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Sweden – Tax Agency Challenging Foreign Companies' Work for Possible PE

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Sweden has recently started to challenge the activities of employees of foreign companies on the basis that the activities constitute a permanent establishment ("PE"). The KPMG International member firm in Sweden has learned of this from the Tax Agency's inquiries in connection to applications for social security payment purposes.

Why This Matters

The constitution of a PE in Sweden can have major impact (from the corporate tax, transfer pricing, and VAT perspectives, but also from an administrative burden perspective) for foreign companies. Therefore, it is advisable that companies contemplating any business activities in Sweden contact their professional tax advisers before proceeding.

In previous years it was possible for employees and employers to conclude agreements on social security payments and those employees reported the social security contributions through their tax return filings. Registration of the employer for social security payment purposes was in practice not necessary. However, starting in 2013, foreign companies with employees covered by the Sweden's social security system must register with the Tax Agency (Skatteverket) and make monthly contributions (this responsibility can still be transferred to the employee through agreement – registration of the employer however is still required).

Please note that this will also apply for U.S. employers with employees holding a Certificate of Coverage.

KPMG Note

Foreign companies that wish to register with the Tax Agency only for social security payment purposes are now under narrow review of actual PE in Sweden. The Tax Agency is taking a fairly aggressive approach in this assessment and we are frequently seeing that foreign companies registering for social security payment purposes have been deemed as having a PE in Sweden.

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The information contained in this newsletter was submitted by the KPMG International member firm in Sweden. The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

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