

New transfer pricing documentation requirements in Denmark

On 28 April 2016, the Danish Ministry of Taxation adopted new, more rigorous transfer pricing documentation requirements. The requirements implement previous OECD recommendations and focus on price-fixing in particular.

The new rules on documentation of price-fixing of controlled transactions imply a heightened degree of detail and greater focus on price-fixing and transfer pricing policies.

The amended requirements will also imply a greater transparency within the groups comprised by the documentation requirements – for example, the collective documentation shall contain lists of all inter-group agreements regarding services and IP-rights.

The rules became effective on 1 July 2016 and will apply to controlled transactions initiated on 1 January 2016 or later.

However, a transitional rule shall apply, which will also meet the transfer pricing documentation requirements. This applies to controlled transactions initiated up to and including 31 December 2016 where documentation has been prepared in accordance with the old content requirements.

What is new?

From now on, in Denmark documentation shall be divided into two parts:

- Collective documentation on the entire group
- Country-by-country documentation for each taxable entity within the group

Both shall contain descriptions and analyses, providing a basis for an assessment of whether prices and conditions have been fixed in accordance with what could have been obtained if the transactions had been concluded between two independent persons.

The extent of such descriptions and analyses will depend on the group complexity, the taxpayer, and the controlled transactions.

In case the transaction is non-essential, the descriptions and analyses of the *country-by-country documentation* shall only state the type of transactions that the taxpayer has deemed non-essential. According to the regulation, a transaction may be deemed non-essential when it is an isolated transaction of a moderate financial extent.

When do you have to prepare the documentation?

At the request of the Danish tax authorities (SKAT), documentation shall be submitted within 60 days. Therefore, we recommend you to prepare the transfer pricing documentation before submitting the tax return form.

NJORD Law Firm provides advice and guidance on the new rules. We can also assist you with the preparation of documentation.

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