

Swedish* Tax Newsletter

December 2007

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The Swedish Tax Newsletter is a summary highlighting recent developments within the area of Swedish tax and related legal matters. A general up-date on the Swedish tax system was featured in the February 2007 issue.

This December-issue features just a few newsflashes on recent tax developments.

1. Swedish Corporate Taxation; Up-date & News

- Amended CFC-provisions are proposed to apply from 1 January 2008. The changes refer to the findings of the ECJ in the Cadbury Schweppes case (C-196/04) and that “true” establishments within the EEA not should become subject to CFC provisions. Further, the “b/w list” on approved and non-approved jurisdictions for CFC purposes is amended in respect of Bulgaria, Cyprus, Iceland, Morocco, Serbia-Montenegro and Hungary.
- Under Swedish law, group tax consolidation is achieved by way of group contributions, which are deductible for the contributor and taxable for the recipient if certain qualifying requirements are met. The Swedish National Board on Advance Rulings has previously given several advance rulings with respect to the interpretation of the Swedish group contribution regime in light of the ECJ Marks & Spencer case (C-466/03). In doing so, the Board has reached the conclusion that the Swedish rules are contrary to Article 43 EC if deduction for group contributions to an EEA subsidiary is denied in a situation where the subsidiary has exhausted all possibilities of utilizing the losses. The Swedish system very much resembles the Finnish group contributions regime which has been dealt with by the ECJ in case Oy AA (C-231/05). As a result of the fact that the ECJ has ruled in the Oy AA case that the Finnish group contribution regime may be justified, the Swedish Government has in September commented upon the Swedish group contribution regime in the Budget Bill for 2008. In the bill the Government expresses the surprising view that given the judgment in the Oy AA case, it is now clear that the Swedish group contribution regime is not contrary to EC law, and that it is therefore not necessary to amend any of the Swedish group contribution rules due to EC law. Future precedents might prescribe otherwise.
- In spite there are no tax rules restricting Swedish tax deduction for interest on debt, nor are there any debt equity regulations for tax purposes, the tax authority has during many 2007 tax audits campaigned heavily against debt leveraged corporate structures with outbound interest payments. After a judgement by the Supreme Tax Court in November, when similar schemes were found not to be tax evasion, the tax authority has changed its views but states that further analysis perhaps requiring legislation, will be undertaken.

2. Swedish Individual- / Small Business Tax; Up-date & News

- The so-called 10 year rule retaining Swedish taxability for capital gains on Swedish shares also after a migration from Sweden, is from 2008 proposed to be extended to cover also foreign shares and participations, and may require renegotiations of many tax treaties.
- The residential real property tax is proposed to be abolished and will instead, from 2008, be replaced with a municipal real estate fee that in order to mitigate earlier adverse effects, will be levied in accordance with party complex provisions. In order to finance the reform, the capital gains deferral on residential properties will be reduced, as will standardised interest income be levied on the deferral.

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- The net-wealth tax is proposed to be abolished as from income year 2007, implying that it was levied as per 31 December 2006, for the last time. As a financing measure, a reduced entitlement for deduction for pension insurance premiums is proposed as from 2008.
- Pending approval by the EU Commission, it is from 2008 proposed to reduce the social fees for employers and the self-employed, within certain industries within the services-sector.
- Tax deduction for 50% of expenses within certain brackets for domestic household services against earned income has been introduced from 1 July 2007.
- A traffic congestion tax (toll fee upon entering or leaving) was reintroduced for the Stockholm area in August 2007 and the tax is deductible for corporate tax purposes.

3. Swedish EC Tax; Up-date & News

- Possibilities to below-market-value transfers of assets for individuals, within the EEA-area, are proposed to be introduced from 2008.
- According to a Swedish ruling, salaries in EEA branch of a Swedish company will affect the tax basis for dividends, according to the closely held company rules.
- The exit tax provisions for vested stock options may be abolished according to a yet to come proposal, observing the many cases from the ECJ on free movements within the EEA.
- There has lately been many ECJ tax cases of both indirect and direct importance for Swedish tax jurisprudence. In order for our clients to stay up-dated, a special subscription is available on our EU Tax Newsletter – please just send an e-mail to eudtg@nl.pwc.com with

“subscription EU Tax News” as the subject.

4. Swedish International Tax; Up-date & News

- The Swedish double tax treaty with Morocco has been cancelled by Morocco, and will not apply after 2007.

5. Swedish VAT; Up-date & News

- To prevent tax evasion, specific VAT provisions on the treatment of transactions undertaken below market value between affiliated parties will be introduced.
- Reverse charge for the buyer applies from 1 July 2007 for the supply of construction services within Sweden.
- As from 1 January 2008, an extended reporting period of 3 months can be allowed.

6. Important Swedish Tax-dates

- The Swedish tax filing season is soon commencing with the annual tax returns generally becoming due on 2 May 2008 without late filing fees if extension has not been granted.
- Interest surcharges on underpayment of preliminary taxes against final taxes are generally due after 12 February 2008.
