

# Transfer Pricing

## Practice area under Tax

For several years, transfer pricing has been the most significant key action area for the Danish Tax Agency. At the same time, transfer pricing presents businesses with some of the greatest challenges in terms of legal protection.

A driving factor behind this is the fact that the Danish Tax Agency often, on relatively weak grounds, disregards the transfer pricing documentation prepared by the taxpayer. This leads to the Danish Tax Agency assessing tax on a discretionary basis and placing the burden of proof on the taxpayer. Moreover, tax treaties do not always guarantee the elimination of double taxation through mutual agreement procedures (MAP) and arbitration, and the EU Tax Dispute Resolution Directive only applies within the EU.

As a result, there is a great need for strategic advisory services early in the tax audit phase and throughout a potential administrative appeal and court case to navigate these challenges effectively.

### **Our expertise – strategic advisory services and litigation**

Plesner assists in transfer pricing cases involving total increases of several billion DKK.

Plesner does not draw up transfer pricing documentation, perform valuations or provide other compliance-related transfer pricing services. Instead, we do what we do best - providing strategic advisory services and handling transfer pricing disputes.

We assist both during the tax audit, in connection with an administrative appeal and at the court level. We also have a proven track record of resolving transfer pricing cases through settlement and arbitration.

Typically, we are involved during the tax audit phase, including in negotiations with the Danish Tax Agency, and most often in close collaboration with the business' transfer pricing advisor and own finance or tax department.

In 2002, Plesner won what is regarded as the first actual transfer pricing case before the Danish National Tax Tribunal, and in 2022 Plesner also led the first Danish transfer pricing dispute decided in arbitration under the EU Arbitration Convention (now superseded by the EU Tax Dispute Resolution Directive).

Even though the Danish National Tax Tribunal and the courts have issued a number of decisions and judgments on transfer pricing in recent years, numerous fundamental questions remain unresolved, leading to continued legal uncertainty in the area.

Plesner assists a range of Danish and international groups in transfer pricing matters pending at the audit level, in administrative appeals and in litigation before the courts. The cases involve i.a. valuation of intangible assets, choice of transfer pricing methods, whether transfer pricing documentation can be disregarded, questions on the burden of proof and the use of expert appraisers.

Plesner has been awarded "Denmark Tax Firm of the Year" 13 times since 2009 by the International Tax Review, and has been awarded "Denmark Transfer Pricing Firm of the Year" and "Denmark Tax Disputes Firm of the Year" several times.

## Cases

**Case News** 12.07.2024

The Eastern High Court rules in favour of EET Group A/S in extensive transfer pricing case

**Case News** 18.06.2024

Sampo plc announces a public exchange offer to the shareholders of Topdanmark A/S

**Case News** 13.10.2023

The National Tax Tribunal reverses the case law of the Danish Tax Agency on additional taxation of foundations' tied-up funds on dissolution

**Case News** 30.06.2023

The Supreme Court finds in favour of the Ministry of Taxation in another "beneficial owner" case

**Case News** 24.05.2023

Viking Life-Saving Equipment A/S successful in extensive transfer pricing court case

**Case News** 04.05.2023

Danish Supreme Court rules against tax payers in two "beneficial owner" cases regarding interest

**Case News** 24.02.2023

Vækstfonden raises DKK 2.4 billion in Dansk Vækstkapital III

**Case News** 09.01.2023

The Danish Supreme Court has given its judgment in the first two Danish "beneficial owner" cases

**Case News** 20.09.2022

Danish insurance company Codan Forsikring successful in transfer pricing case before the Danish Eastern High Court

**Case News** 31.03.2022

The Eastern High Court reduces the Ministry of Taxation's interest claim significantly in beneficial owner case

**Case News** 04.03.2022

First Danish transfer pricing dispute decided in arbitration under the EU Arbitration Convention

Case News

25.11.2021

The Eastern High Court rules against the tax payers in two new "beneficial owner" cases

## Ratings



2024 The Legal 500

Within Tax, Plesner is a first tier firm.

"Their industry and practice knowledge is very strong"

"They have a detailed knowledge of tax and, combined with an incredible business understanding, they are able to turn a complex matter into a simple line of arguments to make a convincing story"

"Very experienced and competent within tax litigation and transfer pricing. Strong mindset around people"

"Responsive, convey technical legal matters well in general business terms"



2024 Chambers Europe

Plesner is listed in "Band 1" as regards Tax.

"The team is very experienced, knowledgeable and proactive in its approach"

"The lawyers are able to understand a problem holistically, and are very knowledgeable regarding practical case handling. They are always responsive and good at explaining complex matters to business teams"



2024 World Tax

Plesner is ranked in Tier 1 in the World Tax ranking as the only Danish firm across the three tax categories (General Corporate Tax, Transfer Pricing and Tax Controversy).



2023 The Legal 500

Within Tax, Plesner is a first tier firm.

"Best track record for tax litigation in Denmark. Highly skilled team"

"Strong analytic skills including the ability to mitigate complex matters"

"Great team work with different skill sets and very strong capabilities within transfer pricing and tax litigation"



2023 Chambers Europe

Plesner is listed in "Band 1" as regards Tax.

"The team at Plesner is excellent - easily the best in tax in Denmark, and one of the best in tax in Europe. The lawyers provide wonderful client service, are responsive and give cutting-edge advice"

"The lawyers are knowledgeable within tax controversy and transfer pricing. They are also very proactive"



2023 World Tax

Plesner is ranked in Tier 1 in the World Tax ranking as the only Danish firm across two tax categories (General Corporate Tax and Tax Controversy).

"Plesner is widely regarded as the leading Danish law firm for all areas of tax law, including tax litigation"



2022 The Legal 500

Within Tax, Plesner is a first tier firm.

"Very strong tax team, and in particular within tax litigation"

"They are truly outstanding, and have the rare ability to completely handle a case and offer very clear strategic advice"

"They have a team that works like clockwork, which supports the overall output of the work product being absolutely best in class and outstanding"

"Impressed by the way the partners work together in teams on large litigation cases. No other Danish law firm can offer such experienced teams to litigate complex tax cases"

"They draw on their superior litigation experience to identify solutions that will withstand governmental as well as public scrutiny, and – when relevant – utilise their vast network within the tax authorities for solution-oriented informal discussions"

CHAMBERS  
EUROPE

2022 Chambers Europe

Plesner is listed in "Band 1" as regards Tax.

"A trusted partner"

"Plesner is deeply aware of technical details on international tax matters and brings to bear experience from a wide range of international clients"

"The Plesner folks are always technically good, creative and very responsive"

## Our specialists

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