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CHAPTER 1

Taxable Persons

Sweden

General

1.53 A taxable person (an 'entrepreneur') is any person who independently and from any place in the world carries out an economic activity for the purpose of obtaining income and gaining a profit. Organisations and individuals whose activities are similar to this may be deemed to be taxable persons, if their annual turnover exceeds SEK 30,000, excluding VAT. Non-profit making organisations are not taxable persons when excluded from income tax liability.

[Page 18]

Group registration

1.54 Upon application to the tax authorities, legally independent entities providing financial services or insurance services may, together with a taxable person who supplies them with goods or services, be treated as a single taxable person for VAT purposes. The same applies to two companies that are closely linked and where one company is entitled to account for income tax on behalf of both of them.

[Page 19]

CHAPTER 2

Taxable Activities

Sweden

Supplies of goods and services

2.114 A taxable person levies VAT on all sales of goods and services, except where these are exempted (see Chapter 4).

The services of intermediaries are subject to VAT notwithstanding the VAT liability of the goods or services which are the subject of the arrangements, unless exemption for such is explicitly stated in the law, e.g. the services of insurance intermediaries (see Chapter 4).

[Page 50]

CHAPTER 3

Place of Taxable Transactions

Sweden

General

3.72 When the place of supply is not deemed to be Sweden and the supply is treated as an export, the seller should not charge Swedish VAT on the invoice to the purchaser.

See also below under 3.75 (c) about news with effect from the 1 July 2002 in certain situations.

[Page 76]

Place of supply of goods

3.73 For supplies of goods, the principal of destination applies. Deliveries of goods to other EU member states are not subject to Swedish VAT if the customer is a taxable person who is registered for VAT in an EU member state other than Sweden. When goods are sent outside the EU this is treated as an export and Swedish VAT is not levied.

[Pages 76 and 77]

Place of supply of services

3.74 With reference to services, the main rule is that the place of supply is deemed to be the place (country) where the seller has established his business or has a fixed establishment from which the service is supplied.

[Page 77]

Exceptions

3.75 The following exceptions apply to the main rule:

(a) *real estate rule*: the place of supply is the place where the real estate to which the services are connected is situated.

(b) *physical services rule*: the place of supply is the place where the services are physically carried out. This rule applies to education, cultural activities, creative artists' performances, entertainment, sports, science and equivalents. Services ancillary to the transport of goods within the EU, e.g. loading, are subject to a reverse charge in the customer's member state provided the customer gives his VAT number there. The same applies to work on movable property sent from another EU member state where carried out in Sweden, if the goods are returned to the other EU member state once the work has been completed.

(c) *customer's rule*: applies to a wide range of intangible services, e.g. transfers and assignments of copyrights, patents, licenses, and so forth and consultancy services. The place of supply is Sweden, where both the seller and customer are situated in Sweden or where the seller is situated in Sweden and the customer is a non-taxable person in another EU member state. The supply is otherwise a dispatch or export of services, e.g. when the customer is a taxable person in another EU member state or a person situated outside the EU. If the customer is situated in Sweden and the seller is situated in another EU member state, the customer must apply the reverse charge in Sweden if the customer is a taxable person ('import services'). The same applies when the seller is situated outside the EU. Otherwise, i.e. when the customer is a non-taxable person (e.g. a private person), it's mandatory for a seller situated in another EU member state or outside the EU to register in Sweden (a VAT representative may be used) and to levy Swedish VAT in the invoice to the customer.

With effect from the 1 July 2002 the main rule is reverse charge by a Swedish customer (taxable person), if the supplier is a taxable person in another EU member state doing the supply of the services in Sweden. Such a supplier can instead opt to apply for a registration via a VAT representative in Sweden and then levy Swedish VAT in the invoice to the customer. After such an application all services made by the foreign entrepreneur in Sweden will be deemed the same way. These new rules apply, under the provisions mentioned, to such a foreign entrepreneur's temporary supply in Sweden of all services but passenger transport and physical services (see b above). The same also rules for such supplies of goods. If the Swedish customer is a non-taxable person (e.g. a private person) it's still mandatory also for a supplier from another EU member state to register in Sweden (via a VAT representative) and to levy Swedish VAT in the invoice to the customer.

(d) *letting of means of transport*: the place of supply is deemed to be outside the EU (i.e. an export supply), if the place of effective use and enjoyment is entirely outside the EU.

[Pages 77 and 78]

CHAPTER 4

Exemptions

Sweden

Transfer of a going concern

4.74 In the case of a transfer of all or part of a business including assets, or in the event of a merger, exemption applies to the supply of stock, equipment and other assets. Exemption also applies to the supply of equipment for which the supplier had no right to deduct input tax at the time of the acquisition by him. Otherwise, the transfer of assets is subject to VAT at 25%.

[Page 112]

Real estate

4.75 The transfer and letting of all real estate is exempted. Exemption also applies to gas, water, heating and network for radio and television connected with the letting of real estate. However, the transfer or letting of permanently installed equipment and machinery is subject to VAT at the 25% standard rate.

The main rule concerning real estate is that the transfer and letting of real estate is exempt from VAT. However, for the letting of real estate used for business purposes, the owner may apply to opt for taxation at the standard VAT rate of 25% provided that the tenant is at least partly liable to VAT. This option applies under the same conditions for both the owners of the real estate and, in the case of sub-letting, to the first tenant and also to the second tenant when he in his turn sublet.

[Page 113]

Health and welfare

4.76 Exemption applies to the following activities:

- (a) health, dental and social services;
- (b) transportation of patients by specially equipped vehicles;
- (c) medical chiropody;
- (d) supply of human organs, blood and milk.

[Page 113]

Education

4.77 Education is exempted when comprising compulsory, upper secondary or university education, as is education provided by schools which are recognised by the government or where the student is entitled to study grants. Exemption also applies to a teacher who is hired by an exempted school and to adult education where this is subsidised by government or municipal departments. However, certain education supplies are subject to VAT at the standard VAT rate of 25%, as are certain books/manuals used for individual studies and certain types of education which cannot be exempted under the above provisions.

[Page 113]

Banking, finance and insurance

4.78 Bank and financing activities including the transfer or dealing in shares and services of intermediaries and similar activities are exempt, as are the activities of insurance agents' intermediaries and the administration of securities and investment gold. Taxable persons may opt for taxation of investment gold where the purchaser is subject to a reverse charge for a supply taking place within Sweden. Insurance and financial services and investment gold are zero-rated when supplied to customers outside the EU.

[Page 113]

Cultural activities

4.79 Library and museum activities are exempted when subsidised by government or municipality, otherwise the reduced VAT rate of 6% applies.

A creative artist's works of literature, music, etc. are exempt where the work performed is protected by Swedish copyright, although the transfer or letting of rights to audio or visual recording of such works or performances are subject to the reduced VAT rate of 6%.

Entrance fees to sports grounds or centres for both participants and audience are exempted when the services are supplied by government, municipality or non-profit making organisations. Otherwise the reduced VAT rate of 6% applies.

[Page 114]

Other exemptions

4.80 Exemption applies to radio and television production where these are subsidised by the government. Exemption also applies to periodical papers of sports clubs, churches, etc. and to advertising in such papers. The production of such periodical papers, including printing services, is zero-rated.

Coins and notes valid as means of payment in general circulation are exempt, as are churchyard services, lotteries, betting and gambling.

[Page 114]

CHAPTER 5

Basis of Taxation

Sweden

General

5.118 The price of goods and services supplied should, in the case of goods, at least equal the purchase cost or manufacturing value, and, in the case of services, the cost of supplying the service.

The valuation basis for the import of goods is to include carriage insurance and freight.

In the case of discounts, no deduction is allowed for previously accounted for VAT when the discount is given under any sort of condition.

[Page 141]

Builders and contractors

5.119 A building contractor may either:

- (a) build a house for the purpose of a later sale, using his own land; or
- (b) carry out building services.

A builder is not liable for VAT when supplying services under category (a) and has no right to deduct input tax. A builder supplying services under both categories above is subject to a tax charge for the construction of a house in the case of (a). The charge should be accounted for, at the latest, in the VAT return for the accounting period two months after the building becomes ready for use. Building services within (b) above are subject to taxation in the usual way with VAT charged on the invoice to the customer on completion. If a final invoice has not been issued by such time, then VAT on the payments on account received should be accounted for in the VAT return for the accounting period two months after the final examination. If the builder has issued invoices on account with VAT before that time, he should account for VAT on payments on account in the VAT return for the accounting period in which they were received. When a tax charge arises under (a), the taxable amount corresponds to the costs, interest on equity and value of the builder's own work performed. The tax rate is 25% on the value calculated excluding VAT.

[Page 141]

CHAPTER 6

Tax Rates

Sweden

General

6.18 Sweden applies the following rates of VAT:

(a) standard rate, currently 25%;

(b) reduced rate of 12%;

(c) reduced rate of 6%;

(d) zero rate.

[Page 157]

Standard rate, 25%

6.19 Supplies of goods or services which are neither exempt nor subject to reduced rates, zero rate or exemptions are subject to VAT at the standard rate of 25%.

[Page 157]

Reduced rate, 12%

6.20 The following are subject to the reduced VAT rate of 12%:

(a) accommodation in hotels and inns as well as camping grounds;

(b) an artist's supply of own works of art and imports from outside the EU of works of art, collectors' items and antiques;

(c) passenger transport and ski lift services;

(d) foodstuffs.

[Page 157]

Reduced rate, 6%

6.21 The following are subject to the reduced VAT rate of 6%:

- (a) library and museum activities, as well as archives, where these are not exempt by virtue of subsidy from the government or municipality;
 - (b) cinema, theatre, opera, ballet performances, as well as the transfer or letting of rights to works of literature and music;
 - (c) the transfer or letting of rights to audio or visual recording of the works or performances of an artist's works of literature, music, etc.;
 - (d) entrance fees to sports grounds or centres for both participants and audience, where these are not exempt by virtue of a grant by the government, municipality or a non-profit making organisation;
 - (e) newspapers, books and periodicals.
- [Pages 157 and 158]

6.22 The following are zero-rated for VAT purposes:

- (a) human organs, blood and milk, insurance and financial services and investment gold are zero-rated when supplied to customers outside the EU;
- (b) the production (including printing services) of periodical papers for sports clubs, churches, etc.

Exemption from VAT

Other supplies of goods or services may be exempted from VAT (see Chapter 4), and such supplies lead neither to a liability to charge VAT nor – unlike zero-rated supplies – to a right to deduct input tax.

The renting of real estate is usually exempt from VAT, but the owner may register for VAT voluntarily and taxable persons may opt for the taxation of investment gold under the provisions mentioned in Chapter 4, where of course the option made occur a right to deduct input tax (see also Chapter 7).

[Page 158]

CHAPTER 7

Credit for Input Tax

Sweden

General

7.69 Only taxable persons ('entrepreneurs') have a right to credit for input tax (i.e. right to deduction) on the acquisition of goods or services (or on imports). Private persons and non-profit making organisations who do not engage in business are unable to deduct input tax. 'Entrepreneurs' making supplies, which are subject to any of the four tax rates of 25%, 12%, 6% or zero rate, have the right to deduct

input tax on costs, acquisitions or imports incurred by the business. However, they may not deduct input tax on costs, acquisitions or import incurred in respect of an exempt supply.

[Page 184]

Partial credit

7.70 An ‘entrepreneur’ who supplies goods or services which are exempt from VAT as well as goods or services which are taxable engages in a mixed business activity. Costs which may be directly attributed to taxable activities enable a full right to deduct input tax on costs, while costs which may be directly attributed to exempt activities do not enable any right to deduct input tax. When costs may be incurred in respect of both kinds of supplies, input tax may be deducted on a pro rata basis. If such 95% on costs can be pro-rated to activities with a right to full deduction, then import tax may be fully deducted on all supplies. The same rules apply if input tax on a single acquisition does not exceed SEK 1,000 and more than 95% of the sales are taxable.

[Pages 184 and 185]

Capital goods

7.71 Capital goods comprise:

- (a) machinery, equipment and equivalent depreciable assets where the cost of acquisition exceeds SEK 200,000 excluding VAT;
- (b) real estate where the cost of acquisition exceeds SEK 400,000 excluding VAT (including purchase of new, additional buildings or construction services).

Over a period of ten years for real estate and five years for other capital goods, an adjustment of the initial deduction must be made based on the variations in deduction entitlement. This applies mainly to partly exempt businesses (i.e. where the taxable person may only partially deduct input tax on supplies which are exempt) and may result in an additional tax payment, or a further deduction of input tax. An adjustment does not arise when capital goods are transferred as part of a transfer of a going concern.

[Page 185]

Imports

7.72 VAT on the importation of goods from outside the EU (imports), on the intra-Community acquisition of goods and on certain imported services (see above) is deductible under the same provisions and to the same extent as described above.

[Page 185]

7.73 A special limitation on the right to deduct input tax applies to ‘entrepreneurs’ engaged in concerts and the circus, cinema, theatre, opera and ballet shows and their equivalent. In these cases a deduction cannot be made to the extent that the income of the enterprise comprises a government or municipal subsidy.

When goods or services are supplied or a withdrawal of goods or services from the enterprise is made for no consideration or for a price below the purchase price (goods)

or the cost of production (goods/services), VAT must be charged on the difference. However, a lower price etc is accepted where the price is set due to the current market situation. The same rules apply where goods in an enterprise with partial credit are fully transferred from the taxable part to the non-taxable part of the enterprise. In such cases there will not be any requirement for adjustment of the initial deduction.

Prohibitions to deduct input tax apply in the following cases:

- (a) where it is not possible to obtain an income tax deduction for entertaining customers;
- (b) purchase or lease of a permanent dwelling;
- (c) acquisition of passenger cars (or motorcycles), except in certain cases (e.g. passenger cars purchased by taxi companies and driving schools).

In addition, a restriction in the case of margin scheme applies (see below under 12.52).

[Pages 185 and 186]

Passenger cars, motorcycles

7.74 Special rules for the right to deduct input tax and for private use apply to passenger cars and motorcycles. Vans and buses, if the total weight does not exceed 3,500 kilograms are treated in the same way as cars. However, this does not apply to lorries where the driver's cab is distinct from storage space.

[Page 186]

CHAPTER 8

Administrative Obligations

Sweden

Invoices

8.65 A taxable person shall issue an invoice for the supply made specifying the following:

- (a) the consideration;
- (b) the VAT amount for each tax rate;
- (c) the supplier's and the customer's names and addresses;
- (d) type of supply;
- (e) place of supply;
- (f) supplier's VAT registration number or civic registration number/organisation number; and
- (g) other information of significance in judging the VAT liability and the customer's right to deduct.

[Page 216]

VAT returns

8.66 For maximum annual sales of SEK 1,000,000 excluding VAT, the VAT may be accounted for on an annual basis. Otherwise VAT must be accounted for on a monthly basis. Where annual turnover exceeds SEK 40,000,000, the VAT return should be filed and VAT paid at the latest by 26 days after the end of the accounting period. Otherwise the limit is 42 days. Partnerships and others who do not file income tax returns may apply to account for VAT once annually, if annual sales do not exceed SEK 200,000 excluding VAT.

[Pages 216 and 217]

Sweden

Liability, chargeable event and usage of the right to deduct

9.37 The supplier's VAT liability and the customer's right to deduct VAT arises when a supply and the corresponding acquisition are made. Prior to this taxable event there is no liability to account for VAT or right to claim VAT.

Output tax must be accounted for in the VAT return of the accounting period under which a supply, in accordance with generally accepted accounting principles, has been or should be accounted for. However, where a payment is to be made on account before the goods are delivered or the services are performed, VAT becomes chargeable on receipt of the payment and according to the amount received. The customer has a corresponding right to deduct input tax. Deduction may be claimed in the VAT return of the accounting period during which an invoice carrying VAT has been received for a cost, acquisition or import made and according to accounting principles has been, or should have been, booked. In the case of a payment on account, the customer may claim deduction of input tax in the VAT return of the accounting period under which payment was made, provided a VAT invoice has been received.

A person is liable to pay VAT in Sweden in the following cases:

- (a) when making supplies of goods or services subject to VAT within Sweden and as part of the business activity;
- (b) when making an intra-Community acquisition of goods comprising movable tangible property;
- (c) on importation of goods from a location outside the EU.

In general, tax liability arises when two conditions are fulfilled: a supply takes place within Sweden, and the supply is made by an 'entrepreneur'. Both conditions must be fulfilled, otherwise there is no tax liability within Sweden. The taxable person may be an 'entrepreneur' in Sweden or a foreign 'entrepreneur'. A foreign 'entrepreneur' who makes supplies in Sweden on an occasional basis must be registered for VAT in Sweden. It is mandatory to use a Swedish VAT representative in such cases, notwithstanding the situations described above under 3.76 (c), which concerns new rules that will be in effect from the 1st of July 2002 and comprise certain supplies made in Sweden to a taxable person by an entrepreneur from another EU member state. The tax authorities normally accept a VAT representative without making a close investigation, but are entitled by law to request security from the VAT representative. The VAT representative must be able to present the tax authorities with original documentation on the principal's business activities in Sweden.

In the case of intra-Community acquisitions, the purchaser (if a taxable person) shall make a reverse charge as well as calculate and account for VAT on the agreed price (calculated in SEK) and may, when entitled to credit for input tax, directly make an equivalent deduction for input tax. Reverse charge must also be made by a non-taxable person (e.g. private person) for intra-Community acquisitions of certain new means of transport (e.g. passenger cars). With reference to imports, anyone that reports an importation to the Swedish Customs shall pay to them VAT on the value of the goods calculated on the basis of cost, insurance and freight. When entitled to credit for input tax, the purchaser may, upon receipt of the relevant invoice or at the earliest date stated by a forwarding agent, make a deduction equivalent to the VAT paid to Customs. In both cases, this is provided that the goods are subject to Swedish VAT.

[Pages 232 and 233]

CHAPTER 10

Penalties

Sweden

General

10.39 If the VAT return is filed after the relevant deadline, a penalty fee of SEK 1,000 is charged (from 1 January 2003, SEK 500). The tax authorities calculate interest on late payments. They may also charge a penalty of 20% if they discover an error in the VAT return. If a supply or an acquisition is accounted for in the wrong period the penalty is only 5% of the amount of the error made.

[Page 246]

Sweden

General

11.15 A taxable person is entitled, within six years after the year in which a decision concerning VAT liability is made, to request reconsideration by the tax authorities. An appeal of the decision may be submitted to the country's administration court within the same time limit.

[Page 253]

CHAPTER 12

Special VAT Rules

Sweden

12.51 Special arrangements for calculating and accounting for VAT apply to the following cases:

Margin schemes for second-hand goods and travel agents

12.52 When calculating VAT the taxable amount shall, under the conditions set out below, be the profit margin rather than the price excluding VAT. The following illustrates where the margin scheme is mandatory and where it is permitted to opt to apply the scheme rather than the general rules.

A dealer in second-hand goods, works of art, collectors' items and antiques may opt to apply the scheme on sales if the goods were supplied to him within the EU by:

- (a) a non-taxable person (e.g. a private person);
- (b) a taxable person accounting under the scheme in Sweden or in another EU member state;
- (c) a taxable person transferring equipment exempt from VAT;
- (d) an artist exempt from tax liability;
- (e) a taxable person in another EU member state, where the goods are his equipment and he is exempt from liability to account for VAT in his country according to local rules for small enterprises.

If a business applies the margin scheme, invoices should not indicate VAT separately relating to supplies, and the purchaser is prohibited from deducting VAT as input tax. [Page 273]

Travel agents

12.53 Travel agents dealing with customers in their own name and using the supplies and services of other taxable persons for the provision of travel facilities for the direct benefit of the traveller are obliged to apply the margin scheme. An agent may only opt not to use the scheme where the traveller (i.e. the customer) has the right to deduct input tax (see Chapter 7). However, the travel agent may always choose to specify VAT in invoices issued. The travel service is deemed to be supplied in the country where the travel agent has established his business or has a fixed establishment. However, there is a deemed export (no Swedish VAT) on that part of the travel agent's service relating to transactions performed by a taxable person outside the EU.

The Swedish National Tax Board considers that the standard tax rate of 25% should apply to the travel service, although supplies purchased from others might be subject to reduced tax rates. The travel agent's purchase of goods and services which are not for the direct benefit of the traveller follow general rules in respect of the right to deduct input tax (see above).

Where supplies are made strictly as agents (thus not acting in their own name), for a principal, VAT is due on the agent's commission. When the agent's service relates to trips beginning or ending abroad or accommodation in hotels abroad the agent does not levy VAT because the place of supply of his services is also considered to be abroad.

[Pages 273 and 274]

Artists' supply of own works of art

12.54 An artist has a special VAT status with reference to his own works of art.

Where these supplies do not amount to SEK 300,000, excluding VAT for the financial year, the artist is not liable to VAT. He may, however, opt for taxation.
[Page 274]

THE END