Grant Thornton
An instinct for growth™

# Sweden introduces economic employer concept – new legislation for short time workers as from 1 January 2021

On November 4, 2020, the Swedish parliament approved the proposed legislation to introduce the Economic Employer concept in Swedish domestic tax legislation. The amended legislation will reduce the possibility to obtain tax exemption in Sweden under the 183-day rule and will have significant impact on short-time workers in Sweden and their foreign employers. The new regulations will enter into force as of 1 January 2021.

## Previous legislation

Under current Swedish legislation, employment income from a foreign employer to an employee for work carried out in Sweden may be exempted from employee income tax in Sweden under the so called 183 day-rule. The rule is also included in most of the bilateral income tax treaties that Sweden has entered.

For the domestic 183 day-rule to be applicable, the following three criteria must be met:

- The employee's stay in Sweden may not exceed 183 days during a twelve-month period,
- The employment income is paid out by an employer without a permanent establishment in Sweden, or on their behalf, and
- The cost for the employment income is not borne by a permanent establishment the employer has in Sweden.

As Sweden until now has applied the formal employer concept, the employer has been considered as the entity paying out the employee's salary

## The new regulations

Sweden will, as of 2021, introduce the economic employer concept in Swedish legislation meaning that the above 183-day rule will not be applicable in situations where the work carried out in Sweden should be seen as hiring of labor to a Swedish company - the economic employer. In these situations, a non-resident employee working temporarily in Sweden for a foreign employer with no permanent establishment in Sweden will be liable to pay income taxes in Sweden as from day one.

The determining factor, if the employee is liable to pay taxes in Sweden, is if the economic employer is a Swedish entity which benefits ultimately from the employee's work. This way to determine tax liability is more commonly used internationally and the purpose of the proposal is to create conditions for fair competition on the Swedish labor market.

The foreign (formal) employer shall register for employer reporting purposes in Sweden, withhold employee preliminary tax and file monthly payroll returns if the employee is subject to Swedish tax under the new rules. This applies regardless if the foreign employer has a permanent establishment in Sweden. The foreign employer should also submit relevant information to the Swedish Tax Agency for the assessment of the company's Swedish tax liability, if any. The foreign employer will need to obtain a tax identification number (TIN) and an approval for F-tax (Sw: godkänd för F-skatt) to verify that the Swedish Tax Agency has assessed the foreign entity's tax status in Sweden. Without the F-tax, the Swedish customer to the foreign entity is obligated to withhold 30% from the invoice amount.

### Exemptions for very short and limited stay in Sweden

Since the initial proposal in 2017, an exemption for intra-group situations has been discussed but the final legislation includes a general exemption from the hiring of labor regulations. The upcoming legislation includes an exemption for very short and limited stay in Sweden that does not exceed 15 working days at a time and 45 working days in total per calendar year. Weekends and other non-working days are not included in the calculation and the purpose is to exclude occasional business meetings, trainings etc. from the new requirements. The exemption means that it will not only be important to track the total days spent in Sweden but also how these days are allocated during the year.

### Impact on foreign employers, employees and the Swedish entity

The upcoming legislation will have substantial impact on foreign employers as well as their employees, meaning increased cost as well as an increased administrative burden for foreign employers. The changes will require certain competence in the Swedish tax system, foremost considering that the foreign employer must register with the Swedish Tax Agency as a foreign employer, request an approval for F-tax, manage employee tax withholdings and file a monthly payroll return on an individual level.

The foreign employee will be obligated to pay tax in Sweden through a filed tax return or application for non-resident taxation. A foreign employee, who is taxed in Sweden on income paid out from the home country, may face a cash-flow problem due to the withholding both in Sweden and in the home country. The employee may also need assistance with the home country tax return to claim tax relief for the taxes paid in Sweden.

### How to prepare?

We highly recommend foreign employers with short time workers in Sweden to review travel patterns and the nature of the work carried out in Sweden to determine their obligations as of 1 January 2021. It will be important to determine if the work carried out in Sweden should be seen as hiring of labor to a Swedish entity or if the 183-day rule may still be applicable. This determination will be based on who the work is carried out for, who is responsible for the risk and result of the employee, who bears the cost and who gives instructions to the employee etc. In case of very short and limited stay in Sweden it will be important to identify how to track the days spent and who is responsible for that.

Foreign employers already aware that they will be subject to these new requirements are recommended to prepare for registrations, request of approval for F-tax etc. to be ready for the reporting requirements starting in January 2021.

## Do you want to know more?

**Do not hesitate to contact us for further information and advice:**

**economicemployer@se.gt.com**

**Aino Askegård Andrésen**
Director Tax, Global Mobility Services
**T** +46 (0)8 563 072 85
**M** +46 (0)7 613 072 85

**Maria Malm**
Senior Manager Tax
**T** +46 (0)31 701 37 07
**M** +46 (0)70 512 50 01

**Margita Beijer**
Senior Manager Tax
**T** +46 (0)8 563 073 35
**M** +46 (0)72 560 76 23

**Fredrik Flyrén**
Senior Manager Tax
**T** +46 60 16 38 39
**M** +46 72 454 51 27