

# Newsalert

## International tax services – Sweden

June 2008

### PwC International Tax Services network

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This Newsalert does not provide a comprehensive or complete statement of the taxation law of the countries concerned. It is intended only to highlight general issues which may be of interest to our clients.

For issues relating to this news alert please contact your local international tax services advisor, Christoph Schreiber at +49 69 9585 6300 or the specialists listed at the end of this article.

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## Far-reaching proposal for anti-debt push down rules in Sweden

The Swedish Tax Agency suggests new rules as from January 1, 2009

On June 23, 2008 the Swedish Tax Agency presented a bill to the Government proposing anti-debt push down rules. In a press release dated June 24, 2008 the Finance Minister, among other things, stated that it is important to counter-act this form of tax planning.

### Details of the Proposal

According to the Swedish Tax Agency's proposal, deductions shall be denied for interest accruing in periods following December 31, 2008 on borrowings from group companies when the borrowing in question:

- Is connected with the acquisition of shares; or
- Enables the payment of dividends within the group; or
- Enables a capital contribution, when the receiving company uses the contribution in order to either:
  - purchase shares from another group company or
  - lend funds within the group

Borrowings connected with acquisitions or enabling dividends or capital contributions may have been raised many years ago. The prohibition of deduction refers to interest accruing during the year 2009 and in subsequent years.

The non-deductibility of interest applies not only to debts to companies within a group but also to interest on debts to companies within a wider sphere ("associated enterprises"). In addition to the acquisition of shares, the prohibition also covers the acquisition of other securities related to shares and receivables.

The prohibition of deduction does not cover interest related to borrowings from group companies that a company has raised in connection with the acquisition of shares directly from external parties. Neither does the prohibition cover interest costs on borrowings from external parties, such as banks, raised by a company in connection with the acquisition of shares in another group company (unless the borrowing corresponds with a receivable that the company has with this external party – a "back-to-back" loan).

However, borrowings from group companies replacing borrowings from external parties can also be covered by the prohibition in certain cases. The reason for this is that it should not be possible to initially take up an external loan and then replace it with an intra-group loan *if* the interest cost would not have been deductible if the company would have taken up an intra-group loan in the first place.

#### Further Information

The Government has already circulated the proposal for comments. The first public comments from the Swedish business community indicate heavy criticism saying that the proposal does not differ between abusive structures and structures justified by sound and good business purposes.

For more detailed information, please do not hesitate to contact your tax services team in Sweden:

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