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RULES GOVERNING SCHOLARSHIPS ESTABLISHED BY THE UNIVERSITY OF GOTHENBURG

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Summary	<p>Further to an analysis of scholarships carried out in spring 2016, the University's common rules for scholarships have been updated. Based on general conditions for the award of scholarships (tax rules etc.), the document reports the criteria applicable to first- and second-cycle study scholarships established by the University of Gothenburg and scholarships for postdoctoral students established by the University of Gothenburg.</p> <p>The present Rules on scholarships replace the previously issued instructions and guidelines for the award of scholarships/grants (issued 12.10.1999, ref. B 432 1688/96).</p>

1. General

1.1 The term ‘scholarship’

There is no statutory definition of the term ‘scholarship’ in Swedish legislation [Swedish: *stipendium*].

The Swedish National Encyclopaedia’s definition of *stipendium* can be translated as follows:

“*stipendium* (Lat., ‘pay’, ‘salary’, from *stips* ‘monetary gift’), financial support for students and artists etc. for studies and travel that has come about as a result of funding and donations for specified purposes.”

The Swedish term thus solely provides an indication of how the donor views the contribution but says nothing about the actual circumstances that determine whether the contribution is tax-exempt or liable to tax.

Scholarship established by the University of Gothenburg: A scholarship is established when the University of Gothenburg decides that a contribution to the University from an external funding source shall be used as a scholarship for education or advancement.

1.2 Factors determining tax exemption

Chapter 8, section 5 of the Swedish Income Tax Act (1999:1229) sets out the conditions that must be met for the scholarship to be tax-exempt.

“Scholarships intended for the recipient’s education are tax-exempt. Scholarships intended for other purposes are tax-exempt provided they

- are not remuneration for work that has been or will be carried out on the payer’s behalf, and

- are not disbursed periodically.

Chapter 11, section 46 states that Marie Curie scholarships are not tax-exempt. Provisions governing certain forms of periodic support that are not counted as income will be found in chapter 11, section 47. Act (2007:1419).”

Thus, the fact that a contribution is classified as a scholarship does not in itself mean that it is tax-exempt. This is determined by the actual circumstances, i.e. the criteria in chapter 8, section 5 of the Income Tax Act must be met.

1.3 Other term definitions

Call for applications [Swedish: *utlysning*]: Contains information on the scholarship and the application procedure.

‘Infected scholarship’ [Swedish: *smittad stipendium*]: The Swedish Tax Agency may view a scholarship given to a person who has received a salary from the University during the last two years as earned income, in which case the scholarship is said to be ‘infected’ by previous employment.

1.4 What is addressed in this document

A large number of scholarships are administered each year within the University of Gothenburg. The guidelines in the present document cover scholarships established by the University of Gothenburg using contributions from external funding sources/donors. The scholarships shall be paid to individuals and meet the requirements laid down in the Income Tax Act governing tax exemption.

- 2.1 First- and second-cycle study scholarships established by the University of Gothenburg
- 2.2 Scholarships for postdoctoral students established by the University of Gothenburg

1.5 Purpose of the document

The purpose of the document is to provide an overview of the rules with which we must comply by clarifying the conditions and rules applicable to the respective scholarship.

The rules are intended to ensure that the University of Gothenburg uses scholarships in a uniform, correct manner, and provide guidance to faculties/departments/entities on how scholarships are to be administered. The rules shall also help to increase internal control of how scholarships are established and used, which is important for tax and employment law reasons.

The rules shall ensure that scholarship holders receive adequate information about the conditions applicable to scholarship funding and guarantee that the conditions governing scholarship holders are reasonable. The rules shall also clarify the responsibilities of the Vice-Chancellor/Head of Department when establishing scholarships and accepting scholarship holders.

To facilitate an understanding of the rules and their underlying basis, comments have been added after each point in the document. If there are no comments, no further description has been considered necessary.

2. Scholarships

2.1 First- and second-cycle study scholarships established by the University of Gothenburg

General information on study scholarships

According to the practice of the Swedish Tax Agency, 'study' in this context covers both first- and second-cycle and doctoral (third-cycle) studies.

The main rule is that a scholarship from the recipient's own employer is considered 'infected' by the employment relationship, even if it has been designated as a scholarship and irrespective of its purpose, i.e. irrespective of whether it is a study scholarship or a scholarship for other purposes.

2.1.1 Funding

- Scholarships can only be established using funds from external contributors.
- The contribution decision shall state that the contribution may be used for a scholarship and that it relates to studies. If this is not clear from the decision, written consent must be obtained from the donor. Such consent must be obtained before the scholarship is established. Alternatively, it may be stated in the University's application that the contribution may be used to provide a study scholarship.
- Scholarships may only be established to fund living costs in the form of rent, food and travel.
- Scholarships may not constitute remuneration for work carried out on the University's behalf.

2.1.2 Establishment

- Applications to establish a scholarship are made using the form 'Inrättande av stipendium för utbildning' [Establishment of study scholarship]. The contributor's consent or an extract from the application shall be attached, stating that the contribution may be used as a scholarship.
- Scholarships may relate to a maximum period of 12 months.
- A plan for the programme of studies shall be included as a basis for a decision on establishment of the scholarship.
- Applications to establish a scholarship shall be logged in accordance with the University of Gothenburg's rules on this.
- Decisions on the establishment of scholarships are delegated to the head of the establishing entity (Vice-Chancellor/Head of Department) and may not be delegated further. The scholarship amount shall be confirmed in the decision.
- A copy of the decision to establish a scholarship shall be sent to the scholarship coordinator in Finance. If there are any questions or doubts associated with establishing the scholarship, the scholarship coordinator shall be consulted.

Scholarship amounts for first- or second-cycle students that are intended to cover costs of maintenance shall be at least equivalent to the level available from the Swedish Board of Student Finance (CSN) in the form of a study loan, including a grant element for the scholarship period. The scholarship amount for scholarship holders from non-EU/EEA countries must also take into account the Swedish Migration Agency's maintenance requirements. There are no other requirements governing the scholarship amount.

Comment: Students primarily fund their studies by means of student finance. Students who for special reasons need to fund their studies by means of scholarships must be able to cover their living costs using the scholarship, which is why the amount must be at least equal to the amount available from CSN.

In order to achieve more uniform administration and to maintain a certain consistency in the decisions, it is important that a limited number of persons are involved in decisions on establishing scholarships.

2.1.3 Call for applications

- Once a scholarship has been established, a call for applications is published on the University's website and is open to all qualified candidates. Three weeks is an appropriate period for the call for applications.

Comment: One circumstance indicating that the scholarship is not linked to counterperformance requirements is that a call for applications has been duly made and the scholarship made open to competition.

2.1.4 Applications

- Shall be administered by the faculty/department that established the scholarship.

2.1.5 The scholarship holder

- Shall be a first- or second-cycle student at the University of Gothenburg or another university with which the University of Gothenburg has a cooperation agreement.
- May be awarded the scholarship either for studies within an existing course or for a shorter period of practical research experience that is documented by means of a programme syllabus.
- Shall use the scholarship to cover living costs in the form of rent, food and travel during the period of study.
- May not be employed or have been employed at the University of Gothenburg in the last two years (because of 'infection').

Exceptions may be made from the rule on employment if the following criteria are met:

- it is clear that the scholarship is not linked to counterperformance requirements, which requires that a call for applications has been duly made and the scholarship made open to competition
 - there are no other circumstances indicating that the disbursement should be treated as anything other than a tax-exempt scholarship, and
 - the paid work is limited and carried out in parallel with the programme of studies. (Smaller amounts of SEK 1,000-5,000 per year shall not be considered equivalent to payment of salary or fees.)
- May not be employed or have been employed at the University of Gothenburg in the last two years (because of 'infection').
 - Should not be employed at the University of Gothenburg within three months of the end of the scholarship period. (Applies only to persons not admitted to studies at the University.)

- For tax reasons but also for employment law reasons, the University shall not accord a scholarship holder any form of compensation that can be equated with an employee benefit or that can be perceived as remuneration for work (holiday, holiday pay, parental allowance, sickness compensation, daily expense allowances, meals, company flat, compensation for conference fees, professional fees and similar salary benefits). The costs of travel and participating in any conferences are allowed for when establishing the scholarship and shall form part of the scholarship amount awarded and be funded in the same way.
- Scholarship holders who are required, pursuant to the Tax Procedures Act (2011:1244), to submit a self-assessment shall include information on the scholarship received.

Comment: Scholarships awarded to employees or contractors are always taxable. This applies irrespective of the purpose of the scholarship, i.e. irrespective of whether it is a study scholarship or a scholarship for other purposes.

Scholarships that are disbursed by former employers are viewed for tax purposes as an outflow of funds from the previous employment and shall be taxed as salary, irrespective of whether the remuneration amounts are designated as scholarships.

However, the equivalent does not apply if the scholarship has been awarded before the employment relationship arose, provided it can be demonstrated that the scholarship was not linked to any counterperformance requirements.

Employment after the scholarship period will not normally render the scholarship liable to tax.

2.1.6 Decision and disbursement

- Decisions on the award of scholarships are taken by the head of the establishing entity (Vice-Chancellor/Head of Department).
- Scholarships may relate to a maximum period of 12 months.
- Scholarships shall be disbursed directly to the scholarship holder.
- Scholarships may be disbursed periodically, since tax legislation does not specify that, in order to qualify for tax exemption, they may not be disbursed periodically.
- Scholarships shall be disbursed in advance.
- Once disbursed, the scholarship cannot be claimed back.
- If there are obstacles to using the scholarship for the intended purpose, the scholarship may be reviewed.

2.1.7 Working environment and insurance cover

Scholarship holders are covered by the Working Environment Act and shall be registered in GUSAIDA, the University's student administration system.

The relevant department is responsible for the scholarship holder being insured. Scholarship holders who are admitted to and following a course of studies at the University of Gothenburg are covered by the University's personal injury insurance.

Comment: The University of Gothenburg has a working-environment responsibility for everyone based permanently at the University's premises, including scholarship holders, irrespective of funding. This means that all scholarship holders must be registered.

2.1.8 Residence permit

Scholarship holders from outside the EU/EEA require a resident permit; for more information, see www.migrationsverket.se

2.1.9 Documentation

Documents relating to a scholarship shall be logged in accordance with the University of Gothenburg's rules on this.

2.1.10 Information

The faculty/department that established the scholarship is responsible for providing information on the conditions governing scholarship holders on the University's website. This information shall be available in both Swedish and English. The relevant faculty/department is responsible for the individual scholarship holder receiving written information on the conditions attached to the scholarship in good time before it is disbursed. The scholarship holder shall sign to confirm the information has been received and accepted.

2.1.11 Follow-up

The head of the establishing entity is responsible for following up the application of these rules. Should the Swedish Tax Agency decide the scholarship is taxable, the establishing faculty/department is responsible for the economic consequences for the University.

Scholarships can entail difficult demarcations, and decisions based on the University's scholarship rules are no guarantee of tax exemption.

Comment: The issue of possible tax liability is decided retrospectively by the Swedish Tax Agency. If the scholarship is viewed as indirect salary or periodic support, the scholarship holder will become liable to pay tax, and the University of Gothenburg will be subject to employer contributions and other wage costs for the period in question.

In particular circumstances, the issue of tax evasion may also arise.

If the University compensates the scholarship holder for the tax imposed and the tax surcharge, this is counted as salary. Accordingly, the scholarship holder risks being viewed as an employee although this was not the original intention.

2.1.12 Reporting

Once a year, faculties/departments that have established study scholarships shall submit a report to the scholarship coordinator in Finance.

2.2 Scholarships for postdoctoral students established by the University of Gothenburg

General information on scholarships for postdoctoral students

The Swedish Tax Agency assesses that persons who, after defending their thesis, conduct research at a university – ‘postdoctoral students’ – have generally attained a level of education that makes them competent to conduct research independently and thus their position cannot be compared to those undertaking third-cycle studies. A postdoctoral student can therefore not be given a tax-exempt study scholarship.

The Swedish Tax Agency’s view is thus that postdoctoral scholarships shall be assessed as scholarships intended for other purposes. Chapter 8, section 5 of the Income Tax Act states that the following conditions must be met for scholarships to be tax-exempt:

- scholarships may not be remuneration for work that has been or will be carried out on the payer’s behalf, and
- scholarships may not be disbursed periodically.

Comment: In its response of 11 February 2014 to a question from Uppsala University, the Swedish Tax Agency’s legal department states that their view is that postdoctoral scholarships shall be assessed in the same way as those scholarships intended for other purposes, i.e. that study scholarships are precluded. However, the question of whether ‘postdoctoral education’ meets the requirements for tax exemption under the Income Tax Act has not yet been tested in law, for which reason the Swedish Tax Agency’s view should be seen as the line expected to be taken in any tax case.

2.2.1 Funding

- Scholarships can only be established using funds from external contributors.
- The contribution decision shall state that the contribution may be used for a scholarship and that the purpose of the scholarship is advancement. If this is not clear, written consent must be obtained from the donor. Such consent must be obtained before the scholarship is established. Alternatively, it may be stated in the University’s application that the contribution may be used to provide a scholarship for advancement.
- Scholarships may only be established to be used to fund living costs such as rent, food and travel, and may not constitute remuneration for work carried out on the University’s behalf.
- Neither state funding nor indirect state funding, for example from research councils, may be used to establish scholarships.
- Project-funded activities are considered counterperformance; funding of this nature may not be used to establish scholarships for another purpose.

2.2.2 Establishment

- Applications to establish a scholarship are made using the form ‘Inrättande av stipendium för andra ändamål’ [Establishment of scholarship for other purposes]. The contributor’s consent or an extract from the application shall be attached, stating that the contribution may be used as a scholarship for advancement.
- A plan for advancement shall be drawn up. The plan shall be specific and include a description that clearly sets out the advancement nature of the research. It shall also state that the scholarship does

not constitute remuneration for work on the University of Gothenburg's behalf. The plan shall further make clear that the scholarship holder must have a postdoctoral host (supervisor). The plan shall be approved by the Head of Department.

- Applications to establish a scholarship shall be logged in accordance with the University of Gothenburg's rules on this.
- Decisions on the establishment of scholarships are delegated to the Head of Department and may not be delegated further. The scholarship amount shall be confirmed in the decision.
- A copy of the decision to establish a scholarship shall be sent to the scholarship coordinator in Finance. If there are any questions or doubts associated with establishing the scholarship, the scholarship coordinator shall be consulted.

Comment: In order to achieve more uniform administration and to maintain a certain consistency in the decisions, it is important that a limited number of persons are involved in decisions on establishing scholarships.

In order to distinguish the scholarship holder's activities such as advancement and researcher qualifications from the activities carried out by employed staff, it is important to draw up a document that makes the differences clear.

Work elements forming part of advancement shall be carried out under supervision and shall stop once the scholarship holder has learnt the task. Carrying out work tasks independently is thus not compatible with the status of scholarship holder.

2.2.3 Call for applications

- Once a scholarship has been established, a call for applications is published on the University's website and is open to all qualified candidates. The call for applications shall be open for at least three weeks.

Comment: One circumstance indicating that the scholarship is not linked to counterperformance requirements is that a call for applications has been duly made and the scholarship made open to competition.

2.2.4 Applications

- Shall be administered by the department that established the scholarship.

2.2.5 The scholarship holder

One condition for the award of a postdoctoral scholarship is that the scholarship holder is registered. Registration is by means of the scholarship holder being allocated an x-account, with an extra note specifying that the account belongs to a postdoctoral scholarship holder.

- Must have a doctoral degree or a foreign degree equivalent to a doctor's degree.
- Shall have completed the doctoral degree no more than three years before the application deadline. In particular circumstances, such as leave due to illness, parental leave, clinical duties, commissions of trust within union organisations or similar, the degree may have been awarded earlier.
- May not be employed at the University of Gothenburg (because of 'infection').

- May not have been employed at the University of Gothenburg in the last two years (because of ‘infection’).
- Should not be employed at the University of Gothenburg within three months of the end of the scholarship period.
- Shall be included in the department’s register of postdoctoral students who are funded by means of a scholarship.
- For tax reasons but also for employment law reasons, the University shall not accord a scholarship holder any form of compensation that can be equated with an employee benefit or that can be perceived as remuneration for work (holiday, holiday pay, parental allowance, sickness compensation, daily expense allowances, meals, company flat, compensation for conference fees, professional fees and similar salary benefits). The costs of travel and participating in any conferences are allowed for when establishing the scholarship and shall form part of the scholarship amount awarded and be funded in the same way.
- Scholarship holders who are required, pursuant to the Tax Procedures Act (2011:1244), to submit a self-assessment shall include information on the scholarship received.

Comment:

Scholarships awarded to employees or contractors are always taxable. This applies irrespective of the purpose of the scholarship, i.e. irrespective of whether it is a study scholarship or a scholarship for other purposes.

Scholarships that are disbursed by former employers are viewed for tax purposes as an outflow of funds from the previous employment and shall be taxed as salary, irrespective of whether the remuneration amounts are designated as scholarships.

However, the equivalent does not apply if the scholarship has been awarded before the employment relationship arose, provided it can be demonstrated that the scholarship was not linked to any form of counterperformance requirement.

Employment after the scholarship period will not normally render the scholarship liable to tax.

2.2.6 Decision and disbursement

- Decisions on scholarships for postdoctoral students shall be documented as soon as possible.
- Decisions on the award of scholarships are taken by the Head of Department.
- Scholarships may be disbursed in a maximum of two payments.
- Scholarships may relate to a total maximum period of 24 months.
- Scholarships for postdoctoral students shall conform to the local collective agreement on final salary for third-cycle students at the time the scholarship is established. In determining the scholarship amount, account can be taken of any travel costs to and from the scholarship location at the start and end of the scholarship period (amounts for different countries are set out in CSN’s statute book 2001:1 Annex 4). No additional amount is payable for any family members.
- Once disbursed, the scholarship cannot be claimed back.
- If there are obstacles to using the scholarship for the intended purpose, the scholarship may be reviewed.

Comment: In accordance with practice, the Swedish Tax Agency views scholarships disbursed more than twice and for a period of more than two years as periodic support, the full amount of which is taxable.

2.2.7 Working environment and insurance cover

Scholarship holders are covered by the Working Environment Act and shall be registered. Registration is by means of the scholarship holder being allocated an x-account, with an extra note specifying that the account belongs to a postdoctoral scholarship holder.

Pursuant to the Working Environment Act (1997:1160), the University of Gothenburg has a working-environment responsibility for everyone based permanently at the University's premises, which also includes scholarship holders, irrespective of funding. The department is responsible for maintaining a register of postdoctoral students who are funded by means of a scholarship.

Scholarship-funded postdoctoral students are neither employees nor students, and are not covered by student insurance policies, the social insurance system or collectively agreed insurance.

The relevant department is responsible for the scholarship holder being insured, either by means of private insurance or a policy taken out by the University of Gothenburg for the scholarship holder.

Comment: The recommendations of the Association of Swedish Higher Education Institutions (SUHF) state that a register must be maintained of people present at the seat of learning who have neither been admitted to nor are employees of the institution.

2.2.8 Residence permit

Scholarship holders from outside the EU/EEA require a resident permit; for more information, see www.migrationsverket.se

2.2.9 Documentation

Documents relating to a scholarship shall be logged in accordance with the University of Gothenburg's rules on this.

2.2.10 Information

The department that established the scholarship is responsible for providing information on the conditions governing scholarship holders on the University's website. This information shall be available in both Swedish and English. The relevant department is responsible for the individual scholarship holder receiving written information on the conditions attached to the scholarship in good time before it is disbursed. The scholarship holder shall sign to confirm the information has been received and accepted.

2.2.11 Follow-up

The head of the establishing entity is responsible for following up the application of these rules. Should the Swedish Tax Agency decide the scholarship is taxable, the establishing department is responsible for the economic consequences for the University.

Scholarships can entail difficult demarcations, and decisions based on the University's scholarship rules are no guarantee of tax exemption.

For reasons of tax law, it is important that the Head of Department has a good knowledge of the scholarship holder's tasks and can account for the differences compared with an employed postdoctoral student.

Comment: The issue of possible tax liability is decided retrospectively by the Swedish Tax Agency. If the scholarship is viewed as indirect salary or periodic support, the scholarship holder will become liable to pay tax, and the University of Gothenburg will be subject to employer contributions and other wage costs for the period in question.

In particular circumstances, the issue of tax evasion may also arise.

If the University compensates the scholarship holder for the tax imposed and the tax surcharge, this is counted as salary. Accordingly, the scholarship holder risks being viewed as an employee although this was not the original intention.

2.2.12 Reporting

Once a year, departments that have established scholarships for other purposes for postdoctoral students shall submit a report to the scholarship coordinator in Finance.