Sweden: Increased risk for Swedish taxation while working abroad

The Swedish Tax Agency published a statement on 25 October 2010 that sets out rules for determining the maximum number of days spent in Sweden and third countries in order to benefit from the tax exemption rules on employment income while working abroad.

Exemption rules

A Swedish resident who is assigned abroad for at least six months without interruption is exempt from Swedish tax on employment income received in respect to the assignment abroad provided the income is taxed in the country in which it is derived and the number of days spent in Sweden during the assignment period do not, for any reason, exceed 72 days per employment year or, in the average, six days for each full month during the period abroad.

A Swedish resident assigned abroad for at least one year is exempt from Swedish tax on employment income provided the entire year is spent in the same employment in the same foreign country. Under the one-year rule, there is no requirement that the foreign earned income has been subject to tax in the country of assignment. However, for the one-year provision to apply, the income must be tax exempt in the working country as a consequence of: that state’s domestic legislation; a treaty (not a tax treaty) with that state; a special decision of an authority in the state; or there being no tax provisions in that state.

Shorter time periods spent outside the country where the employment is exercised will not break a qualifying period of absence from Sweden. However, the breaks in Sweden must not exceed 72 days during each one-year period starting from the first day of the assignment.

New rules

According to the Tax Agency, a maximum of 96 days per employment year (eight days per month on average) may be spent outside the employment country for business trips, vacation, etc. However, the presence in Sweden must be limited to 72 days (of the 96 days in total) per employment year (six days per month on average). These limitations apply to both the six-month rule and the one-year rule. For individuals that can no longer benefit from either rule, tax relief may still be available under an applicable tax treaty.

Comments

Although the Swedish Tax Agency’s statement is nonbinding, it significantly limits the possibility to benefit from the Swedish tax exemption on employment income for individuals assigned abroad. If an individual spends 72 days in Sweden in the course of an employment year, there are only 24 days left (two days per month on average) for business trips, vacation, etc. in third countries to continue to benefit from the tax exemption rules. The statement is likely to be challenged in the Administrative Court, but there still is a need to review the travel pattern for individuals assigned from Sweden.

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