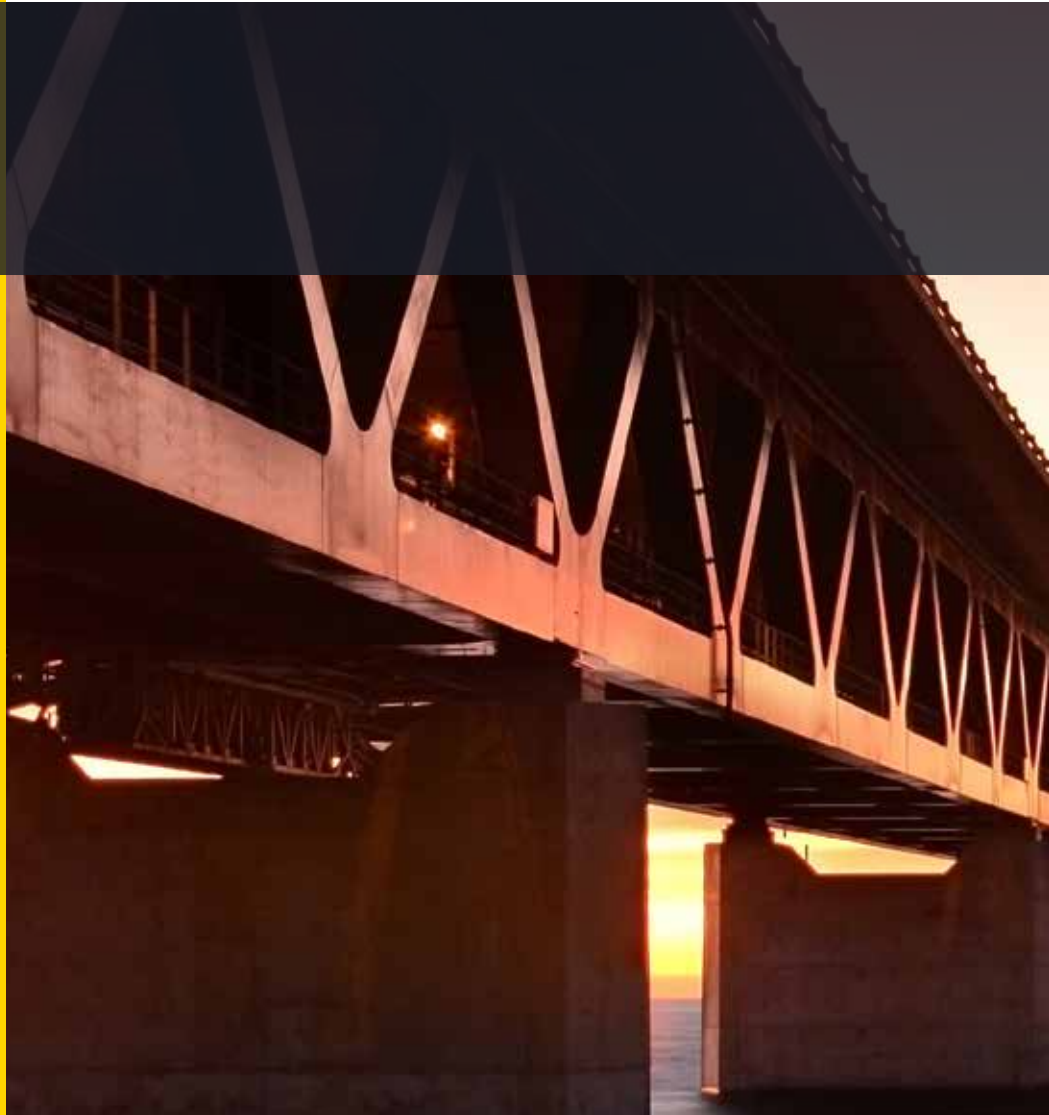


Sweden



EY contacts:

Stockholm

EY

Jakobsbergsgatan 24
Box 7850
Stockholm 10399
Sweden

Helena Robertsson

helena.robertsson@se.ey.com
+46 8 5205 9465

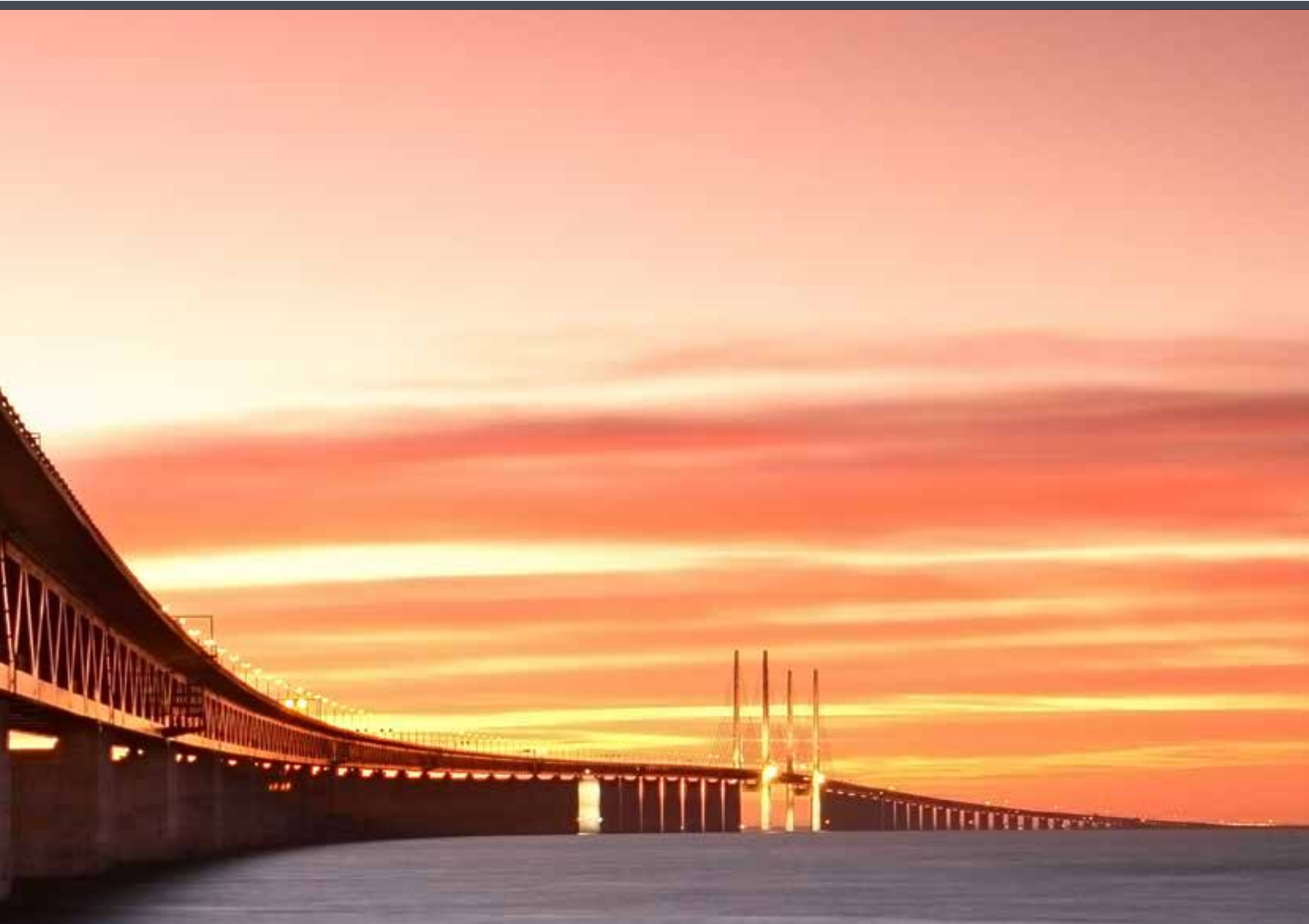
1. Types of tax

1.1 Inheritance tax

The Swedish unified inheritance and gift tax legislation was abolished in 2004. Hence, gifts transferred after 31 December 2004 and acquisitions of property in relation to deaths occurring after 17 December 2004 are not subject to inheritance/gift tax.

1.2 Capital gains tax

Capital gains on the sale of property such as real estate, securities, artwork and other personal property are taxable in Sweden. The capital gain is calculated as the difference between the proceeds received and the acquisition value of the property. When acquiring property through gift or inheritance, it is necessary to establish the acquisition value for the donor and donee.



In order for a gift to be completed, it is necessary to have it registered in some circumstances, and although gift tax was abolished from 1 January 2005, this can have certain other tax consequences. The transfer of immovable property situated in Sweden must, for instance, be registered with the Swedish Urban Land Administration (*Lantmäteriet*) through applying for registration of a transfer deed. This must be done within three months from the date of the transfer. Similarly, a gift of shares needs to be registered in the shareholders' register, which is either kept by the company itself or by Euroclear Sweden (if listed shares).

Furthermore, on the registration of the transfer of immovable property with the Swedish Urban Land Administration, stamp duty is normally levied. An individual purchasing property is normally liable to pay stamp duty corresponding to 1.5% of the acquisition value. However, transfers on inheritance or gift are not subject to stamp duty, only a registration fee (for 2021, this fee amounts to SEK825).

1.3 Property tax

There is no property tax levied in Sweden on private housing. The tax has been replaced by an annual municipal property fee. However, commercial and industrial buildings are still subject to property tax at a certain percentage of the assessed value.

The municipal property fee is based on the assessed value of the property with a maximum fee of SEK8,349 or 0.75% (for 2020) of the assessed value for single-family houses.

The rules also apply to (i) a plot of land upon which the dwelling is owned by another person (e.g., leasehold), and (ii) dwellings whose assessment value does not exceed SEK50,000. Special rules apply to retired individuals (the fee may not exceed 4% of the yearly income). There is no property fee for individuals owning their apartment by a tenant owner's association.

New buildings containing dwellings are exempt from the fee for the first five years, and the fee is half for the following five years (for 2020, 0.375% of the assessed value or maximum SEK4,174). However, as of 1 January 2013, dwellings with assessment year 2012 and thereafter are exempted from the municipal property fee for the first 15 years; the system with half fee is abandoned.

On properties situated outside of Sweden, there is no property tax or municipal property fee.

1.4 Net wealth tax

There is no wealth tax in Sweden.

Former wealth tax rules were abolished in 2007.

2. Who is liable?

Individuals who are tax resident in Sweden are liable to pay tax on worldwide income and assets.

Furthermore, nonresidents are tax liable on certain income derived from Sweden. For example, capital gain on the sale of immovable property situated in Sweden is taxable in Sweden. Nonresidents are also taxed on capital gains on Swedish shares or foreign shares that were acquired when living in Sweden, if they have been tax resident in Sweden at any time during the 10 calendar years immediately preceding the year in which the transaction occurred. However, tax treaties often shorten the 10-year period.

2.1 Residency/domicile

There are no differences in Sweden between the determination of residency or domicile.

Individuals living in Sweden permanently are regarded as tax resident in Sweden. Furthermore, individuals present in Sweden for a period of 183 days or more in any given 12-month period are regarded as tax resident in Sweden. In addition, those who have previously been tax resident in Sweden may be regarded as tax resident if they have essential ties to Sweden. Such essential ties can, for example, be if you have family, business activity or property in Sweden. According to recent developments in Swedish case law, a person may be considered as having a habitual abode in Sweden, even if the presence in Sweden is less than 183 days. Depending on the current situation, residing more than 90 days

in Sweden may be considered a habitual abode. As the matter is based on individual circumstances, an assessment is advisable before entering Sweden. Individuals who neither live in Sweden nor reside there for a period of 183 days or more in any given 12-month period, nor have essential ties with Sweden after moving abroad, are regarded as nonresidents.

3. Rates

3.1 Capital gains – acquisition value

The acquisition value is normally the purchase price when acquiring the property, including costs relating to the purchase, such as costs for real estate agents and stamp duty.

The acquisition cost for equities should be calculated with the “average method.” This means that the acquisition cost for all equities of the same type and series are added together and determined collectively, with respect to changes to the holding. For listed shares and funds, etc., the acquisition cost may, as an alternative, be determined as 20% of the net sale revenue under the “standard rule.”

When acquiring an asset by gift or inheritance, the beneficiary takes over the acquisition value of the donor or the deceased (the continuity concept). Hence, it is important for the beneficiary to receive information on the price paid by the donor or the deceased for the asset. Special rules apply for gifts given against remuneration.

3.2 Rates

Capital gains are treated as investment income and taxed at a flat rate of 30%, however, the underlying base subject to tax varies depending on the asset.

The taxable base for sales of private real property is 22/30 of the profit, an effective tax rate of 22% ($22/30 \times 30\%$) and a loss can be set off against other capital gains with 50% of the loss. The taxable base for sales of business oriented real property is 90% of the profit, an effective tax rate of 27% ($90/100 \times 30\%$) and a loss can be set off against other capital gains with 63% of the loss.

Dividends and capital gains deriving from shares are subject to income tax at the date of payment (the cash principle). Dividends and capital gains on listed shares are taxed at full tax rate of 30%. Dividends and capital gains on unlisted shares are taxed at a reduced tax rate of $5/6 \times 30\%$, leading to the effective tax rate of 25%. In summary, only 5/6ths of dividends on unlisted shares in Swedish companies is to be reported for taxation. This rule also applies for foreign legal entities, provided that the company is subject to income taxation comparable with the taxation rules that apply to Swedish companies (*the requirement of comparable taxation*). If not, the dividend shall be fully taxed at 30%. However, the Swedish Administrative Court (HFD) has stated that the requirement of comparable taxation entails that dividends from foreign companies to private individuals in Sweden are taxed less favorably than dividends from Swedish companies. Therefore, HFD held that this is in conflict with EU law and the right to free movement of capital. The Swedish Tax Agency has stated the judgment from HFD shall be interpreted that the more favorable taxation for 5/6th also shall apply on dividend on unlisted shares in a foreign legal company, if the company is subject to income taxation in their domicile.

Capital losses on listed and unlisted shares may be set off against capital income and other income as follows:

- ▶ A capital loss on listed shares can be set off against taxable gains on other shares (listed or unlisted) and other similar financial instruments. As mentioned above, dividends and capital gains on unlisted shares are taxable at five-sixths. Consequently, a loss on unlisted shares is also deductible at five-sixths and can be set off against taxable gains on shares (listed or unlisted) and other similarly listed financial instruments.
- ▶ Furthermore, 70% of capital losses not set off against such aforementioned gains are deductible from the taxpayer's other capital incomes such as dividends, interest, gain on bonds, etc.

Special rules apply to owners of qualified shares in closely held companies. There are two ways to determine whether a company is considered a closely held company. One is based on the number of owners of the firm (main rule), while the other is regardless of the number of partners (special rule). A share is considered qualified if the shareholder or a relative is active to a significant degree so that his activity has a significant influence on the income generated by the company during the income year or any of the previous five income years. Qualified shares are taxable at two-thirds of the dividend and gain at 30% (or, in other words, by 20% of the dividend and gain) to the extent the dividend and gain fits within the calculated threshold amount. Any dividend that exceeds the threshold amount is taxed as income from employment, which can vary from 30% to 54%, up to a limit amount of approximately MSEK6,012 for dividends and approximately MSEK6,680 for capital gains. Capital gains and dividends exceeding the limit amount are subject to a fixed tax rate of 30%. If the company has a silent partner owning at least 30% of the shares, all dividends or gains are taxed at 25%, assuming the silent partner is not related to the active shareholder.

Special rules apply to holdings in mutual fund investments. The tax is a yield tax and the tax rate amounts to 30%. The taxable base is 0.4% of the fair market value (FMV) as of 1 January 2020 (for income tax return 2021). The effective tax rate will therefore be 0.12%.

Sweden has a special type of investment account (*Investeringssparkonto*, or ISK), which is available to private investors investing in listed stock or mutual funds. The investment account is taxed on a standardized basis, calculated as the value of the assets quarterly and transfers during the year of cash or investments. The taxable base is the government borrowing rate on 30 November of the prior year plus 1%, however, it can never be less than 1.25%. The government borrowing rate for income year 2021 (30 November 2020) is -0.10%. Since $-0.10\% + 1\%$ is lower than 1.25%, the taxable base is consequently 1.25% of the asset value. Capital gains are not taxed and capital losses are not deductible for investments on this type of account. For nonresidents, tax treaties must be considered.

4. Exemptions and reliefs

Any capital losses not set off against other capital income will be subject to a tax reduction. The reduction can be used against national and municipal tax of employment income and against federal property tax/municipal property fees of the same income year. The tax reduction is 30% on capital losses up to SEK100,000 and 21% on capital losses exceeding SEK100,000. The same rules apply for all taxpayers regardless of age.

If the loss exceeds the taxes from which a reduction is made, it is not possible for individuals to carry forward those "losses."

5. Filing procedures

The estate of individuals regarded as tax resident in Sweden at the time of their death is set out in an inventory of estate. This inventory must be drawn up within three months from the date of the death. The inventory must thereafter be filed with the Swedish Tax Agency within a month, meaning that the inventory must be submitted no later than four months after the time of the death to the Swedish Tax Agency. The inventory lists all assets of the deceased, as well as his or her liabilities at the time of his or her death.

6. Assessments and valuations

Due to the abolishment of net wealth tax and inheritance/gift tax, there are no assessments or valuations in Sweden.

7. Trusts, foundations and private purpose funds

In Sweden, trusts are not recognized as a special type of legal entity. Nor is there any special tax regime regarding payments from family trusts. Such payments could be regarded either as taxable capital income, as an inheritance or as taxable income of employment, depending on how the trust is designed.

8. Grants

Income from grants, such as child allowance, housing grants from the social security office, scholarships, etc., is tax-exempt in Sweden.

9. Life insurance

A Swedish life insurance company is obliged to pay a premium tax on life insurance. Individuals who hold foreign life insurance have to pay Swedish yield tax. From 1 January 2012, the base for yield tax is:

- The value of the insurance on 1 January of the income year
- The value of premiums paid during the first six months of the income year
- Half of the value of premiums paid during the last six months of the income year

The base for the yield tax will be multiplied with the government borrowing rate as of 30 November the year before plus 1%, with a minimum of 1.25%. The government borrowing rate as of 30 November 2020 was -0.10%; the base for yield tax is therefore 1.25% for income year 2020. The yield tax is 30% of the calculated base for yield tax.

10. Civil law on succession

10.1 Estate planning

There are special rules in Sweden regarding spouses' and cohabitants' common home and household goods. When a marriage or a cohabitant relationship ends, a split of the property has to be made. Estates are normally valued after the taxable value but it can also be agreed upon between the spouses/cohabitants. If the spouses/cohabitants cannot agree who should receive the home, the spouse who needs the home the most will have the right to it. The need of the home is determined with factors such as who will have the custody of the children or if there is any sentimental value to the property (e.g., a family home throughout generations). For the division of cohabitants' household goods, only the household goods that were bought for the purpose of common use are to be included. These rules may be overridden through an agreement between the cohabitants.

10.2 Succession

The succession hierarchy in Sweden is divided into the following three categories:

- Children and grandchildren
- Parents, siblings and their children
- Grandparents, aunts and uncles

In the first category are the direct heirs, i.e., children and their children. As long as there are heirs in the first category, the third and second will not inherit anything. The property will be split equally among the children. There are no differences made between children born within a marriage or not. If a child of the deceased is dead, the grandchildren will take the place of the deceased child.

If there are no direct heirs in the first category, the parents of the deceased will inherit. If the parents are dead, the siblings will inherit. If the siblings are also dead, the children of the siblings will inherit.

If there are no relatives in the first or second category, the grandparents of the deceased inherit one-quarter each. If the grandparents are deceased, their children, i.e., aunts or uncles, inherit. However, cousins may not inherit.

If the deceased was married at the time of death, the main rule is that the spouse inherits all assets and common children will have to wait until the death of the other parent before receiving their inheritance. The spouse inherits the property with a right of disposal and has no right to make testamentary arrangements for the received property. When the spouse later dies, the heirs of the first spouse will inherit what is left from the property that was left with a right of disposal. If there are children of the deceased that are not the children of the spouse (stepchildren), the stepchildren have the legal right to receive their part immediately (see Section 10.3).

If there are no heirs in either one of the three categories of succession, the estate will be accrued to the Swedish inheritance fund. The foundation has a nonprofit character that works to promote activities supporting children, youths and people with disabilities.

10.3 Forced heirship

Part of an inheritance can be restricted through a will or the statutory share of inheritance for the first category, i.e., children of the deceased (see Section 10.2). The statutory share of inheritance is half of the inheritance property. The children of the deceased have the legal right to inherit half of the deceased's property. The other half of the deceased's estate can be bequeathed away.

10.4 Matrimonial regimes and civil partnerships

Sweden recognizes a community property regime for all property, whether the property was acquired before entering into the marriage or during the marriage. However, the property may be kept separate if declared through a prenuptial contract, or if it was acquired as a gift from a third party or by inheritance on the condition that it should be the separate property of the recipient. A prenuptial contract may be entered into before or after the wedding day. A prenuptial contract has to be registered at the Swedish Tax Agency to be legally binding, and the registration fee is SEK275. A copy of the contract may be requested by anyone and is considered public information.

As to debts, each spouse is responsible for his or her own debts, but spouses are jointly and severally liable to mutual debts.

10.5 Intestacy

To a significant extent, there is freedom of testamentary disposition in Sweden.

However, if the deceased has not left a will, there are legal rules to decide how the estate is divided between the surviving spouse and descendants. As a general rule, the surviving spouse inherits the deceased's estate.

Furthermore, children always have a right to half of the inheritance from their parents calculated under certain rules (statutory share of inheritance), but generally they do not have access to the property until the surviving spouse is deceased (regarding stepchildren, see Section 10.2). If an individual has bequeathed his or her estate in such a way that less than the statutory share of the inheritance is left in equal shares to his or her children, the children can contest the will. If they do not contest the will, the estate will be divided according to the deceased's will. A will has to be contested within six months from the date when the heir was served the will.

Sweden is party to the new EU regulation regarding succession. As party to the new EU regulation, Sweden accepts wills from other Member States. Following the new regulation, it is now possible to make a choice of law in the will regarding the civil treatment of the will. However, a choice of law does not apply to inheritance tax.

10.6 Probate

A will should be in written form and have two witnesses. The testator should sign the will in the presence of two witnesses, and then the witnesses have to sign the will. The witnesses have to be above the age of 15 and cannot be the spouse, siblings, parents or children of the testator. Neither brothers-in-law nor close relatives can be the witness of a will. Anyone mentioned in the will is also disqualified as a witness. The witnesses do not have to know the full content of the will, but they need to be aware of it being a will. The will does not have to be registered at any special department in Sweden.

11. Estate tax treaties

11.1 Unilateral rules

This is not applicable in Sweden.

11.2 Double-taxation treaties

Sweden has entered into estate tax treaties with several countries. However, as Sweden has abolished estate tax, gift tax and net wealth tax, from a Swedish perspective these are currently not applicable.