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Cases of carrousel trading in Sweden demand an alteration in generally accepted legal practice

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1 Background – the legislator's measures against VAT frauds and the VAT research

In this article, I come back to the topic of VAT frauds of carrousel type (so-called carrousel trading), where the Swedish State is suffering from bis losses of revenues regarding value-added tax (VAT). Previously, I have emphasized the importance of legal certainty so that the legal proceedings do not lead to entrepreneurs not intending to appropriate money from the public treasury still become accused in tax proceedings and criminal cases caused by investigations on suspected carrousel trading conducted by *Skatteverket* (SKV), the tax authority, and *Ekobrottsmyndigheten* (EBM), the Economic Crime Authority.

In a series of articles during the period of 2021–2025, I have written about the problems with the phenomenon of carrousel trading,[1] where I make the overall conclusion that the legislator

[1] The longer articles are published in the JFT and *Tidningen Balans fördjupningsbilaga* (The Periodical Balans Advanced articles) and in one case in *Svensk Skattetidning* (Swedish Tax Journal), and these are the following: *Momsbedrägerier av så kallad karuselltyp och NJA 2018 s. 704* (VAT frauds of so-called carrousel type and NJA 2018 p. 704), *Svensk Skattetidning* (Swedish Tax Journal) 2022 pp. 118–130 (Forssén 2022); *Skenfaktura med momsdebitering – konsekvenser för skatt och redovisning* (Fictitious invoice with charging of VAT – consequences for tax and accounting), *Tidningen Balans fördjupning* (The Periodical Balans Advanced articles) 2023 pp. 1–9 (Publ. 2023-06-13, www.tidningenbalans.se), Forssén 2023a; *Momsbedrägerier genom karusellhandel – erfarenheter i Sverige avseende mervärdesskatt, redovisning och straffrätt i förhållande till EU-rätten* (VAT fraud by carousel trading – experiences in Sweden regarding VAT, accounting and criminal law in relation to the EU law), JFT 4–6/2023 pp. 344–378 (Forssén 2023b); *Aktuell utredning löser inte problemet med momsbedrägerier* (Current official report does not solve the problem with VAT frauds, *Tidningen Balans fördjupning* (The Periodical Balans Advanced articles) 2024 pp. 1–11 (Publ. 2024-05-06, www.tidningenbalans.se), Forssén 2024a; *Mellanmän och frågor om karusellhandel respektive vinstmarginalbeskattning – en jämförelse av gamla och nya mervärdesskattelagen i Sverige* (Middlemen and questions about carrousel trading and profit margin taxation – a comparison of the old and the new VAT act in Sweden), JFT 4/2024 pp. 294–329 (Forssén 2024b); and *Frågor med anledning av slutbetänkandet Åtgärder mot mervärdesskattebedrägerier* (Questions on account of the final report Measures against VAT frauds), *Tidningen Balans fördjupning* (The Periodical Balans Advanced articles) 2025 (Publ. 2025-05-15, www.tidningenbalans.se), Forssén 2025a. In 2021, I started the series in question with the article "*Rätt resurs på rätt ställe minskar momsbedrägerierna*" (The right resource on the right place decreases the VAT frauds) in the Swedish net paper *Dagens Juridik* (Today's Law), Publ. 2021-05-05, at 11.07, www.dagensjuridik.se (Forssén 2021). Concerning my other shorter articles in *Dagens Juridik* (Today's Law) about carrousel trading, I refer to my e-book from 2024. "VAT carrousels and commercial money laundering, etc., which is available on www.forssen.com, under *PFS Böcker* (with the code 047Blå) and in printed version at *Kungliga biblioteket i Stockholm* (the National Library of Sweden) and at Lund University Library. Forssén 2021 has been central for the continued series, since I mention the question about registration control at the SKV as decisive to stop VAT frauds regardless of whether it is a matter of carrousel trading or other frauds concerning VAT. I have also written an article in the JFT with suggestions to use legal semiotics in connection with the registration to VAT

has failed to come to terms with the phenomenon VAT frauds of so-called carrousel type. Since the beginning of the 2000's so-called reverse liability for payment has been introduced in several areas so that the flow of liquid regarding erroneous excess input tax from the State to fraudsters completely cease to exist. However, experience shows that the fraudsters adapt to the alterations of the VAT legislation by changing mode of procedure so that they circumvent the measures taken by the legislator. A case in point is the criminal case NJA 2018 p. 704, which I especially mention in Forssén 2022 concerning goods not comprised by reverse liability for payment, namely gold of a low fineness, silver and platinum .

In Forssén 2023b, I state that the legislator in Sweden may be deemed failing with suppressing the phenomenon of VAT frauds by carrousel trading. The mode of procedure to succeed has been assumed to be precisely the introduction of reverse liability for payment (previously reverse tax liability) in various fields, which has been done since 2000 when that order was introduced as main rule for the supply within the country of investment gold. Thereafter, this has continued inter alia with trading with emission rights. However, I conclude that the failure by the legislator is rather obvious with regard to one single case nowadays might be a matter of billions of Swedish crowns of accounted VAT being questioned by the SKV and the EBM. Instead of effective legislative measures, I state that the development in reality has led to investigations and judgments of the tax object, that is of the transaction's (nowadays the delivery's and the supply's) character and placement, have been replaced in the investigations by the SKV and the EBM so that the investigations concerning in the first place trading between the EU's Member States regard a certain type of goods, above all electronical products.[2]

Concerning the taxation question and the tax fraud question, the mentioned development of how the matters on carrousel trading are treated has led to the administrative courts and the general courts not even being given a chance to try the basic question of who is a tax subject but the mentioned preconceived perception of the importance of what sort of goods the case concerns is allowed to overshadow that aspect. In Forssén 2024b, I describe above all concerning matters on cases of commission trading or ordinary agent relationships (middleman situations) how it causes a loss of VAT revenues from big international enterprises for the State. This is caused by the SKV and the EBM disregarding whether the taxable amount lies at them regarding income from licences for the operating systems in for example computers or mobile phones and the middleman – often a rather small enterprise – being levied a taxable amount which anyone should realize does not fit with the ability-to-tax principle.[3]

The latest attempt from the legislator to take measures against VAT frauds of carrousel type consisted of the investigation *Åtgärder mot mervärdesskattebedrägerier* (Measures against

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which is intended to refine the choice of subjects to register by developing artificial intelligence (AI) as a tool in that respect, *Juridik och teknologi – idéer för AI-verktyg till momsgranskningen i Sverige* (Law and technology – ideas for AI-tools to the VAT investigation in Sweden), JFT 1/2025 pp. 31–64 (Forssén 2025b).

[2] See Forssén 2023b, p. 367.

[3] See Forssén 2024b, section 6, *Frågan om karusellhandel och sammansatta transaktioner bestående i att en elektronisk produkt utgör en vara och en licens avseende operativsystemet* (The question about carrousel trading and composite transactions of electronical products consisting of goods and licences for the operating system).

VAT frauds).[4] Inter alia, the investigation mentioned carrousel trading and stated above all that the exemption for orally information as a prerequisite for tax fraud according to *skattebrottslagen (1971:69*, the Tax Fraud Act, here abbreviated SBL), the Tax Fraud Act, would be removed, that is that erroneous information would not only regard erroneous information in VAT returns or in other written messages to the SKV. In my opinion, that would have been very hard to carry out with regard to legal certainty, which I mentioned in Forssén 2024a and Forssén 2025a and the suggestions did neither lead to supposed legislation on 1 July, 2025. Add thereto that carrousel trading cases typically contain matters of fictitious transactions, and that this has become especially complex by the reform in 2008 and the implementation then of article 203 of the EU's VAT Directive (2006/112/EC) in the Swedish VAT legislation. Thereby, a special liability for payment exists for falsely charged VAT regarding inter alia such transactions, but without any mentioning in the SBL of whether liability for payment of such an amount constitutes *skatt* (tax) at the trial of questions about tax fraud. I bring up that question in Forssén 2023a and remind here about it constituting especially complex problems, since the competence in the field of VAT is conferred to the EU, whereas the criminal law is still comprised by an exclusively national competence and the matter about the SBL thus shall be solved directly at the Swedish Parliament without going via the EU.[5]

My analysis of the carrousel trading problems has contributed to my suggestion of a great tax reform in Sweden.[6] My criticism of the existing system consists above all in the analysis of the VAT questions not being done by at first judging the importance of the question of the tax subject before treating the question of the tax object. Thus far, incentive has been lacking for such an order by the legislator's measures as well as in the VAT research in Sweden. The academics are not giving the legislator useful influences, and it has led to misdirected proceedings in the administrative courts as well as in the general courts regarding the taxation question and the tax fraud question. In a series of articles during 2020–2023 published in the JFT and The Periodical Balans, I reviewed all theses in Sweden during 1994–2020 on the subject of indirect taxes (i.e. in the first place VAT, excise duties and customs), where twelve of fourteen concerned VAT. The common denominator for my criticism of the VAT research was that the researchers pass over the tax subject question to instead directly treat the object question.[7]

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[4] The investigation submitted the partly report *Skyddet för EU:s finansiella intressen Ändringar och kompletteringar i svensk rätt (SOU 2023:49)*, The Protection of the EU's financial interests Alterations and completions in Swedish law (SOU 2023:49), and the final report *Åtgärder mot mervärdesskattebedrägerier (SOU 2024:32)*, Measures against VAT frauds (SOU 2024:32).

[5] See Ch. 10 sec. 6 of regeringsformen (1974:152, here abbreviated RF), the 1974 Instrument of government and the preparatory works to the EU-act (SFS 1994:1500), prop. 1994/95:19, Sveriges medlemskap i Europeiska unionen (Sweden's membership of the European Union) Part 1, p. 472. See also Forssén 2025a, the section *Sveriges advokatsamfund anknyter i remissvaret till sina synpunkter vid reformen 2008* (The Swedish Bar Association connects in its considerations to its viewpoints at the reform in 2008).

[6] I have presented it in the JFT and followed up with a short version in *Tidningen Balans* (The Periodical Balans). See Björn Forssén, *Förslag till en stor skattereform i Sverige som också förbereder en EU-skatt* (A proposal for a great tax reform in Sweden which also is a preparation for an EU tax), JFT 5–6/2024 pp. 455–496 (Forssén 2024c), and Björn Forssén, *Förslag till grundbultar i en stor skattereform* (Proposal of cornerstones in a great tax reform), Tidningen Balans fördjupning (The Periodical Balans Advanced articles) 2025 (Publ. 2025-10-02, www.tidningenbalans.se). (Forssén 2025c).

[7] I began that series with an article in the JFT in 2020 concerning the method questions in the VAT research in Sweden. See Björn Forssén, *Momsforskningen i Sverige – metodfrågor* (The VAT research in Sweden – method questions), JFT 6/2020 pp. 716–757 (Forssén 2020). I express Forssén 2020 and my other articles during 2020–

I am not going through more about measures to take by the legislator. Instead, I especially bring up in this article what *Sveriges Advokatsamfund* – the Swedish Bar Association – should do to contribute to tax proceedings and criminal cases where VAT frauds by carrousel trading constitute a central element leading to trials in the highest instance so that current law will be filled out for the benefit of eliminating such for the purpose of the building of society undesired gaps in *mervärdesskattelagen (2023:200*, here abbreviated ML), the VAT Act, and the VAT Directive and the SBL.

2 Description of the problem regarding the role of the lawyers in the carrousel trading cases

To fill out current law on questions about carrousel trading, I would like to see more precedents in the Swedish *högsta förvaltningsdomstolen* (HFD), Supreme Administrative Court, and the Swedish *högsta domstolen* (HD), Supreme Court, in cases on the tax question and the tax fraud question. It would, as mentioned, benefit if not the elimination so at least a decrease of the extent of the phenomenon VAT frauds of carrousel type. However, as far as my experience goes the level of knowledge is too low in those respects by the participants in the courts[8] to achieve such dynamics in the development of the case-law that undesired gaps in the ML and the SBL no longer would be possible to use by the fraudsters. Therefore, I suggest in this article some adjustments of the Swedish Bar Association's *Vägledande regler om god advokatsed*, Guiding principles of professional conduct for lawyers (here abbreviated VRGA). Above all, thereby shall the tax subject question no longer be passed over by the focus in the matters and cases in question being set on the object question to the detriment for the trial of who is the one that should be subject of a taxation measure regarding VAT in cases of carrousel trading. The adjustments of the guiding principles of professional conduct for lawyers that I am suggesting in the present respect concern above all to avoid that knowledge in VAT law is obtained from experts on the subject too late in the cases in question, and as a result of the lawyer's passivity to seek support to be able to emphasize the tax law at an earlier stage of the present matter and case assertions of reconstruction after the event being made by the SKV or the prosecutor, where finally so is done. The rule that I first consider that the Swedish Bar Association in the first place should adapt to the tax proceedings is the rule meaning that the lawyer shall not be instructive (didactic) is to be found in the VRGA, namely in the rule 5.4 (*Vilseledande uppgifter* – Misleading information).[9] Below, I come back to inter alia that rule in the VRGA, but already here, I may emphasize that a supposition for my suggestion is that the members of the Swedish league of lawyers are interested at all to deepen their knowledge in the subject of VAT law. Before I go further in the next section with suggestions of adaption of the VRGA, I give in this section a short description of the problem

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2023, where I mention the theses in Sweden on the subject indirect taxes during the period of 1994–2020, in my e-book from 2024, *Indirect taxes – A Swedish experience of the research on the EU law*. It is available on www.forssen.com, under *PFS Böcker* (with the code 044Blå) and in printed version at *Kungliga biblioteket i Stockholm* (the National Library of Sweden) and at Lund University Library.

[8] With the participants in the proceedings in question, I mean in the tax proceeding, a lawyer or another representative, the SKV and the members of the administrative court and in the criminal case, a lawyer, a prosecutor and the members of the general court.

[9] See *Regler för advokatverksamhet, femte upplagan* (Rules on the Role of Lawyers, fifth edition) from January 2025, section I, *Vägledande regler om god advokatsed* (Guiding principles of professional conduct for lawyers). See https://www.advokatsamfundet.se/Nyhetsarkiv/2025/juni/regler-for-advokatverksamhet-har-uppdaterats/ (visited 2025-07-24).

regarding today's treatment of the questions on VAT which must be considered in the carrousel trading cases on the theme of tax fraud.

A necessary prerequisite for tax fraud according to sec. 2 of the SBL is that the crime has been intentional. Therefore, it is central for the problems in question that the SKV states in proposals of decisions based on tax audits that the entrepreneur has been in bad faith (mala fide) about the acquisitions for which the entrepreneur is exercising deduction for input tax were included in a chain of transactions where falsifications occurred in the form of carrousel trading. At the same time I wrote Forssén 2024b, I was the author in a work group at the Swedish Bar Association where the mission consisted of writing a draft of considerations from the Bar Association over SOU 2024:32. In Forssén 2024b and in the Bar Association's considerations over SOU 2024:32,[10] the perception is mentioned that the Advocate General in a case at the Court of Justice of the EU (CJEU) states in the opinion for a judgment. The case concerned a matter of so-called *missing trader* regarding carrousel trading.[11] Of interest for the question of mala fide in cases of carrousel trading is that the Advocate General in the opinion for a judgment to the CJEU in the joined cases C-131/13, C-163/13 and C-164/13 mentioned that *missing trader* is a case of carrousel trading where the fraud quite simply consists of a trader disappearing but considered that the receiver of an invoice still can be in good faith (bona fide) about that it would mean that falsifications have occurred regarding the accounting of VAT. The Advocate General noted that a case of *missing trader* means that the receiver of an invoice makes a deduction for charged input tax, whereas any output tax is not accounted for by the vendor, or it is made at a low amount and the goods in question are put into circulation again.[12] The Advocate General stated that there are several various types of goods that can be used at VAT frauds by such carrousel trading, and that the fraudsters often prefer goods like '*computer components or mobile phones*',[13] since those have a high value per unit and are easy to transport. Moreover, the Advocate General stated that it is not a matter of normal chains of transactions, but of activities organized solely for a tax fraud to be carried out but that it also occurs that ordinary businesses are used, with or without their knowledge. The Advocate General considered that some traders may not even be aware that they are participating in a fraud and may be acting in good faith. According to the Advocate General, "it is only the missing trader who commits fraud per se by failing to pay the tax due to the tax authorities". The Advocate General also admitted that the VAT system is fairly complex, but that a complete neutrality of tax benefits it, whereas "the other side of the coin is

[10] The considerations were submitted to the Department of Finance on 2024-11-15. *Sveriges advokatsamfunds remissvar av 2024-11-15 till Finansdepartementet över SOU 2024:32*, the Swedish Bar Association's considerations of 2024-11-15 to the Department of Finance over the Government's report Measures against VAT frauds (SOU 2024:32), are to be found on the Bar Association's website (https://www.advokatsamfundet.se/) with No. R-2024/1201.

[11] See the CJEU's joined cases C-131/13, C-163/13 och C-164/13 (Schoenimport "Italmoda" Mariano Previti, ECLI:EU:C:2014:2455) and the Advocate General's opinion for a judgment to the CJEU (ECLI:EU:C:2014:2217). This, I brought up also in my latest article in the JFT. See section 3.1 in my article *Rättssäkerhet i mål om moms och anknytande frågor i Sverige* (Legal certainty in cases on VAT and connected questions in Sweden), JFT 4/2025 pp. 261–294 (Forssén 2025d).

[12] See items 32–34 of the Advocate General's opinion for a judgment to the CJEU in the joined cases C-131/13, C-163/13 and C-164/13. See also Forssén 2024b, p. 313.

[13] Cp. the Sw. language version, '*datorer eller mobiltelefoner*', i.e. computers or mobile phones.

that the complexity of the system makes it easier to perpetrate fraud using its own mechanisms".[14]

My experience is that despite the Swedish Bar Association's considerations over SOU 2024:32, lawyers omit to emphasize the viewpoint of the Advocate General, whereas the SKV invokes the "Italmoda"-case without even mentioning what the Advocate General stated in the opinion to the court. Then, the EBM and the prosecutor still goes on the SKV's examination regarding the tax and tax surcharge question. If anyone of the defenders read on and the defendant for instance wants to invoke an alternative scenario to what the prosecutor states the objection from the prosecutor will typically continue to be that it is a matter of reconstruction after the event.

Thus, in my opinion the defenders should change their mode of procedure in the work of defending an entrepreneur who can invoke circumstances as proof to have been in good faith about eventual falsifications for VAT purposes in a chain of transactions where he or she is included. Instead of waiting to prove oneself to be clever about what the prosecutor states based on the protocol of the preliminary investigation, where the SKV's examination is included, it is better to investigate as early as possible whether there is an alternative scenario to invoke or otherwise some legal objection to make. If such an opportunity is not used by the defender, there is only denial remaining for the defendant. Then, the SKV may in practice stand uncontradicted when the SKV already in the tax audit states that the entrepreneur has been in bad faith about falsifications concerning the accounting of VAT by a counterpart and this by and large is based only on the tax object consisting of electronical products – which of course are easy to transport. In my opinion, a defence in the present context is best carried out for the suspect by the defender making objections on the theme of mala fide already in connection with the entrepreneur responding on the SKV's proposal of a decision so that questions of fact and questions of law are not ignored just because the participants in the court do not observe that what the SKV and the prosecutor are stating does not fit with the ability-to-tax principle. Thus, the rule 5.4 of the VRGA should not remain in its current wording to justify that the lawyer is not making a rectification when realizing that the SKV and the EBM is not founding what they state on current law in the field of VAT. If there is not even objective coverage for intent the tax fraud question comes to nothing already for that reason. Thus, it is important not to disregard that erroneous information is one supposition for crime since the legislator considers that what is an erroneous information concerning tax fraud *must be decided with regard to the rules in the tax legislation which in the individual case stipulates the tax liability. This connection between the tax fraud case and the taxation question can of course not be broken*.[15]

The connection between the tax fraud case and the taxation proceedings concerning what constitutes erroneous information will not have its rightful place in the carrousel trading cases unless the lawyers contribute to make precedents by the VAT law being tried in the context and then it is a matter of emphasizing the knowledge in the subject of VAT law so that the HFD and the HD will not dismiss the need of guidance for the lower instances with a short no

[14] See items 31–37 of the Advocate General's opinion for a judgment to the CJEU in the joined cases C-131/13, C-163/13 and C-164/13. See also Forssén 2024b, pp. 313 and 314.

[15] See prop. 1995/96:170, *Översyn av skattebrottslagen* (Overview of the tax fraud act) , p. 91; the preparatory works to the reform of the SBL on 1 July, 1996, by SFS 1996:658, whereby the tax fraud was altered from an effect crime to a risk crime.

to leave to appeal. Otherwise, the SKV will of course continue to issue standpoints where its opinion is submitted without any analysis as I am describing in Forssén 2025d concerning inter alia the special 'VAT commission rule' in Ch. 6 sec. 7 of *mervärdesskattelagen (1994:200*, here abbreviated GML).[16] A lawyer should make an effort to bring up in the HDM some case of more guidance than NJA 2018 p. 704, where the question of intent – mala fide – was not even comprised by the leave to appeal. Otherwise, the district courts and the courts of appeal are likely to continue to accept that the administrative courts in the neighbouring tax cases allow the SKV to invoke as an actual current law that the special 'VAT commission rule' expands the concept tax liability (nowadays liability for payment) to comprise also middleman situations which do not constitute commission trading in a civil law sense.[17]

Unless precedents of an opposite meaning come up than what the SKV is stating in the recently mentioned respect, a continued legal uncertainty thereby exists inter alia for ordinary agents, since an application of the special 'VAT commission rule' normally leads to an unforeseen raise of the taxable amount for such enterprises. It also means that the Swedish State, as mentioned, continue to lose VAT revenues by the licences for the operating systems in electronical products like computers and mobile phones not being taxed of the big international enterprises owning the licences.

Thus, I state in Forssén 2025d that legal certainty demands that leave to appeal will be granted in the HFD and the HD so that the basic principles of what constitutes VAT according to the EU law will not continue to be passed over in the carrousel trading cases.[18] In my opinion, as I also state above, a continued unclear legal situation concerning the phenomenon of carrousel trading is to the detriment both for the legal certainty and the public treasury.[19] Concerning the role of the lawyers in the carrousel trading cases, it shall of course also be regarded on the theme of legal certainty. From now on, I am going through how the Swedish Bar Association should adjust the VRGA for the benefit of the leaving of viewpoints in the proceedings regarding carrousel trading on current law by the lawyers concerning which questions of law have a value as precedents and should lead to the HFD and the HD giving leave to appeal when the lawyers assist clients appealing on the theme of VAT frauds of carrousel type.

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[16] There, I state that the SKV concerning the importance of the ML replacing the GML on 1 July, 2023 does not alter its viewpoint about the existence of a special 'VAT commission rule'. In its standpoint of 2020-09-25, the SKV has only made an addition, "Nytt: 2023-05-31" ('News: 2023-05-31'), where the SKV notes that the ML does not mean any alteration of the SKV's legal judgment. See the SKV's standpoint of 2020-09-25, *Förmedling av tjänster i eget eller i annans namn, mervärdesskatt* (Intermediation of services in one's own or somebody else's name, value-added tax), dnr 8-314934, section 3.2. See https://www4.skatteverket.se/rattsligvagledning/384806.html?date=2020-09-25 (visited 2025-07-14). See also Forssén 2024b, p. 300.

[17] Like in Forssén 2025d, I mean the following with the expressions actual current law and current law in a true sense. Actual current law does not follow already by the interpretation of an actual law rule and has neither been expressed in the form of a precedent from the HFD, whereas this is the case regarding what I mean with current law in a true sense, whereby I may also mention that the CJEU is the utmost interpreter of the EU law, as concerning the VAT rules. That the CJEU is the utmost interpreter of the EU law follows by the highest court in a Member State being supposed to obtain a preliminary ruling from the CJEU concerning an interpretation question that the national court cannot determine. See article 267 third para of the Treaty on the Functioning of the European Union.

[18] See Forssén 2025d, sections 5–5.3.

[19] See Forssén 2025d, section 5.3.

3 A necessity of guidance from the Swedish Bar Association for the benefit of legal certainty in the carrousel trading cases and as support for the lawyer in the role of receiver in bankruptcy

3.1 The Swedish Bar Association's responsibility for the legal certainty in criminal cases on carrousel trading

In a procedural perspective of importance inter alia in criminal cases on carrousel trading, I consider that the Swedish Bar Association should complete its *Vägledande regler om god advokatsed*, Guiding principles of professional conduct for lawyers (here abbreviated VRGA), namely in the rule 5.4 (*Vilseledande uppgifter* – Misleading information).[20] There it is stipulated that *a lawyer must not mislead the opposite party by regarding actual circumstances or the content of a rule of law presenting information which the lawyer knows is erroneous* (Sw., "*En advokat får inte vilseleda motparten genom att om faktiskt förhållande eller innehållet i rättsregel lämna uppgift som advokaten vet är oriktig*."). In the adjoining commentary, it is inter alia stated that *the rule is only aiming at the lawyer's knowledge* (Sw., "*regeln tar sikte endast på advokatens vetskap*". The rule means that the lawyer must not mislead about facts or about the content of a rule of law but is at the same time considered meaning that the lawyer shall not be didactic. This means that the lawyer is not considered acting in conflict with the VRGA, if he or she is not taking the prosecutor out of a misunderstanding of the meaning of the rules in the ML and *skatteförfarandelagen (2011:1244*, here abbreviated SFL), the Taxation Procedure Act. Taken by itself, the Bar Association decided on 13 June, 2024 about introducing – with the coming into force of 14 June, 2024 – the rule 2.1.3 in the VRGA, which – according to its headline – means that a lawyer must not take a case if he or she is lacking the competence and experience that the case requires. In the commentary to the rule inter alia the following is stated:

> *Several jurisdictions have rules of ethics that emphasizes the importance of lawyers' competence when they are taking on cases. Also in The Council of Bars and Law Societies of Europe (CCBE) and its Code of Conduct, it is emphasized that a lawyer should not handle a matter which the lawyer knows or should know that he or she is not competent to handle without co-operating with a lawyer having the necessary competence* (Sw., "*Flertalet jurisdiktioner har etiska regler som betonar vikten av advokaters kompetens när de åtar sig uppdrag. Även i den europeiska sammanslutningen av europeiska advokatsamfund, CCBE, och dess Code of Conduct, framhålls det att en advokat inte bör hantera ett ärende som advokaten vet eller borde veta att han eller hon inte är kompetent att hantera, utan att samarbeta med en advokat som har den nödvändiga kompetensen*.").

The problem is only that the lawyer appointed by the district court as public defender or private defender seldom has the necessary competence in the subject VAT law and should seek the required co-operation in that respect outside the community of lawyers. Time will show whether matters will be treated in the Bar Association's disciplinary board about lawyers' setting aside in the present respect of the rule 2.1.3 of the VRGA. However, the

[20] See *Regler för advokatverksamhet, femte upplagan* (Rules on the Role of Lawyers, fifth edition) from January 2025, section I, *Vägledande regler om god advokatsed* (Guiding principles of professional conduct for lawyers). See https://www.advokatsamfundet.se/Nyhetsarkiv/2025/juni/regler-for-advokatverksamhet-har-uppdaterats/ (visited 2025-07-24).

problem that I am bringing up here remains, which is that although the defence lawyer has required VAT competence himself or herself or acquires it by co-operation – with other members of the Bar Association or tax law competent business lawyers or economists at the accounting firms – he or she is not considered having a didactic role.

Thus, those involved in the proceedings might reason in a complex criminal case – like concerning alleged VAT fraud of carrousel type – without regarding the VAT principle according to the EU law. If the lawyer realize that the prosecutor has missed in the description of the deed what VAT is according to the EU law or does not have any cover otherwise for the prosecution according to the rules in the ML or the SFL he or she should take a didactic role as soon as possible, rather already at the preliminary investigation so that a decision of prosecution can be avoided. As far as my experience goes, it is hard to come in as an adviser trying to get the proceedings right regarding the VAT rules when it already has gone on for a long time at the district court or even has reached the court of appeal. The counter-argument from the prosecutor will not seldom be that the client and defender are doing a reconstruction after the event, when an expert is consulted and testifies about precisely the meaning of current law. An even worse situation which I have also experienced is being consulted in the court of appeal as assistant to the defender, but the evidence is not allowed to be examined again since the main part of the proceedings nowadays shall be conducted in the district court and another round of questioning therefore will be dismissed in the court of appeal. In the court of appeal, it will only be a matter of listening to video recordings of questionings from the district court that seems ineffective for the correct investigation of the cause. It did not matter that the prosecutor afterwards told the defender that my statement was interesting, whereby no sarcasm was intended but the comment by the prosecutor was perceived by the defender as honestly meant. The principle *jura novit curia* (the court knows the laws) is neither helping on the theme of fair trial, if not either the district court or the appeal court are competent in VAT law. Often, the convicted does not understand anything of what he or she has experienced in the courts, which more than I should see as a legal certainty problem on the theme of fair trial.

I consider that it is not to work as a defender in a criminal case regarding carrousel trading by just being gifted about what is to be found in the protocol of the preliminary investigation. In the first place, it is a matter of emphasizing precisely this on behalf of the clients who have a real activity and not only have hired an enterprise occurring as warehouse in several investigations, but which is not accepted by the SKV as a real warehouse enterprise, to distinguish the client from those consulting such enterprises to move goods around in so to speak a carrousel. If the defenders do not use such arguments and evidence to present counter-arguments in the form of an alternative scenario on the theme of seriousness to the prosecutor's conventional assertions, the case can be lost. The prosecutor's arguments are basically built on a report from the SKV. There, the arguments are that the lawyer's client is in bad faith (mala fide) about his or her enterprise occurring in a VAT fraud of carrousel type. If the defender does not invoke an alternative scenario to the prosecutor's it means in practice that the defender is disregarding that the Advocate General in the opinion for a judgment to the CJEU in the joined cases C-131/13, C-163/13 och C-164/13, as mentioned, considered that a trader can be unaware of participating in such a fraud and be acting in good faith. By such a passivity in the proceedings the defender is only confirming the SKV's preconceived idea that those dealing with electronical products would be considered having an enhanced duty of examination and that they are in bad faith. In practice, this means that the defender is helping a prosecutor who states an ill-founded deed description to gain a hearing by the court, and the fact that nobody in the court is regarding that the defendant can have been in good

faith means not only that he or she is not given a fair trial according to article 6(1) of the European Convention of Human Rights (here abbreviated ECHR),[21] but even that the so-called presumption of innocence in article 6(2) being disregarded.[22]

Unless an alternative scenario is presented when this is possible it does not matter for the defender to pick around in the protocol of the preliminary investigation – which sometimes can comprise thousands of pages – to find a *smoking gun* concerning some detail on who have had the right to attest or not in the enterprise. That is really playing on the prosecutor's piano if the defenders in connection with cases of more than one prosecuted in an enterprise devote themselves to get the clients to blame each other.

With regard to these aspects on how criminal cases in the present cases can become ineffective on the theme of current law concerning the VAT, I consider that the Swedish Bar Association as soon as possible should complete the rule 5.4 in the VRGA, so that it will not constitute an obstacle in practice for the correct investigation of the cause in criminal cases which concern questions regarding alleged VAT fraud of carrousel type. Thus, the Swedish Bar Association also has a responsibility for those involved in the proceedings of criminal cases shall contribute to the legal certainty in cases which basically regard asserted carrousel trading. The Swedish Bar Association should take that responsibility for the monopoly for the members in criminal cases shall continue to be motivated also in such cases. Otherwise, I consider that the monopoly should be abolished or modified for the benefit of at least the present questions.

Even if the Bar Association would not revise the VRGA in pursuance of what I propose, it should be apparent for lawyers who assume the role of defenders to make legal objections against the client being accused of tax fraud based on he or she having issued an invoice with a falsely charged VAT. It is namely not stated in the SBL that the word *skatt* (tax) in sec. 2 of that act would comprise such an amount when it is not accounted for in a special tax return to the SKV. By the preparatory works to the reform of 2008, whereby article 203 of the VAT Directive regarding liability for payment for such an amount was implemented in the GML by SFS 2007:1376 it follows instead that the only consequence for an enterprise which has issued such an invoice is precisely the liability for payment, which remains as long as it has not issued a credit invoice. By the liability for payment for such an amount being determined in a separate rule, GML Ch. 1 sec. 2(e), the legislator emphasized that the measure meaning a falsely charged VAT shall not lead to anything else than a special liability for payment of the amount in question for the enterprise issuing the invoice.[23] In its considerations of 2024-11-15 to the Department of Finance over SOU 2024:32, the Bar Association also reminded about it raising objections in connection with the reform of 2008 meaning that a rule concerning crime

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[21] The European Convention's – ECHR – complete title is: European Convention for the Protection of Human Rights and Fundamental Freedoms Rome 4 November 1950.

[22] Regarding the principle of innocence: see also article 48(1) of the EU Charter of Fundamental Rights and article 11(1) of the UN's Universal Declaration of Human Rights. See in the latter respect the website of the UN Association of Sweden (*Svenska FN-förbundet*): https://fn.se/vi-gor/vi-utbildar-och-informerar/fn-info/vad-gor-fn/fns-arbete-med-manskliga-rattigheter/den-allmanna-forklaringen-om-de-manskliga-rattigheterna/ (visited 2025-07-26).

[23] See prop. 2007/08:25, *Förlängd redovisningsperiod och vissa andra mervärdesskattefrågor* (Extended accounting period and certain other VAT issues), p. 90. GML Ch. 1 sec. 1 third para and sec. 2(e) is corresponded by ML Ch. 16 sec. 23. See also Forssén 2025d, section 3.3.1 and Forssén 2023a, p. 3.

fighting does not belong to the tax legislation, why the Bar Association raised objections against the introduction on such foundations of a rule lying on a person who has falsely charged VAT to account for and pay the amount to the State.[24]

That the lawyers as defenders in the carrousel trading cases should react already today when prosecutors invoke SBL sec. 2 as support for a deed consisting of issuing an invoice with falsely charges VAT may be deemed following from what the Swedish Bar Association states in its considerations of 2024-11-15 to the Department of Finance over SOU 2024:32 concerning the word skatt (tax) in that rule. The Bar association mention that anyone who issues an invoice containing an amount falsely denoted as VAT shall account for the amount in a special tax return and pay it to the State if the person does not issue a credit invoice to the receiver of the invoice.[25] Then, the Bar Association states that the preparatory works to the reform of 2008 means precisely that it is the only consequence for the issuer of the invoice, since the legislator emphasized that *a falsely charged VAT shall not lead to anything else than a liability of payment for the person who has falsely charged the tax*.[26] Thus, the Bar association considers that the issuer of the invoice cannot be deemed committing tax fraud according to the same rule, since an amount falsely denoted as VAT in an invoice is not stipulated being *skatt* (tax) according to SBL sec. 2. On the other hand, according to the Bar Association the receiver of an invoice containing such an amount can be comprised by the prerequisites for tax fraud in SBL sec. 2, since the invoice is not founding any right to deduct input tax. Therefore, the Bar Association also states that for he or she who has issued such an invoice now in question can criminal law responsibility come up concerning complicity to tax fraud according to Ch. 23 sec. 4 of *brottsbalken (1962:700*, the Penal Code). Complicity in the tax fraud can be deemed being committed by the receiver of the invoice if he or she has tried to exercise right of deduction for the amount falsely denoted as VAT as if it would be input tax. In my opinion, depending on whom of the defendants in the case that the lawyer is assisting different reasons can thus exist for bringing up the importance in the present respect of the word *skatt* (tax) in SBL sec. 2. However, my point is that the defenders already today have support of the Bar Association's considerations over SOU 2024:32 to question a prosecutor's description of the deed already in that sense if they realize that the prosecution and the presentation of the facts by the prosecutor lack reflections concerning the question mentioned. In my opinion, they should react already at the interrogation during the preliminary investigation when the prosecutor for the first time presents the description of the deed so that it will not come up objections about reconstruction after the event in case the pointing out of the meaning of the word *skatt* (tax) in the SBL is not made until during the proceeding in the district court or the court of appeal.

3.2 A necessity of guidance from the Swedish Bar Association as support for the lawyer in the role of receiver in bankruptcy

Unless the defenders in the tax fraud cases or lawyers or other representatives in the taxation proceedings question the SKV's standpoints by setting out from current law in a true sense the SKV of course will continue with issuing standpoints where its viewpoint is invoked by the

[24] See the Swedish Bar Association's considerations of 2024-11-15 to the Department of Finance over SOU 2024:32 (No. R-2024/1201) and the reference there to prop, 2007/08:25, p. 86.

[25] See ML Ch. 7 sec:s 49 and 50.

[26] See prop. 2007/08:25, p. 90.

representatives of the SKV and by the prosecutors without any analysis as I am describing above and in Forssén 2025d concerning the special 'VAT commission rule'. In Forssén 2025d, I brought up the SKV's establishing of an actual current law also within the fields of health care and social care, namely concerning the VAT situation for the staffing enterprises in that respect. Concerning that problems, I suggested in Forssén 2025d that measures should be taken by the Finnish tax authority by the issuing of detailed instructions so that big dominating enterprises are not given a comparative support to pursue their opinion of a VAT fee hiring out of personnel with the risk of forming a parallel current law compared with the CJEU's case-law according to its preliminary ruling on 12 March, 2015 in the case C-594/13 ("go fair" Zeitarbeit).[27]

In above all the items 23–25 in its verdict, the CJEU emphasizes that a judgment whether an enterprise within the fields of health care and social care shall charge VAT on its services shall be made in two steps. This means that the tax subject question concerning whether the person in question constitutes a taxable person as well as the question whether the tax object is exempted from VAT must be regarded at the judgment of whether value-added taxation shall be made regarding a staffing assignment within the fields in question. Thus, it is not sufficient to establish that the personnel hired out is fully qualified within the fields in question or can present some other fulfilled demand on authorization. Instead, it is the enterprise, the taxable person himself or herself, who must take a health care or social care responsibility in relation to patient and user to be entitled not to charge VAT for the assignment.[28]

The common denominator for my criticism of the VAT research was just that the researchers pass over the tax subject question to instead directly treat the object question. In Forssén 2025d, I mentioned that it, besides my two theses,[29] so far has only existed one Swedish thesis within the VAT law that concerns the tax subject question.[30] It is *Mervärdesbeskattning vid obestånd* (Value-added taxation at insolvency) by Jesper Öberg. However, there the EU law is sparsely treated with the motivation that *the EC's legislations only give the frames and must be filled out by national rules*, whereby he noted that any correspondence to those for the examination central rules on bankruptcy in the GML did not exist in the then VAT directives.[31]

Thus, I consider that the fact that it has occurred that the SKV has stated viewpoints on how a lawyer who has assumed the role as receiver in bankruptcy shall handle VAT issues in that

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[27] See the CJEU's preliminary ruling C-594/13 ("go fair" Zeitarbeit), ECLI:EU:C:2015:164.

[28] See Forssén 2025d, section 2.2.1.

[29] See Björn Forssén, *Skattskyldighet för mervärdesskatt – en analys av 4 kap. 1 § mervärdesskattelagen* (Tax liability for VAT – an analysis of Ch. 4 sec. 1 of the ML), Jure Förlag AB 2011 (Forssén 2011), licentiate dissertation, and Björn Forssén, *Skatt- och betalningsskyldighet för moms i enkla bolag och partrederier* (Tax and payment liability to VAT in joint ventures and shipping partnerships), Örebro Studies in Law 4/2013 (Forssén 2013), doctor's thesis. Forssén 2011 and Forssén 2013 are available in the data base DiVA (www.divaportal.org) and on www.forssen.com.

[30] See Forssén 2025d, section 3.2.

[31] See Jesper Öberg, *Mervärdesbeskattning vid obestånd Andra upplagan* (Value-added taxation at insolvency Second edition), Norstedts Juridik AB 2001. (Öberg 2001), s. 19. The thesis is from 2000. I refer to the published book: Öberg 2001. See also Forssén 2020, pp. 733 and 738.

respect speaks for a dialogue being resumed between the collective of receivers in bankruptcy and the SKV. In my opinion, this means that the Swedish Bar Association should take an engagement in such questions to counteract that the SKV's viewpoint is established as an actual current law, instead of the perception of current law in a true sense being developed. In the present context, the case I am especially thinking of concerns the treatment of VAT at bankruptcy regarding falsely charged VAT for which a liability for payment remains after the debtors bankruptcy. The question is which responsibility lies with the lawyers in their role as receivers in bankruptcy to solve the situation, whereby I state the following setting out from what I state thereby in Forssén 2025a:

- Since the receiver in bankruptcy's main task is to act for as favourable a liquidation as possible of the bankrupt's estate from the viewpoint of the creditors, it has been considered that the receiver in bankruptcy should be active by representing concerning the debtor's accounting of VAT so that levied VAT will be reduced if it is possible, which can be expected being of importance for dividends in the bankruptcy. This follows by *Riksskatteverkets* (nowadays the SKV's) *Moms vid konkurs* (VAT at bankruptcy) from 1984.[32] Of interest in the present context is that therein was also stated the following (in my translation): *The debtor and the receiver in bankruptcy should consult each other at the drawing up of their returns. If the debtor does not file a return it is to be desired that the receiver in bankruptcy, on the request from* länsstyrelsen*, the county administrative board (nowadays the SKV, my remark), submits suchlike information that* länsstyrelsen *still can make as correct a taxation decision as possible*.[33] Concerning a falsely denoted VAT, the receiver in bankruptcy should rather see to it that the debtor issues a credit invoice than letting the amount falsely denoted as VAT being included with the assets in the bankruptcy estate.

- As far as my experience goes, there is no routine by the collective of receivers in bankruptcy regarding measures that should be taken by a receiver in bankruptcy concerning the debtor's accounting of VAT. In my opinion, legal certainty reasons should be deemed existing to impose on the receivers in bankruptcy a responsibility to issue a credit invoice regarding a falsely charged VAT so that such a debt is not a liability for the bankrupt's estate. For such reasons, I consider that it should not rest upon the debtor – the individual – to apply at the SKV's head office for release from liability for payment according to SFL Ch. 60 sec. 1. For release, there is namely a demand of extraordinary reasons, and furthermore it is unclear whether the institute of release comprises amounts falsely denoted as VAT. In an article from 2018, I brought up the release institute in question of the SFL.[34] By the way, I state in Forssén 2025a, when I there too emphasize that it must be clarified whether an amount constituting a

[32] See *Riksskatteverkets* (the National Tax Board's) *Moms vid konkurs – information om hur man redovisar moms i samband med en konkurs* (VAT at bankruptcy – information on how to account for VAT in connection with bankruptcy), RSV 556 edit 1 (May 1984), under the headline *Behörighet att föra talan i skatteprocess* (Resolution to speak in tax proceedings), p. 13.

[33] See the mentioned *Riksskatteverkets Moms vid konkurs*, under the headline *Deklarationsskyldighet* (Liability to submit returns), p. 13.

[34] See Björn Forssén, *Befrielse från skatt – en nåd att stilla bedja om hos Skatteverkets huvudkontor och Regeringen eller rättspröva hos HFD* (Release from tax – a mercy to peacefully pray for at the SKV's head office and the Government or as a law trial by the HFD), *Tidningen Balans fördjupningsbilaga* (The Periodical Balans Advanced articles) 3/2018 p. 3–5 (Publ. 2018-06-12, www.tidningenbalans.se/*Fördjupning*). (Forssén 2018). Forssén 2018 is also available on www.forssen.com.

falsely charged VAT is comprised by the word *skatt* (tax) in the SBL, that it should also be clarified in the SFL if the SKV by virtue of the rules on personal liability of payment (Sw., *företrädaransvar*) in Ch. 59 sec:s 12–21 can carry through a lawsuit for such an amount against a representative of a legal person, for instance a limited company, which has issued the invoice with the amount.[35] To save space, these questions will however not be mentioned any more in this article.

- Such a liability for payment which is now in question shall not remain in the bankrupt's estate only because the debtor is lacking the resolution to issue a credit invoice due to the state of bankruptcy. Therefore, I consider that it once again should be developed routines for the receivers in bankruptcy regarding the mentioned questions on VAT at bankruptcy. This can preferably be made by the collective of receivers in bankruptcy and the SKV together, whereby of course the Swedish Bar Association should participate in the development of such routines for the support of the lawyer in the role as receiver in bankruptcy.[36]

The last-mentioned, I have also suggested in a handbook on VAT from 2019.[37] In Forssén 2019b, I also mention the problems with the SKV establishing as an actual current law principles deviating from the VAT law. In that respect, I may mention the following.

Previously, it occurred that the SKV's *Handledning för mervärdesskatt* (Handbook for VAT) of 2005 was invoked for a receiver in bankruptcy being liable to invoice the orderer of the erecting of a building VAT for services not carried out and which neither would be carried out after the decision on declaration of bankruptcy.[38] In my opinion, the perception of the SKV conflicts with the ability-to-tax principle, since VAT would be charged without the rendering of a contractor's service being carried out. The perception was (in my translation) expressed as follows: *If the contractor is declared in bankruptcy the VAT shall be accounted for all payments on account or in advance which have been received before bankruptcy breaking out. The VAT shall be denoted in an invoice or an equivalent document which shall be drawn up when the contractor's work stops and shall be calculated after the tax rate applying when tax liability emerged for the payments om account. Further, it shall in the invoice it be noted the VAT on eventual demands in excess of what has been paid in advance or on account*.[39]

As far as my experience goes, it was the last sentence in the quotation from the SKV's handbook that both receivers in bankruptcy and the SKV invoked as support for the receiver in bankruptcy being liable to issue invoices with VAT to an orderer of the erecting of

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[35] See Forssén 2025a, the section *Oäkta moms i skenfaktura och företrädaransvar* (False VAT in a fictitious invoice and personal liability of payment).

[36] See Forssén 2025a, the section *Konkursförvaltarna och frågan om kreditfaktura avseende felaktigt debiterad moms* (The receiver in bankruptcy and the question about a credit invoice regarding falsely charged VAT).

[37] See p. 191 in *Momsrullan IV: En handbok för praktiker och forskare* (The VAT roll IV: A handbook for practicians and researchers). (Self-published 2019). (Forssén 2019b). Forssén 2019b is available on www.forssen.com, and in printed version at *Kungliga biblioteket i Stockholm* (the National Library of Sweden) and at Lund University Library.

[38] See the SKV's Handbook for VAT of 2005 (SKV 553 edition 16).

[39] See the SKV's Handbook for VAT of 2005, p. 946 – section 41.3.8, *Byggnadsföretags konkurs* (the contractor's bankruptcy).

buildings for services which the orderer never had received and neither would be rendered by the debtor or the bankrupt's estate. The sentence remained in the SKV's Handbook for VAT of 2009,[40] but it was finally abolished in the edition of 2010.[41]

From Forssén 2018, I iterate that the described perception of the SKV before the mentioned sentence was abolished from its VAT handbook constitutes an example of what I call an actual current law established by the SKV through its handbooks and standpoints etc. The SKV's perception according to the handbook of 2005 apparently was in conflict with the within the tax law fundamental ability-to-tax principle, that is in conflict with current law in a true sense regarding inter alia the VAT law. Thus, I state again that the situation constituted an example of the phenomenon of actual current law and should be observed by the legislator and tried in the HFD, which should give leave to appeal in tax proceedings regarding questions which otherwise are allowed to be settled in lower instances by the perception of one of the parties, that is by for instance the SKV's standpoints as an expression of an actual current law.[42]

4 Concluding viewpoints

In my opinion, the Swedish Bar Association should emphasize to the defenders that the VRGA means that a lawyer is expected to present an alternative scenario to what the prosecutor states with reference to the SKV's preconceived idea about mala fide existing by those dealing with for instance electronical products. In that respect, I consider that the lawyer has all reason to contribute to a fair trial by invoking what the Bar Association bring sup in its considerations over SOU 2024:32 with reference to the opinion presented by the Advocate General in the "Italmoda"-case meaning that although someone is included in a chain of transactions where carrousel trading occur he or she may be acting in good faith about it. Thus, an effective defence in the present respect should, apart from what in my opinion is the case today, start already at the first interrogation when the prosecutor presents the description of the deed as support of his or her suspicion of crime on the theme of VAT fraud of carrousel type. Then, the prosecutor must also decide early during the preliminary investigation whether suspicion of tax fraud shall be completed by adding commercial money laundering to the description of the deed. Thus, I consider, as above-mentioned, that the rule 5.4 of the VRGA should not remain in its current wording to justify that the lawyer is not making a rectification as soon as he or she realizes that the SKV or the EBM is not founding what they state on current law in a true sense in the field of VAT.

In such cases today, the prosecutors are not meeting any objections from the defenders, but a prosecutor can rather freely adjust a description of the deed on the theme of tax fraud by adding late during the preliminary investigation a suspicion of commercial money laundering. In my experience, it is neither unusual that the chairman or chairwoman of the court helps the prosecutors to make corrections for example when they already in the description of the deed have mixed up input tax and excess input tax. Then, such conduct can occur as far up as in the court of appeal without the question being asked whether the prosecutor's adjustments shall be classified as belonging to the same category as accusations of reconstruction after the event

[40] See the SKV's Handbook for VAT of 2009 Part 2 (SKV 554 edition 4), section 41.3.1.3 (p. 1173).

[41] See the SKV's Handbook for VAT of 2010 Part 2 (SKV 554 edition 5), section 40.3.1.3 (p. 1189).

[42] See Forssén 2019b, pp. 191 and 192. See also in the present respect Forssén 2019a, section 3.11.3.

when a lawyer is given reason to teach about current law in the field of VAT. Therefore, the rule 5.4 of the VRGA must not be a hindrance for the defender as one of the participants in a trial worth to name as such in a western state governed by law.

Furthermore, I may emphasize that the Swedish Bar Association has all reason to give guidance to the lawyers in their capacity of receivers in bankruptcy concerning the treatment of VAT at bankruptcy. I state this in section 3.2 of this article, which does not demand any alteration or completion of the VRGA. Instead, I suggest as mentioned, that once again routines would be developed for the receivers in bankruptcy regarding the handling of questions on VAT at bankruptcy. This can preferably be made by the collective of receivers in bankruptcy and the SKV together, whereby the Swedish Bar Association should participate and the former National Tax Board's handbook from 1984, *Moms vid konkurs – information om hur man redovisar moms i samband med en konkurs* (VAT at bankruptcy – information on how to account for VAT in connection with bankruptcy), can give some ideas for the wording of the routines in question. Since the ML and the SFL are special legislations in relation to the civil accounting law, should of course viewpoints on the routines be obtained from the Swedish Accounting Standards Board (*bokföringsnämnden*, here abbreviated BFN), which is responsible for the development of *god redovisningssed* (generally accepted accounting principles) according to Ch. 8 sec. 1 first para first sen. of *bokföringslagen (1999:1078)*, the Book-keeping Act, and thus may have valuable viewpoints for accounting purposes. Unfortunately, it is suggested in the budget proposal for 2026 that the BFN shall be closed. According to the government shall as from 2027 the BFN's tasks be transferred to and fitted into the Swedish Inspectorate of Auditors (*Revisorsinspektionen*, here abbreviated RI).[43] This is taken by itself not affecting my viewpoints in this article, but I am mentioning proposal as a circumstance in the same context as that in which the accounting issues about the VAT exist.

When this is written, the latest event due to the investigation Measures against VAT frauds (*Åtgärder mot mervärdesskattebedrägerier*) is that the government on 9 and 16 October, 2025 submitted considerations to the Council on Legislation (Sw., *Lagrådet*) based on SOU 2024:32 and SOU 2023:49 respectively, where the latter has led to a government's bill of 6 November, 2025, prop. 2025/26:43, *Kompletteringar och förtydliganden i fråga om sanktioner vid skatteundandragande och bedrägerier* (Completions and clarifications regarding sanctions at tax evasion and frauds). In the bill, it is suggested that also verbal information might lead to punitive responsibility according to the SBL and to tax surcharge. Furthermore, it is suggested that the concept erroneous information shall be altered to clarify that anyone who submits information about VAT regarding a transaction included as an element of a VAT fraud shall be deemed having submitted an erroneous information if he or she knew or should have known that the information was erroneous. In the considerations of 9 October, 2025, it is inter alia suggested that the SKV shall be given greater possibilities of registration control, and – under certain circumstances – be able to decide that excess input tax shall not be counted in for the VAT registered person. The Bar Association also considered in its considerations of 2024-11-15 to the Department of Finance that an increased control by the SKV of who is registered to VAT typically should give a more focused choice of investigation objects and more concentrated matters and cases about tax fraud, where the SKV reports somebody to the EBM on suspicion of VAT fraud.[44] *Föreningen Auktoriserade*

[43] See prop. 2025/26:1, *Utgiftsområde* (Expenditure Area) 24, p. 36.

[44] See also Forssén 2025a, the section *Återinförd revisionsplikt för mindre företag och ökad registreringskontroll – alternativ till förslagen i SOU 2023:49* (Reintroduction of auditing liability for small enterprises and increased registration control – alternatives to the suggestions in SOU 2023:49).

Revisorer (here abbreviated FAR), the Association of Certified Public Accountants, also submitted its considerations over SOU 2024:32 to the Department of Finance on 2024-11-15. In section 2.4, the FAR also emphasized the necessity of increased control in connection with the VAT registration, whereby the FAR stated that it is 8in my translation) *very important that these controls have as high an accuracy as possible so that ordinary tax liable persons will not be affected negatively*. Since the Bar Association in principle has the same attitude as the FAR in the present respect, I consider that the Bar Association also should check with the FAR the issues that I am bringing up in this article.