

# Pricing Knowledge Network

Focusing on the impact of major intercompany pricing issues

May 25, 2012

## *PKN Alert - Danish government initiatives to tighten the grip on multinational enterprises*

A Transfer Pricing Publication

[Send Feedback](#)

The Danish Government has proposed legislation to tighten the grip on multinational enterprises in a general effort to increase tax revenues.

### *Tightening of transfer pricing rules*

The draft bill includes the following elements in relation to transfer pricing (TP):

- After having requested and reviewed a company's TP documentation, the Danish tax authorities can request that companies file an auditor's report confirming that the company's controlled transactions are undertaken in accordance with the arm's length principle. The statutory minimum period for submitting the auditor's report will be 90 days, with the cost borne by the taxpayer. The findings of the auditor's report will not be binding upon the tax authority's assessment of whether the company's transfer prices are arm's length. The proposal is limited to companies that have made an overall loss during a four year period and to companies having transactions with countries outside the EU/EEA with whom Denmark does not have a double taxation treaty.
- Insufficient TP documentation or failing to duly meet subsequent requests of information from the Danish tax authority will be subject to a fine of approximately 35,000 EUR (DKK 250,000) per tax year, together with a



penalty on 10% of any upward income adjustments. The 35,000 EUR fine can be reduced by 50% if proper TP documentation is subsequently submitted. Currently, companies can in theory be fined twice the amount of the cost saved by not preparing documentation (but such fines have seldom been levied), as well as 10% on any upward income adjustments, with the possibility of a 50 % discount if proper TP documentation is subsequently submitted.

- The Danish tax authority will have discretion to make public all companies' taxable income and tax payments via its internet homepage. Jointly taxed companies' tax payments will be published as one company but showing the names of the affiliated companies.

### *Other initiatives*

The proposed legislation will also tighten other aspects of Danish corporate taxation. Among the most noteworthy are:

- A limit on tax loss carry-forward, where only the first EUR 1 million (DKK 7.5 million) of carried forward losses can be fully deducted against future taxable income, with the remaining losses carried forward only able to reduce any remaining future taxable income by 60%. Any unused tax loss in the first year may be carried forward for use against taxable income in subsequent years. The amount of tax loss carry-forward is unlimited under the prevailing rules.
- In situations where a joint tax return is filed, covering more than one legal entity, all entities covered under the return are jointly liable for all corporate or withholding tax liabilities arising from the return. Under current Danish legislation companies are only liable for income tax arising on their own taxable income.

The new legislative changes are expected to become effective for the income year 2013 with retrospective effect for any tax periods that remains open for TP tax audits.

*For more information, please contact your regular PwC transfer pricing contact or one of the individuals listed below:*

*Jørgen Juul Andersen                      +45 3945 9434                      jju@pwc.dk*

*Anne Mette Nyborg                        +45 3945 3346                      abo@pwc.dk*

*Henrik Damgaard Hansen                +45 3945 3326                      hdh@pwc.dk*

This document is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

SOLICITATION

© 2012 PricewaterhouseCoopers LLP. All rights reserved. In this document, "PwC" refers to PricewaterhouseCoopers LLP, a Delaware limited liability partnership, which is a member firm of PricewaterhouseCoopers International Limited, each member firm of which is a separate legal entity.