

---

INTERNATIONAL TAX  
**CASE SUMMARY**

**DENMARK vs ACCENTURE**

JANUARY 2025

---

# ACADEMY OF TAX LAW

## PUBLISHING SERVICES

This Publication is copyrighted under the Berne Convention.

No reproduction or use of this material is allowed without prior permission

**Copyright©, 2025** - Academy of Tax Law (Division of International Institute for Tax And Finance)

First Edition Published on 16 January 2025

Published by Academy Of Tax Law

CONTACT US

[www.academyoftaxlaw.com](http://www.academyoftaxlaw.com) | [info@academyoftaxlaw.com](mailto:info@academyoftaxlaw.com)

---

# HEAD OF ACADEMICS



Welcome to the Academy of Tax Law's case and judgment summaries. These documents have been carefully curated to support professionals, students, and researchers navigating the complex landscape of international tax and transfer pricing. At the Academy, we understand that tax law is ever-evolving, with key rulings continuously shaping its practice.

Each summary you'll find here is designed to provide not just the facts, but the context and implications of pivotal legal decisions. These case summaries are created to serve as a valuable resource for legal teams, multinationals, revenue authorities, and academics, offering insights that go beyond the surface. Our goal is to ensure you remain informed and prepared, whether you are dealing with tax planning, dispute resolution, or risk management.

We believe that knowledge is the foundation of sound decision-making, and with these resources, we hope to empower you in your professional journey. As you delve into the analysis, remember that staying ahead in tax law requires not just understanding the rules but how to apply them in a dynamic, global environment.

Thank you for choosing the Academy of Tax Law as your partner in this ongoing learning experience.

Sincerely,  
Dr. Daniel N Erasmus

# PART 1

# SUMMARY

---

---

# JUDGEMENT SUMMARY

## CASE OVERVIEW

<b>Court:</b>	Supreme Court of Denmark (2nd Chamber)
<b>Case No:</b>	BS-49398/2023-HJR and BS-47473/2023-HJR
<b>Applicant:</b>	Accenture A/S
<b>Defendant:</b>	Danish Ministry of Taxation
<b>Judgment Date:</b>	9 January 2025
<b>Full Judgment:</b>	<a href="#">CLICK FOR FULL JUDGMENT</a>
<b>View Online:</b>	<a href="#">CLICK TO VIEW SUMMARY ONLINE</a>

---

# JUDGMENT SUMMARY

The Danish Supreme Court rendered its decision in the case of Accenture A/S v. Danish Ministry of Taxation, upholding the lower court's judgment. The dispute revolved around the transfer pricing arrangements within the Accenture group, particularly concerning cross-border personnel assignments and intellectual property (IP) licensing agreements.

Accenture A/S challenged the Ministry of Taxation's adjustments to its taxable income for the years 2005–2011, arguing that the arm's length principle had been correctly applied. Central to the case was a 30% mark-up applied under the International Assignment Agreement (IAA) for cross-border personnel and a 7% royalty rate under the Intellectual Property License Agreement.

The Supreme Court upheld the Ministry's view, finding that the transfer pricing documentation provided by Accenture A/S did not sufficiently substantiate the arm's length nature of the transactions. The Court placed particular emphasis on the functional and risk analyses, which it deemed inadequate in demonstrating comparability with independent third-party arrangements.

The Court also ruled on the cost-plus methodology adopted for cross-border personnel services and the residual profit split method applied for licensing intellectual property. The Court agreed that the Ministry had acted within its rights to adjust the taxable income of Accenture A/S, given the discrepancies in comparability adjustments and the lack of reliable external benchmarks.

---

# KEY POINTS OF THE JUDGMENT

## BACKGROUND

The Accenture group operates globally, providing IT and consulting services through a network of subsidiaries. These entities collaborate under agreements designed to optimise resource utilisation and ensure seamless delivery of services. Two primary arrangements underpin these operations: the International Assignment Agreement (IAA) for cross-border personnel deployment and the Intellectual Property License Agreement for IP usage.

The IAA facilitates temporary assignments of personnel across borders, enabling entities in need ("Host Countries") to borrow employees from other group entities ("Home Countries"). The Host Country compensates the Home Country with a 30% cost-plus mark-up. Similarly, the Intellectual Property License Agreement grants group entities the right to utilise proprietary Accenture IP under a 7%

royalty rate, calculated on billings to clients.

The Danish Ministry of Taxation audited Accenture A/S, questioning the adequacy of its transfer pricing practices. The Ministry contended that these arrangements did not meet arm's length standards, resulting in understated taxable income in Denmark for 2005–2011. Consequently, the Ministry made substantial upward adjustments to Accenture A/S's taxable income and imposed additional taxes and penalties.

Accenture A/S argued that its arrangements adhered to OECD guidelines and were supported by extensive documentation. It maintained that the methodologies used were appropriate and consistent with industry practices, challenging the Ministry's findings in court.

---

# KEY POINTS

## OF THE JUDGMENT

### CORE DISPUTE

The central issue in this case was whether Accenture A/S's transfer pricing arrangements complied with the arm's length principle as defined under Danish law and OECD guidelines. The Ministry of Taxation's position was that:

1. The 30% mark-up applied under the IAA lacked external comparables and failed to reflect the functional and risk allocation between Home and Host Countries.
2. The 7% royalty rate under the Intellectual Property License Agreement was not supported by robust benchmarking or a detailed analysis of the Danish entity's contributions to value creation.
3. The functional analysis in Accenture's transfer pricing documentation oversimplified the complexity of its

operations and did not adequately reflect economic realities.

Accenture A/S defended its transfer pricing policies by arguing that both the cost-plus and residual profit split methods were appropriate for the transactions in question. The company claimed that its methodologies were consistent with the functional profiles of the entities involved and aligned with global best practices. Furthermore, Accenture insisted that the adjustments proposed by the Ministry of Taxation were excessive and did not accurately reflect the group's operational structure.

Ultimately, the dispute hinged on the adequacy of Accenture's transfer pricing documentation and the validity of the Ministry's adjustments to taxable income.

---

# KEY POINTS

## OF THE JUDGMENT

### COURT FINDINGS

The Supreme Court upheld the Ministry of Taxation's adjustments, citing several deficiencies in Accenture A/S's transfer pricing practices -

#### **Inadequate Documentation**

The Court found that Accenture's transfer pricing documentation lacked sufficient detail to substantiate its claims. Specifically, the comparability analysis did not adequately address the economic differences between controlled and uncontrolled transactions.

#### **Insufficient Benchmarking**

The benchmarks used to justify the 30% cost-plus mark-up and the 7% royalty rate were deemed unreliable. The Court highlighted that Accenture's documentation relied heavily on internal data, with limited reference to external comparables.

#### **Functional and Risk Mismatch**

The functional analysis presented by Accenture was found to be inconsistent with the economic substance of the transactions. For instance, the Court noted that the Danish entity assumed more risks than were reflected in the transfer pricing policies.

#### **Methodological Flaws**

While acknowledging that the cost-plus and residual profit split methods are acceptable under OECD guidelines, the Court criticised their application. Adjustments to comparables were insufficient, and key economic factors were overlooked.

The Court concluded that the Ministry's adjustments were justified, as they better reflected the economic realities of the transactions and ensured compliance with the arm's length principle.

---

# KEY POINTS

## OF THE JUDGMENT

### OUTCOME

The Supreme Court's decision affirmed the Ministry of Taxation's adjustments to Accenture A/S's taxable income for 2005–2011. This decision resulted in additional tax liabilities for the Danish subsidiary, effectively nullifying the group's transfer pricing arrangements for the audited years.

Key outcomes include:

1. Rejection of Accenture's Appeal: The Court dismissed Accenture's claims that its transfer pricing practices adhered to arm's length principles. It ruled that the company's documentation was insufficient to justify its methodologies and rates.
2. Validation of Ministry's Adjustments: The Court upheld the Ministry's revised taxable

income calculations, which significantly increased Accenture A/S's tax liabilities. These adjustments were based on alternative benchmarks and a reallocation of profits between entities.

3. Dismissal of Cost Reimbursement Claim: Accenture's demand for repayment of DKK 1,000,000 in legal costs from the Eastern High Court's proceedings was denied, reinforcing the lower court's judgment.

This case underscores the Danish tax authorities' commitment to scrutinising multinational enterprises' transfer pricing arrangements. It serves as a reminder that robust documentation, backed by reliable external comparables, is crucial for defending transfer pricing practices in audits and litigation.

---

# TP METHOD

## HIGHLIGHTED (IF ANY)

The Accenture case prominently featured the application of the cost-plus method and the residual profit split method, both recognised under OECD guidelines. The cost-plus method was used to determine the compensation for cross-border personnel assignments under the IAA. This method calculates the arm's length price by applying a fixed mark-up (30%) to the direct and indirect costs of providing services.

In contrast, the residual profit split method was employed to allocate profits from the licensing of intellectual property. This method involves allocating routine returns to entities

based on benchmarked functions and splitting the residual profit among entities that contribute to non-routine value creation.

The Court found issues with both methods. The cost-plus method's reliance on internal benchmarks and lack of external comparables undermined its credibility. Similarly, the residual profit split method's allocation of profits did not adequately reflect the functional and risk profiles of the Danish entity. The Court's ruling highlights the importance of robust functional analyses and external benchmarking to substantiate transfer pricing methodologies.

# PART 2

## SIGNIFICANCE

---

---

# MAJOR ISSUES

## AREAS OF CONTENTION

The case revolved around three primary areas of contention:

### **Comparability Analysis**

Accenture's transfer pricing documentation lacked sufficient external benchmarks to substantiate the arm's length nature of its arrangements. This deficiency weakened its position and highlighted the importance of using external comparables that reflect market realities.

### **Economic Substance**

The functional and risk analyses presented by Accenture were inconsistent with the economic realities of its operations. For example, the Danish entity's contributions were undervalued, and its risks were not accurately reflected in the transfer pricing policies. This misalignment led to questions about the validity of Accenture's methodologies.

### **Methodological Application**

While the cost-plus and residual profit split methods are recognised under OECD guidelines, their application by Accenture was criticised for lacking sufficient adjustments and reliability. The Court found that Accenture's documentation did not adequately explain why these methods were chosen over others, nor did it provide sufficient justification for the specific rates applied.

---

# EXPECTED OR CONTROVERSIAL?

The decision was largely expected, given recent trends in transfer pricing jurisprudence. Courts and tax authorities worldwide have increasingly scrutinised multinational enterprises' transfer pricing practices, placing greater emphasis on the economic substance of transactions over their legal form.

This case reflects a broader shift toward stricter enforcement of the arm's length principle, particularly in jurisdictions like Denmark that align closely with OECD guidelines. The Court's insistence on robust documentation and reliable external comparables is consistent with global best practices in transfer pricing compliance.

However, the decision could be considered controversial within the business community. Critics argue that the high evidentiary burden placed on taxpayers, particularly in documenting complex intra-group transactions, creates an uneven playing field. Smaller entities, in particular, may lack the resources to meet these stringent requirements.

Despite these concerns, the ruling reinforces the importance of transparency and accountability in transfer pricing practices, signalling to MNEs that robust documentation and adherence to OECD guidelines are non-negotiable.

---

# SIGNIFICANCE FOR MULTINATIONALS

This judgment underscores the critical importance of maintaining robust and transparent transfer pricing policies. For multinationals, it signals the need to -

## **Enhance Documentation Standards**

Comprehensive transfer pricing documentation, including detailed functional and comparability analyses, is essential to defend against audits and litigation.

## **Leverage External Comparables**

Reliance on internal data is insufficient. MNEs

must ensure their pricing methodologies are supported by reliable external benchmarks that reflect market realities.

## **Prioritise Economic Substance**

Transfer pricing arrangements must align with the economic realities of operations, with particular attention to the functional and risk profiles of each entity involved.

By addressing these areas proactively, MNEs can mitigate the risk of disputes and safeguard their operations against tax adjustments and penalties.



---

# SIGNIFICANCE

## FOR REVENUE SERVICES

For revenue authorities, this case serves as a benchmark for enforcing transfer pricing compliance. Key takeaways include:

### Justification of Adjustments

The decision demonstrates the importance of basing transfer pricing adjustments on comprehensive audits and robust benchmarking analyses.

### Focus on Economic Substance

Revenue authorities are encouraged to scrutinise the functional and risk analyses

presented by taxpayers to ensure they reflect the economic realities of transactions.

### Emphasis on Documentation

The ruling highlights the value of detailed and transparent documentation in supporting tax adjustments and defending against appeals.

This case reinforces the role of revenue authorities as gatekeepers of compliance, ensuring that transfer pricing practices align with the arm's length principle and protect the integrity of national tax bases.

---

# RELEVANT CASES

## COCA-COLA VS USA

This US case addressed the allocation of profits between Coca-Cola's US headquarters and foreign subsidiaries. The IRS argued that Coca-Cola's transfer pricing methods undervalued the US entity's contributions. The Tax Court sided with the IRS, emphasising the need for robust functional analyses and reliable benchmarking. The case is similar to Accenture's in its focus on economic substance and documentation.

[Click here to read the full summary.](#)

## APPLE VS EU

This landmark EU case examined Apple's tax arrangements in Ireland. The Commission alleged that Apple's transfer pricing practices provided an unfair competitive advantage. Although Apple won on appeal, the case underscores the importance of aligning transfer pricing with economic substance and OECD guidelines.

[Click here to read the full summary.](#)

## GLAXOSMITHKLINE VS UK

This UK case involved disputes over royalty payments within the Glaxo group. The Court emphasised the need for reliable comparables and robust documentation to substantiate transfer pricing arrangements, echoing themes from the Accenture case.

# PART 3

---

# PREVENTION

---

Engaging transfer pricing experts is essential for MNEs to navigate the complexities of international tax regulations. These professionals provide critical guidance on adhering to OECD guidelines and local tax laws, ensuring compliance and mitigating disputes. Experts assist in preparing robust transfer pricing documentation, including functional and comparability analyses, to substantiate intercompany transactions.

Transfer pricing experts also play a pivotal role in conducting proactive risk assessments. By identifying potential weaknesses in an organisation's tax strategy, they can recommend corrective actions to prevent disputes with tax authorities. Additionally, their in-depth knowledge of industry practices and regulatory trends enables MNEs to benchmark their pricing strategies effectively

against market standards.

In contentious situations, transfer pricing experts provide indispensable support during audits and litigation. They help build a compelling case by presenting clear, evidence-backed arguments that align with international standards. Their involvement not only strengthens a company's defence but also demonstrates a commitment to compliance, which can positively influence tax authorities' perception.

Ultimately, engaging transfer pricing experts is an investment in risk mitigation and regulatory adherence. Their expertise ensures that MNEs can confidently navigate the challenges of global tax environments while minimising financial and reputational risks.

---

# PREVENTATIVE

## MEASURES TO AVOID SIMILAR CASES

### TAX RISK MANAGEMENT PROCESS

To mitigate transfer pricing disputes and ensure compliance, MNEs should implement comprehensive preventative measures. Key steps should include (but not be limited to):

#### **Enhanced Documentation**

Comprehensive transfer pricing documentation is critical for defending tax positions. This includes detailed functional analyses, benchmarking studies, and transaction-specific justifications. Ensuring that documentation is updated regularly reflects a proactive approach to compliance.

#### **Training and Capacity Building**

Regular training sessions for key personnel can enhance awareness of transfer pricing

requirements and foster a culture of compliance within the organisation.

#### **Conducting Internal Audits**

Periodic internal audits help identify discrepancies in transfer pricing practices and rectify them before they attract regulatory scrutiny. These audits should focus on high-risk areas, such as transactions with related entities and jurisdictions with heightened compliance requirements.

Implementing these measures (and more) reduces the likelihood of disputes, aligns MNE operations with global tax norms, and strengthens their defense against potential audits or litigation.

### DOWNLOAD FREE BOOK

#### [TAX INTELLIGENCE: THE 7 HABITUAL TAX MISTAKES MADE BY COMPANIES](#)

Tax Intelligence: The 7 Habitual Tax Mistakes Made by Companies” by Dr. Daniel N. Erasmus is a must-read for businesses seeking to navigate the intricate world of tax compliance and risk management. By highlighting common pitfalls and offering strategic solutions, Erasmus equips companies with the knowledge to improve their tax practices and secure financial stability.

---

# PREVENTATIVE

## MEASURES TO AVOID SIMILAR CASES

### TAX STEERING COMMITTEE

Establishing a tax steering committee can help ensure that tax policies are aligned with the broader business strategy and that transactions are vetted for both commercial and tax implications. A tax steering committee can:

- Review all significant cross-border transactions before they are executed.
- Ensure that tax decisions are made in the context of overall business objectives, not solely for tax savings.
- Monitor changes in international tax laws to ensure ongoing compliance and avoid disputes like this case.

### DOWNLOAD FREE E-BOOK

#### [DRIVING TAX COMPLIANCE: THE ESSENTIAL ROLE OF THE TAX STEERING COMMITTEE](#)

The eBook “Driving Tax Compliance: The Essential Role of a Tax Steering Committee” by Prof. Dr. Daniel N. Erasmus, Renier van Rensburg, and Gilbert Ferreira, emphasizes the critical importance of establishing a Tax Steering Committee (TSC) within multinational corporations to ensure tax compliance and manage tax-related risks effectively.

---

INTERNATIONAL TAX  
**CASE SUMMARY**

**ACADEMY OF TAX LAW**

---

Copyright © 2024/2025

International Institute for Tax and Finance Ltd (I/I/T/F) Academy of Tax Law

This publication was accurate at time of publishing.  
It may be necessary for reasons beyond the control of the organisers to alter the content.