



Denmark

WTS Global Country TP Guide

Last Update: December 2017

1. Legal Basis	
Is there a legal requirement to prepare TP documentation?	Yes
Since when does a TP documentation requirement exist in your country?	2006
Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines?	Yes
Which TP methods may be applied?	No TP method is generally excluded. It is generally required that the method is capable of determining the arm's length price on an objective basis.
Are any TP methods preferred over others?	The OECD TP methods are preferred and within the OECD TP methods the DTA prefers the CUP.
Have the documentation requirements of OECD BEPS Action 13 already been implemented (i.e. the LF, MF and CbCR concepts)?	CbCR/MF/LF implemented.
Reference to documentation and statements of local-government or tax authorities regarding OECD BEPS implementation status	Master file and local file: The Danish Transfer Pricing Executive Order, section 3 Mater file (detailed): The Danish Transfer Pricing Executive Order, section 4 Local file (detailed): The Danish Transfer Pricing Executive Order, section 5 CbCR: The Danish Tax Control Act § 3 B, subsection 10-16
Reference to relevant articles of law, legislative regulation or applicable administrative guidance that are in place for TP documentation in general:	In addition to 1.8, there are further articles of law, legislative regulations, administrative circulars and case law applicable to transfer pricing in general: Most notably, these include the following: - The Danish Tax Control Act - The Danish Tax Administration Act - The Tax Authority's legal guidance on Transfer Pricing, C.D.11. (Administrative circular) - BEPS - OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, July 2017

2. Master File (MF)	
What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?	Yes DKK 250 million (EUR 33,588,285), however please note below modifications. A Danish taxable entity is not required to prepare TP documentation, if it belongs to a group of companies with less than 250 employees and either a balance sheet below DKK 125 million (EUR 16,794,142) or a turnover below DKK 250 million (all amounts on consolidated basis). Regardless of this exemption, the Danish taxable entity is required to prepare TP documentation for controlled transactions with entities resident in states with which Denmark has not signed a transfer pricing-relevant double tax convention (DTC) and which are not members of the EU/EEA.

As from which year does this obligation exist?	As from the year that the threshold is met (so that the master file is prepared for the year in which the threshold was met or exceeded).
When does the Master File need to be available?	At the time of filing the tax return.
When does it need to be submitted?	The documentation must be submitted, upon request from the Danish Tax Authority, within 60 days of the official notification.
Does the MF have to be prepared in the relevant local language ?	No. The documentation must be prepared in either Danish, Norwegian, Swedish or English.
Is documentation in English permissible?	Yes
What are the possible consequences of not having the MF available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	Yes
Other?	No
To which extent do the local rules differ from the OECD standard regarding the OECD content requirements for the MF as shown in the BEPS implementation overview chart?	Consistent with OECD requirements.

3. Local File (LF)	Yes
What is the threshold requirement for the obligation to prepare a LF?	<p>DKK 250 million, however, please note below modifications.</p> <p>A Danish taxable entity is not required to prepare TP documentation, if it belongs to a group of companies with less than 250 employees and either a balance sheet below DKK 125 million or a turnover below DKK 250 million (all amounts on consolidated basis). Regardless of this exemption, the Danish taxable entity is required to prepare TP documentation for controlled transactions with entities resident in states with which Denmark has not signed a transfer pricing-relevant double tax convention (DTC) and which are not members of the EU/EEA.</p>
Euro Equivalent	EUR 33,572,700
As from which year does this obligation exist?	As from the year that the threshold is met (so that the local file is prepared for the year in which the threshold was met or exceeded).
When does the LF need to be available?	At the time of filing the tax return.
When does the LF need to be submitted?	The documentation must be submitted, upon request from the Danish Tax Authority, within 60 days of the official notification.
Does the LF have to be prepared in the relevant local language?	No. The documentation must be prepared in either Danish, Norwegian, Swedish or English.
Or is documentation in English permissible?	Yes
What are the possible consequences of not having the LF available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	Yes
Other?	No
To which extent do local rules differ from the OECD standard regarding the OECD content requirements for the LF as shown in the 2017 OECD TP Guidelines?	Consistent with OECD requirements for local files according to Annex II to Chapter V in BEPS Action 13: 2015 Final Report.

4. Country-by-Country Reporting	Yes
What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?	DKK 5.6 billion (EUR 750 Million)
As from which year does this CbCR obligation exist?	Applies for fiscal years beginning on or after 1 January 2016.
When and how do the tax authorities need to be notified who the reporting entity is?	The Danish management company in the Danish joint taxation unit must - on behalf of all the entities within the Danish joint taxation unit - submit form 05.034 to the Danish Tax Authority
If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?	12 months after the end of the income year in question.
Are there any deviating submission deadlines for the secondary mechanism?	No
Does your country have a requirement that the financial figures of the group need to be aligned with?	No, however, the information in the CbCR must be consistent with the information in the annual report of the group companies. No requirements to make adjustments in relation to different GAAPs between the companies. (The information in the CbCR must be in consistency from year to year in relation to the source of the information in the report.)
Does your country have a requirement that the financial years of the group need to be aligned with?	Yes
Where is the CbCR to be submitted ?	The Danish Tax Authority's website (www.skat.dk) via self-service tool "Tast-Selv".
How is the CbCR to be submitted, specifically, is there any prescribed standard?	The CbCR must be submitted electronically in a XML file format with the form 05.034.
What are the possible consequences of not having the CbCR available?	
Penalties?	Yes
Imprisonment?	No
Shifting of the burden of proof?	No
Other?	Yes
To which extent do your local rules differ from the OECD standard regarding the content requirements for the CbCR as shown in the 2017 OECD TP Guidelines?	Consistent with OECD requirements.
Did your country sign the Multilateral Competent Authority Agreement on the Exchange of CbC Reports ("CbC MCAA")?	Yes
Did your country enter into other information exchange agreements, such as on a bilateral basis?	Yes
Please specify the country involved and date the agreement came into force.	<ul style="list-style-type: none"> - Directive 2011/16/EU (and the subsequent amendments) on mandatory automatic exchange of information in the field of taxation. - The Nordic Convention on Mutual Administrative Assistance in Tax Matters. - The Convention on Mutual Administrative Assistance in Tax Matters between OECD and EU. - Number of bilateral agreements (approx. 45) on exchange of information relating to tax matters with non-EU countries.
Can a taxpayer in your country fulfil his CbCR requirement by referring to the reporting entity in the same or another country?	Yes

5. TP disclosure in tax return or transfer pricing specific returns	
Does a taxpayer need to disclose information regarding TP documentation in his tax return?	Yes
What would be the filing deadline?	At the time of filing the tax return.
When a taxpayer files a tax return for which he understands or should understand that the result reported in that tax return is too low due to incorrect transfer pricing, what could be the legal consequences?	Intentionally submitting an incorrect / too low tax return and failing to inform the tax authorities accordingly constitutes a tax crime. Legal consequences may range from (monetary) fines to imprisonment of up to five years, in serious cases of up to 8 years. If income is understated due to gross negligence, the act is considered to be a tax offence subject to a (monetary) fine.
What could be the consequences for the tax advisor/accountant/administrator drafting and filing the tax return of a client where that advisor/accountant/administrator understands or should understand that the result reported is too low due to incorrect TP?	Intentionally submitting an incorrect / too low tax return and failing to inform the tax authorities accordingly constitutes a tax crime. Legal consequences may range from (monetary) fines to imprisonment of up to five years, in serious cases of up to 8 years. If income is understated due to gross negligence, the act is considered to be a tax offence subject to a (monetary) fine. And professional liability.
Does a taxpayer need to file TP-specific returns?	Yes
Please state the filing form number and name.	Form 05.021 (Danish) or 05.022 (English) for controlled transactions.
What would be the filing deadline?	At the time of filing the tax return.
What would be the penalties for non-compliance?	Intentionally submitting an incorrect / too low tax return and failing to inform the tax authorities accordingly constitutes a tax crime. Legal consequences may range from (monetary) fines to imprisonment of up to five years, in serious cases of up to 8 years. If income is understated due to gross negligence, the act is considered to be a tax offence subject to a (monetary) fine.

6. Benchmarking	
Is there any local guidance or requirement with regard to the preparation of a benchmark study?	Yes. If the Danish Tax Authority requests the Danish entity to carry out a benchmark study, the benchmark study shall contain the following: 1) Identification of the transactions being tested and the applied pricing method 2) Description of the research process, including reason of the quantitative and qualitative selection criteria's 3) Explanation for adjustments applied and range 4) Documentation from the databases and all applied data
Are there any materiality thresholds that apply for the requirement to have a benchmark study available?	No
Does your country apply the general guidance by the OECD to prepare a new benchmarking search every three years and an update of the financial data of the accepted comparable in year 2 or 3?	Yes
Or is a new search every three years without any financial updates in year 2 and 3 sufficient?	No

7. Year-end adjustments	
Are year-end adjustments permissible?	Yes
Does the taxpayer have to comply with any specific features or guidance?	No

8. Transfer Pricing Audit and Dispute Resolution Mechanisms

What are currently the main TP areas of scrutiny by the tax authorities in your country?	Intercompany financing and intangibles (the DEMPE functions).
Based on your experience, are joint or multilateral audits initiated and carried out?	Yes
Does the taxpayer have the option to apply for bilateral or multilateral APAs?	Yes
Are there any restrictions?	There are no fixed terms. Actual terms are negotiated on case-by-case basis.

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