



How are you affected by the government's new rent relief package?



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The Swedish government has adopted and announced regulations for the application of a rent relief package due to the Covid-19 pandemic directed towards exposed industries. The package takes the form of a temporary discount on fixed rental costs where the Swedish state carries parts of the landlord's costs for rental discounts which have been agreed between the landlord and the tenant.

Below, we have summarized the regulation together with brief general comments from us regarding its application. Please note that each and every situation will have to be assessed on its own particular circumstances and that our comments and assessments below are being revised on an ongoing basis as the situation progresses and new information becomes available.

Industries covered by the aid

The rent relief is given to landlords who have concluded leases with tenants whom, during the period 1 April 2020 to 30 June 2020, were active in specific sectors according to the following SNI-codes (Swedish Standard Industrial Classification);

1. 451, 454, 472-477, 478, 551-553, 559, 561-563, or

2. 45.320, 47.191, 47.199, 59.140, 79.110, 79.120, 79.900, 82.300,

86.230, 86.904-86.905, 90.010, 90.020, 90.030, 90.040, 91.020, 91.040,

93.119–93.120, 93.130, 93.210, 93.290, 95.110, 95.120, 95.210, 95.220,

95.230, 95.240, 95.250, 95.290, 96.021–96.022, 96.040 och 96.090.

Please follow this link for SNI-codes in English: <http://www.sni2007.scb.se/pdf/080131snisorteradeng2007.pdf>

The codes primarily cover non-consumables, hotels and restaurants but also other industries such as retail, lodging, dentists and hair and body care.

Comment:

The wording of the regulation merely stipulates that the tenant must have been active in the industries specified by SNI-codes. It should not be seen as a requirement that the tenant has to be or have been registered at Statistics Sweden (Statistics Sweden) or the Swedish Tax Agency, as operating under an applicable SNI-code, during the specified period. However, if a tenant is active, but not registered, under an applicable SNI-code, it will probably be required that the tenant present documentation which support that the tenant is or have been operating in an industry covered by the rent relief during the period 1 April 2020 to 30 June 2020.

Requirements

The requirements for receiving the rent relief is 1.) that the parties has entered into a lease for the letting of a commercial premises, where the rent is in a whole or in part determined to a fixed amount, by March 1, 2020, 2.) that the tenant has leased the premises during the period 1 April 2020 to 30 June 2020, and 3.) that the tenant and the landlord have entered into an agreement for a rental discount for the premises for the period 1 April 2020 to 30 June 2020, where the rent is less than the fixed amount that would have been paid during the same period under the agreement and otherwise on unchanged terms.

Comment:

The requirements for the rent relief makes it possible for the landlord and the tenant to enter into an agreement with retroactive effect, provided that such agreement is reached by 30 June 2020. The regulation does not either appear to prevent the parties from entering into agreements for a rent discount, under the prerequisite that the landlord is granted the rent relief.

The rent relief cannot be granted to State authorities and tenants who were in financial difficulty as of 31 December 2019 within the meaning of Article 2.18 of European Commission Regulation No. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, or is subject to payment due to a decision by the European Commission, declaring aid unlawful and incompatible with the internal market.

Size of the rent relief

The rent relief covers a maximum of 50% of the discount on the fixed rental amount agreed upon between the landlord and the tenant during the period 1 April 2020 to 30 June 2020. However, the rent relief may not exceed 25% of the base rent under the lease.

Furthermore, the total amount of rent relief directed to one tenant is not allowed to exceed EUR 800,000. When the authorities assess the size of the rent relief, consideration is to be given to rent reliefs received by other landlords within the framework of the rent relief package in relation to the tenant in question.

Comment:

The wording of the regulation does not provide that the definition of a tenant also includes other entities with significant influence over the tenant. It is unlikely that the assessment for the maximum applicable rent relief takes into account rent reliefs received within the same group of companies.

Applying for the rent relief

The application for the rent relief will be made possible through an online service that the Swedish National Board of Housing is currently developing. However, the application is processed by a County Administrative Board depending on where the premises are located.

Applications for the rent relief can be made from 1 June 2020 to 31 August 2020.

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