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Starting a limited liability company

A limited liability company is the structure that foreign enterprises most often use when setting up business activities in Sweden. Investors can purchase a limited liability company off-the-shelf or form the company themselves. Either way, it is a quick procedure.

LIMITED LIABILITY COMPANIES - THE BASICS

A limited liability company (*aktiebolag*) is a legal entity that draws a clear distinction between the company and its owners. It can enter into contracts and own property, such as real estate, and other assets. It can also be a party in legal proceedings.

PRIVATE OR PUBLIC?

There are two forms of limited liability company: private and public. Certain differences exist between them in terms of applicable regulations. Since the vast majority of international companies choose to set up a private limited liability company, that is the focus of this fact sheet.

Private limited liability companies

A private limited liability company cannot offer its shares to the public on the stock exchange or any other organized market. Minimum share capital is SEK 50,000.

The board of directors of a private limited liability company must have at least one director and one alternate director. If there are less than three directors, at least one alternate director must be appointed. The number of directors and alternate directors must be stated in the articles of association (*bolagsordning*). A managing director is not mandatory in

IN BRIEF

- Off-the-shelf solution an easy way to start
- Shareholders may reside in any country
- No personal liability for shareholders

a private limited liability company. The chairman of the board of a private limited liability company may also serve as managing director. A chairman can only be appointed if the board has more than one member.

FORMING A LIMITED LIABILITY COMPANY

Very few companies wish to go through the process of forming a limited liability company themselves and therefore that process will not be described in this fact sheet.

BUYING A LIMITED LIABILITY COMPANY OFF-THE-SHELF

The easiest and most common way to set up a private limited liability company in Sweden is to use an “off-the-shelf” solution provided by a company agent or law firm. Many business services firms have this readily available, enabling a fast start-up process.

Using an off-the-shelf solution gives quick access to a brand new, pre-registered limited liability company that has not previously traded or been engaged in commercial activity. The off-the-shelf solution means that the company can start business as soon as the share purchase agreement is signed and, the share capital (minimum SEK 50,000) is transferred to a bank account specially opened for the company. Once

this is confirmed, a general power of attorney is received by the shareholders enabling them to act on the company's behalf.

The new shareholders must then hold an extraordinary general meeting to change the articles of association to reflect the nature of the business (see "Articles of association" below) and to appoint a new board of directors. A board meeting must then be held to decide the company's new name (see "Registering a company name", below) and elect a chairman of the board of directors and a managing director where applicable. The changes must be registered with the Swedish Companies Registration Office (*Bolagsverket*).

The cost associated with purchasing a pre-registered limited liability company off-the-shelf is generally SEK 10,000–25,000+, depending on the services provided.

The vast majority of foreign companies that set up a limited liability company use the off-the-shelf company solution.

Articles of association

The articles of association must always include:

- The company name
- The location in Sweden of the registered office of the company
- The object of the business
- The share capital
- The number of shares
- The number of board members
- The number of alternate board members
- The number of auditors
- How the general shareholder's meetings will be convened
- The financial year

It is possible to include two additional clauses in the articles of association: a reservation of consent, stipulating that shares can only be transferred with the company's consent; and a clause on the right of first refusal that stipulates the right of shareholders or others to receive an offer to buy shares before they are transferred to a new owner.

Registering a company name

The company name is registered with *Bolagsverket* to ensure it will not be taken by another business. The name protection for a limited liability company is valid for Sweden and for the business activity that the company has registered. Certain rules apply when applying for company names. The name must not be similar to any other registered company name or trademark; it must not be misleading; and it must do more than merely describe the business activity. All company names also include the Swedish word for limited liability company, *aktiebolag*, or its abbreviated form, *AB*.

Registering for tax

Companies register for tax by filling in a Notification of Tax and Contributions Liability form (*Skatte- och avgiftsanmälan*) and sending it to the Swedish Tax Agency (*Skatteverket*). On registration, the company will automatically be sent all documents, VAT and PAYE returns and information required to account for and pay VAT, income tax and social security contributions.

"The Swedish people are innovative and on technology's cutting edge. We highly recommend Sweden as a market for foreign investment."

Canning Fok, Managing Director, Hutchinson-Whampoa Group

BOARD OF DIRECTORS AND MANAGING DIRECTOR

The duties of the board of directors vary according to the size of the company and whether a managing director has been appointed. The board is in charge of the organization and management of the company and appoints the managing director. In private limited companies, the board may appoint a managing director if it wishes.

The board convenes the general meeting of shareholders and decides who is authorized to represent the company (power to sign). If the board comprises more than one member, a member must be appointed as chairman. This person leads the work of the board and ensures that the board performs its duties.

The name of the chairman of the board must be reported to *Bolagsverket*.

Rules of procedure for boards

If the board appoints a managing director it is required to adopt instructions for the allocation of work between itself and the managing director. It also adopts rules of procedure for its own work. A company whose board has only one member needs no rules of procedure.

The board is responsible for ensuring that taxes are paid in due time and that annual accounts are prepared and filed with *Bolagsverket*. The board must also report any changes in the company. The board's responsibilities are extensive and its members may in certain circumstances be held personally liable for the company's debts.

Power to sign - and EEA residence

If no individual is registered as having power to sign, the board is entitled to sign on the company's behalf. In such cases, more than half of the board members must sign jointly.



The managing director, at least half of the board members, at least half of the alternate board members and at least one of the persons with power to sign must be resident in the EEA. If these conditions are not met, the company may apply to Bolagsverket for special dispensation.

If the company has no authorized representative resident in Sweden, the board of directors must authorize a person resident in Sweden to receive service of process on the company's behalf. This person must be registered with Bolagsverket. The person needs to reside in Sweden but does not need to be employed by the company.

SHAREHOLDERS AND SHARE REGISTER

The board of directors must draw up a share register and a list of shareholders. The share register is a public document and must be kept available to the public at the company's office. Shareholders may reside in any country. When a share is sold, the new shareholder must be entered into the share register. Bolagsverket does not register the ownership of the shares.

ACCOUNTING GUIDELINES

All companies that carry on a business activity are obliged to maintain accounting records under the Book-keeping Act and to comply with generally accepted accounting principles. Annual accounts are to be filed with Bolagsverket within seven months of the end of the financial year.

Failure to submit accounts in time results in a fine. If the annual accounts and audit report have not been filed 11 months after the end of the financial year, Bolagsverket may liquidate the company.

AUDIT GUIDELINES

Recent changes of the Swedish Companies Act allow small companies to choose not to have an auditor. A limited liability company needs to have an auditor if it meets at least two of the following criteria, for each and every one of the two most recent financial years:

- More than 3 employees (as an average)
- A balance sheet total of more than SEK 1.5 million
- Net turnover of more than SEK 3 million

Only a certified accountant and public accounting firms (registered by the Supervisory Board of Public Accountants) may audit limited companies.

Companies of a certain size need to appoint a qualified auditor who has passed professional competence examinations if the company meets one or more of the following criteria:

- Companies with annual net sales of more than SEK 50 million

- Companies with an average of more than 50 employees in the past two years
- Companies listed on the stock exchange
- Companies with annual total assets in the past two years of more than SEK 25 million

The auditor ensures that the company's management complies with the Companies Act and articles of association. The auditor may never keep the company's accounts.

Annual tax return

The company must submit an annual tax return for the revenue derived from its business activities.

FINANCIAL YEAR

The financial year of a limited company covers 12 months. The first financial year begins on the day the company is registered, even if the company does not engage in active business until a later date. The company's financial year is stated in the articles of association.

A financial year may be identical with a calendar year or it may be split over two calendar years. Financial years covering the following periods are permitted:

- 1 January – 31 December
- 1 May – 30 April
- 1 July – 30 June
- 1 September – 31 August

The Swedish Tax Agency may consent to a financial year other than those stated above where special cause exists taking into consideration economic interests or other circumstances. It is permissible to have a financial year of less than 12 months or to extend the financial year to a maximum of 18 months when a company is formed or changes its financial year.

DOCUMENTS TO BE FILED ANNUALLY WITH BOLAGSVERKET:

- Annual accounts - including balance sheet, income statement, directors' report, additional notes to the directors' report and financial statements. Large companies must also submit a cash flow statement
- Audit report
- Minutes of the general meeting of shareholders, if the meeting has adopted a dividend payment resolution
- Consolidated accounts and audit report for the majority of parent companies, if the company is part of a group

All documents must be in Swedish. Annual accounts must be signed by all board members and, where applicable, the managing director.



USEFUL CONTACTS

Government agencies**Swedish Companies Registration Office (Bolagsverket)**

SE-851 81 Sundsvall

+46 60 18 40 00

www.bolagsverket.se

The Swedish Companies Registration Office is the government agency that registers new companies as well as changes in established companies and receives annual accounts, etc.

Swedish Tax Agency (Skatteverket)

SE-171 94 Solna

0771 567 567 (from Sweden)

+46 8 564 851 60 (from abroad)

www.skatteverket.se

The Swedish Tax Agency is the government agency for taxation, tax collection and national registration of residents.

FURTHER INFORMATION

at www.investsweden.se

- Starting a business in Sweden - an introduction
- Running a business in Sweden - an introduction
- Corporate taxes in Sweden
- Business cost and prices of key services
- Useful information sources