

GES NewsFlash

Sweden — New legislation regarding the taxation of investment funds and the unitholders

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Summary

Sweden will, as of January 1, 2012, introduce new rules for the taxation of investment funds and the unitholders of such funds. The changes follow from the implementation of the European Union directive, "Undertakings for Collective Investment in Transferable Securities (UCITS) IV," and the legislative changes that have taken place in Swedish civil law as a result.

To summarize, this will result in a transfer of the applicable tax liability from the investment funds, which are currently tax liable for the income generated from assets they hold, to unitholders who, after the legislative implementation, will be tax liable in accordance with a standardized method as described below.

Background

In the budget proposal for the income year 2012, the Swedish government proposed that Swedish investment funds should no longer be tax liable for income generated by assets held by the funds. The Swedish parliament approved the proposed changes in legislation on November 23, 2011.

The term "investment funds" is intended to include securities funds (UCITS-funds) and special funds (non-UCITS funds). Investment funds will still be governed by legislation in the Swedish Income Tax Act applicable for legal entities, but the income generated by the assets held will no longer be considered taxable with the legal entity.

Taxation of unitholders

Unitholders of investment funds will, according to the new legislation, be taxed by a standardized method. Taxation will be based upon the value of the holders' units in an investment fund. Both holdings in Swedish and foreign investment funds are covered by the new legislation, and a foreign investment fund is, in this context, best described as a fund constructed in a way corresponding to a Swedish investment fund. However, please note that it is not yet clearly established how a foreign investment fund should be defined, and it will be the interpretation of the new legislation by Swedish courts that will determine the definition.

Individuals who are resident in Sweden or who, by other means, should be considered fully tax liable in Sweden, and who hold units in an investment fund shall report investment income calculated according to the standardized method described below.

Individuals who should be considered nonresident in Sweden for tax purposes, and therefore, have a limited tax liability in Sweden, and are unitholders of investment funds will not have an obligation to report any such holding, nor have a Swedish tax

liability thereon. However, please note that individuals with limited tax liability in Sweden will continue to be responsible for withholding tax (*kupongskatt*) on dividend income derived from Swedish investment funds.

It is important to note that this legislation imposes an additional tax liability for unrealized profits for the holder. The current tax liability for holders of investment funds with respect to tax on dividends and capital gains received through a sale of units will remain in effect and will not be replaced by the new legislation.

The standardized method

The standardized method states that the taxation is based upon the value of the units held by the tax-liable individual at the start of the applicable income year, i.e., January 1. The income that should be reported in the Swedish tax return is equal to 0.4 percent of the value of the units, and this amount is taxed at the standard flat tax rate of 30 percent that applies for investment income in Sweden.

Example

An individual holds 10 units in an investment fund. On January 1, 2012, the value of one unit is SEK 100,000. The Swedish tax for income year 2012 will be calculated as below:

Description	Calculation	Amount
Total value at January 1	10 units x SEK 100,000	SEK 1,000,000
Taxable income to be reported	0.4% x SEK 1,000,000	SEK 4,000
Swedish tax levied	30% x SEK 4,000	SEK 1,200

Financial instruments that are affected by yield tax in Sweden, for instance, life and capital insurance savings which contain investment funds as assets, are not additionally affected by taxation, according to the new legislation.

Reporting obligations

Individuals and estates, in cases where the tax-liable individual does not have any other income that should be reported to the Swedish Tax Agency, are exempted from the obligation to file a Swedish tax return, if an income statement has been filed with the Swedish Tax Agency for the same income. Subsequently, the new legislation also states that the currently responsible entity for the issuance of income statements for Swedish investment funds after application of the new legislation will be responsible for issuing income statements for individuals who need to report investment income according to the standardized method of calculating the taxable income.

The new legislation also increases the monetary limit to SEK 200 when individuals, with some exemptions, need to file a Swedish tax return due to investment income.

Deloitte's view

The new legislation results in a transfer of the tax liability from the investment funds to their unitholders in regards to income derived from assets held by the investment funds.

From the perspective of an individual unitholder, the legislative change will increase the tax liability of individuals who are tax residents in Sweden; individuals who are nonresidents in Sweden will not be affected by the legislation.

Individuals who are nonresidents will only be responsible to pay *kupongskatt* if they receive dividends from Swedish investment funds.

As mentioned above, the new legislation imposes an additional tax liability for unrealized profits that exist within the investment fund on the unitholder. The current tax liability for unitholders with respect to tax on received dividends and capital gains from units will remain in effect, and will not be replaced by the new legislation. Hence, the new legislation will, to some extent, lead to an overall increased taxation on unitholders, and can arguable be described as a wealth tax applicable to investment funds.

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People to contact

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