is provided in DJV, section C.D.11.13.1.3.3. (Sanktioner ved manglende eller mangelfuld transfer pricing-dokumentation)</p>
24	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>	<p>Companies that (measured at a group level) employ less than 250 employees and either have revenue below DKK 250 million or a balance sheet amount below DKK 125 million, are subject to more limited documentation requirements.</p>	<p>Tax Control Act (Skattekontrolloven), section 40.</p> <p>Further guidance on limited documentation requirements for small companies is provided in DJV, section C.D.11.13.1.4. (Begrænset dokumentationspligtig (mindre virksomheder) efter SKL § 40)</p>
Administrative Approaches to Avoiding and Resolving Disputes			
25	<p>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</p>	<p>Please check those that apply:</p> <p><input checked="" type="checkbox"/> Rulings</p> <p><input checked="" type="checkbox"/> Enhanced engagement programs</p> <p><input checked="" type="checkbox"/> Advance Pricing Agreements (APA)</p> <p style="padding-left: 20px;"><input type="checkbox"/> Unilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Bilateral APAs</p> <p style="padding-left: 20px;"><input checked="" type="checkbox"/> Multilateral APAs</p> <p><input checked="" type="checkbox"/> Mutual Agreement Procedures</p>	<p>Denmark's MAP Profile</p>

		<input type="checkbox"/> Other (please specify):	
		<p>Rulings: Taxpayers can apply for binding rulings in Denmark on tax related questions, and in principle also questions on transfer pricing. In practice however, binding rulings are only rarely provided on issues related to transfer pricing.</p> <p>Enhanced engagement programs: Selected taxpayers have access to enhanced engagement programs where the reasonableness or risk of applied transfer prices or TP setups could be discussed with the Danish tax authorities. Such informal discussions would not have any binding effect on either party.</p> <p>APA and MAP: Information on access to MAP and APA is provided in the Danish OECD dispute resolution profile.</p>	
Safe Harbours and Other Simplification Measures			
26	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
27	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Other Legislative Aspects or Administrative Procedures			
28	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		<p>Year-end adjustments can be allowed/required in Denmark to the extent such adjustments are considered in accordance with the guidance provided in Chapter III of the TPG.</p>	
29	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Guidance on secondary adjustments and payment correction is provided in DJV, Section</p>

		Secondary adjustments are made to the extent such adjustments have taxable consequences – withholding tax, taxable dividends etc.	C.D.11.16 (Sekundære justeringer og betalingskorrektion)
Attribution of Profits to Permanent Establishments			
30	[NEW] Does your jurisdiction follow the Authorised OECD Approaches for the attribution of profits to PEs (AOA)?	<input checked="" type="checkbox"/> Yes <i>In how many tax treaties?</i> <i>If yes, how do you implement it in cases, where the old tax treaties do not contain the new version of Article 7 (OECD MTC 2010 and later)</i> In Denmark, there is currently only one tax treaty based on the new version of article 7. The wording of article 7 in most of the Danish tax treaties corresponds to the wording of article 7 in OECD's 2008 MTC. Where this is the case, the AOA from 2008 will be applied, cf. the comments to article 7 of the MTC 2008, and the 2008 Report on the attribution of profits to permanent establishments.	
		<input type="checkbox"/> No	
31	[NEW] Does your jurisdiction follow also another approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Other Relevant Information			
32	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
33	Other relevant information (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i>)	N/A	

For more information, please visit: <https://oe.cd/transfer-pricing-country-profiles>