

# Sweden



## KPMG Observation

The Swedish Tax Agency (STA) has formed a national focus group of experienced tax auditors. They work solely on transfer pricing and act as in-house advisors to the auditors in transfer pricing audits and other transfer pricing related issues. In addition, the STA has appointed dedicated transfer pricing auditors and litigators. The result is an increased focus on transfer pricing.

## Basic Information

### Tax authority name

Skatteverket (Swedish Tax Agency) (STA).

### Citation for transfer pricing rules

The arm's-length principle is found in 14:19 Inkomstskattelagen, Chapter 14, Section 19 of the Income Tax Act (ITA). Documentation requirements are found in 19:2a–2b Lagen om självdeklarationer och kontrolluppgifter, Chapter 19, Sections 2a–2b of the Tax Return and Statement of Income Act. Arm's-length principle introduced 1928; amended 2001 with no material changes. Documentation requirements were introduced in STA regulations (SKVFS 2007:1) published 20 February 2007. The regulations are binding. STA Guidelines (SKV M 2007:25) published 15 November 2007.

### Effective date of transfer pricing rules

1928.

### What is the relationship threshold for transfer pricing rules to apply between parties?

Are under common control (either shareholding, votes, or other form of control).

### What is the statute of limitations on assessment of transfer pricing adjustments?

Six years from tax year-end.

## Transfer Pricing Disclosure Overview

Are disclosures related to transfer pricing required to be prepared or submitted to the revenue authority on an annual basis (e.g. with the tax return)?

There is no requirement to disclose any transfer pricing information with the tax return.

### What types of transfer pricing information must be disclosed?

Not applicable.

## Transfer Pricing Study Overview

Is preparation of a transfer pricing study required – i.e. can the taxpayer be penalized for mere failure to prepare a study?

Yes, there is an absolute requirement for all companies to prepare transfer pricing documentation annually, but there are no specific documentation-related penalties. General tax penalties apply.

Other than complying with a requirement per the previous question, describe the benefits, if any, of preparing and maintaining a transfer pricing study?

There is a legal requirement to prepare transfer pricing documentation annually. Having high quality transfer pricing documentation in place would normally

mean penalty protection and would also reduce the risk of the STA making adjustments.

To satisfy the requirement and/or obtain the benefits, are there any requirements on when the transfer pricing study must be prepared and submitted?

The STA can request that transfer pricing documentation be filed contemporaneously with the tax return (normally 2 May but no later than 15 June).

What are the major elements required or recommended to be included in a transfer pricing study?

Business description, company overview, organizational structure, functional analysis, risk analysis, industry analysis, financial performance, description of controlled transactions, selection of method, description of comparables, economic analysis and intra-group agreements.

## Transfer Pricing Methods

Which transfer pricing methods are acceptable?

Transaction methods: comparable uncontrolled price; resale price; cost plus. Profit-based methods: profit split; transactional net margin method.

Is there a priority among the acceptable methods?

No.

If there is no priority of methods, is there a "best method" rule?

No.

## Transfer Pricing Audit and Penalties

When the tax authority requests a taxpayer's transfer pricing documentation, how long does the taxpayer have to submit its documentation?

Normal STA practice is to expect documentation within 30 days of request.

If an adjustment is proposed by the tax authority, are dispute resolution options available to the taxpayer outside of competent authority?

Application of the arbitration convention may be requested for transactions within the European Union (EU).

If an adjustment is sustained, can penalties be assessed? If so, what rates are applied and under what conditions?

Yes. General tax penalties only: 40 percent of the additional tax due for the transfer pricing adjustment.

To what extent are transfer pricing penalties enforced?

Always.

Can transfer pricing penalties be reduced or removed for reasons other than documentation?

Yes, in exceptional circumstances, for example if openly disclosed in the tax return.

## Special Considerations

Are secret comparables used by tax authorities?

This has happened in a few instances. Will likely not be the case in the future.

What level of interaction do tax authorities have with customs authorities?

Low, but increasing.

Are management fees deductible?

Yes.

Are management fees subject to withholding?

No.

Other unique attributes?

Documentation in EU transfer pricing format explicitly referred to as acceptable.

## Other Recent Developments

The number of transfer pricing audits has increased significantly during the last year.

## Tax Treaty/Double Tax Resolution

What is the extent of the double tax treaty network?

Extensive.

If extensive, is the competent authority effective in obtaining double tax relief?

Almost always.

When may a taxpayer submit an adjustment to competent authority?

Within three years from being made aware of the action taken that has resulted in taxation violating the applicable tax treaty.

May a taxpayer go to competent authority before paying tax?

Yes.

## Advance Pricing Agreements

What advance pricing agreement (APA) options are available, if any?

APA legislation was introduced as of 1 January 2010. The rules apply for treaty countries only.

Only bilateral and multilateral APAs are accepted. Unilateral APAs are not possible to obtain.

Is there a filing fee for APAs?

The filing fee is SEK 150,000.

## Language

In which language or languages can documentation be filed?

Swedish, Danish, Norwegian, and English.

### KPMG in Sweden

#### Stockholm

##### **Annika Lindstrom**

Tel: +46 8 7236171

Email: annika.lindstrom@kpmg.se

##### **Nils von Koch**

Tel: +46 8 7239616

Email: nils.vonkoch@kpmg.se

As email addresses and phone numbers change frequently, please email us at [transferpricing@kpmg.com](mailto:transferpricing@kpmg.com) if you are unable to contact us via the information noted above.