Insurance/Reinsurance- Sweden

New Business Opportunities for EEA Life Insurance Companies

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Background
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End of Favourable Tax Treatment of Non-qualifying Pension Products

On February 2 2007 the government ended the tax discrimination of cross-border pension products as a direct consequence of the January 30 2007 European Court of Justice (ECJ) ruling against Denmark.(1)

Background

Under Swedish tax law (before the ECJ ruling against Denmark), pension contributions paid by employers (and certain privately paid pension arrangements) to cross-border pension insurance providers were not tax deductible; in contrast, contributions paid to domestic providers were tax deductible. Swedish employers wishing to implement occupational or supplementary pension schemes for their employees were thus forced to arrange such schemes only with insurers established in Sweden or insurers conducting business through a secondary establishment in Sweden.

New Establishment Criteria

Under the new tax provisions, pension contributions paid by employers (and certain privately paid pension arrangements) will be tax deductible where they are paid to an insurer established within the European Economic Area (EEA). However, no policy capital paid before February 2 2007 may be transferred from one life insurance company to another (except for certain portfolio transfers).

The extended tax deductibility thus applies only to new premiums. According to the government, the ECJ ruling does not extend to premiums that have already been paid. As a consequence, Sweden should be allowed to prevent a sudden flow of capital from Swedish life insurance companies to foreign companies.

New Insurance Contract Criteria

In addition to the new establishment criteria, all pension insurance contracts must include an undertaking of the life insurance company to inform the Swedish tax authorities on a regular basis of premiums paid and payments made. Where the information undertaking is not fulfilled or the provision of information is discontinued, the policyholder will be taxed for all premiums paid (plus a 20% notional yield) as income. In addition, a penalty of up to 40% may be charged where policyholders fail to provide the information themselves.

Taxation of Profits

Swedish life insurance companies are subject to a specific yield tax based on a yield tax rate of 15% (for pension insurance) or 27% (for other life insurance) on a notional yield corresponding to a sum equal to the government loan interest rate on the difference between the company's assets and liabilities at the beginning of the financial year.

Pension insurance contracts concluded with EEA life insurance companies will also be subject to a specific yield tax rate of 15%. The tax shall be calculated based on a notional yield corresponding to the government loan interest rate on the technical surrender value of the policy, including the policyholder's calculated share of any bonuses.

End of Favourable Tax Treatment of Non-qualifying Pension Products

Under Swedish tax law (before the ECJ ruling against Denmark), privately paid pension insurance products that did not qualify for tax deduction - either because the insurer was not established in Sweden or because the parties had agreed that it should not qualify - were taxed favourably compared with other insurance savings products (ie, a 15% yield tax rate applied, instead of a 27% yield tax rate) and were not included in the computation of wealth tax. Due to the extension of tax deductibility to pension insurance provided by EEA insurers, the regulations on non-qualifying pension products have been repealed. However, contracts entered into before February 2 2007 will continue to benefit from a favourable tax treatment.

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Endnotes

(1) C-150-04, *Commission v Denmark*.

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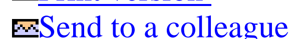
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