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## **International Bar Association Annual Conference 2025**

### **Recent tax developments: Sweden**

#### **Introduction**

In the past 12 months, Sweden has introduced new legislation and a number of amendment proposals, playing a significant role in a cross-border context. The recent developments include new legislative proposals in highly debated areas of income taxation, such as interest deduction limitations and taxation of carried interest. Further, although previous initiatives on a reformation of the national withholding tax legislation are standing still, new trends have emerged in case law in relation to withholding tax on dividend distributions to foreign holding companies in low-taxed EU jurisdictions.

In a national context, one of the most noticeable developments is the amendment proposals on the special rules for taxation of dividends and capital gains on shares in closely held companies (the so-called '3:12 rules'), proposed to enter into force on 1 January 2026.

#### **Recent developments in corporate income taxation**

##### *The Swedish interest deduction rules*

Since 2019, a general limitation on the deductibility of interest expenses applies to Swedish companies, whereby companies may as a starting point only deduct negative net interest expenses of up to 30 per cent of their earnings before interest, taxation, depreciation and amortisation (EBITDA). Alongside the general limitation, interest related to certain intragroup debts may be non-deductible with the support of specific limitation rules. A specific rule targeting tax-driven arrangements enables denial of deductions on interest paid even to a recipient established within the European Economic Area, in cases where the debt arrangement has emerged 'exclusively, or almost exclusively' to provide a tax benefit to the associated companies.

An advance ruling recently adopted by the Swedish Supreme Administrative Court (HFD case no 6988-24, 8 May 2025) confirms that this specific rule has a very limited scope of application. The case considered interests that were intended to be paid by a Swedish company on an intragroup loan issued by an Irish group company. Since the Swedish company had a commercial need to finance an external acquisition through the loan, the Court upheld its right to deduct the interest for tax purposes. It can be noted that the threshold for an 'exclusively, or almost exclusively' tax-driven structure under this specific rule is roughly 90–95 per cent. In a different, earlier ruling, the Supreme Administrative Court has also considered this rule to be incompatible with the freedom of establishment within the European Union.

In May 2024, an official government report (SOU 2024:37) was issued with a proposal on adjustments to the rules on interest deduction limitation in corporate taxation. The new legislative proposal seeks, for instance, to address the issues with the current specific limitation rules on intragroup loans by, as generally described, permitting deductions in case the freedom of establishment could be invoked. Deductions may however still be denied in these cases with reference to the EU principle on anti-abuse. In addition to suggested updates

on the specific rules, several updates are proposed in relation to the general limitation rule. For instance, it is proposed that the net interest and the EBITDA-base of relevance for interest deductibility is to be calculated on a group level as opposed to the current single company level calculations. Further, the time limit currently restricting a carry-forward of non-deducted negative net interest to six years is proposed to be removed in its entirety, allowing companies to carry forward non-deductible negative net interest without expiration. Moreover, the existing safe harbour rule that, as an alternative to the EBITDA-rule, currently sets the threshold for negative net interest deductions to SEK 5m for associated companies, is proposed to be adjusted to SEK 25m.

The new provisions are proposed to enter into force on 1 January 2026. However, a bill with a final proposal has not yet been published as of the date of this report.

#### *New rules on losses carried forward*

As a starting point, Sweden enables deduction on remaining tax losses carried forward from previous tax years, without limitation in time. To counteract trading with enterprises with accumulated tax losses, however, certain provisions limit, partly or fully, the right to utilisation of losses carried forward in the event of changes in controlling influence as defined in the Swedish tax law. As from 1 January 2025, these provisions have been somewhat simplified and improved. Most importantly, the changes relate to the following:

- in Swedish legislation, deductible losses carried forward after a change of controlling influence are limited to an amount limitation threshold (*beloppsspärren*) which, in simple wording, corresponds to a percentage of the acquisition costs (in certain cases reduced by capital contributions). The threshold has now increased from 200 per cent to 300 per cent of the acquisition costs;
- further, an explicit exemption from the above amount limitation threshold has been implemented, applicable when an individual gaining controlling influence already had such controlling influence over the company before the change of ownership; and
- as for the rules triggering the amount limitation threshold when a group of individuals, regardless of each other, acquire controlling influence (*flockregeln*), the period for considering acquisitions has been reduced from five to three tax years, the minimum ownership per individual has increased from 5 to 20 per cent of the voting rights, and certain agreements are no longer treated as acquisitions.

The updated rules apply, with some exemptions, to ownership changes after 31 December 2024.

#### *A proposed reduction of the current corporate income tax rate*

In circulated tax proposals for consultation in preparation for the autumn budget this year, the government has, amongst other measures, proposed a reduction of the Swedish corporate income tax rate by 0.6 points, lowering the tax rate to 20 per cent. The intention is to enhance the conditions for investment and economic growth in Sweden, particularly in light of uncertainties surrounding tariff levels and trade barriers.

The new tax rate is proposed to apply as of 1 January 2026; whether the proposal will ultimately be included in the government's budget bill will depend on the prevailing economic conditions, available fiscal space, financing and the outcome of final budget negotiations.

## **Other international tax developments**

### *Recent amendments to the Swedish global minimum tax regulation (Pillar II)*

Since 1 January 2024, Sweden has applied a global minimum tax to larger national and multinational groups with entities in Sweden, as a result of the implementation of the EU Directive 2022/2523 on minimum level of global taxation and the model rules developed by the OECD.

The latest amendments to the Swedish regulation took effect as of 1 January 2025, and relate to the Administrative Guidance adopted by the OECD during 2023. The amendments are intended, amongst others, to ensure that the rules are approved to benefit from safe harbour rules in other jurisdictions. Moreover, changes have been made in Sweden's foreign tax credit legislation to allow foreign qualified domestic minimum top-up taxes to be credited against taxes arising under Swedish controlled foreign companies (CFC) regulations.

### *Recent developments on application of the anti-tax avoidance rule in relation to dividend withholding tax*

For a long time, the anti-tax avoidance rule in the Swedish Withholding Tax Act (*bulvanregeln*) has been criticised for its ambiguity. Although the rule aims to prevent improper avoidance of withholding tax on dividend payments, it has appeared to function primarily as a deterrent rule. Measures to battle tax avoidance in a withholding tax context have earlier been proposed in a larger initiative to reform the national legislation in the area. However, a final amendment proposal has not yet been published. Despite its ambiguity, the anti-tax avoidance rule has been regarded sufficient for the implementation of the EU anti-tax avoidance provision in the Parent-Subsidiary Directive. Nevertheless, national case law provides very little further guidance on the applicability of the anti-tax avoidance provision in relation to foreign holding entities.

Recently, however, it has been discovered that the Swedish Tax Agency has imposed withholding tax on dividends paid to a Cyprus-based company under the anti-tax avoidance provision in the Withholding Tax Act. According to the Tax Agency, the Cyprus-based company held no office, employed no staff, incurred only minimal operational expenses aside from consultancy and administrative fees, and derived passive income almost exclusively from sources located outside of Cyprus. Moreover, there was considered to be a close timely and monetary connection between the subsidiaries' decisions to distribute dividends to the company and the company's further dividend distribution up to the ultimate shareholder. The Tax Agency cited decisions by the EU Court of Justice in similar contexts, and reasoned that the use of the pass-through entity to receive and distribute dividends appeared designed solely for tax benefits. Since the anti-tax avoidance rule subjects the immediate dividend recipient to tax rather than the 'ultimate receiver', tax liability was assigned to the Cyprus-based company.

Although it remains unclear whether the decision would be accepted by the tax courts, the decision signals a greater willingness by the Tax Agency to apply the anti-tax avoidance rule on cross-border arrangements appearing to lack real economic substance.

### *Tax treaty updates*

Sweden has concluded double tax treaties and information exchange agreements with a large number of countries and jurisdictions. Although not being a change that took place within the

recent 12 months, it could however be noted that the previous tax treaties between Sweden and Portugal, and Sweden and Greece, both ceased to apply on 1 January 2022. The following tax treaty developments can be noted over the last year.

- The government has suspended the tax treaty between Sweden and Russia in its entirety, and the agreement has ceased to apply as from 10 February 2025.
- In June 2024, Sweden and Denmark concluded an updated agreement on certain tax issues in the Öresund region (*Öresundsavtalet*), supplementing the Nordic Tax Treaty to facilitate the tax situation for individuals commuting between the two countries. In simple terms, the agreement enables salary taxation only in the state of employment, even if the work should partly be carried out from the employee's home in the state of residence. The updates include extended applicability, by covering income from employment in the public service, and an extended calculation period for assessing the employee's total working time in each state. Moreover, a provision is introduced which, in summary, exempts an employer resident in one state from making tax deductions on salary paid to an employee resident in the other state, if the purpose is to avoid tax liability on the salary in the employee's state of residence. The new agreement is applicable in Sweden as from 1 January 2025.

### **Other future developments of interest**

#### *A proposed reduction of the tax rate for non-Swedish tax residents (SINK)*

In the circulated tax proposals for consultation in preparation for the autumn budget this year as mentioned above, the government has also proposed to reduce the special income tax rate for individuals residing abroad for tax purposes but working in Sweden (the so-called SINK taxation), from 25 per cent to 20 per cent. The proposed amendments would enter into force on 1 January 2026.

#### *New proposals in relation to special rules for dividends and capital gains on shares in closely held companies*

Since 2022, a committee has reviewed the special tax regime for ultimate shareholders in closely held companies, the so-called '3:12 rules', counteracting income conversion in situations where the shareholder can control their own salary withdrawals and dividends or capital gains. On 22 May 2025, the Ministry of Finance published a draft proposal that was sent to the Council on Legislation for consultation (*lagrådsremiss*).

The currently proposed amendments, intended to simplify and improve the 3:12 rules, include a one-year reduced timeline for determining whether a share is qualified under the 3:12 regime (from five to four years). Further, amendments are proposed in relation to calculation of threshold amounts, with the aim of simplifying calculations for determining whether income should be taxed as employment or capital income. Amendments are also proposed in relation to the requirements for being credited salaries paid to employees in a closely held company and its subsidiaries for the calculation of the threshold amount. For instance, it is proposed to abolish certain conditions to be credited salary payments for the calculation, but also to deny credit of salaries in subsidiaries held through an alternative investment fund.

The new rules are proposed to enter into force starting on 1 January 2026. However, no bill has yet been adopted.

### *New proposal on taxation of carried interest*

For a long time, there has been a great deal of uncertainty regarding how carried interest should be taxed in Sweden. On 28 January 2025, a new government report was presented on the matter.

In essence, it is proposed that shareholders entitled to carried interest from an alternative investment fund by virtue of their employment or engagement should be covered by the rules for closely held companies. To individuals covered by the regime, the rules for closely held companies are proposed to apply with certain adjustments. These adjustments have an impact on, for instance:

- the determination of whether a shareholder is deemed materially active under the 3:12 regime;
- the timeline for determining whether a share is qualified under the 3:12 regime (proposed to be extended to ten years); and
- the calculation of the threshold amount and the cap on the amount of income taxed as employment income.

It is also proposed, for instance, that the established exemption for companies maintaining a certain minimum threshold of passive owners (*utomståenderegeln*) may not apply to qualifying share ownerships based on carried interest.

The rules are proposed to enter into force on 1 January 2026. No bill has yet been adopted.