

Sweden

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Moll Wendén's business concept is to offer high quality legal advice to large and medium sized corporations.

Moll Wendén has its offices in Malmö, Sweden, in the heart of the Öresund region. The Öresund region mainly consists of the southern part of Sweden and Själland (Copenhagen) in Denmark. The region, with its 3.9 million inhabitants, is a transnational region within the EU.

Moll Wendén offers first-rate competence in company law, mergers and acquisitions, financing, real property transactions, litigation, IT and telecom, intellectual property, labour law, competition law and public procurement. The lawyers at Moll Wendén have sector-specific expertise in areas such as the food industry, real property and construction, pharmaceuticals and biotechnology as well as IT and telecom.

Moll Wendén is an established law firm with traditions. The partners of Moll Wendén have worked with international clients and assignments for ten to twenty years; first at Lagerlöf & Leman and then at Linklaters. All of the associates at Moll Wendén are experienced in handling international matters. The partners and associates at Moll Wendén are used to working in large organisations and international networks - something that clearly influence our idea of a first-class legal assistance.

Moll Wendén has a large number of international clients whose common denominator is the demand for Swedish expert legal advice.

Sweden Corporate Law

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1. General

The Swedish corporate law is largely based on the written laws that apply to each specific kind of legal entity that is available in Sweden. A Swedish business can be conducted as a trading partnership, as a limited partnership, as an economic association or as a sole trader (which is not a legal entity). As in other EU-countries, it is in Sweden also possible to establish a European company (SE) in accordance with the Council Regulation (EC) No 2157/2001 and Council Regulation (EU) 517/2013 of 13 May 2013. and, as in other EEA-countries, to register an European Economic Interest Grouping (EEIG). However, these legal entities are normally not chosen by foreign companies and investors when establishing a business in Sweden and they will therefore not be part of this description of Swedish corporate law.

Foreign companies and investors establishing a business in Sweden most commonly form subsidiaries in the form of limited liability companies. An alternative is to set up a branch office in Sweden. The Swedish law for limited liability companies and the alternative to use a branch office are described below.

2. Limited liability companies

2.1. General

There are two kinds of limited liability companies in Sweden; private and public limited liability companies. Public companies may distribute their shares to the public, which private companies may not. The vast majority of the companies in Sweden are private companies. The company name of private companies may not include the word “public” and the names of public companies may not include the word “private”. Some rules in the Swedish Companies Act (the “Act”) (Sw. Aktieföretagslagen) apply only to either type of company. However, most rules in the Act apply to private as well as public companies. In addition to the Act, companies which are quoted on the Stockholm Stock Exchange must follow certain set of rules which apply to quoted companies only.

2.2. Forming a limited liability company

A limited liability company is formed by one or more founders. A founder may be any natural person or legal entity.

The founders shall sign a memorandum of association which shall contain certain information including articles of association for the company. All shares in the company shall be subscribed for in the memorandum of association.

The articles of association shall contain certain information as stated in the Act, for example information about the financial year of the company. The financial year shall be the calendar year or 1 May–30 April, 1 July–30 June or 1 September–31 August. It is however also possible to apply for permission to adopt any other twelve-months period as the financial year of the company.

Before the company can be registered with the Swedish Companies Registration Office (the “SCRO”), the share capital of the company must be paid to the company by the founders of the company. The minimum share capital of a private company is SEK 25,000 and of a public company SEK 500,000. The share capital may also, subject to certain rules, be contributed in kind to the company.

The board of directors (see 2.4 below) shall register the shares in the share register of the company. Shareholders may be residents of any country. When the shares are transferred to new shareholders, the new shareholders must be entered into the share register. Shares in quoted companies are registered electronically through a system known as Euroclear Sweden. Companies that are not quoted may in their articles of association prescribe that the shares may be registered in Euroclear Sweden. Share certificates may be issued and shall be issued to a shareholder which presents such request. Share certificates may not be issued in companies that use the VPC-system. Shareholders in companies that use the Euroclear Sweden-system can instead prove their ownership of certain shares through a print-out from the Euroclear Sweden-system.

2.3. Buying an “off the shelf company”

If a company is needed with short notice, an alternative to forming a new company may be to acquire an existing limited liability company (which always is private) that previously has conducted no business, i.e. a so-called off the shelf company. Such a company can normally be acquired very quickly, provided that the share capital of SEK 25,000 is transferred to a new bank account in the name of the company.

2.4. Management

The board of directors is elected by the shareholders at a shareholders’ meeting. The board is responsible for the operations of the company. Normally, the directors are elected at the annual shareholders’ meeting until the next annual shareholders’ meeting. However, the directors can be discharged from their position at any time prior to the next annual shareholders’ meeting by resolution at an extraordinary shareholders’ meeting.

A public limited liability company must have a board with at least three directors. In private companies, the board may consist of only one or two directors provided that at least one alternate director is elected. The exact number of directors or the minimum and maximum number of directors must be stated in the articles of association. If the board consists of more than one director, a chairman of the board shall be elected by the board if the articles of association or a shareholders’ meeting hasn’t decided otherwise. At least half of the directors and the alternate directors must be resident within the EEA (it is possible to apply for an exemption). If no board member, no managing director and no special authorised signer (which can be appointed by the board) has its residence in Sweden, the board of directors must grant a power of attorney to a person who has its residence in Sweden to accept service of process for the company.

Public companies shall and private companies may appoint a managing director. The managing director will have authority to represent the company in all matters that fall into the day-to-day management of the company. The managing director may be discharged at any time by the shareholders’ meeting or by the board of directors (subject of course, from a labour law perspective, to his employment contract). The managing director must have its residence in the EEA (it is possible to apply for an exemption).

The founders, directors of the board or the managing director may be liable to pay damages if they wilfully or negligently cause the company damage when performing their duties. The founders, directors of the board or the managing director may also be liable to pay damages if a shareholder or another person suffers damages through a violation by the director of the Act, of the Annual Accounts Act or of the articles of association. There is no requirement for Swedish limited liability companies (except for quoted companies) to appoint a secretary of the board of directors.

2.5 Shareholders and shareholders' meetings

Within six months from the expiry of each financial year, an annual general shareholders' meeting shall be held in the company at which the annual report shall be presented. In addition to the annual general shareholders' meeting, it may in the articles of association of the company be stated that other general shareholders' meeting shall be held during each year. Additionally, the board of directors may at any time during each year convene extraordinary shareholders' meetings.

A shareholder has a right to participate at a shareholders' meeting if the shareholder at the day of the shareholders' meeting has been entered into the share register. In companies that use the Euroclear-system, the shareholder shall be stated in the share register on the fifth day (or at a later day if stated in the articles of association) before the shareholders' meeting to have a right to participate at the shareholders' meeting.

Most decisions can be adopted by the shareholders' meeting by simple majority. However, some decisions, such as amendments to the articles of association, require qualified majority. Normally, all shares have equal voting rights but it is possible, by the articles of association, to prescribe that there shall be shares of different classes and that these shares shall have different voting rights.

A shareholder may be liable to pay damages if such shareholder wilfully or by gross negligence causes damage to the company, to any other shareholder or to another person if the shareholder participates in a violation of the Act, of the Annual Accounts Act or of the articles of association.

2.6 Accounts and audits

All companies carrying on a business activity are under an obligation to maintain accounting records under the Bookkeeping Act (*Sw. Bokföringslagen*) and are required to adhere to generally accepted accounting principles. However, some small companies with less than three employees does not have this obligation. The annual accounts and the audit report, as adopted by the annual shareholders' meeting, must be submitted to the SCRO within seven months from the expiry of the relevant financial year, i.e. on 31 July at the latest for companies with the calendar year as financial year. The company shall, by a resolution at the shareholders' meeting, elect the auditor or the auditors of the company. Only authorised or approved public accountants or a registered accounting firm may be elected as auditors. The auditor examines the company's accounts and the board of director's management of the company. The auditor is not allowed to also keep the company's current accounts. The auditor's mandate period is normally one year. However, in the article of association it may be stipulated that the auditor's mandate period may be longer than one year. In any case, the term of office shall expire at the end of the Annual General Meeting which is held during the fourth financial year following the appointment of the auditor.

The auditor may resign in advance or be discharged in advance by a resolution at a shareholders' meeting.

2.7 Registration for taxes

Employers must register as such by filling in the form “Företagsregistrering” and send it to the Swedish Tax Agency. On registration, the employer will automatically be sent documents and information required in order to account for and pay VAT, income tax and social contributions.

2.8 Stationery

The letters, invoices and order forms of limited liability companies must state the name of the company, the place where the registered office of the board is located (as stated in the articles of association) and the corporate registration number issued by the SCRO.

3 Branch office

3.1. General

According to Swedish law, a branch office is not an independent company, but an office through which a foreign company runs its business in Sweden. Naturally, the branch has no share capital of its own.

Permission for the foreign company to establish a branch office in Sweden is not necessary, but the branch office has to be registered with the SCRO and there are a number of specific requirements for such a registration.

The name of the branch office shall include the foreign company's name with the addition of the Swedish word “filial” (which means branch) or “filial till” (which means branch to). It must be possible to distinguish the name of the branch from other existent firms registered in Sweden.

3.2. Management

The branch office shall be run by a managing director. The managing director shall be resident in Sweden or any other country within the EEA. A person underage, declared bankrupt or who has an administrator cannot be appointed managing director. If the managing director is not resident in Sweden, the company must authorize a person resident in Sweden to receive summons and other legal documents on behalf of the branch. The requirements for this person correspond to the requirements for the managing director.

The foreign company shall give a power of attorney to the managing director to represent the foreign company in all matters concerning the business in Sweden, including the right to receive summons against the foreign company and to represent the foreign company in court. Additionally, one deputy managing director can be appointed.

3.3 Annual accounts

The branch shall appoint an authorized or approved auditor or registered accounting firm to review the accounts of the branch and the managing director's management of the branch. The managing director shall each year supply SCRO with the annual report for the branch office as well as for the foreign company. (As concerns the foreign company the requirement is only applicable if the documents are public in the home country of the foreign company.) If the foreign company is a limit liability company resident within the EEA, a limited annual report may be produced instead of a formal annual report.

3.4. Accounting

The branch shall have its own bookkeeping which shall be separated from the foreign company's bookkeeping. Generally, the accounting records of a branch shall be kept in Sweden. However, an exemption makes it possible to keep the records on electronic media in another country within the EEA, provided that the Swedish Tax Authority has been notified of the place of storage and provided that the branch always can get immediate access to the accounting records through a print out in Sweden.

3.5. Stationery

Letters, invoices and order-forms of the branch must state the name and address of the branch as well as the foreign company's legal status and domicile.

4 General Data Protection Regulation

4.1 General

The General Data Protection Regulation (“GDPR”) is directly applicable throughout the European Union. In Sweden the regulation has been applied in its entirety replacing the previous Swedish Data Protection Act (“DPA”). The new DPA entered into force in Sweden on 25 May 2018. However, as the former DPA was an outcome of the European Data Protection Directive, the changes are not too extensive.

The major changes are, inter alia, more severe penalties when a natural or legal person who determines the purposes and means of the processing of personal data (the “Processor”) breaches GDPR, stricter rules on valid consent, an enhanced GDPR-compliance control and, in certain cases, a requirement to designate a data protection officer.

4.2. The Scope, Purposes and Fundamental Principles of the GDPR

One of the main purposes of the General Data Protection Regulation (GDPR) is to protect individuals’ fundamental rights and freedoms, particularly their right to protection of their personal data. Personal data is any information relating to an identified or identifiable natural person (“**Data Subject**”). In principle the GDPR applies to all automated personal data processing and in some cases also manual processing of personal data.

The fundamental principles of GDPR are that the processing of personal data must at all times be lawful, fair and characterised by transparency. The principle of lawfulness means that the Processor must have lawful grounds, as set out in the GDPR or in complementary legislation, for all of the company’s processing of personal data. Fair processing means that the Processor must weigh its own interests against those of the Data Subjects before the personal data is processed. The processing of personal data must also be clear and understandable to the Data Subject and must not be carried out in hidden or manipulated ways. In other words, the processing must be transparent.

4.3. The rights of a Data Subject

A Data Subject must be informed that the Processor collects his or her personal data, why it has been collected (the specific purpose of each collected personal data) and how it is being processed. The Data Subject must also be informed about what rights he or she has, for example how he or she can request a register extract, how to have errors rectified, and how to have personal data erased.

4.4. The Effect of GDPR on Swedish Legal Entities

Basically, GDPR effects all parts of a legal entity and applies in every situation where personal data is being processed. Consequently, a legal entity must ensure that it complies with GDPR when dealing with the personal data of its employees, customers, suppliers, distributors, business partners etc.

Sweden Tax Law

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1. General

Limited companies and certain other legal persons must per the 1 January 2021 pay a corporate tax of 20,6 per cent. The tax is deducted from the enterprises pre-tax results of operations, subject to certain fiscal adjustments. The tax rate for individuals as regards income from employment and partnerships is progressive and varies between 28 and 58 per cent depending on the amount of income. Capital gains tax varies between 20 and 30 per cent.

2. Taxation of resident companies

All income received by a company is dealt with together, regardless of whether it originates from different kinds of activities. Thus, losses from one activity may be set off against income from another. Losses from business activities carried out abroad may be set off against income from Swedish activities if there is no tax treaty stipulating that the foreign income should be tax exempt. Calculation of a company's taxable income is based on the annual report prescribed by civil law and the fiscal income assessment is based on the realised results of operations.

3. The allocation reserve

A deductible allocation reserve may be made at maximum of 25 per cent of net earnings prior to allocations for the financial year. The allocation must be recognised in the financial statements of the limited company.

The allocation reserve must be reversed for tax purposes no later than in connection with the tax assessment of the 6th fiscal year following the year when the provision was made. If no voluntary reversing entry has been made, the remainder will be reversed mandatorily. Each year's provision constitutes a reserve of its own. Consequently, a company can have a maximum of six allocation reserves at a time. The company is not required to make payments into a special purpose account or similar.

4. Depreciation and deductions

Normal expenses incurred in the course of business are deductible when determining the taxable income. Assets which are held for permanent use may be depreciated on the bases of the actual acquisition cost. Assets with an expected useful life of less than three years may be written off at once, as may assets of minor value.

Real estate is depreciated using the straight-line method over the expected useful life of the property. Usually, commercial properties may be depreciated by 2 – 5 per cent per annum, factory premises by 4 per cent and office properties by 2 per cent per annum.

Interests and royalties are generally fully deductible

General Swedish taxes paid are not deductible according to Swedish law. Sweden has no rule on thin capitalisation. Consequently, there are no restrictions on interest payments between related parties, as long as these are made on an arm's length basis.

Dividends paid are not deductible

If the company suffers a loss one year the loss will become deductible the following year. The taxpayer may not choose when to use the loss but it may be carried forward without time limitation if the loss is not covered by profits in the subsequent year. However, some limitations apply to this rule if the company suffering the loss is sold.

5. Group taxation

Limited companies are treated as groups where a parent company directly or indirectly holds more than 50 per cent of the voting powers of another limited company.

A group is not a taxable entity in itself but companies in the same group can make certain fiscal redistributions of their earnings. The owner may, under certain circumstances, through intra-group transfers obtain a tax allowance.

For intra group transfers to take full legal effect the following requirements apply. The companies concerned must be Swedish limited companies. The parent company must have owned more than 90 per cent of the shares in the subsidiary during the entire financial year or both the donor and the donee must be subsidiaries of the same parent company which owns more than 90 per cent of the shares in each of the companies. Subsidiaries, which render or receive transfers, must have been wholly owned during the entire fiscal year for both donors and donees or since the subsidiary commenced conducting business activities in some kind or other. Neither the donor or the donee may be housing, investment, or management company. Both the donor and donee must disclose the intra group transfer during the same fiscal assessment year in the tax return. Nor must shares in the subsidiary constitute a stock asset in the parent company.

In some cases, a parent company is exempt from tax on dividends received from foreign subsidiaries if the foreign company is subject to a tax at a rate comparable to Swedish taxation of similar entities or is recognised as a company in a Double Taxation Treaty to which Sweden is a party.

6. Taxation of foreign companies

Whereas a company that has been duly incorporated and registered under Swedish law will be taxed in Sweden on its world-wide income (total tax liability), a foreign company will only be taxed for income deemed to derive from Swedish sources (limited tax liability). The latter rule applies mainly to income attributable to real property or to a permanent establishment located in Sweden. A foreign company will be considered to have permanent establishment in Sweden when its operations are carried out through a fixed place of business, i.e., a branch office. An agent with power to conclude contracts on behalf of a company will normally qualify as a permanent establishment. Unrelated agents, for example a reseller, will not constitute a permanent establishment as long as the assignment carried out on behalf of the foreign company is within the agent's usual type of business.

7. Business related shares

Sweden has rules regarding business related shares (Sw. näringsbetingade aktier). The rules apply to limited liability companies (Sw. aktiebolag) as well as partnerships (Sw. handelsbolag).

A holding company's shares in other companies are regarded as business related if one of the following criteria is met:

- ∴ The shares are not listed on any stock exchange or similar marketplace (unquoted shares)
- ∴ The shares represent 10 per cent or more of the voting power in the company
- ∴ The business of the holding company or its subsidiaries is related to the business of the company held

Dividends from unquoted shares and other business-related shares are tax free for the holding company with only a few exceptions. There are for example exceptions for dividends from controlled foreign companies in certain tax haven countries.

Generally, capital gains on sale of business-related shares will be tax free for the holding company. However, a few exemptions worth mentioning apply to this general rule. If a business-related share is quoted it must have been held for a year or more. Another exception regards sales of shares in shell companies, i.e., companies holding primarily lots of cash or other liquid funds but few other assets.

8. Double taxation

Swedish domestic law provides two main alternatives for avoiding international double taxation:

- ∴ Foreign tax may be deducted as a cost when calculating the taxable income of the company, provided that the income in question is taxed in Sweden.
- ∴ Foreign tax may be credited against Swedish tax using the over-all method. However, the foreign tax assessment must be final, compared to Swedish tax, and levied on the basis that the income originates from the country in question.

The latter alternative may be utilised even if there is a treaty covering the situation provided that the treaty does not prescribe exemption from Swedish tax.

Sweden also has an extensive network of tax treaties. There are no Swedish laws on treaty shopping, but provisions on this subject, mainly concerning dividends, may be included in some of the more recent treaties. Most of the treaties are based on the ACCEDE model convention.

9. Partnerships and limited partnership

Partnerships and limited partnerships are legal persons that can enter into legal and binding agreements etc. Despite this, it is not the partnership/limited partnership that is subject to pay tax on its income. Instead, each of the co-owners is taxed on his share of the profits of the partnership.

The co-owners of the partnerships will be taxed in Sweden on income earned by the partnership through its business transactions in Sweden. If the overseas owner in a partnership is an overseas company, the tax charge will be the same as had the operations been conducted through a branch office.

Although the co-owners are subject to tax on the income of the partnerships, a joint assessment of income must be made for the partnership as such. The co-owners will then be taxed for their shares of the profits of the partnership.

10. Value added tax VAT

VAT is levied on the sales price of taxable goods or services. At present three rates apply, a standard rate of 25 per cent and two reduced rates of 12 and 6 per cent. The reduced rates of 12 per cent applies to food (excluding alcoholic beverages), hotel services, camping sites and ski lifts while the lower reduced rate of 6 per cent applies to for example daily papers, magazines, books, and passenger transportation. Anyone who commercially trades taxable goods or services in Sweden is liable for VAT. Every two months, or if the company is trading with other EU member states every month, the difference between the VAT received from the selling of goods and services and the VAT paid for the acquisition of goods and services is paid to the state. When the latter exceeds the former the company will receive a refund.

11. Individual taxation

Residents of Sweden pay Swedish tax on all income irrespective of whether the income is earned inside or outside the country. You will be regarded as a resident of Sweden if you stay in the country for more than six months, or if your fixed domicile lies in Sweden. You can also be regarded as a Swedish resident if you have some connection with the country, for example Swedish citizenship, property, or business operations. The latter pre-supposes, however, that you have previously been regarded as a fiscal residence of Sweden, i.e., if your true domicile has been in Sweden.

The tax liability in Sweden for non-Swedish residents is limited to the income earned in Sweden.

A company is obliged to pay preliminary tax when paying salary to its employees. The preliminary tax to be paid in respect of each employee varies depending on the employee's domicile and his or her expected annual income. In addition, each employer is obliged to pay a statutory payroll tax of (31,42 per cent) of the remunerations paid.

Individuals must pay a 20 to 30 per cent tax on capital gains.

12. Other taxes

12.1. Property tax

The state property tax on owner-occupied houses and apartment buildings was abolished in 2008. Instead, a "local/municipal fee" was introduced with a cap, to be adjusted annually and was indexed to the so-called income base amount (inkomstbasbelopp), which tracks the average nominal income. The state property tax, however, still applies to properties which are not considered as residential properties, i.e. an unbuilt plot of land.

12.2. Excise duties

In addition to general VAT, duties are imposed on several goods. Notable examples include fuel, tobacco, electricity, and alcohol. VAT is levied on all excise duties.

12.3. Stamp taxes

Certain stamp taxes apply in connection with transfer of real estate and issuing of mortgages in real estate, companies (floating charges), air crafts and vessels. The stamp taxes applicable to real estate are further described under "Real Estate".

Sweden Labour Law

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1. The Employment Contract

1.1. General

On 29 June 2022, legislative changes implementing the new directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union, entered into force. Hence, a broader obligation for employers to provide written information about terms and conditions of employment was implemented in the Swedish Employment Protection Act 1982 “LAS”.

In Sweden, binding employment contracts can be made orally or in writing. However, under the provisions of LAS and due to the implementation of the new directive, employers must provide each employee with a written statement of the terms and conditions of the employment. The statement shall include the following details:

- ∴ name and address of the employer and the employee
- ∴ the commencement date and the ordinary place of work or, if there is no fixed or main place of work, information that the work is to be carried out in different places or that the employee is free to determine his place of work;
- ∴ a brief specification or description of the work duties and job title
- ∴ the type of employment, i.e., if the employment is permanent, probationary or temporary
 - **in the case of permanent employment** the notice period to be observed.
 - **in the case of temporary employment** the end date and the conditions for premature termination and whether the employment constitutes a substitute, special fixed-term (Sw: särskild visstidsanställning) or seasonal employment. (Please note that this information must be provided when entering the employment agreement.)
- ∴ in the case of probationary employment: the length of the trial period and any other conditions for the probationary employment
- ∴ the remuneration, including all parts of the salary and any variable pay, including the frequency and the method of payment
- ∴ information on normal working hours and the minimum notice period the employee is entitled to in connection to any changes to the regular working hours
- ∴ when applicable, policies for overtime and additional time, including compensation for such
- ∴ any training/education entitlement provided by the employer
- ∴ mandatory social security contributions paid by the employer and protection relating to social security provided by the employer, either through collective bargaining agreement or through a unilateral policy
- ∴ length of paid vacation
- ∴ the provisions and procedures to be observed by the employer and the employee if either of the parties wants to terminate the employment
- ∴ the applicable collective bargaining agreement (if any)
- ∴ conditions in relation to work to be performed outside Sweden, if such work is intended to last more than one month. Any amendment to such terms and conditions must also be communicated in writing to the employee within one month

The information shall be provided as soon as possible within the commencement of employment. However, specific deadlines apply for some of the information.

1.2. Forms of Employment

The main rule is that employment contracts are concluded for an indefinite term (permanent employment), unless otherwise agreed. An agreement can also be made on probationary employment with a trial period of up to six (6) months. Probationary employment transforms into permanent employment unless terminated according to certain procedures prior to the expiration of the trial period.

A special fixed-term contract will automatically be converted into permanent employment if the employment through a fixed-term contract cumulatively lasts twelve (12) months in a given five (5) year period or during a period when the employee has had fixed-term employment with the employer in the form of special fixed-term, substitute or seasonal work and the employments have followed each other. One employment has followed another if it has been commenced within six (6) months of the end date of the previous employment.

A substitute employment is automatically converted into permanent employment if the employment has lasted for more than two (2) years within a five-year period.

Notwithstanding the aforementioned, any deviating collective bargaining agreement will, as an outset, apply over the rules in LAS.

2. Wages and Benefits

Wages and other financial benefits (except holiday pay) are not subject to any legislation in Sweden, not even regarding minimum pay rates. Considering the pervasiveness of collective bargaining agreements, especially regarding blue-collar workers, the collective bargaining agreements in practice constitute de facto minimum rates, leaving little room for individual agreements. White-collar workers on the other hand predominantly negotiate wages and other benefits locally either through their union or individually. In the absence of any collective bargaining agreement, wages are negotiated between the employer and the individual employee. Compensation for overtime hours is extensively regulated in most collective agreements.

3. Trade Unions and Collective Bargaining Agreements

General

Trade unions play an important role in Sweden. The legal relationship between employer and employee is to a large extent regulated in collective bargaining agreements. The Swedish Co-Determination at Work Act 1976 contains the general provisions governing the relations between the employer and the unions. The Act sets forth the rights of employers and employees to associate in and act through organisations without interference by the other party.

Moreover, the Act includes the basic provisions in relation to conclusion, interpretation and termination of collective bargaining agreements as well as the legal implications of such agreements. Collective bargaining agreements are legally binding on the signatory parties as well as members of such organisations. Moreover, collective bargaining agreements take priority over individual employment contracts. Breach of a collective bargaining agreement may result in liability for the employer to pay damages (including punitive damages). When a collective bargaining agreement is concluded, the parties to it, in principle, cannot legally take industrial action in relation to any issue covered by the agreement.

A trade union that has concluded a collective bargaining agreement with the employer acquires a privileged position at the workplace, including rights to negotiate and receive information in relation to redundancies and many other issues that may occur. At workplaces where the employer is bound by a collective bargaining agreement with a trade union, terms and conditions of the collective bargaining agreement apply directly to employees being members of the relevant trade union and it is a common understanding that the employer generally must also provide non-members with the same wages and other terms and conditions as the collective bargaining agreement provides. Moreover, collective bargaining agreements frequently affect employers not bound by such agreements. The reason being that industry-wide collective bargaining agreements are generally held to set standards to be applied at all workplaces in that particular sector.

European Works Council

The European Works Council Directive (2009/38/EG) has been implemented in Sweden by the adoption of the European Works Council Act 2011. Accordingly, Swedish employers qualifying to set up a European Works Council must comply with specific consultation requirements on a European level.

4. Termination of Employment

4.1. General

Dismissal on part of the employer must have just cause in order to be valid. Reasons for dismissal can be divided into two main categories, one being redundancy, the other being the employee's personal conduct. Certain employees, primarily those holding a managerial position, are not protected by the mandatory minimum requirements on employment protection in case of for example dismissal. If an employee who has been dismissed without just cause brings action against the employer, the Labour Court may declare the dismissal invalid and order the employer to pay damages, which may be considerable.

4.2. Dismissal for Redundancy

The employer decides whether a redundancy situation is at hand or not. In principle, no distinction is made in Sweden between collective redundancies involving a large number of employees, and a redundancy situation involving only one single employee. Notice of termination by the employer must be given to the employee in writing and include detailed information on what the employee shall observe if he or she wishes to challenge the termination or claim damages. The notice must also state whether or not the employee has a right to re-employment if a vacancy should arise within a certain period of time.

When notice of termination is given by the employer, the employee has a mandatory notice period of between one (1) and six (6) months depending on his total period of employment with the employer.

In a redundancy situation, the employer is obliged to pay salary and all other benefits to the employee during the notice period even if the employee is relieved from his duty to work. The employer is, however, entitled to deduct income which employee receives from another employment during the notice period.

An employer must prior to a decision regarding important alterations of the business operations, on his own initiative, negotiate with all trade unions to which he is bound by collective bargaining agreement provided that such unions have at least one member employed by the employer. A decision, which may result in redundancies, is always considered to be of a nature that requires prior negotiations. Employers who are not subject to any collective bargaining agreement are obliged to negotiate with all trade unions having at least one member employed by such employer, if an intended decision may result in redundancies.

The obligation to negotiate with the unions implies that negotiations must not only be initiated but also finalised prior to a decision by the employer to restructure and subsequently terminate the employment contracts with employees affected. Provisions on the negotiation procedure are often included in local or central collective bargaining agreements. The negotiations are intended to result in an agreement and include an obligation for both parties to present motivated proposals for a solution of the subject matter of the negotiation. The Labour Court may award damages to the unions if it is held that the employer has failed to fulfil the obligation to negotiate. In a redundancy situation, the employer is primarily obliged to find alternative work for the employees within the company. This means that the employer must offer any vacant positions to employees threatened to be made redundant, provided that they have the basic qualifications to resume such positions. Furthermore, the employer shall observe rules regarding seniority, the rule of first in – last out applies. Collective bargaining agreements frequently supersede the legal requirements regarding e.g. notice period, seniority rules and rights to re-employment. Especially the collective bargaining agreements for salaried employees generally provide for notice periods exceeding the legal minimum requirements.

4.3. Dismissal for Personal Reasons

According to LAS, an employee may be dismissed for personal reasons in either of two ways. Firstly, dismissal can be made with notice where the same notice periods and other requirements apply as outlined above in relation to dismissal for redundancy. The second alternative is immediate dismissal without notice. Both options require the employer to have just cause for the action taken. Accordingly, the employer must substantiate a failure by the employee to comply with his obligations under the employment in such a material manner that the employer is not obliged to maintain the employment relationship. There are numerous precedents from the Labour Court to take into consideration. It should be emphasised that in order to arrive at a just cause for dismissal for personal reasons, the employer has the full burden of proof to prove both the employee's failure to comply with material contractual obligations and his awareness that such failure was not acceptable to the employer. The rules in LAS on just cause for dismissal are dispositive in that deviations can be made in collective bargaining agreements at a central level.

Dismissal with notice can validly be made for a number of reasons, including repeated late arrivals, disobedience, harassment, competing activities or other acts of disloyalty, negligence in performance, and acts subject to criminal liability. However, dismissal with notice is the last resort for the employer and cannot validly be made unless the employer has given the employee a reasonable chance to improve and also exhausted the possibilities to transfer the employee to another position. Dismissal without notice is reserved for severe breaches of the obligations under the employment contract, such as wilful and repeated disobedience of orders, criminal acts directed against the employer, and other acts involving a serious breach of material responsibilities under the employment contract.

5. Holidays

According to the Swedish Holidays Act 1977, the minimum general holiday entitlement is twenty-five days' holiday in each twelve-month period from April 1 to March 31 ("holiday year"). Unless otherwise agreed, the employee is normally entitled to exercise four weeks of holiday during the period June – August. The employee's mandatory right to holiday pay is assessed on a pro-rata basis corresponding to the part of the preceding holiday year ("earning year"), that the employee was employed by the employer. The employee may save part of his paid holiday entitlement for a period of up to five years.

6. Working Time

In Sweden, working time is mainly governed by the Swedish Working Time Act 1982. The ordinary working time is limited to forty (40) hours per week. The requirements under the act are mandatory, but may be overruled by a central collective bargaining agreement concluded by a central trade union and to a limited extent also by a local collective bargaining agreement. Save for a limited number of specific employees, mainly managing executives and uncontrolled employees, the act applies to all work except work performed at sea (seamen) and in the employer's household, which is subject to separate legislation.

7. Sick Pay

Under the Sick Pay Act 1991, the employer has to pay eighty (80) per cent of the employee's salary and benefits during the first fourteen (14) days of a sick leave. However, the employer may deduct approximately one (1) day's salary from the sick pay in accordance with the provisions in the Sick Pay Act. If the sickness period exceeds fourteen (14) days, sickness allowance is payable to the employee under the National Social Insurance System. Under many collective bargaining agreements, employees are entitled to more favourable terms and conditions in relation to sick pay and to supplemental sickness allowance.

8. Parental Leave

Under the Parental Leave Act 1995, parents with children below the age of one and a half (1,5) year are entitled to full parental leave. The employee also has the right to reduce the working time by twenty-five (25) per cent until the child is eight (8) years old. In some collective bargaining agreements, this right is extended until the child reaches the age of twelve (12). In addition, parents are entitled to parental leave during such time they receive parental benefits from the National Social Insurance System. Such benefits are paid to the parents during 480 days. In principle, the parents decide themselves who will exercise such parental benefits, but 90 days are reserved for each parent. Fathers may take an additional 10 days of leave in connection with the birth.

9. Board Representation

Employees in limited companies and co-operative associations having at least 25 employees are entitled to appoint two board members and two deputy members to the board of directors. Such board members are appointed by the trade unions if the employer is bound by a collective bargaining agreement.

10. Confidentiality

In Sweden, trade secrets is primarily protected by the provisions of the Swedish Trade Secrets Act 2018. The act is a result of the implementation of an EU directive on the protection of trade secrets. The act specifies that, within the definition of trade secrets, experiences and skills gained by employees in their normal course of employment shall not be included. The employee shall be free to use any obtained knowledge in the course of new employment. In other words, the provisions protecting trade secrets from being disclosed by employees are in principle limited to the duration of the employment. Subsequent to the termination of the employment, only very severe breaches of the act may result in a liability to pay damages for the employee. However, there are in principle no legal restrictions in terms of the enforceability of imposing wider obligations on confidentiality on the employee by mutual agreement, unless such restrictions are provided for in a collective bargaining agreement to which the employer is bound.

11. Non-Discrimination Act

The Anti-discrimination Act 2008 intends to promote equal rights for women and men regarding employment, conditions of employment and other conditions of work and also to provide opportunities for personal development in employment. The rights of ethnic minorities are also governed by the law. Furthermore, the act prohibits discrimination in the labour market of the disabled persons as well as discrimination based on sexual orientation, gender, ethnicity, religion and age. Generally, the non-discrimination legislation applies to employees, but also to the entire recruitment procedure, implying that refused applicants may seek relief even if the recruitment procedure does not result in a decision to hire.

12. Health and Safety

The Working Environment Act 1977 contains the basic provisions concerning occupational safety and health matters in Sweden. Moreover, the act includes regulations on how employers and employees should cooperate on work environmental matters. The working environment in principal comprises all conditions at workplaces. The act applies to the physical safety of employees but also to mental and psychological work conditions at workplaces generally. According to the act, the responsibility for the working environment primarily rests with the employer. The employer is also responsible for rehabilitation of employees and continuous improvements of the working conditions.

Sweden

Foreign Investment

Moll Wendén

For several years Sweden has been encouraging foreign investments. Sweden has plenty to offer to foreign investors such as simple business procedures, low corporate tax rates, good infrastructure and a well-educated labour force and is generally considered to be an attractive country to invest in. Few provisions regarding investments in Sweden distinguish between domestic (Swedish) and foreign investors.

1. Registration with Government, Authorities and Permits

There are various ways to do business in Sweden. One alternative is for the foreign investor to form an alliance with an existing independent Swedish business on a contractual basis. Another alternative is to run its own business in Sweden - without obtaining any specific authorization. A foreign investor wishing to set up a business in Sweden has the alternative to conduct business via different kinds of partnerships or as a limited company. The latter can be either private or public. Foreign companies also have the possibility to set up a branch office (a local office with an independent administration). The most common way to set up a business in Sweden is to create a Swedish subsidiary (generally a limited liability company) to the foreign company.

There are generally no requirements for foreign investors to register or obtain authorization for making investments in Sweden. However, since the introduction of Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union came into force 10th of April 2019 ("Regulation (EU) 2019/452"), Sweden has begun to introduce some legislative measures regarding foreign investments, where the investment may risk Sweden's security or public order or has relevant information for such a review. If so, recent legislation has assigned the Swedish Inspectorate of Strategic Products (SW: Inspektionen för Strategiska Produkter) to act as the governmental body tasked with acquiring and exchanging information in accordance with the provisions introduced through Regulation (EU) 2019/452 (please also see section 7 below as new Swedish legislation may be introduced in future which further regulates the field).

Moreover, all business units in Sweden are on the other hand subject to registration at the Swedish Companies Registration Office (SCRO) (Sw. Bolagsverket). The public commercial register contains basic information about the legal entity, its business and its representatives. The cost of establishing a Swedish limited liability company is relatively low.

There are no general Swedish restrictions in relation to foreign ownership of shares (however, please see section 7 below as new legislation may be introduced in future). In a limited liability company, however, at least half of the board members as well as the managing director must reside within the EEA. But regarding residents from outside the EEA and the managing director, the company may apply for an exemption at the SCRO. Should no board member reside in Sweden, the board must authorize a Swedish resident to receive documents on behalf of the company.

Foreign investors may acquire Swedish real estate for commercial use without applying for governmental permission.

Specific permits and authorizations may be generally required to engage in certain types of businesses and to carry out certain types of activities. Foreign entities are however generally treated as equals to Swedish entities when applying for such permits and authorization.

2. Registration of beneficial owner

On 20 June 2017, the Swedish parliament enacted a law on the registration of beneficial owners, which came into effect on 1 August 2017 and was based on the EU's fourth Anti-Money Laundering Directive, which has been implemented or will be implemented in all EU Member States. The law aims to prevent money laundering and the financing of terrorism through an increasing transparency of ownership and control of companies, associations, trusts and other associations (legal persons).

According to the law, a legal entity will be obliged to notify the Swedish Companies Registration Office of its beneficial owners. A beneficial owner is (i) any individual which ultimately owns or controls the legal entity and/or (ii) the individual on whose behalf a transaction or activity is being conducted. The latter is characterized as a person enjoying the benefits of someone else's action. The duty to notify the Swedish Companies Registration Office will attach to all Swedish legal entities, foreign legal entities operating in Sweden who have not made a corresponding notification in another EEA country, as well as persons domiciled in Sweden who manage trusts or similar legal arrangements. Limited companies listed on a regulated market are among the entities that are exempt from providing notification.

3. Transfer of Dividends, Interest and Royalties Abroad

There are no restrictions in Sweden regarding the dividends a Swedish corporation may transfer to foreign owners or shareholders, nor are there any restrictions on remittances of interests or of royalties.

In the absence of an applicable double taxation treaty, dividends payments beneficially owned by a foreign person are subject to withholding tax. The tax rate is significantly reduced under most tax treaties. Due to tax treaties dividends paid by a subsidiary in Sweden to its foreign parent company may not at all be subject to Swedish source taxation.

4. Repatriation Procedures and Restrictions

Investments are not subject to foreign exchange controls and there are no restrictions on repatriation.

5. Foreign Personnel (permits etc)

The requirements about residence permits and/or work permits for foreign personnel who are to be sent to Sweden depend on whether they are EU/EEA citizens or not.

EU/EEA citizens do not need work permits to work in Sweden. However, generally a residence permit (which will formally record the individuals for tax and social benefit purposes) is required for any citizen visiting or staying in Sweden for more than three months.

Non-EU/EEA citizens must obtain work permits to work in Sweden. The work permit must be obtained before arriving to Sweden. It is quite difficult for non-EU/EEA citizens to obtain a Swedish work permit. However, work permits may be granted in cases of temporary shortage of labour or if the work requires employees with specialist knowledge whose equivalents are hard to find on the Swedish employment market. An application for work permit shall include housing provisions, guarantees of work and minimum wages. Work permits are initially granted for a one-year period but may be extended. Specific additional requirements may apply depending on the nationality and domicile of the foreign individual. Like EU/EEA citizens, non-EU/EEA citizens need a residence permit to stay in Sweden for longer consecutive periods than three months. For stays shorter than three months a residence permit is not needed but instead a visa may be required for some foreign citizens.

Generally, foreign citizens are subject to the same taxes as the Swedes. Taxes for foreign key personnel may be reduced.

6. Grants

There are a wide range of investment incentives provided by the Swedish Government and regional authorities, e.g. grants such as regional development support. Most of these incentives are available to foreign as well as Swedish investors.

7. Future outlook

In most recent years, Sweden has begun to implement some rules regarding foreign investments. Mainly due to legislative acts introduced at EU level - primarily Regulation (EU) 2019/452). As said regulation aims to enhance cooperation and knowledge within in the Union regarding foreign investments in the EU, it led to the appointment of a Swedish governmental committee which made suggestions on how to regulate foreign investments in areas relating to security and public safety.

In part, the committee submitted suggestions on a Swedish system for screening of foreign investments on 2 November 2021 which, to summarize, suggests that new legislation is introduced where foreign investments are made in, *inter alia*, socially important, and/or safety-sensitive businesses (it should be noted that the exact scope of the legislation is potentially quite wide). If passed, some investments may be prohibited, and in certain cases, even sanctioned through fines (where a fine is suggested to be of up to 50 MSEK).

Therefore, it is not unlikely that further legislative acts on foreign investments in Sweden will be introduced in future.

Sweden Real Estate

Moll Wendén

1. Types of ownership

Swedish land is divided into property units. Ownership of land is always connected to a registered property unit. A property unit can be demarcated horizontally as well as vertically thereby creating three-dimensional property units. Absolute ownership of a property unit entails the right to own, occupy and dispose of the property unit. Where a right less than absolute ownership is intended, a right to site leasehold may be granted. Real estate may also be owned by a tenant-owner association (Sw. *Bostadsrättsförening*) or a co-operative lease association (Sw: *Kooperativ hyresrättsförening*).

A right to a site leasehold (Sw. *tomträtt*) may only be granted over publicly owned land. The site leaseholder essentially has the same legal status as an owner of land, thus he has the exclusive right to use and occupy the property (but he has no right to sell the land). A right to site leasehold is generally granted for an indefinite period in return for an annual fee, normally calculated as a percentage (equalling the long-term interest rate less inflation) of the land value.

When a tenant-owner association purchases a property unit the association becomes owner of the real property. The members of the association acquire shares in the association's capital, corresponding to their designated units (usually flats) which they have an exclusive right to use without any limitation in time as long as they pay a monthly fee to the association to cover the running expenses of the building and the association's interest cost where applicable. The acquirer of the equity share in the association must be granted membership of the association in order for the purchase to be valid. A tenant-owner association can be formed not only for residential purposes but also where a building is used for commercial purposes or is used for a mix of residential and commercial purposes.

An association similar to the tenant-owner association is the so-called co-operative lease association. It is an economic association formed for the purpose to lease residential apartments to its members. Every member of the association must pay a member fee and the association can also require its members to pay special fees. If the lease period is terminated the members only have a right to regain paid fees. The association's profit can only be divided between the members and is generally divided between them in relation to their contributions.

In 2009 a new type of housing was made possible in Sweden using three-dimensional real estate. These so-called ownership apartments (Sw. *ägarlägenheter*) allow the owners to own their apartments in an apartment building. Ownership apartments mean greater autonomy because you own the apartment, and you can register it under the same rules as for other types of property. In addition, no tenant-owner association must approve purchases or subleasing. The owner of the apartment may freely pledge, encumber, or dispose of its three-dimensional property.

2. Land Registry

All property units are registered in the Land Registry (*Sw. Fastighetsregister*) which is computer-based. The Land Registry is administered by the Land Registration Authority (*Sw. Fastighetsinskrivningen*) which is part of the Swedish National Land Survey (*Sw. Lantmäteriet*). The Swedish National Land Survey maintains one public surveying authority, and 39 municipal surveying authorities in Sweden. All registered property units have specific names and codes, normally consisting of the name of the municipality or city where the property is situated, an area name and numbers for local identification. The Land Registry contains information for every property unit including the location of the property, the registered owner (and the registered leaseholder where applicable), mortgages easements, tax assessment values and the most recent transfer, including the purchase price. The records and documents submitted to the Land Registry are public and anyone can request an extract from the registers (certificates of searches) (*Sw. Fastighetsbevis*). The registers provide useful information and are regularly used in the process of transferring property. Detailed maps of the real property can be provided by the Swedish National Land Survey.

3. Transfer

Normally the parties will use two contractual documents for the transfer of real property in Sweden. The first document is a purchase agreement (*Sw. Köpekontrakt*) including all conditions, warranties etc. The second document, which is normally drawn up on the day of the actual transfer of property to the purchaser, is the Bill of Sale (*Sw. Köpebrev*). The Bill of sale confirms that the purchase price has been paid etc. The formal requirements for a transfer of real property to be valid according to the Swedish Land Code (SFS 1970:994) (*Sw. Jordabalken*) are relatively simple. Firstly, the purchase agreement must be in writing and be signed by both the seller and the purchaser. Secondly, the agreement must include information about the purchase price and the name and code of the property unit. Thirdly, the agreement must contain a declaration that the seller conveys the property to the purchaser. Finally, if the seller has any spouse or co-habitee their approval is also required. As regards witnesses, it is not an absolute requirement to have them but the absence of witnesses when it comes to the seller's signature may cause a delay in the registration procedure. It is also important to be aware of that a written or oral option to purchase or sell real property is not valid.

Although a registration of ownership in the Land Registry is not necessary for a valid transfer of ownership, it is important that an application is filed at the Land Registry within three months from the acquisition of the property. Normally the Bill of Sale is then also submitted to the Land Registry and thereby made public. When the ownership is registered in the Land Registry, the Land Registration Authority issues a certificate of title (*Sw. Lagfart*) to the owner. The registered owner has the formal capacity to take action involving the property and will be regarded as the owner in relation to authorities. A registered owner may also mortgage the property and agree on other rights over the property (e.g. rights of use and enjoyment). Furthermore, if a property has been sold twice by the same seller, the first purchaser to apply for registration of ownership normally has priority over the other purchaser.

The relevant tax applied on a purchase of real property is stamp duty (explained below).

4. Mortgages

Swedish banks are in general very reluctant to grant loans for real property investments without any security in the property. In practise mortgage is the only recognised formal fixed security taken over property in Sweden. The formal capacity to mortgage a property belongs to the registered owner of that property unit. If the owner is an individual and is married or co-habitant, written consent from the spouse/co-habitee is required. To mortgage the property unit an application must be filed at the Land Registration Authority. The registered owner thereafter receives a mortgage certificate (*Sw. Pantbrev*) with the value specified and the certificate is registered in the Land Registry. As regards the total face value of the mortgage certificates that may be registered and issued there is no limit. However, the practical value of all the mortgage certificate issued is naturally limited to the value of the property. For issuing the certificate a stamp duty at a rate of two per cent of the face value of the mortgage certificate is charged. No extra stamp duty is levied when the mortgage certificate is used as security for a liability.

When the mortgage certificate is delivered to the creditor for the purpose of constituting security for a debt or some other obligation, the security is perfected. If part of the amount of the mortgage certificate is not needed to cover the debt, the excess amount may be used as second ranking collateral for some other debt or obligation. In the case of a second mortgage as described above, a notice to the holder of the mortgage certificate is needed for the security to be perfected. Until the loan is settled the creditor's lien and the mortgage right exists. When the loan is settled, the mortgage certificate should be handed back to the owner, who may then use the same mortgage certificate as security for a new loan or any other liability without additional stamp duty or costs.

Now a day, however, its more common to use electronical mortgage certificates. These corresponds to the physical possession of a mortgage letter. The Land Registry shows that the certificate is electronic. It also holds information about who is the recipient of the electronic mortgage letter.

5. Restrictions on Acquisitions

There are no restrictions on foreign ownership of real property in Sweden. However, there are some legal restrictions imposed regarding the transfer of property in general.

The pre-emption act (SFS 1967:868) (*Sw. Förköpslag*) expired on the first of March 2010. It allowed Swedish municipality's pre-emption rights when real property (or a right to site-leasehold) were sold. However, the municipality's pre-emption right still applies to sales of real property, if the municipality registered the property in the Land Registry before the first of May 2010.

Act on Acquisitions of Apartment Property etc (SFS 1975:1132) (*Sw: Lagen om förvärv av hyresfastighet m.m.*) was in force until 2010. According to the law transfers of properties taxed as rental housing units did not in general require authority approval. However, it was obligatory to notify the municipality of an agreement on transfer of such properties (and the site leasehold right to such properties) within three months from entering into the agreement. One of the purposes of notifying the municipality was to protect the existing tenant's interests when there rental housing unit were sold. To maintain the purposes of the act, stricter rules were introduced in another act called The Act on Housing Administration (SFS 1977:792) (*Sw. Bostadsförvaltningslag*).

According to the Agricultural Land Acquisition Act (SFS 1979:230) (*Sw. Jordförvärvslagen*) transfers of land taxed as agricultural property require approval by the County Administrative Board (*Sw. Länsstyrelsen*) if the property is situated in designated parts of Sweden or the acquirer is a legal entity, and the property is purchased from an individual or the estate of a deceased person. Approval is required also when agricultural property is transferred by a contribution in kind to a company or as a dividend from a company. If the land is purchased at a compulsory auction no approval is needed. For a legal entity approval is normally given only in very special situations.

6. Restrictions on Development

The main act in Sweden on the regulation of the use of land is the Planning and Building Act (SFS 2010:900), ("PBA"), (Sw. *Plan- och bygglagen*). According to the PBA each municipality in Sweden must adopt plans regulating the utilisation of land and water within the municipality. The plans to be adopted are comprehensive plans (Sw. *Översiktsplan*), regional plans (Sw. *Regionplan*) and detail plans (Sw. *Detaljplan*). A detail plan applies to a limited part of the municipality (normally a few blocks in a town) and is binding on the authorities as well as individuals during the time it is to be achieved. The plan includes regulations concerning the use of the land and construction work on the land.

Before construction work is started a building permit (Sw. *Bygglöv*) is required and an application therefore must be sent to the local building committee (Sw. *Byggnadsnämnden*). Which activities on or changes of buildings and property that require building permits are regulated in the PBA in detail. As regards activities including erecting, altering, and extending of buildings or amended use of a building or part thereof, permits are compulsory. If the development project adheres to the detail plan and construction standards the property owner will in general be entitled to the building permit. If the building permit is denied by the local building committee, the decision can be appealed to the County Administrative Board (Sw. *Länsstyrelsen*). The local building committee can also issue a preliminary statement on whether a building or an installation that requires a building permit may be permitted on the intended site. The PBA also contains provisions with respect to demolition permits and permits regarding ground works. In addition to the PBA, it should also be mentioned that the Environmental Code (SFS 1998:808) (Sw. *Miljöbalken*) regulates planning on a national level in order to economise with natural resources such as forests and running water.

7. Leases

Leases can be granted either for residential or commercial purposes. The regulations on commercial and residential leases vary in important areas and the legal provisions are to a great extent mandatory in favour of the tenant. The below overview concentrates on different aspects on commercial leases. There is no requirement of a certain form for entering into a legally binding lease agreement. However, a lease agreement must be in written form if one of the parties to the lease request it. Often when letting commercial premises, a rather simple standard contract form is used. The standard form has been drawn up and negotiated between the Swedish Property Federation (Sw. *Fastighetsägarna*) in co-operation with different business sectors. However, it is common that the parties agree on specific provisions attached to the standard agreement. The term of lease can be fixed or continuous. Usually, leases are granted for a fixed period between three to five years. There are, however, many examples of both shorter and longer lease periods. In towns and cities, the maximum term of lease is 25 years, but on the countryside a lease period of up to 50 years is allowed. There are no restrictions regarding the minimum term of the lease.

The rent must be a fixed sum, but for commercial properties the parties may freely agree on the amount of this sum. It is very common that commercial tenants pay added charges for heating, cooling, water, and property tax. Commercial premises are sometimes let on a turnover basis, and the rent is determined as a percentage of the income generated by the tenant. Normally the tenant pays the rent in advance and in quarterly instalments. It is also quite common that the rent is linked to changes in the consumer price index from year to year. However, such indexation is not allowed if the lease period is shorter than three years.

A tenant's main obligations are to pay the rent, use the premises only for agreed purpose, to take good care of the premises and not disturb its neighbours. The parties are free to agree on responsibility and the duty to pay for maintenance of the premises. As regards commercial leases it is not unusual that the majority of the costs for maintenance and utilities of the premises are borne by the tenant. The landlord's main obligations are to provide premises fit for the intended purpose/use and to repair defects caused by ordinary wear and tear.

Unless the landlord has very strong reasons for not extending a lease after the expiration of the agreed lease period the commercial tenant is entitled to compensation for his loss (*Sw. Indirekt besittningsskydd*). The right to compensation ceases if the landlord offers the tenant an extension of the lease on market terms and the tenant does not accept those terms. The right to compensation is also waived if the tenant does not submit the matter to the Regional Rent Tribunal (*Sw. Hyresnämnden*) within two months from the date he received the notice for termination. A tenant may also in advance waive his right to extension or compensation in a separate document. If the lease has been in force less than nine months at the time for signing the waiver, an approval from the Rent Tribunal might be necessary for the waiver to be valid.

In general, a tenant has no right to transfer a lease agreement without the consent of the landlord. However, one important restriction of the rights of the landlord is that the Rent Tribunal may, subject to certain conditions, authorise the tenant to transfer his tenancy to a person who is taking over the trade or business carried on by the tenant on the premises.

8. Stamp Duty

The relevant tax in case of purchases of real property (and leasehold rights) is stamp duty. Stamp duty falls due when the purchaser's title to the property is registered in the Land Registry (however special regulations apply when a real property is sold within a group of companies). Stamp duty is also triggered when real property (or a leasehold right) is transferred as a contribution in kind to a company and when real property is distributed as a dividend in kind from a company. Normally the stamp duty is paid by the purchaser, but if the purchaser does not pay, the seller is liable for it. The stamp duty is either based on the purchase price (or the value of the real property) or the tax assessment value of the property for the year before the registration of ownership, whichever is the higher. The stamp duty rate triggered for transfers in case the purchaser is an individual or a tenant-owner association is 1.5 percent of the value, and in case the purchaser is a legal entity, 4.25 per cent of the value.

Stamp duty is also triggered when a mortgage certificate is issued by the Land Registration Authority. The stamp duty on a mortgage certificate is two per cent off the face value of the certificate. As regards rent or lease agreements no stamp duty is triggered.

9. VAT

Transfers or letting of property does not trigger value added tax ("VAT") (*Sw. Mervärdesskatt, abbr. moms*) However, the owner of a business property may voluntarily choose to have premises, in which commercial activities are carried out, registered for VAT (provided that the tenant is liable for VAT). The registration can also be applied for by a tenant or a sub-tenant involved in commercial activities on the premises. As long as the premises are registered for VAT, the owner can charge VAT on the rent and offset it against VAT paid by him on maintenance, repairs and other expenses as well as building costs.