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Swedish tax implications of talent mobility – cross-border movement of employees

This article provides a high-level overview of the key Swedish tax considerations relevant to cross-border employee mobility, focusing on employment income taxation and permanent establishment (PE) risks. The article outlines the scope of Swedish tax liability for non-resident individuals, the applicable tax regimes, common PE risk scenarios and practical planning points for foreign employers and mobile employees.

1. Overview of the Swedish tax system

Brief overview of the individual income tax system

Sweden has adopted a progressive system for the taxation of individual employment and business income, with a basic income tax rate ranging from approximately 29 to 35 per cent (on average 32 per cent), depending on the municipality of residence, and an additional state income tax of 20 per cent that is levied on higher income levels, above a threshold of approximately €60,000 per annum.¹ A flat-rate special income tax regime is applicable for non-resident individuals working in Sweden.²

Individual capital income is taxed separately and, in general, at the following tax rates:

- 30 per cent tax on interest and capital gains and dividends on shares in listed companies;³
- 25 per cent tax on capital gains and dividends on shares in unlisted companies;⁴ and
- approximately 20 to 55 per cent tax on capital gains and dividends from qualified shares under a special tax regime for shareholders in closely held companies.⁵

Basis of taxation

As a starting point, individuals who are resident in Sweden are fully tax liable in the country in regard to their worldwide income (subject to any partial or full relief provided by any

¹ Chapter 65, section 3 and 5 of the Swedish Income Tax Act (1999:1229) (ITA).

² See Section 2.3 below.

³ Chapter 65, section 7 of the ITA.

⁴ Chapter 42, section 15a of the ITA.

⁵ See Chapter 57 of the ITA.

applicable double tax treaties). Full tax liability can also apply on the basis of continuous stays or due to an individual's substantial connections with Sweden (*väsentlig anknytning*) after a move abroad. Substantial connections can apply on the basis of, for instance, a home maintained in the country or a certain level of economic engagement in Sweden.⁶

Individuals with no Swedish tax residency are, as a starting point, only taxed on income that has its source in Sweden. This includes, for example, dividends on shares in Swedish companies, business income from a Swedish PE or property, or income deriving from employment in Sweden.⁷

2. Taxation of employment income

2.1 Scope of taxable income

Below is a general description of Swedish tax applied to employment income that is paid to individuals with no Swedish tax residency. It should be noted that the Swedish income taxation outlined below can be partially or fully eliminated by an applicable double tax treaty.

Salary, bonuses and benefits in kind

Sweden's concept of employment income is broad. As a starting point, cash compensation for employment, such as an individual's salary, bonuses and benefits in kind (including, for instance, equity compensation), which are taxable for a Swedish tax resident, are also taxable for a non-resident employee, provided that the income is attributable to work performed in Sweden or, in certain situations, sourced in Sweden.⁸

Salary and fringe benefits received as part of a private employment relationship may be tax exempt under the 183-day rule, provided that the following conditions are met:

- the employee stays in Sweden for a maximum of 183 days during a 12-month period;
- the remuneration is paid by or on behalf of a non-Swedish employer; and
- the remuneration is not borne by a Swedish PE.

The exemption is not applicable, however, in the case of leased labour where a Swedish client is deemed to be the 'economic employer'.⁹

Equity compensation

In terms of equity compensation given to employees, the Swedish income tax system distinguishes between instruments treated as securities (*värdepapper*) and instruments treated as employee stock options (*personaloptioner*).¹⁰ Any fringe benefits treated as

⁶ Chapter 3, section 3 and following sections of the ITA.

⁷ Chapter 3, section 18 of the ITA. Reference is also made to the Swedish Withholding Tax Act (1970:624) and the Special Income Tax Act for Foreign Individuals (1991:586) (SINK).

⁸ Section 5 of the SINK and Chapter 11, Section 1 of the ITA. See Section 2.2 below.

⁹ Section 6a of the SINK.

¹⁰ Chapter 10, Section 11, ITA.

employment income will normally be taxable for non-resident individuals if attributable to work performed in Sweden.¹¹

Shares, warrants (*teckningsoptioner*) and other securities or call options with limited restrictions connected to employment are generally treated as securities from an income tax perspective.¹² Securities granted below market value are taxed as a benefit in kind (employment income) at the time of grant based on the delta between the purchase price and the market value.¹³ Any subsequent value increase is normally treated as capital income, realised upon a sale of the underlying instrument. Such capital gains are generally not subject to Swedish taxation for individuals who are not, and have not previously been, tax resident in Sweden.

Benefits from instruments treated as employee stock options are, on the other hand, taxed as employment income upon a later exercise of the option for the purchase of underlying securities (at a value corresponding to the delta between the market value and the price paid, if any).¹⁴ Even non-resident individuals who are no longer performing work in Sweden may be taxed upon exercise, if and to the extent the income has been earned through previous activities carried out in Sweden.¹⁵

It should be noted that Sweden has a special regime for qualified employee stock options (*kvalificerade personaloptioner*), entailing favourable treatment provided that certain statutory conditions are met.¹⁶

Board work remuneration

Board fees and similar remuneration received by a non-resident individual in their capacity as a board member in a Swedish entity are taxable in Sweden, regardless of where the activities are performed.¹⁷

Pensions

Swedish social insurance pensions paid to non-resident individuals are normally taxable in Sweden over a certain amount. Occupational pensions (*tjänstepension*) paid to non-resident individuals may also be subject to Swedish taxation, provided that the income is attributable to previous work that was mainly (at least 75 per cent)¹⁸ performed in Sweden or, in certain situations, sourced in Sweden.¹⁹

2.2 Source rules

As a starting point, non-resident individuals are taxed in Sweden on their employment income to the extent that the income was earned for work performed in Sweden. In certain situations, however, employment income is deemed to be Swedish sourced regardless of

¹¹ Section 5 of the SINK.

¹² See for example RÅ 2009 ref 86, RÅ 2010 not. 129 and HFD 2021 ref 67.

¹³ Chapter 10, section 11 of the ITA.

¹⁴ Chapter 10, section 11 of the ITA.

¹⁵ The Tax Agency's statement on 23 February 2009, Dnr 131 218739-09/111.

¹⁶ See Chapter 11a of the ITA.

¹⁷ Section 5 of the SINK.

¹⁸ Swedish Government Bill 1999/2000:2 s 498.

¹⁹ See Section 2.2 below.

the work location. This applies, for instance, in relation to remuneration for board work in a Swedish company or work performed for the Swedish state, a Swedish municipality or region.²⁰

Employment income attributable to work performed outside of Sweden but on the basis of employment with a Swedish company may also still be taxable in Sweden. This applies in cases of business travel abroad or provided that the time spent working abroad only amounts to, at the maximum, half of the individual's total working time during each 12-month period.²¹

2.3 Tax rates

As mentioned in Section 1 above, Sweden applies a progressive system for the taxation of employment income for tax resident individuals, with an effective income tax rate of up to approximately 55 per cent.

For non-resident individuals working temporarily in Sweden or otherwise receiving Swedish-sourced employment income under Swedish tax rules, the Swedish special income tax regime (known as SINK) provides a simpler withholding tax framework, with a relatively low tax rate (currently 22.5 per cent).²²

Tax reliefs

Non-resident artists and athletes who perform work in Sweden for a short period may qualify for a special reduced withholding tax rate (A-SINK) of 15 per cent.²³

For foreign experts, researchers and key employees who temporarily move to Sweden, they are taxed under the ordinary income tax regime for Swedish tax residents, but another tax relief regime may apply. The applicable relief scheme enables a tax exemption to be secured on 25 per cent of the individual's compensation, meaning that only 75 per cent of the salary is subject to Swedish income tax and social security contributions. To qualify, the individual must be a foreign national, who has not recently held Swedish residency, and they must be employed as an expert, researcher or key employee, or meet a specified salary threshold. The relief applies for up to seven years from the start of their employment in Sweden.²⁴

2.4 Miscellaneous issues

Employer's withholding and reporting obligations

A Swedish employer is generally expected to withhold preliminary tax on income paid to non-resident individuals working in Sweden. As from 1 January 2021, foreign employers with no PE in Sweden are normally also subject to the relevant tax withholding and reporting obligations. Preliminary tax deductions under the SINK regime (outlined in Section 2.3 above) will require a decision issued by the Swedish Tax Agency (*Skatteverket*).²⁵

²⁰ Section 5 of the SINK.

²¹ Section 5 of the SINK.

²² Section 7 of the SINK.

²³ Reference is made to the Swedish law on special income tax for foreign resident artists, etc (1991:591).

²⁴ Chapter 11, sections 22-23 of the ITA.

²⁵ Chapter 10, section 2 and Chapter 13, section 3 of the Swedish Tax Procedure Act (2011:1244).

The relevant tax payments and reports are submitted to the Tax Agency through PAYE tax returns, on a monthly basis. It should also be noted that foreign entities with a preliminary tax deduction obligation will need to be registered as employers in Sweden, which requires further administrative obligations to be fulfilled.²⁶

Social security contributions

Swedish social security contributions are, according to local Swedish legislation, payable by the employer on salary attributable to work performed in Sweden.²⁷ Exemptions apply, however, to the extent that the non-resident individual in question is covered by another country's social security system, based on the European Union's coordination rules or any other international social security conventions.²⁸ The Swedish social security contribution rate is normally 31.42 per cent, but a reduced is applied for foreign employers without a Swedish PE.

Payable contributions will normally need to be withheld and reported on a monthly basis to the Swedish Tax Agency (following the same process as outlined above). Corresponding to what has been outlined above, foreign entities with a social security payment obligation will also need to be registered as employers in Sweden for that purpose (unless a special social security contribution agreement has been concluded between the employer and the employee).

3. PE risks

Having mobile employees working in Sweden can typically entail in a PE risk for a foreign employer. Common PE risk scenarios are described below, although it is important to make an overall assessment of the situation in each individual case. In general, the Swedish PE rules are aligned with the Organisation for Economic Co-operation and Development's (OECD) Model Tax Convention, and the OECD Commentary is used as interpretative guidance.

3.1 Dependent agent PE

A Swedish PE may arise if a foreign company operates through a dependent agent in Sweden, who habitually concludes binding contracts on behalf of the company under a power of attorney (in any form, ie, a verbal power of attorney can be sufficient). To create a PE, the authority must concern agreements forming part of the company's core business.²⁹

Based on these principles, sales personnel acting in Sweden with a power of attorney may give rise to a dependent agent PE, provided that their role goes beyond mere promotion or advertising and effectively and repeatedly binds the foreign company through contract execution.

²⁶ See for example Chapter 7, section 1 and Chapter 26, section 3 of the Swedish Tax Procedure Act.

²⁷ Reference is made to the Swedish Social Security Contributions Act (2000:980).

²⁸ See Regulation (EC) No 883/2004.

²⁹ Chapter 2, section 29 of the ITA.

3.2 Fixed place PE

A Swedish fixed place PE may arise where business is carried out from a Swedish location at the disposal of a foreign company, provided that this place is used on a sufficiently permanent basis.³⁰

A home office used by an employee in Sweden does not automatically constitute a fixed place PE but may do so if the foreign company derives a clear business benefit from the work being carried out there. With reference to OECD guidance, the assessment focuses on the degree of permanence and whether the activities form part of the company's business rather than being carried out for personal convenience.³¹

As noted above, the place of business must be permanent in order to create a PE, meaning that it must have a certain degree of durability. While six months is a common benchmark, it should be noted that a PE can arise earlier if the business activity is carried out exclusively in Sweden during the relevant period. Recurring or continuous use of premises over time may also satisfy the permanence requirement.³²

The above rules mean that work performed in Sweden by, for instance, sales personnel, key personnel and management, may, depending on the nature of work, give rise to a Swedish PE. This applies regardless of whether a power of attorney for contract conclusion has been issued, as long as the work is carried out on a permanent basis from a fixed place in Sweden.

4. Exit tax/departure rules

Sweden does not have a general 'exit tax' applied to individuals comparable to some other jurisdictions. Nevertheless, for several other reasons, departure planning remains important for mobile employees leaving Sweden.

For instance, and as mentioned above, Swedish tax residency may remain after an individual's departure due to their substantial connections to the country, in which case, Sweden may continue to tax the individual's worldwide income. Moreover, capital gains deriving from the sale of Swedish shares (or foreign shares acquired during Swedish residency) generally remain taxable in Sweden during a 10-year period after departure, although this is subject to partial relief applicable under many Swedish tax treaties.³³

5. Recent developments in case law

In a court ruling issued in 2022, the Swedish Supreme Administrative Court examined whether an employee working remotely could still be deemed to work in Sweden for social security purposes. The Court found that remote work abroad may indeed qualify as work in Sweden if the employee has been hired to work in the Swedish business and performs tasks that could just as well have been carried out in Sweden.³⁴

Following the judgment, the Tax Agency has concluded that Swedish social security contributions may, in such cases, still be payable despite the work being performed abroad.

³⁰ Chapter 2, section 29 of the ITA.

³¹ See the OECD commentaries to Article 5 of the OECD Model Tax Convention.

³² See the OECD commentaries to Article 5 of the OECD Model Tax Convention.

³³ Chapter 3, Section 19, ITA.

³⁴ HFD 2022 ref. 16.

This position applies specifically to work carried out in ‘third countries’, as the EU’s coordination law may otherwise lead to a different outcome.³⁵ It is unclear to what extent (if any) this case could potentially have an impact on the reverse situation, ie, whether work performed remotely from Sweden may correspondingly fall outside the concept of ‘work in Sweden’.

6. Key takeaways

Major risks for employers

Foreign employers with employees working in Sweden may be subject to Swedish withholding, reporting and social security obligations even where they lack a local entity or PE. The use of sales personnel, decision-makers or long-term home offices located in Sweden may create PE exposure if such activities go beyond merely preparatory or auxiliary functions.

Major risks for employees

Non-resident individuals may be subject to Swedish taxation on employment income attributable to work performed in Sweden (or, in certain cases, work performed for a Swedish entity), including certain pension and equity-based compensation. Special regimes and double tax treaties may significantly affect the effective tax burden depending on the individual circumstances.

Key planning considerations

Early assessment of the relevant tax residence status, sourcing rules and PE risks is essential when structuring cross-border assignments involving Sweden. Proper documentation, role definition and monitoring of the time spent and activities performed in Sweden are critical to managing both the tax exposure and compliance risks. For Swedish tax residents considering leaving Sweden, departure planning may also prove to be essential.

³⁵ The Tax Agency’s statement dated 7 July 2022, Dnr 8-1793383.