



TAXAND GLOBAL GUIDE TO APAs & CAs



As tax authorities worldwide seek to increase tax takes to beat the downturn, multinationals face further scrutiny. Whether planning a complex transaction or reassessing your transfer pricing position, understanding Advance Pricing Agreement programmes and Competent Authority procedures is essential. Taxand’s Global Guide to APAs and CAs – split by region – provides you with an at-a-glance view of the key legislation in place. Take a look to inform your risk management strategy. You can save time and money, plan against audits and prevent double taxation if you’re in the know.

	POLAND	FINLAND	DENMARK	SWEDEN	NORWAY
	1) ADVANCE PRICING AGREEMENTS				
Advance Pricing Agreement programme (APA) in place	Yes	Yes. However, the APA as such is not available except under the tax treaty Mutual Agreement Procedure (MAP). Taxpayers may also apply for a general advance ruling on transfer pricing issues.	Yes	Yes	No. Some elements of an APA structure may be found where oil companies are providing natural gas between related parties.
Programme guidelines	No formal guidelines Legal regulations: Tax Ordinance / Tax Code	N/A for APA except articles in tax treaties relating to MAP. Sections 84 and 85 of the Act on Assessment Procedure contain rules of a general advance ruling procedure.	Sections 21-25 of the Tax Administration Act provide for the tax authorities to issue unilateral advance pricing arrangements. The regime is not income tax but not custom duties. A ruling can concern a transaction already undertaken or a transaction that is under consideration.	As of 1 January, 2010 a new law governing bilateral and multilateral APAs (Sw: prissättningsbesked) will enter into force in Sweden (Sw: lag om prissättningsbesked). Prior to this date, a limited number of APA procedures have been conducted by the Swedish Competent Authority under the relevant tax... (Cont. on pg 2)	N/A

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	1) ADVANCE PRICING AGREEMENTS				
Programme guidelines (Cont.)				(Cont. from pg 1) ...treaty's Mutual Agreement Procedure. The Swedish government will issue more detailed instructions regarding the content of the application.	
APA types	a) Unilateral b) Bilateral / Multilateral	APA not specified as such, but bilateral, multilateral and unilateral should be possible based on MAP	a) Unilateral b) Bilateral / Multilateral	Bi- and multilateral APAs. The APA will be based on the result of a Mutual Agreement Procedure between the relevant countries. There will be no agreements in place between the applying taxpayer and the Swedish Competent Authority. Instead, the legislation will secure the parties' rights and obligations with respect to the APA.	N/A
Issues covered	<ul style="list-style-type: none"> ❖ Related-party transactions (material or immaterial) ❖ Attribution of profit to a permanent establishment where TP method applied was one of the methods mentioned in Polish regulations (i.e. CUP, Resale Price, Cost Plus Method, TNMM, Profit Split) ❖ APA programme may cover transactions which are intended to be executed after submitting the application or transactions where execution was commenced before submitting the application 	APA not specified. All transfer pricing matters as such under sec. 31 of Act on Assessment Procedure	<ul style="list-style-type: none"> ❖ Transfer pricing under Section 2 of the Danish Tax Assessment Act ❖ Cost sharing ❖ Attribution of profit to a permanent establishment ❖ Determining effectively connected income ❖ Sourcing of income 	The issue covered is the pricing of international transactions between related parties for the purpose of determining state- and municipal tax. Transactions include goods, services, intangibles, financial transactions etc. An APA can be concluded regarding dealings between a headoffice and its permanent establishment. A partnership may also apply for an APA if at least one of the partners is, or is expecting to become, tax liable in Sweden.	N/A
Length of APA term	5 years	APA not specified. Advance ruling is binding for the next calendar year following the decision year as a maximum	A ruling is binding upon the tax administration for a period of 5 years, unless a shorter period is indicated in the ruling. A ruling is, however, not binding if critical assumptions are not met. Critical assumptions include legislation or orders but not changes in practice.	Normally 3-5 years but negotiable.	N/A

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Rollbacks allowed	No	APA not specified. General advance ruling procedure only for open tax year if the approval is filed in time.	Yes	Rollbacks might under certain conditions be applicable but only as a secondary consequence of the APA. The formal application must refer to future years. However, an APA may be applied on transactions taking place after the filing of the APA application but before the finalisation of the MAP procedure that constitutes the basis for the APA.	N/A
Renewals allowed	Yes (5-year periods)	APA not specified. New advance ruling can be applied for.	Yes	Yes	N/A
Annual compliance reports	Yes	APA not specified	Yes	Yes. The taxpayer must verify if the APA is applied and if the basic facts that constitute the basis for the APA remain unchanged. Such verification will be made on an annual basis in the corporate tax return.	N/A
Filing deadlines	No	APA not specified. However, advance ruling application for the past tax year must be filed during the time the corporate income tax return is obliged to be filed (i.e. in general within 4 months after the end of the financial period.)	A request for a ruling must be submitted no later than one month after the end of the income tax year to which it relates	Not specified	N/A
User fees	Due within 7 days from filing: <ul style="list-style-type: none"> ❖ New APA: 1% value of a transaction but not less/more than: ❖ Unilateral domestic: PLN 5 - 50,000 ❖ Unilateral foreign: PLN 20 - 100,000 ❖ Bilateral / multilateral: PLN 50 - 200,000 ❖ Renewal: 50% of the above 	APA not specified. Fees for company's advance ruling vary between EUR 815-2440.	A small fee is payable when submitting a request for a ruling	Application: SEK 150,000. Renewal without changes: SEK 100,000. Renewal with changes: SEK 125,000	N/A

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Withdrawal	Taxpayer can withdraw at anytime during APA process	APA not specified. Taxpayer can withdraw at anytime before the decision during general advance ruling.	Taxpayer can withdraw at anytime during APA process	Withdrawal is allowed for the taxpayer during the entire process. Application fees are only refunded if the application is rejected or if it is not possible to grant an APA for reasons not within the taxpayer's control.	N/A
Further information				There is a proposal to introduce specific APA provisions	
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2) COMPETENT AUTHORITY PROCEDURES					
Programme guidelines	No formal guidelines in Polish Law Local regulations: "TP Decree" of the Minister of Finance, which provides mutual agreement procedure with respect to corresponding adjustment based on the European Arbitration Convention Relevant double tax treaty European Arbitration Convention for entities located in the European Union	APA not specified	Specified in each specific treaty. Denmark has app. 96 treaties. Most are in all material aspects based on the OECD model treaty (in this respect art. 24). Further guidance can be found in the Administrative Guidelines (Ligning-svejledning) section D.D.2.	Not specified	No programme implemented, issues solved on a treaty by treaty basis
Filing deadlines	Within three years from receipt of tax decision resulting in potential corresponding adjustments or based on the relevant double tax treaty if it provides any other deadline	APA not specified	Varies by treaty partner	Not specified	Not specified
Filing fees	No	APA not specified	As the point of departure none	Not specified	Not specified
Further information	Both the MAP and European Arbitration Convention provisions are not commonly used in practice in Poland		By Government Order no. 1029 of 24 October 2005 the authority to act on behalf of Denmark in relation to Denmark's double taxation treaties has been delegated to the Danish Central Tax Administration ("SKAT, Center for Store Selskaber, Kontoret for International Selskabsbeskatning")		



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Taxand's team of transfer pricing specialists combines leading advisors from nearly 50 countries working together to help you meet your obligations while achieving meaningful tax efficiencies. To discover how Taxand can deliver your global transfer pricing advantage, please contact your nearest Taxand advisor.

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