



GES NewsFlash

Sweden — Proposal for tax relief regime changes for foreign experts and key personnel

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Summary

The Swedish government has published a proposal for changes to the tax relief rules for foreign experts and key personnel in the 2012 budget. The proposal suggests that an employee should automatically qualify for tax relief if he or she receives a salary higher than two standard base amounts per month; i.e., SEK 85,600 for 2011. The new alternative criteria to qualify for tax relief for foreign experts and key personnel are proposed to be effective as of 1 January 2012.

Current legislation

Foreign experts, scientists, and executives who work temporarily in Sweden, and are Swedish residents for tax purposes, may benefit from a special tax regime, which exempts 25 percent of the employment income from taxation and social security fees. Reimbursements for moving expenses, travel expenses, and expenses paid for Swedish primary school and secondary school are also tax exempt.

The following formal requirements must be fulfilled to receive tax relief:

- The employee must not be a Swedish citizen.
- The employee must not have been a Swedish resident for any of the five calendar years preceding the year he or she started working in Sweden.
- The employee intends to stay in Sweden for a maximum period of five years.
- The employer must be a Swedish resident.
- An application must be filed within three months from the start date of employment in Sweden.

The employee must also be considered an expert, scientist, or key person. An application should be filed to the Taxation of Research Workers Board for tax relief qualification. Each case is tried on its own merits.

The proposal from the Swedish government

The Swedish government has proposed a change in the current legislation for tax relief for foreign experts and key personnel in the 2012 budget. The proposal suggests that an employee should automatically qualify for tax relief if the above-mentioned formal criteria (in the current legislation) are met and the employee's monthly salary amounts to a minimum level of two standard base amounts (SEK 85,600 for 2011).

An application must be filed with the Taxation of Research Workers Board, but the new legislation suggests that a foreign employee will qualify for tax relief on objective merits if the salary and formal criteria are met.

The standard base amount that should be used is applicable beginning the year the employee began working in Sweden. The proposed legislation explicitly states that "agreed monthly salary and other reimbursements," which means that both the monthly salary paid in cash, as well as taxable benefits provided monthly, are considered when calculating the minimum salary level. However, the proposal does not clarify which value should be used for benefits (market value, taxable benefit value, or other).

Furthermore, one-time payments, such as bonuses or allowances paid in connection to the start of the employment in Sweden, cannot be included. Only the contractual salary and benefits that are paid on a monthly basis should be taken into account. However, if the reimbursement temporarily falls below the minimum salary level (due to illness, for example), tax relief will not be affected.

Employees that do not meet the salary criterion, have the option to apply for tax relief based on the previous rules, which are still applicable.

The new rules are proposed to be effective as of 1 January 2012. It should be noted that the previous rules will remain in effect for employees already working in Sweden before 1 January 2012.

Deloitte's view

Each application with the Taxation of Research Workers Board has previously been tried on its own merits. The proposal for a salary level as an alternative criterion suggests that a foreign employee with a monthly salary, including benefits in-kind that amount to a minimum of two standard base amounts, will automatically qualify for tax relief for foreign experts and key personnel.

The proposed changes will give foreign experts and key personnel applying for tax relief a much more foreseeable outcome, which will make it easier for employers to estimate costs when assigning foreign personnel to Sweden.

Tax relief can be considered prior to determining the salary level for foreign employees who are nontax equalized because, in many cases, it will be possible to foresee whether or not tax relief will be applicable.

Since the proposal does not clarify which value should be used for benefits when calculating the monthly salary, it is Deloitte's view that it should be stated in the application which value that has been used.

One-time payments cannot be included when determining the monthly salary. When the one-time payment is known in advance, it may be preferable to divide and add it to the monthly salary, if necessary in order to reach the qualifying level.

Since the previous rules will still be applicable for employments starting before 1 January 2012, it might be of interest to consider a delay of the start of an employment in Sweden, should the employee be expected to reach the minimum salary level.

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