Proposed tightening of Sweden’s interest deduction limitation rules

The Swedish government has presented a proposal to tighten the Swedish interest limitation rules with the purpose of counteracting aggressive tax planning.

As of 2009, the Swedish Income Tax Act contains rules limiting the deductibility of interest expense on intra-group loans which have been used to acquire intra-group shares or other share-based instruments. However, deduction is granted, if the interest income would be taxed at least 10% in the beneficial owner’s country, if that interest was the recipient’s only income, or, if both the intra-group acquisition and the debt related to the interest costs are mainly (approximately 75% or more) motivated by business reasons other than tax savings.

Despite the current rules, the government is of the view that there are possibilities to avoid corporate taxation through aggressive tax planning using interest expense. As a consequence, the government proposes the following tightening of the current interest deduction limitation rules:

• The rules are expanded to include interest expense relating to all intra-group loans, i.e., not only loans used for acquisition of intra-group shares.

• Deduction of interest expense when the interest income would be taxed at least 10% will not be granted if the loan has arisen mainly to provide the group with a substantial tax advantage. In this respect the Swedish Tax Agency has the burden of proof.
The exemption for intra-group loans motivated by business reasons is limited only to include scenarios when the recipient of the interest income is resident in a state within the European Economic Area (EEA) or, under certain conditions, in a state with which Sweden has a tax treaty. The changes are proposed to come into force on 1 January 2013. The proposal is in the initial phase of the legislative process and has been referred for consideration until 24 April 2012. We will continue to follow any developments related to this proposal.
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