Executive summary

On 22 April 2015, the Swedish Minister of Finance, Ms. Magdalena Andersson, commented on the proposal for a major change of Sweden’s corporate taxation system.1 The proposal was originally presented on 12 June 2014, in a report issued by the Swedish Committee on Corporate Taxation (the Committee).2 Since the release of the report, the Committee’s proposal has been submitted to interested parties for consultation. Many of the comments received were negative.

This Alert summarizes the Swedish Minister’s comments.

Detailed discussion

According to Minister Andersson, the proposal will not be implemented in its original form unless first subjected to a thorough analysis and amendments. In the article, the Minister highlights the criticism raised against the proposed (very complex) definitions of financial costs and financial income, the treatment of lease and rental payments, effects for the real estate market, and the proposal to finance the changes in part by reducing the existing tax losses carryforward allowance by 50%.

Despite the criticism, many of the interested parties agreed that the deduction of interest expenses should be limited in order to prevent tax evasion. Minister Andersson agrees with this opinion, adding that the finalized proposal should result in a limitation of interest deductions combined with a reduced corporate income tax rate.

Under the main proposal of the Committee, the net of financial costs and financial income would not be deductible. Instead the Committee suggested a “financing allowance” amounting to 25% of the taxable income, which would in practice mean a reduction of the corporate income tax rate to 16.5%. While adding that an EBIT3 model, whereby interest deductions would be limited to a certain percentage of EBIT, does not prevent tax planning with interest deductions as effectively as the
Committee’s main proposal, the Minister acknowledges that the main proposal would be the first of its kind in the world. It is therefore her opinion that the EBIT model should be considered to be the most suitable starting point for a major change of the Swedish corporate taxation system.

This could, according to Minister Andersson, lead to a need to preserve the current and heavily criticized interest deduction limitation rules in some form. However, this issue, as well as several others, is still open for analysis. The Minister mentions in particular:

- Whether the final model should be based on EBIT or EBITDA[^4]
- The possible need of separate solutions for sectors such as finance and real estate
- The proposed reduction of the tax losses carryforward by 50%

It was recommended that the original proposal be implemented and in force by 1 January 2016. Due to the criticism, Minister Andersson has called for further discussions and additional public consultations. The suggested entry into force is therefore postponed until 1 January 2017 at the earliest.

**Implications**

It appears positive that the Government has listened to the criticism of the Committee’s proposals and none of the proposals are likely be implemented without substantial changes and clarifications.

It may surprise some that the Minister does not seem to exclude the possibility of financing the proposal by reducing existing tax losses carryforward by 50% as this was the single feature of the Committee’s proposals receiving the most criticism.

At this point, it is uncertain whether Minister Andersson wishes to keep the existing interest limitation rules in some form. The existing rules have proven very difficult to apply both by businesses and the Tax Agency. In addition, the European Commission considers the rules to be in breach of EU law.[^5]

Many would therefore welcome new, more predictable rules which could replace the existing rules.

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**Endnotes**

1. The Minister presented her view on the proposal in a major Swedish business newspaper.
3. Earnings Before Interest and Tax.
4. Earnings Before Interest, Tax, Depreciation and Amortization.
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