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**Sweden – New Guidance
for Employers Regarding
Non-EU/EEA/Swiss
Nationals**

by KPMG AB, Stockholm
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firm)

flash Alert

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The Swedish Migration Board has clarified employer obligations under Swedish law (the Alien Act) when a citizen from a country outside the European Union (EU), European Economic Area (EEA), or Switzerland is hired or posted to work in Sweden.¹

The obligations originate from EU Sanctions Directive 2009/52/EG and were introduced in Sweden's Alien Act already in July 2013. The clarifications were published in Regulation MIGRFS 9/2014 in October 2014.

Why This Matters

Employers need to be aware of their notification, registration, and documentation/record-keeping requirements in respect of non-EU/EEA/Swiss nationals posted to work or hired in Sweden. Failure to comply with the new rules may result in fines and other sanctions.

New Obligations Clarified in Regulation MIGRFS 9/2014

The employer is required to:

- Establish that documentation is in place which verifies the right of the non-EU/EEA/Swiss national to stay and work in Sweden or, alternatively, that said national is exempt from the requirement to hold a work permit;
- Retain copies of relevant documentation for the duration of the employment period and a subsequent 12-month period; and
- Under all circumstances report to the Swedish Tax Agency that the non-EU/EEA/Swiss national has been employed and/or posted to work in Sweden and for which position he or she has been employed and/or posted.

Swedish as well as non-Swedish employers must fulfil the obligations.

The employer definition under Sweden's Alien Act applies regardless of who is deemed the "employer" for tax purposes or who pays the salary.

Non-EU/EEA/Swiss nationals living in Sweden permanently and who are required to hold a work and residence permit, are covered by these obligations; so are said nationals who may be exempt from Sweden's entry visa or work permit requirements. Documentation requirements vary depending on the circumstances.

Non-compliant employers may be subject to penalties and may also be subject to criminal proceedings. For instance, for 2014, the employer penalty fee amounts to SEK 22,200 in respect of each employee for which the employer has not instituted the proper controls and requirements and failed to report on time (SEK 44,400 after three months).

KPMG Note

Employers with employees who are subject to these new rules may wish to consult with their professional immigration advisers to establish their obligations and set up procedures for the necessary controls, documentation collection, and reporting requirements in respect of their non-EU/EEA/Swiss nationals posted to or hired in Sweden.

Footnote:

1 *Migrationsverkets föreskrift* MIGRFS 9/2014 (Migration Agency regulation MIGRFS 9/2014).

For additional information, see:

<http://www.migrationsverket.se/download/18.20cfdbe014887632b91760/1412164609413/MIGRFS+09+2014.pdf> .

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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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