

**Asset Protection – How to structure assets in an anonymous way, while meeting the international transparency requirements.**

**Commission(s) in charge of the Session/Workshop:**

Private Clients Commission  
Tax Law Commission

**Munich, 2016**

**National Report of Sweden**

Filippa Andersson

Advokatfirman Lindahl KB

Södra Hamngatan 37-41,

404 39 Göteborg, Sweden

+46 72 399 10 67, [filippa.andersson@lindahl.se](mailto:filippa.andersson@lindahl.se)

General Reporters:

<p>Cosima von Rechteren Bär &amp; Karrer AG Brandschenkestrasse 90 CH – Zurich 8027 Phone: +41 58 261 56 01 E-mail: <a href="mailto:cosima.vonrechteren@baerkarrer.ch">cosima.vonrechteren@baerkarrer.ch</a></p>	<p>Roos Jongeneel Taxand Netherlands Piet Heinkade 133 Amsterdam, The Netherlands Phone: +31 20 435 64 09 E-mail: <a href="mailto:Roos.Jongeneel@taxand.nl">Roos.Jongeneel@taxand.nl</a></p>
--	--

31 Januari 2016

# 1. Tax

## 1.1. Transparency requirements under national law

- 1.1.1. Does the national law currently include transparency obligations regarding income derived from other states (directly or by subsidiaries) and the tax treatment thereof (including the transfer pricing applied)?

The transparency obligations in Sweden are in general quite extensive. Depending on the matter at hand, the transparency obligations may rest upon the individual taxpayer and/or a third party. Employers and banks are for example obliged to report a great variety of transactions to the Swedish Tax Agency.

Individual taxpayers must in principle report to the Swedish Tax Agency all his/her income regardless of the source of the income – if the income is taxable or otherwise relevant for the taxation in Sweden. Individual taxpayers must however generally speaking not report such income, assets etc. that isn't taxable or relevant for the taxation in Sweden. For example, a Swedish parent entity is in general not obliged to report income that a foreign subsidiary obtains outside of Sweden (nor the tax treatment thereof), provided that the income isn't finally credited to the Swedish parent entity.

As regards to transparency obligations on the transfer pricing principles apply, please see p. 1.1.2 below.

- 1.1.2. Does the national law in your country currently include regulations to report the world wide transfer pricing policy of the group?

Currently, there are no domestic laws requiring individual taxpayers to “automatically” report the world wide transfer pricing policy of the group. The transfer pricing policy must however be reported upon request by the Swedish Tax Agency. Individual taxpayers must therefore always document the relevant transfer pricing information for each tax year, so that the information quite easily may be compiled and handed over to the Swedish Tax Agency upon a request. The transfer pricing documentation must be saved and made available to the Swedish Tax Agency for at least seven year.

- 1.1.3. Does the national law currently include obligations to report tax schemes?

There is no general liability to report tax schemes in Sweden. However, similar to the reporting obligations on transfer pricing policies, taxpayers must answer direct

questions from the Swedish Tax Agency. Furthermore, if the tax scheme could be regarded as tax evasion or if it otherwise may impact the taxation in Sweden, it should generally be reported to the authorities voluntarily in order to avoid tax penalty or prosecution.

## **1.2. Exchange of information under national law**

### **1.2.1. What are the current regulations regarding international tax assistance and exchange of information on the tax position of companies in your country?**

As regard to international tax assistance and exchange of information it should initially be clarified that Sweden historically has been receiving information, rather than providing information to other countries. Hence, the Swedish legislation on tax assistance and exchange of information is mainly governed by double taxation treaties.

During the last few decades the Nordic countries have worked together to negotiate treaties on exchange of information with regimes that historically has been regarded by Sweden as “tax havens”. Treaties has been entered with inter alia Isle of Man, Jersey, Guernsey, the Cayman Islands, Bermuda, the Netherlands Antilles, the British Virgin Islands, Monaco and Liechtenstein. In addition, existing tax treaty with Switzerland, Luxembourg, Austria and Barbados has been renegotiated.

The Swedish Tax Agency has during the last few years been utilizing the said tax treaties to investigate Swedes that holds, or previously have held, assets in “tax havens”. The new/renegotiated tax treaties and the Swedish Tax Agency’s increasing investigations have pushed quite many Swedes to submit so called “voluntary disclosures” regarding assets held outside of Sweden.

### **1.2.2. For EU countries, please describe the current implementation in your country of the Directive 2011/16/EU of 15 February 2011 and any developments regarding the automatic exchange of information on tax rulings? Please also describe the current status and any legislative proposals.**

Directive 2011/16/EU of 15 February 2011 was introduced in Swedish law by inter alia a new domestic act – “*Lag (2012:843) om administrativt samarbete inom Europeiska unionen i fråga om beskattning*”. The act entered into force on 1 January 2013. On 8 October 2015 the Swedish Government submitted its law proposals for the implementation of the amendments made by Directive 2014/107/EU. The law proposals was accepted by the legislator and entered into force on 1 January 2016.

The Ministry of Finance has been commissioned to prepare a law proposal for the implementation of the amendments regarding automatic exchange of information on

cross-border tax rulings. The Ministry of Finance has not yet presented its proposal and it is therefore still too early to make any statements in this regard.

- 1.2.3. What are the current developments in your country regarding international tax assistance and exchange of information on the tax position of companies (other than the BEPS and EU action plans)?

Please see p. 1.2.1 above.

### **1.3. BEPS Action Plan**

- 1.3.1. Please describe in what way the BEPS Action Plan no. 5, 12 and 13 will be introduced in the national tax law of your country (e.g. via legislative proposals, inclusion in the policy of the tax authorities or solely used as guidelines) and the current status thereof.

As regards to **BEPS Action Plan no. 5**, Sweden is not regarded as a “preferential regime” and Sweden will therefore solely be receiving, and not providing, information on tax rulings, etc. pursuant to the plan. From a Swedish perspective there is thus no need to introduce the BEPS Action Plan no. 5 into national tax law. However, the Swedish Tax Agency will most likely set up an internal policy on how to utilize Action Plan no. 5 to obtain information from other regimes.

Both the **BEPS Action Plan no. 12 and no. 13** will need to be introduced in Swedish tax law by way of new legislation. The Swedish Tax Agency has been commissioned to prepare a law proposal for the introduction of Action Plan no. 12 in Swedish tax law and a new act is expected to enter into force on 1 Januari 2017 – at the earliest. The Ministry of Finance is evaluating a law proposal for the introduction of Action Plan no. 13 into Swedish tax law. The status on the Ministry of Finance’s progress is however still quite unknown to the public. In general, information regarding the progress/outcome of the authorities’ analysis has been quite scarce. The authorities have however several times pointed out that their work is aimed towards finding a solution that effectively ensures the purpose of the Actions Plans, while still ensuring that trade secrets, etc. are safeguarded and that not to great of an administrative burden is put on the individual taxpayers.