

Executive Order on Documentation of the Pricing of Controlled Transactions

Executive Order No. 883 of 24 June 2025 (In force)

Ministry: Ministry of Taxation

Pursuant to article 42 of the Tax Control Act, cf. Consolidation Act No. 12 of 8 January 2024, and following approval by the Tax Council, the following is laid down:

Article 1. Covered by this Executive Order are taxpayers who, in the determination of taxable income or income subject to distribution tax, are required to apply prices and terms for commercial or financial transactions with associated parties (controlled transactions) that are in accordance with what could have been achieved if the transactions had been concluded between independent parties, cf. article 2(1) of the Danish Tax Assessment Act, and who are required to prepare and submit written documentation of how prices and terms have been determined for such controlled transactions, cf. article 39(1) of the Tax Control Act.

Article 1(2). Article 40 of the Tax Control Act provides that taxpayers who fall below certain size thresholds are required to prepare documentation for certain controlled transactions only.

Article 2. Documentation consisting of two parts, a master file covering the entire group and a local file for each taxpayer in the group, must contain the descriptions and analyses etc. set out in article 4 regarding the master file and in article 5 regarding the local file, and must be capable of forming the basis for an assessment of whether prices and terms have been determined in accordance with what could have been achieved if the transactions had been concluded between independent parties.

Article 2(2). The scope of descriptions, analyses etc. referred to in article 4 and 5 depends on the scope and complexity of the group, the taxpayer, and the controlled transactions.

Article 2(3). Documentation may be prepared in Danish, Norwegian, Swedish or English.

Article 3. For controlled transactions cf. article 39(2), nos. 2 and 4 of the Tax Control Act, only the type of transactions must be stated in relation to descriptions and analyses etc., cf. article 5.

Article 3(2). For controlled transactions cf. article 39(2), no. 3, of the Tax Control Act, the type of transactions must be stated in relation to descriptions and analyses etc. only, cf. article 5, unless the transactions are carried out as part of an agreement on joint controlling influence, or the transactions are carried out between the participants in the legal entity and underlying subsidiaries.

Article 3(3). For controlled transactions cf. article 39(2), no. 5, of the Tax Control Act, only the types of transactions that the taxpayer has assessed as insignificant must be stated in relation to descriptions and analyses etc., cf. article 5. Transactions are considered insignificant under article 39(2), no. 5, when they are isolated transactions of a modest financial scope.

Article 3(4). Documentation need not be prepared if the taxpayer has transactions covered by article 39(2) only, cf. article 39(1), second sentence of the Tax Control Act.

Article 4. The master file must contain a group chart showing the group's legal and organisational structure, including an indication of the countries in which the individual associated parties operate.

Article 4(2). The master file must contain a general description of the group's business activities, including the following:

- 1) The significant value drivers (drivers of business profit) in the group.
- 2) A description of the group's supply chain for the five largest products and/or services measured by revenue, as well as all products and/or services accounting for more than five per cent of the group's consolidated revenue. The description may be illustrated by a diagram.
- 3) A list with a brief description of the significant service agreements between associated parties in the group, excluding research and development service agreements, as well as a description of the significant services performed or that may be performed by the group's principal service centres and the transfer pricing policies applied for the allocation of service costs and the determination of remuneration for intra-group services.
- 4) A description of the largest geographical markets measured by revenue for the products and services referred to in no. 2.
- 5) A brief functional analysis describing the primary contributions to the group's overall value creation, stating which of the individual associated parties in the group contribute thereto in relation to significant functions, risks and assets.
- 6) A description of significant restructurings, acquisitions, and divestments occurring during the income year.

Article 4(3). The master file must contain the following information on the group's intangible assets as defined in Chapter VI of the OECD Transfer Pricing Guidelines:

- 1) A general description of the group's overall strategy for the development, ownership and exploitation of intangible assets, including the geographical location of the group's primary research and development facilities and an indication of where these activities are managed.
- 2) A list of the intangible assets or groups of intangible assets in the group that are relevant to transactions between associated parties, stating which entities in the group are the legal owners of such intangible assets.
- 3) A list of significant agreements between associated parties concerning intangible assets, including principal cost contribution arrangements (CCAs), research and development service agreements and licence and royalty agreements.
- 4) A general description of the group's overall transfer pricing policies in relation to research and development activities and intangible assets.
- 5) A general description of all significant transfers of rights to intangible assets between associated parties during the income year, including an indication of the entities and jurisdictions involved in the transfers, as well as the payments in connection therewith.

Article 4(4). The master file must contain the following information on the group's financial activities:

- 1) A general description of how the group is financed, including a description of the most central financial arrangements with independent lenders.
- 2) Identification of all associated parties that have a central financing function in relation to the group, including an indication of the jurisdictions under whose legislation such entities are organised and the place where the effective management is located.
- 3) A general description of the group's transfer pricing policies in relation to financial arrangements between associated parties.

Article 4(5). The master file must contain the following information on the group's accounting and tax position:

- 1) The group's consolidated financial statements for the year, if prepared for the purposes of statutory reporting, internal management, tax assessment or prepared in another context.
- 2) A list and brief description of the group's existing unilateral advance pricing agreements (APAs), tax agreements and rulings with prospective effect regarding the allocation of income between jurisdictions.

Article 5. The local file must contain the following information on the taxpayer:

- 1) A description of the taxpayer's management structure, a local organisational chart and a description of the individuals to whom local management reports, including an indication of the jurisdictions in which such individuals have their habitual office addresses.
- 2) A detailed description of the business and the business strategy pursued by the taxpayer, including an indication of whether the taxpayer has been involved in or affected by restructurings or transfers of intangible assets in the current income year and the income year immediately preceding the current income year, and an explanation of how such transactions have or have had an impact on the taxpayer.
- 3) An indication of the taxpayer's most significant competitors.

Article 5(2). The following information must be provided for each category of controlled transactions in which the taxpayer is involved in the local file:

- 1) A description of the controlled transactions (for example purchases, production, sales, provision or receipt of services, loans, guarantees, purchase and sale of intangible assets, payment of royalties, etc.) and a description of the context in which the controlled transactions have taken place.
- 2) Quantification of the total internal payments for each category of controlled transactions in which the taxpayer participates (for example payments for products, services, royalties, interest, etc.), specified by the jurisdictions to and from which the payments have been made.
- 3) Identification of each of the associated parties involved in each category of controlled transactions with the taxpayer, as well as a brief description of the relationship with each of these parties.
- 4) A copy of all significant controlled agreements to which the taxpayer is a party.
- 5) A detailed comparability analysis and functional analysis of the taxpayer and the relevant associated parties in relation to each category of controlled transactions, including a description of all changes compared with previous years.
- 6) An indication of the most appropriate transfer pricing method for each category of transactions and justification for the choice of method.
- 7) Where relevant in relation to the transfer pricing method, an indication of which of the transaction parties has been selected as the tested party, and justification for the selection.
- 8) A description of the prerequisites and assumptions applied in the application of the transfer pricing method.
- 9) If a multi-year analysis has been prepared, the approach must be justified.
- 10) A list and corresponding description of the selected comparable transactions (internal and external), as well as information on the financial indicators of the independent enterprises used in the transfer pricing analysis, including a description of the selection process and the source of the information used.
- 11) An explanation of any comparability adjustments and of whether adjustments have been made to the results of the tested party, the comparable transactions or both.
- 12) An explanation of why it can be concluded that the relevant transactions are priced in accordance with the arm's length principle using the selected transfer pricing method.
- 13) An overview indicating the financial or accounting data used in the application of the transfer pricing method.
- 14) A copy of existing unilateral, bilateral and multilateral APAs as well as other tax agreements and rulings with prospective effect to which the competent authority in Denmark is not a party, but which relate to the controlled transactions described above.

Article 5(3). The following material relating to economic, financial and accounting data must be attached to the local file:

- 1) If an audited annual financial statement exists for the taxpayer for the income year, this must be attached; if not, any available unaudited financial statement must be attached instead.
- 2) Data and allocation schedules showing how the accounting data used in the transfer pricing method can be reconciled with the taxpayer's annual financial statements.
- 3) Overviews and schedules showing the relevant economic, financial or accounting data for the comparable independent transactions used in the transfer pricing analysis, including the source of such data.

Article 6. During a tax audit, the tax authorities may request supplementary information and materials, including preparation of supplementary materials. Information and materials may be requested which must be considered relevant for an arm's length assessment, including information and materials for the elaboration and verification of the descriptions, analyses etc. referred to in article 4 and 5. Article 2(3) applies.

Article 7. The tax authorities may request the taxpayer to prepare additional written documentation in the form of database searches for one or more controlled transactions. A request for the preparation of a database search may be made during a tax audit only.

Article 7(2). A database search implies a search for comparables that can be used for pricing purposes and for assessing whether the pricing of controlled transactions is at arm's length. The search is conducted in publicly available databases, possibly against payment.

Article 7(3). The database search must contain the following:

- 1) Identification of the tested transactions and the pricing method applied.
- 2) Description of the selection process, including justification for quantitative and qualitative selection criteria.
- 3) Explanation of the use of adjustments and ranges.
- 4) Documentation material from databases and other data used.

Article 7(4). The tax authorities must grant the taxpayer a deadline of between 60 and 90 days to prepare the database search.

Article 8. This Executive Order enters into force on 1 July 2025.

Article 8(2). The Executive Order has effect from and including the income year 2025.

Article 8(3). Executive Order No. 468 of 19 April 2022 on documentation of the pricing of controlled transactions is repealed.

The Danish Customs and Tax Administration, 24 June 2025

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This translation is intended to serve as an informational and working translation of the Danish legislation. In the event of discrepancies, the Danish original text prevails.