Extract from SOU 2024:61

13.4 There is a need for certain changes to electronic staff registers

The Commission of Inquiry's assessment: There are shortcomings in the design and accessibility of electronic staff registers.

For an electronic staff register to be an effective tool, it must be readily and efficiently accessible to the Swedish Tax Agency when it checks compliance with record-keeping obligations during an inspection visit. When the business owner keeps a manual staff register, during an inspection visit it is easy and quick to hand over the book to the Tax Agency's staff for inspection. During an inspection visit, a manual staff register provides the Tax Agency with an immediate overview of who is on the premises on a given day.

Following discussions with staff at the Swedish Tax Agency and during the Commission of Inquiry's participation in inspection visits concerning staff registers, it has emerged that, as a rule, it takes considerably longer to produce electronic staff registers than manual ones during such visits. In some cases, there are also shortcomings regarding the design of the electronic staff register and the availability of data in it. For example, some electronic staff registers do not provide a comprehensive overview of which employees are on duty on a particular day or during a specific period, or such an overview is difficult to obtain. Inspectors may therefore need to check the days on which each employee was registered in order to verify that the documentation and record-keeping requirements have been met. Even though the relevant information required to verify compliance with the record keeping obligations is available, it is in a format that makes it difficult for the Tax Agency to carry out its checks and renders them less effective. Furthermore, it is sometimes the case that the staff register can only be accessed if someone has logged in on the day of the inspection visit.

It can also be the case that only a certain person, such as an owner or other manager, can produce data in the staff register. If the person responsible is not present at the premises at the time of the check, it may take a long time to obtain the information.

These shortcomings mean that checking an electronic staff register often takes considerably longer than checking a manual staff register.

18.2 Proposals relating to electronic staff registers

18.2.1 The problem and what is to be achieved

Under current regulations, organisations subject to the provisions on staff registers may choose to maintain either a manual or an electronic staff register. Exceptions apply to those carrying out construction activities where there is a requirement to have an electronic staff register, provided that the developer has fulfilled their obligation to provide the necessary equipment.

The Commission of Inquiry has found that there are shortcomings in the design and accessibility of electronic staff ledgers. For example, it may take considerably longer to retrieve information from an electronic staff register during an inspection visit. Furthermore, some electronic staff registers do not provide a comprehensive overview of which employees are on duty on a particular day or during a particular period (see section 13.4). By clarifying the existing provisions on electronic staff registers, the verification of the record-keeping requirements can be streamlined and electronic staff registers themselves become a more effective tool (see section 13.4.1).

In order for electronic staff registers to form the basis for effective monitoring, it is essential that the information contained in the register can be provided to the Tax Agency quickly and easily. Requiring that an electronic staff register be designed in such a way that the information it contains can be transmitted electronically to the Swedish Tax Agency, in a specific format and in a specific manner, will facilitate the ability to provide this (see section 13.4.2).

18.2.2 The proposals in brief

In section 13.4.2, the Commission of Inquiry proposes that an electronic staff register should be designed in such a way that the information it contains can be transmitted electronically to the Swedish Tax Agency. Information in the personal register shall be transferred electronically to the Swedish Tax Agency if so requested by the Agency during an inspection visit. An inspection fee will be charged if, during an inspection visit, the Swedish Tax Agency finds that the requirements have not been met. The Swedish Tax Agency may also order the business owner or the developer to fulfil their obligation. Even if the Swedish Tax Agency requests information from the staff register to verify compliance with the obligation to provide information, for example during a desk-based audit, the information must be submitted electronically.

In order to facilitate the transmission of information to the Swedish Tax Agency in connection with inspection visits and other tax inspections, the Swedish Tax Agency shall have the right to prescribe in which format and in what way the information in the staff register shall be transmitted to the Swedish Tax Agency. Otherwise, no new technical requirements shall be introduced for staff registers.

18.2.3 Consequences if no action is taken

If the Commission of Inquiry’s proposal that an electronic staff register should be designed in such a way that data can be transferred electronically to the Swedish Tax Agency is not implemented, the monitoring of electronic staff registers will continue to lack effectiveness.

18.2.4 Alternative measures

As regards the Commission of Inquiry’s proposal that an electronic staff register should be designed in such a way that the information it contains can be transferred electronically to the Swedish Tax Agency, there are no alternative measures, other than not implementing the measure.

18.2.5 Consequences for public finances

Consequences for the Swedish Tax Agency

According to the Swedish Tax Agency, the proposals that an electronic staff register should be designed in such a way that the information it contains can be transferred electronically to the Agency, and the requirement to maintain an electronic staff register for all businesses, will entail a one-off cost of approximately SEK 500,000 for IT development.

The Commission of Inquiry considers that the cost can be managed within the Swedish Tax Agency's existing financial framework.

18.2.6 Consequences for companies

Requirement that an electronic staff register must be designed in such a way that the information it contains can be transferred electronically to the Swedish Tax Agency

The proposal initially affects companies that develop and provide electronic staff registers, in that these registers may need to be adapted to meet the requirement that an electronic staff register must be designed in such a way that the information it contains can be transmitted electronically to the Swedish Tax Agency in the format and manner prescribed by the Agency. However, the Commission of Inquiry considers that these are not technically advanced requirements. It should therefore not entail any significant costs for the companies concerned to develop and update their existing electronic staff registers. The Commission of Inquiry has received an estimate from one such company of 100,000 Swedish kronor for the cost of adapting an existing product to meet the new requirements.

The Commission of Inquiry’s proposals also apply to companies that use an electronic staff register. However, the Commission of Inquiry considers that the consequences for these companies are limited. As mentioned above, these are not advanced technical requirements. The necessary technical updates should therefore be able to take place within the framework of customary software updates and should not significantly affect the price of the staff register. The proposal is therefore considered to have only minor financial consequences for those companies that have an electronic staff register. The proposal aims to increase the Swedish Tax Agency’s control possibilities. This, in turn, could lead to healthier competition, which would benefit businesses.

18.2.7 Consequences for individuals

The Commission of Inquiry has concluded that the additional costs of the proposals for businesses subject to the requirement to maintain a staff register and which do not currently have an electronic staff register can be kept relatively low. It is therefore considered that the proposals do not lead to such increased costs for companies as to make the services or goods provided to individual consumers more expensive. The proposals are also not considered to have any other impact on individuals.

18.2.8 Consequences for law enforcement and judicial authorities and courts

The Commission of Inquiry's proposal may initially lead to a certain increase in the number of inspection visits and decisions on inspection fees, which in turn can be appealed. This could affect the Swedish Tax Agency and the general administrative courts. However, the potential consequences are considered to be limited. It is estimated that any increased costs can be managed within the existing financial framework.

18.2.9 Other consequences

Apart from the consequences discussed above, the proposals are not considered to have any of the effects referred to in section 15 of the Committee Ordination. The proposals are therefore not considered to have any impact on local self-government, on employment and public services in different parts of the country, on gender equality, or on the prospects of achieving integration policy objectives. The proposals are also deemed to have no impact on the commitments resulting from Sweden's membership of the EU.

18.4 The proposal that details of the employers of temporary agency workers should be included in the staff register

18.4.1 The problem and what is to be achieved

It is sometimes the case that people hired from staffing agencies or similar organisations work in a business that is subject to the requirement to keep a staff register and must therefore be recorded in it. However, under current regulations, there is no requirement for the staff register to record that the person has an employer other than the business owner who is required to keep the staff register, nor is there any requirement to include identification details for that employer. Access to such information in the staff register would enable the Tax Agency to more easily identify who the staff’s employer is and assess their working conditions during inspection visits. The value of staff registers may also increase in the context of, for example, an audit, as the data can be used to a greater extent to verify, amongst other things, that the correct employer’s contributions have been reported.

18.4.2 The proposal in brief

The Commission of Inquiry proposes that, in cases where a person working in an establishment subject to the requirement to maintain a staff register has an employer other than the business owner responsible for the register, details identifying that employer should be recorded in the staff register. In this context, ‘employer’ refers to the person responsible for paying employer’s contributions and making tax deductions from the active employee’s remuneration for their work. ‘Information identifying the employer’ refers to the same information that, pursuant to Chapter 9, Section 5 of the Tax Procedure Ordinance (2011:1261), must be provided for the business owner subject to the requirement to keep a staff register, i.e. information regarding the business owner’s name and personal identity number, coordination number, company registration number or equivalent foreign number.

18.4.3 Consequences if no action is taken

If the Commission of Inquiry’s proposals are not implemented, there will continue to be a lack of information in the staff register regarding whether an active employee has an employer other than the business owner subject to the requirement to maintain a staff register, and regarding the identification details of that employer. The benefits that the Commission of Inquiry considers the proposed measure would bring – including making it easier for the Swedish Tax Agency to identify staff members’ employers and assess their working conditions during inspection visits – will therefore not materialise.

18.4.4 Alternative measures

As described in section 16.1, the Swedish Building Workers’ Union and the Swedish Construction Federation have proposed that agency workers should be recorded in a special staff register maintained by their actual employer. Such a procedure would, like the Commission of Inquiry’s proposal, make it easier for the Swedish Tax Agency to determine, during an inspection visit, who the staff’s employer is, and to use the information in the staff registers, for example, to cross-check it against the information in the employer’s declaration. However, the Commission of Inquiry takes the view that a system under which an operator who does not himself operate in the business premises or construction site in question is responsible for keeping a staff register is not an appropriate system. This is because these are individuals who, although formally employed by a staffing agency or similar organisation, work under the direction and supervision of another business owner. Furthermore, it would cause practical problems if an operator who does not himself carry out activities at the premises or construction site in question were to be responsible for keeping a register of staff. For example, it would be difficult for them to ensure that the information recorded in the staff register is accurate or that the register is available to the Tax Agency in the event of an inspection. According to the Commission of Inquiry, a system involving separate staff registers for people employed by staffing agencies is therefore less appropriate than the system proposed by the Commission of Inquiry.

18.4.5 Consequences for public finances

Consequences for the Swedish Tax Agency

According to the Swedish Tax Agency, the proposal will entail a one-off cost of SEK 500 000 for the development of the computer systems.

The Commission of Inquiry considers that the cost can be managed within the Swedish Tax Agency's existing financial framework.

The proposal is not otherwise expected to have any impact on public finances.

18.4.6 Consequences for companies

The proposal will result in an increased administrative burden for companies subject to the requirement to keep a staff register and which employ agency staff. However, the additional administrative burden is expected to be very limited, as the information only needs to be entered once, i.e. when the agency employee starts work for the first time. It is difficult to estimate the cost, as there are no statistics or other data available on the number of companies subject to the requirement to maintain a staff register and which employ agency staff.

The Commission of Inquiry’s proposals aim to strengthen the Swedish Tax Agency’s powers of inspection, which could also lead to healthier competition, thereby benefiting businesses.

18.4.7 Consequences for individuals

The proposal is not deemed to have any consequences for individuals.

18.4.8 Other consequences

In addition to the consequences discussed above, the proposal is not deemed to have any of the effects set out in Section 15 of the Committee Ordinance. The proposal is therefore not considered to have any impact on local self-government, on employment and public services in different parts of the country, on gender equality, or on the prospects of achieving integration policy objectives. Nor is the proposal expected to have any impact on the obligations arising from Sweden’s membership of the EU.