



Denmark issues final statutory order on country-by-country reporting

Global Transfer Pricing Alert 2016-031

Denmark on August 31 published the final version of the statutory order on country-by-country (CbC) reporting.

The statutory order (Statutory Order no. 1133 of August 27, 2016) applies as of September 1, 2016, and contains technical details regarding how to formally notify the Danish Tax Authority (SKAT), as well as details on the contents and submission of the CbC report. With the statutory order, Denmark has taken the last step in the implementation of BEPS Action 13.

Notification procedure

According to the statutory order, the formal notification procedure pursuant to the Danish Tax Control Act, section 3B subsection 14, is fulfilled when the following information is provided:

- Full entity name
- Address
- Tax jurisdiction
- Company number (cvr-nr.) or business registration number (SE-nr.)

In addition to the above information, additional details may be required depending on the structure of the group. We have included a description of the information required under three relevant scenarios.

Denmark-based ultimate parent

Denmark-based ultimate parent companies subject to the Danish CbC requirements (Danish Tax Control Act section 3B subsection 10) are required to notify SKAT and include the aforementioned information.

Foreign-based ultimate parent

Denmark-based entities with a foreign ultimate parent that do not fall within the scope of the exemption in Danish Tax Control Act section 3B subsection 11, and therefore are obligated to file a CbC report, are required to notify SKAT. The notification must include the above information in addition to information on which Danish entity will submit the CbC report (if the group has multiple Danish entities).

Foreign-based ultimate parent with appointed surrogate entity

Denmark-based entities with a foreign ultimate parent that has appointed a surrogate entity to submit the CbC report (Danish Tax Control Act section 3B subsection 12) are required to notify SKAT. The above information for the surrogate entity must be included in the notification, in addition to information on which tax jurisdiction the surrogate entity is a tax resident of. If the surrogate entity has a tax identification number (TIN-nr.) this should be included as well.

Deadline for notification

The deadline for the notification to SKAT is the end of the income year that the CbC report covers. The notification must be communicated electronically to SKAT and follow the instructions provided by SKAT. Specific details from SKAT on the instructions are still outstanding, but are expected to be published during 2016. Until further guidance is provided, we expect that notifications through e-mail will be sufficient. SKAT accepts notifications written in Danish, English, Swedish, or Norwegian.

Going forward, entities previously subject to the Danish CbC reporting requirements are required to notify SKAT if in a later income year they fall outside the scope of the rules. The same deadlines would apply for this notification.

Formal content of the CbC report

The formal content requirements of the CbC report itself are aligned with BEPS Action 13 and should be interpreted in line with this report, as the Statutory Order directly refers to Annex III of the OECD's Guidance on Transfer Pricing Documentation and CbC Reporting.

Limitation of accessibility of information for reporting purposes

Compared to the draft statutory order, which was sent out for consultation in April 2016, one important amendment has been included in the statutory order.

According to section 4 subsection 5, Danish entities that do not fall within the scope of the exemption in Danish Tax Control

Act section 3B subsection 11, and therefore are obligated to file a CbC report, are obligated to request all necessary information from their ultimate parent in order for the Danish entity to comply with the Danish CbC rules. However, if the ultimate parent fails to provide or make available the required information, the Danish entity is required to submit a CbC report that contains all the information the Danish entity is in possession of, and must notify SKAT that the ultimate parent has failed to provide or make available the required information.

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