



STARTING A PRIVATE LIMITED LIABILITY COMPANY

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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.

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. A limited liability company has a registration number composed of ten digits which serves as its identification number.

There are two forms of limited liability companies: private and public. Certain differences exist between them in terms of applicable regulations. This guide focuses on private limited liability companies since the clear majority of international companies choose this legal setup.

PRIVATE LIMITED LIABILITY COMPANIES

A private limited liability company cannot offer its shares to the public on the stock exchange, any other organised marketplace or to a broader group of people. Minimum share capital is SEK 25,000.

IN BRIEF

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

FORMING A LIMITED LIABILITY COMPANY

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

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 startup process.

Using an “off-the-shelf” solution gives quick access to a brand new, preregistered 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 25,000) 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, decide on 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” typically varies between SEK 10 000 and 25 000 or more, depending on the services provided.

ARTICLES OF ASSOCIATION

The articles of association must always include:

- Company name
- Location of the registered company office in Sweden
- Business activities
- Share capital registered or the minimum/maximum share capital allowed
- Number of shares
- Minimum and maximum number of board members
- Minimum and maximum number of deputy board members
- Minimum and maximum number of auditors (if appointed)
- How the general shareholder’s meetings will be convened
- Financial year

If there is a need to prevent unwanted share transfers, three types of provisions in the articles of association are allowed to limit the unrestricted transferability of shares; the post-sale purchase right clause (most common), the right of first refusal clauses and the consent clause.

OPENING A BANK ACCOUNT

Regardless of whether the limited liability company is bought “off the shelf” or formed from scratch, the company will have to open an account with a bank, credit market company, or credit institution. This is necessary since the share capital has to be transferred to the account. As the banks are facing increasingly strict requirements regarding KYC (Know-Your-Customer) and AML (Anti-Money Laundering) compliance, the opening of a bank account is normally quite time consuming, since the banks have to perform stricter controls of their future customers. Therefore, it is advisable to plan and prepare for this process to be the lengthier part of the process of establishing a limited liability company, especially if the company is not planning to appoint board members or a managing director resident in Sweden.

REGISTERING A COMPANY NAME

The company name is registered with Bolagsverket to ensure it will not be taken by another



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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 cannot be similar to any other registered company name or trademark; it cannot 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 Company Notification Form (Företagsregistrering) and sending it to the Swedish Tax Agency (Skatteverket).

On registration, the company will automatically receive all documents, VAT and PAYE returns and information required to account for and pay VAT, income tax and social security contributions.



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REGISTRATION OF BENEFICIAL OWNERSHIP

The majority of Swedish legal entities, limited liability companies included, must register beneficial ownership information with Bolagsverket. The beneficial owner is the individual/-s who ultimately controls a legal entity.

It costs SEK 250 to register beneficial ownership, and it should as a main rule be done online by an authorized signatory, using the Bolagsverket e-service. If no authorized signatory has access to Swedish e-identification, it is possible to apply for an exemption from filing beneficial ownership electronically. Applying for the exemption costs SEK 400, and registering beneficial ownership by paper form costs SEK 400.

BOARD OF DIRECTORS AND MANAGING DIRECTOR

In a private limited liability company, the board of directors may consist of one or more board members. If there are less than three board members, at least one deputy board member must be appointed. The minimum and maximum number of board members and deputy board members must be stated in the articles of association (bolagsordning).

A managing director is not mandatory in a private limited liability company, but the board of

directors may appoint a managing director if it wishes. The chairman of the board of directors of a private limited liability company may also serve as managing director.

The duties of the board of directors vary depending on the size of the company and whether a managing director has been appointed. The board of directors is in charge of the organisation and management of the company and appoints the managing director.

The board of directors convenes the general meeting of shareholders and decides who is authorised to represent the company (power to sign). If the board of directors 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 OF DIRECTORS

The board of directors is responsible for ensuring that taxes are paid in due time and that annual reports 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

The board of directors always has the power to jointly sign on behalf of the company. In addition, individual signatories may be appointed. Such individuals may also be persons outside of the board.

EEA RESIDENCE

The following persons must be resident within the European Economic Area (EEA):

- At least half of the board members
- At least half of the deputy board members
- The managing director
- The deputy managing directors
- At least one of the specially authorised signatories

If these conditions cannot be met, the company may apply to Bolagsverket for special dispensation.

If the company has no authorised representative resident in Sweden, the board of directors must authorise 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

Shareholders may reside in any country. 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. 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 Swedish Accounting Act (Bokföringslagen) and to comply with general accounting principles. Annual reports 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 auditor's report have not been filed 11 months after the end of the financial year, Bolagsverket may liquidate the company.

AUDIT GUIDELINES

The role of the auditor is to ensure that the company's management complies with the Companies Act (Aktiebolagslagen) and articles of association. The auditor may never keep the company's accounts.

Only a certified accountant and public accounting firms registered by the Swedish Inspectorate of Auditors (Revisorsinspektionen) may audit limited liability companies.

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:

- Average of more than 3 employees
- A balance sheet total exceeding SEK 1.5 million
- Annual net sales exceeding SEK 3 million



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A large limited liability company must appoint a qualified auditor who has passed professional competence examinations if the company meets one or more of the following main criteria:

- Average of more than 50 employees in past two years
- A balance sheet total exceeding SEK 40 million in past two years
- Annual net sales exceeding SEK 80 million

Public limited companies, financial companies and companies with a special dividend restriction must always have a qualified auditor.

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 liability 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. Hence, a company can choose the month in which its financial year will start.

DOCUMENTS TO FILE ANNUALLY WITH BOLAGSVERKET

- Annual report – including balance sheet, income statement, director's report, additional notes to the director's report and financial statements. Large companies must also submit a cash flow statement
- Auditor's report, when needed
- Minutes of the general shareholder meeting, 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

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.



USEFUL CONTACTS

GOVERNMENT AGENCIES

Swedish Companies Registration Office

(Bolagsverket)

SE851 81 Sundsvall

+46 771 670 670

www.bolagsverket.se

www.verksamt.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)

SE171 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.

Swedish Inspectorate of Auditors

(Revisorsinspektionen)

Karlavägen 104

Box 24014, SE104 50 Stockholm

+46 8 738 46 00

www.revisorsinspektionen.se

The Swedish Inspectorate of Auditors is the government's expert authority in matters relating to auditors and auditing.



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BUSINESS SWEDEN Box 240, SE-101 24 Stockholm, Sweden
World Trade Center, Klarabergsviadukten 70
T +46 8 588 660 00 info@business-sweden.se
www.business-sweden.com