**Study on Aggressive Tax Planning**

*Specific contract No13 under FWC TAXUD/2012/CC116*

**Appendix 1 - Questionnaire to national tax experts**

**Filled in for Sweden**





**QUESTIONNAIRE**

**Sweden**

## Abbreviations

|  |  |
| --- | --- |
| Questions | Answers |
| *Corporate tax rate* | |
| 1. What is the standard rate of corporate income tax applicable for the fiscal year 2015? | 22%. |
| 1. Some states offer special offshore tax regimes, providing for corporate tax-exemption of certain mobile income types (e.g. royalty) from abroad. Does your MS offer such a tax regime? If yes, please briefly explain, including the conditions to be met. | Investment companies are subject to income taxation only on interests and dividends, but are also allowed income deductions on these types of income when they are distributed to its owners. As a result, income from the holdings of an investment company may flow through this company to its owners without any tax consequences. In that way, unwanted economic double taxation is avoided. In addition, investment companies are taxed at a rate of 1.5% on their shareholdings balance brought forward. (Chapter 39, Sections 14-19 IL) |
| *Dividends received* | |
| 1. Is it possible for a company in your MS to receive dividends from a foreign company free of tax (or at a greatly reduced rate of tax, e.g. 95% tax-exemption)? | Yes. Dividends received on substantial holdings are tax exempt, cf. Chapter 24, Sections 13 & 17 IL. (The exemption does not, however, apply to dividends on shares held for trading: stock assets (defined in Chapter 17, Sections 3 & 19 IL). |
| 1. If yes to question 3: |  |
| 1. Does this apply regardless of the tax residence of the distributing company, e.g. Member State, treaty state, tax haven? | Yes, the exemption is not subject to such requirements. |
| 1. Does this apply regardless of the level of shareholding or voting rights held in the distributing company? | Unquoted shares are always deemed to be business related (and qualify for the exemption) if they constitute fixed business assets, i.e. there is no minimum holding period for unquoted shares.  In contrast, quoted shares that constitute fixed business assets are deemed to be business related if they:   * Represent at least 10% of the company’s voting rights; or * Are otherwise considered necessary for the business conducted by the shareholding company or any of its affiliates, cf. chapter 24, section 14 of the IL.   Quoted shares are subject to a minimum holding period of 1 year, for the exemption to apply. |
| 1. Does this also apply if the dividends have been deducted by the distributing company in its taxable income? | Yes (see d, however) |
| 1. If yes to c, how will the recent amendment of Article 4 of the EU Parent/Subsidiary Directive, which requires Member States to tax dividends if they have been deducted by the subsidiary, affect your answer? | As from January 1, 2016, Sweden will deny tax exemption on dividends on shares defined  in Chapter 24, Sections 17-17 b IL, to the extent that such profits are deductible in the source state (Chapter 24 Section 19 IL [forthcoming]) |
| *Dividends paid* | |
| 1. Is it possible for a company in your MS to distribute dividends to a foreign company without any withholding tax? | Yes, dividends may be exempt for withholding tax if the shareholding is deemed to be business related, or under the participation exemption regime implementing the Parent-Subsidiary Directive. See Sections 4:5 and 4:6 of Kupongskattelagen (KupL). |
| 1. If yes to 5, |  |
| 1. Does this apply regardless of the amount or percentage of shares, which the foreign company holds? | Unquoted shares are always deemed to be business related (and qualify for the exemption) if they constitute fixed business assets.  Quoted shares are deemed to be business related if they (Section 4 of the KupL):   * Constitute fixed business assets of the non-resident company; * Have been held by the non-resident company, at the time of the dividend payment, for at least 1 year; and * Represent at least 10% of the voting rights in the resident company.   Under the participation exemption regime implementing the Parent-Subsidiary Directive, it is a requirement that foreign shareholder company holds at least 10% of the capital in the Swedish subsidiary. |
| 1. Does this apply regardless of the tax residence of the foreign company, e.g. member state, treaty state, tax haven? | The exemption for dividends on shareholdings that qualify as “business-related” is not subject to such requirements.  The participation exemption regime implementing the Parent-Subsidiary Directive only applies for foreign shareholder companies that fulfil the conditions of article 2 of the Directive. |
| 1. Is the withholding tax exemption subject to a beneficial ownership requirement similar to that of the OECD model tax convention? | No. |
| 1. Is the withholding tax exemption subject to any other anti-avoidance requirements, e.g. based on substance of the recipient? If yes, please briefly explain. | Yes. A recipient of dividend is subject to withholding taxes (wht) if the holding of shares is conducted in order to facilitate tax relieves for some other tax subject (Section 4:3 KupL [Bulvanregeln]). For example, if a company, subject to Swedish wht. lends its shares to a tax exempt subject with the result that neither subjects pay wht on the dividends, the tax exempt subject will be subject to Swedish wht. It is, however, uncertain whether the mentioned rule is applicable if the dividend is exempt for wht. due to the shareholding is qualified as a substantial holding, or under the participation exemption regime implementing the Parent-Subsidiary Directive. But it is suggested that it should be explicitly regulated that the rule is applicable also in these cases, as from January 1, 2016 (suggested by the government) and in that way satisfy the implementation of the Council Directive (EU) 2015/121. |
| 1. Is any other tax levied upon a distribution of a dividend by a company in your MS? | No. |
| 1. Are dividend equivalents (typically a buy-back of shares, a capital reduction-payment or a payment of liquidation proceeds) treated in a similar way as dividends and subject to withholding tax when paid to a foreign company? Please refer to question 4 and 5 above. | Yes. Withholding tax is levied on dividend-equivalents (Section 2:2 KupL). |
| *Interest income* | |
| 1. Is interest income from a loan granted by a company in your MS to a foreign group member company taxable? | Yes (Chapter 15, Section 1 IL) |
| 1. If such a loan is granted free of interest (i.e. on non-arm’s length-conditions), would the creditor company resident in your MS have to include any deemed interest income in its taxable income? When responding, please consider Model ATP-Structure no. 4 and assume that FinanceCo B is tax resident in your MS. | Yes. The creditor company must include an arm’s length interest income in its taxable income (primarily transfer pricing adjustment), Chapter 14, Sections 19-20 IL. |
| 1. Is it possible that an interest bearing financial instrument (hybrid loan) granted by a company resident in your MS to a foreign group member company could be qualified as an equity investment in your MS with the result that the return on the investment (treated as deductible interest in the state of the debtor company) is considered a tax exempt dividend or similar? When responding, please consider Model ATP-Structure no. 2 and assume that B Holdco is tax resident in your MS (regardless of the non-MS assumption in the description of the Model). | No. It is very unlikely because the Swedish tax definition of debt (interest paying financial instruments) is very broad, based on civil law, and includes most hybrid financial instruments. Therefore, it is more likely that a financial instrument that is classified as equity in a foreign country is classified as debt in Sweden.  A hybrid mismatch situation could, theoretically, occur in a situation where the state of the debtor considers the hybrid loan as an equity investment for civil law purposes but treat the financial return as (deductible) interest for tax purposes. Such a situation would likely be dealt with by new legislation suggested as from January 1, 2016 (see question 4 d.). |
| 1. If yes to 11, |  |
| 1. Please briefly explain which requirements should be fulfilled. | - |
| 1. How will the amendment of Article 4 of the EU Parent/Subsidiary Directive affect your answer? | See question 4 d. |
| *Interest costs* | |
| 1. Are inter-group interest payments on a loan granted by a foreign group member company tax deductible to a resident in your MS? | Yes, but only under certain circumstances. See question 16. |
| 1. If yes to 13, |  |
| 1. Does the tax deductibility depend on how the interest income is qualified for tax purposes in the creditor’s state? If yes, please briefly explain. | No. See question 16. |
| 1. In particular, would your MS still allow a tax deduction if the creditor state treats the corresponding interest income as a non-taxable dividend or similar, i.e. if the loan is a hybrid loan? When responding, please consider Model ATP-Structure no. 2 and assume that C Holdco is tax resident in your MS. | No. See question 16. |
| 1. Is the tax deduction of interest cost on inter-group debt subject to any thin capitalisation-rules or other interest deduction limitations-rules? | Yes. See question 16. |
| 1. If yes to 15 |  |
| 1. Please briefly explain the general scope and mechanism of the rules. | Interest expenses in respect of loans received from affiliated companies and back-to-back loans are not deductible unless:   * the interest income would have been taxed at a minimum rate of 10% in the residence state of the beneficial owner thereof, assuming that such income were its only income, unless the main reason for the loan is to obtain a substantial tax benefit; or * the acquisition of the participation right as well as the underlying loan are motivated by business reasons (true business purpose), provided that the income recipient is resident in another EEA country or a country which has a tax treaty with Sweden. (Chapter 24, Sections10a-10f IL) |
| 1. In particular, do the rules apply only to interest costs on inter-group debt or more generally to all interest costs? | Interest costs on inter-group debt |
| 1. Do the rules take into account the worldwide debt ratio of the group of companies? | No. |
| 1. In general, how effective do you consider these rules in countering ATP? When responding, please consider Model ATP-Structures 1 – 4 and assume that C Holdco, B Hybrid and OpCo are tax resident in your MS. | These rules have been applied very strict in the advanced ruling from the *Skatterättsnämnden* (the Board). As a result, no advanced ruling have allowed for interest deductions on intra-group loans. In that way the rules can be considered very effective in countering ATP. However, the rules have been strongly criticized for its vague terminology, especially in regard to how to interpret “true business purpose”, which must be established for a debt in order to grant deductions on interest paid on that debt.  The vague terminology has caused the Swedish Supreme Administrative Court to reject all advanced rulings regarding the contents of “true business purpose” that has been appealed to the court. In addition, basically for the same reason –vague terminology - the European Commission have also criticized the rules as a breach of Article 49 TFEU. (See SG-Greffe (2014) D/17633)  The future of these rules is thus quite uncertain. |
| 1. If a loan is granted free of interest (non-arm’s length-condition) by a foreign group member company, could a debtor company resident in your MS claim any tax deduction for a hypothetical (deemed) interest cost? When responding, please consider Model ATP-Structure no. 4 and assume that FinanceCo D is tax resident in your MS. Moreover, please explain whether any deemed deduction would be contingent on a corresponding adjustment in the foreign state. | No. In accordance with the interest deduction limitation rules (see question 16) the Swedish debtor may only deduct the interest if a corresponding interest income is taxed at 10% in the creditor’s state, or if the debt obligation has a true business purpose. Since a loan has a true business purpose only if it is not possible to finance the debtor by an equity contribution, instead of a loan, it seem very unlikely that a loan granted free of interest could be considered as having a true business purpose. Therefore, the interest deduction limitation rules do most likely not allow for interest free inter-company loans. |
| 1. Would the benefit of such a loan compared to a normal interest-bearing loan on arm’s length conditions be taxable to the debtor company in your MS? If yes, how? | - |
| 1. Does your MS levy any withholding tax on interest payments? | No. |
| 1. If yes to 19 | - |
| 1. What is the rate of withholding tax (ignoring tax treaties)? | - |
| 1. Are there special withholding tax rules for interest paid on a loan from a group member company? | - |
| 1. Does this apply regardless of the tax residence of the creditor company, e.g. member state, treaty state, tax haven? | - |
| 1. In connection with an exemption, reduction or refund of withholding tax under a tax treaty or the EU Interest/Royalty Directive, is it common tax practice to apply a beneficial ownership requirement similar to that of the OECD model tax convention? | - |
| 1. Is such exemption, reduction or refund subject to other anti-avoidance requirements? If yes, please explain briefly. | - |
| *Allowance for corporate equity* | |
| 1. Does your MS offer any tax deduction for a notional (fictitious) interest cost on the share capital of a company? If yes, please briefly explain and include any anti-avoidance provisions. In particular, can the deduction be claimed against financial income? | No. |
| 1. Does your MS offer any tax deduction for dividends declared or paid? If yes, please briefly explain. | No. |
| *Royalty and other income from intangible property* | |
| 1. Please consider Model ATP-Structure no. 5 and assume that Company B is tax resident in your MS. Does your MS offer any preferential tax regime (compared to the standard corporate income tax) for income from patents and other intellectual property rights? If yes, please briefly explain its main scope, characteristics and any anti-avoidance provisions. In particular, can the preferential tax treatment be applied to income from patents or other IP which has not been developed by the taxpayer (company) itself? Must the company have its own substantial R&D activities? Can the preferential tax treatment be applied also to income from other taxpayers in your MS? | No, Swedish tax law does not offer any patent box regime or similar preferential tax regimes. |
| 1. Can a company in your MS obtain R&D tax credits (typically enhanced tax deduction or tax refund) for costs incurred, e.g. in developing IP rights? | No. |
| 1. If yes to 24, | - |
| 1. Please briefly explain the requirements which have to be met, e.g. requirements for certain activity or successful development, etc. | - |
| 1. Can such credits also be obtained for costs that are ultimately reimbursed by a group member company to the company in your MS? | - |
| 1. Can a company in your MS transfer ownership of a patent, trademark or other IP right to a foreign group member company without incurring capital gains tax? When responding, please consider Model ATP-Structure no. 5 and assume that MNE Group is tax resident in your MS. Please also assume that the IP has no significant fair market value at the time it is transferred but it becomes highly valuable shortly (1-2 years) after. | No. A transfer of an asset without compensation or a compensation below fair  market value triggers exit taxation, which means that the transfer is treated as if it had been made at fair market value. The exit taxation would be based on the (Chapter 22 IL). A later increase in fair market value will not result in a reopened tax assessment unless there are strong indications that the fair market value was higher already at the time of the transfer. |
| 1. If no to 26, i.e. your MS would impose tax on the disposal, |  |
| 1. Is the relevant capital gains tax rate lower than the standard rate? | No. (the transfer is not considered to result in a capital gain/loss, but rather as business income). |
| 1. Does taxation arise as a result of an anti-abuse provision or similar? | No, it is based on regular exit taxation. |
| 1. Would any R&D tax credits obtained in the past be reversed upon a disposal? | - |
| 1. Can a ruling confirming the value of the IP be obtained? | No. |
| *Royalty and other IP costs* | |
| 1. Is royalty paid by a company in your MS to a group member company in another MS or for utilization of IP tax deductible? | Yes. Royalties and service fees paid are generally deductible (Chapter 16, Section 1 of the [IL](http://online.ibfd.org.esc-web.lib.cbs.dk/linkresolver/static/cta_se_abb_il?WT.z_nav=crosslinks)). |
| 1. If yes to 28, |  |
| 1. Is the tax deduction dependent on whether the royalty income is taxed in the hands of the IP-licensor/IP-owner? | No. |
| 1. Are there types of royalty payments which cannot be deducted? | No. |
| 1. Does your MS levy any withholding tax on royalty payments? | Royalties are not subject to withholding tax, but they are subject to income tax by assessment (Chapter 6, Section 11(2) [IL](http://online.ibfd.org.esc-web.lib.cbs.dk/linkresolver/static/cta_se_abb_il?WT.z_nav=crosslinks)). |
| 1. If yes to 30, |  |
| 1. What is the rate of withholding tax (ignoring tax treaties)? | In a non-treaty situation, and where a treaty does not limit Sweden’s taxation right, the income tax is levied (at the corporate income tax rate of 22%) on the net amount of royalties after deduction of expenses; if a treaty sets a maximum tax rate, the income tax is levied (at the given maximum rate) on the gross amount of royalties. |
| 1. Are there types of royalty payments which are not subject to withholding tax? | No. Under domestic law (Chapter 6a IL) implementing the provisions of the Interest and Royalties Directive, outbound royalty payments are exempt from tax, provided that the beneficial owner of the royalty is an associated company of another Member State or such a company’s permanent establishment situated in another Member State. |
| 1. In connection with an exemption, reduction or refund of withholding tax under a tax treaty or the EU Interest/Royalty Directive, is it common tax practice to apply a beneficial ownership requirement similar to that of the OECD model tax convention? | Yes. It is explicitly stated, in the preparatory works, that the benefit of the implemented Directive shall not be granted to “legal owners”. |
| 1. Is the tax exemption/reduction/refund subject to any other anti-avoidance requirements, e.g. based on a test of the substance of the recipient? If yes, please explain briefly. | No. |
| *Group taxation* | |
| 1. Does your MS allow for group taxation of local group member companies with the effect that profits and losses of different companies are set-off against each other? If yes, please briefly explain. (Please note that group taxation also includes other standard arrangements offered to replicate the benefits of group taxation, e.g. group contributions from a profitable company to a loss-making group member company). | Yes. Chapter 35, Section 1 IL allows the paying company to deduct a given group contribution, and the receiving company to include such contribution in its taxable income. A group contribution is allowed if the parent company holds at least 90% of the shares in the subsidiary (Chapter 35, Section 2 of the [IL](http://online.ibfd.org.esc-web.lib.cbs.dk/linkresolver/static/cta_se_abb_il?WT.z_nav=crosslinks)). A contribution can be distributed from a parent company to a subsidiary, or vice versa, or between two wholly owned subsidiaries.  Both companies must make full disclosure in their tax returns of the contribution during the same year. Further requirements must also be fulfilled, generally aiming at securing taxation of income before the income is distributed to the owner of the companies (cf. the taxation of investment companies in question 2)  In addition, group contributions are allowed to foreign companies, but only in situations where that contribution is effectively connected to a permanent establishment situated in Sweden. |
| 1. If yes to 32, is group taxation restricted in situations where a (holding) company has solely been inserted in connection with a leveraged acquisition of the operating company (so-called debt push-down)? When responding, please consider Model ATP-Structures no. 1 – 3 and assume that C Holdco and B Hybrid are tax resident in your MS. | No. But the interest deduction limitation rules (see question 16) generally deny interest deductions for such holding companies, making them subject to tax the received group contribution. |
| *CFC rules* | |
| 1. Does your MS apply CFC rules to foreign subsidiaries of a parent company in your MS? | Yes. |
| 1. If yes to 34, please briefly explain the rules and their scope. | A resident company as well as any non-resident with a permanent establishment in Sweden, maintaining a holding in a foreign legal entity is liable to Swedish tax on his share of the foreign legal entity’s worldwide net profit, provided that:   * the income of the foreign legal entity is deemed to be subject to low taxation (chapter 39a, section 5 of the [IL](http://online.ibfd.org.esc-web.lib.cbs.dk/linkresolver/static/cta_se_abb_il?WT.z_nav=crosslinks)); and * at the end of the income year, at least 25% of the capital or voting rights in the foreign legal entity is controlled, directly or indirectly, by the shareholder alone or together with persons who have a community of interests with the shareholder (chapter 39a, section 2 of the IL).   An exemption from these rules applies to income from a foreign legal entity that is resident within the European Economic Area (EEA) if the shareholder can prove that the foreign entity is established in the other country for business reasons and is engaged in real economic activities (Chapter 39a, Section 7a IL). In addition, the CFC regime does not apply to income derived from a foreign legal entity engaged in international shipping activities, provided that also the shareholder is engaged in shipping activities, whether directly or indirectly through a legal person resident in the EEA (Chapter 39a, Section 8 of the IL).  Under the general rule, the income of a controlled foreign entity is deemed to be subject to low taxation if it is not taxed at all or is subject to tax that is lower than 12.1% (55% of the Swedish tax rate of 22%) (chapter 39a, section 5 of the IL). Income is not considered to be subject to low taxation, however, if the foreign legal entity is a tax resident, and liable to income tax, in one of the countries listed in a “white list”, provided that the income in question has not been expressly excluded.  A shareholder of a controlled foreign legal entity (CFC) who is taxed on his share of the CFC’s income under the Swedish CFC rules is entitled to foreign tax credit for income tax that the CFC has paid on the income (chapter 4, section 1 of the [AvrL](http://online.ibfd.org.esc-web.lib.cbs.dk/linkresolver/static/cta_se_abb_avrl?WT.z_nav=crosslinks)). |
| 1. Please consider the attached Model ATP-Structures no. 1, 2 and 4 - 6. Assuming that MNE Group is tax resident in your MS, would your MS’s CFC-rules be applied to the structures? If yes, what would be the likely effects? | Model ATP-Structure no. 1: MNE Group are subject to CFC-taxation because of OffshoreCo’s residence in a low tax regime. B HoldCo is subject to CFC rules if MS B, in the relevant situation, is not present on the white list, or is covered by the exception in Chapter 39a Section 7a IL.  Model ATP-Structure no. 2: If the payment from the hybrid instrument, received by B Holdco, is classified as tax exempt dividends (in accordance with Swedish tax law) the CFC-rules do not apply. If, however, the payment is considered taxable income – interest – the CFC-rules apply, if State B is not on excluded from the scope of the rules (see the previous structure).  Model ATP-Structure no. 4: If the companies are not excluded from the scope of the rules (see above) it is likely that FinanceCo B is subject to CFC-taxation because under Swedish circumstances a deemed interest income would be taxed.  Model ATP-Structure no. 5: If Company B is not excluded from the scope of the CFC-rules, MNE will be subject to CFC-taxation presupposed the effective tax rate on the payment of royalty is below 12.1%  Model ATP-Structure no. 6: MNE is subject to CFC-taxation (presupposed Company B1 is not excluded from the scope of the rules). |
| *Mismatch in qualification of legal entities* | |
| 1. Does your MS’s tax qualification of a foreign legal entity (e.g. a partnership) follow that of the foreign state, or does it apply its own criteria? Please briefly explain. When responding, please consider Model ATP-Structure no. 3 and assume that MNE Group is tax resident in your MS. | In principle no, because Sweden have independent definitions in the tax legislation. Because these definitions refer to the classification in the foreign entities state of residence, however, the Swedish classification generally follow that classification, resulting in quite few mismatch situations.  The definition of a foreign legal entity is stated in the Swedish income tax act (Chapter 6, Section 8 IL): A “foreign entity” is an entity, which in accordance with the law of its residence state, must be competent to:   * acquire legal rights * take court actions in its own name, * and its partners shall not be allowed to dispose over the equity of the entity without consent from other partners.   Entities that do not qualify as foreign entities are generally considered as transparent entities.  Model ATP-Structure no. 3: The B Hybrid would most likely be considered as a foreign entity in Sweden, and the interest payment therefore recognized as income in Sweden. |
| 1. Does your MS apply rules to counter another state’s mismatch in tax qualification of a legal entity (company) resident in your MS? If yes, please briefly explain the rules and their scope. When responding, please consider Model ATP-Structure no. 3 and assume that B Hybrid is established and tax resident in your MS. | No. |
| 1. Does your MS apply rules to counter another state’s mismatch in tax qualification of a transparent entity (partnership or similar) in your MS? If yes, please briefly explain the rules and their scope. | No. |
| *Tax residence of company* | |
| 1. Based on domestic tax rules, without the application of any tax treaty, can a company incorporated in your MS be considered non-tax resident if its management and control is situated in another state? If yes, please explain under which circumstances. | No. |
| 1. If yes to 40, please consider Model ATP-Structure no. 6. Would the Structure work if Company B1 is incorporated in your MS but managed and controlled abroad in an offshore-state? | - |
| *Tax ruling practices* | |
| 1. Some states offer tax rulings (incl. so-called APAs) that confirm non-arm’s length-transactions or the amount of spread between interest or royalty income and cost in various international flow through-structures. As an example, please refer to Model ATP-Structure no. 1. Does your MS offer this form of tax ruling practices or APAs? | No. In Sweden, APAs are always entered into on a bilateral or multilateral basis. It is not possible to obtain a unilateral APA in Sweden. The Swedish framework is based on the OECD’s standards. |
| 1. Do your local transfer pricing-rules allow for the stripping of income from a domestic company by taking away legal ownership of functions, assets and risks? In other word, is it accepted that relatively small amounts of the group’s income is taxed in your MS on the basis of low risk, few assets held and only few functions performed in your MS? | If the income assessment is in accordance with the arm’s length principle, income adjustments based on Swedish transfer-pricing rules cannot be carried out. |
| 1. Can a company in your MS obtain a ruling or APA that a) provides for tax exemption of profits considered to exceed an arm’s length-income or considered to have been left to the company by its shareholders (capital contribution), or b) provides for the deduction of deemed expenses that would have been due under arm-‘s length conditions? | No. |
| *GAAR/SAAR* | |
| 1. Please consider Model ATP-Structures no. 1-7. Are you aware of any general or specific anti-avoidance rules or practice in your MS which could impede or counter the ATP objective of any of the structures? If yes, please describe briefly the scope of the rules/practice and how they could be applied to each of the structures. | The Law against Tax Avoidance (1995:575) applies to the national (corporate and individual) income tax and the municipal income tax (applicable to individuals). According to this law, a transaction may be deemed a method of tax avoidance, and the transaction may be disregarded  for tax purposes, if all of the following requirements are met:   * The transaction, alone or in conjunction with another transaction, results in significant tax benefit for the taxpayer; * The taxpayer is, directly or indirectly, a party to the transaction; * Such tax benefit is assumed to have been the predominant reason for the transaction; and * Taxation on the basis of the transaction would be in violation of the purpose of law.   Case law on the application of the Swedish GAAR shows that the critical point in deciding whether or not the Swedish GAAR is applicable often comes down to the fourth requirement – if the transaction violates the purpose of the law. This requirement makes the GAAR difficult to apply to step-transactions because each step is often in concordance with the purpose of the legislation, although the result of the entire transaction is in violation of the purpose of the tax system. For this reason, the Swedish interest deduction limitation rules were adopted to deal with various kinds of debt push down structures (see question 16).  As a result, it is difficult to give a qualified opinion on the application of the Swedish GAAR in relation to the general ATP-structures. |
| *Other ATP indicators* | |
| 1. Are you aware of any tax rules, tax practice or lack of tax rules (loopholes) – other than those discussed in the preceding answers - which could facilitate your MS’s role in ATP? If yes, please briefly explain. | No. |