

New VAT Regulations on 1 January 2010

As from 1 January 2010 there are new provisions governing

- taxation of services in foreign trade
- EC sales list (recapitulative statement) of goods every month and of services every quarter
- refund of VAT within the EC.

The changes in the VAT Act and the Tax Payment Act are being made in response to an EC directive and are contained in government bill 2009/10:15. The Riksdag is expected to adopt the proposals in early December.

On account of the changes the Swedish Tax Agency has decided to make minor changes to the VAT section of the VAT and PAYE return.

Taxation of services in foreign trade

The government has proposed new country of turnover rules for services. Services are to be taxed in the country of turnover. If the service is supplied in Sweden it is to be taxed here. If the service is supplied in another EC country it is to be taxed there. Services that are supplied in a country outside the EC will not be taxed in the EC.

As from 1 January 2010 there are two main rules for the place of supply of services. One applies to sale to a trader (Business-to-Business) and the other applies to sale to a party who is not a trader (Business-to-Consumer). The general principle is that a service is to be taxed in the country where it is consumed. The rules apply irrespective of whether the purchaser is within or outside the EC. Certain exceptions are made to the main rules. For some services there will be no change in the existing rules.

The changes may also be very important to you if you buy services from other countries. As a trader you may for example be liable more often than previously to calculate, declare and pay VAT on services you buy (reverse charge liability). Even if you have a VAT-exempt business the reverse charge liability applies to such purchases. A dentist who runs a VAT-exempt business, for example, will still need to calculate, declare and pay VAT on services that he or she buys for the business from foreign companies. The same applies to a non-profit-making voluntary association that runs business activities but is exempt from income tax.

A party who becomes registered for VAT only for purchase of services from other countries is liable only for tax on such purchases and is not entitled to deductions for the input VAT or for any other input VAT nor entitled to obtain refund of VAT from other countries.

Legal entities (e.g. companies, associations, foundations, authorities and municipalities) that do not engage in business activity are also regarded as traders if they are registered for VAT.

A purchaser must also act in the capacity of trader in the purchase. This means that the purchases must be made for the business. By a party who is not a trader is meant, for example, private individuals.

Main rule concerning sale to traders

The main rule when selling services to a trader is that the services are considered supplied in the country where the purchaser is established when the service is supplied there. You should not take out any VAT if the purchaser is a trader in a country other than Sweden. One is regarded as established where one has the registered office for one's

economic activity or a permanent place of business. If the purchaser lacks a registered office or a permanent place of establishment the service is considered supplied where the purchaser lives or permanently resides.

One precondition for your being able to sell services VAT-free is that the purchaser acts in the capacity of a trader. The service may not therefore be intended only for private use.

Purchaser in another EC country

When you have supplied a service without Swedish VAT to a party in another EC country you must submit information on the sale in an EC sales list to the Swedish Tax Agency. For you to be able to do this the purchaser must have a valid VAT registration number in the EC country concerned. You can check whether a number is valid on the Swedish Tax Agency website.

Main rule concerning sale to private individuals

The main rule concerning sale of services to a party who is not a trader (e.g. a private individual) is that the services are considered supplied and are to be taxed in the country where the vendor is established. This means that you as vendor have to charge Swedish VAT irrespective of which country the purchaser is in.

Exceptions to both main rules

Property services

Services connected to a particular real property are supplied in the country where the real property is situated. This means that you may need to be registered for VAT in another country if you sell property services. A foreign trader who sells services that apply to properties in Sweden must be registered for VAT here if the customer is a private individual.

Passenger transport

Passenger transport provided entirely within Sweden is supplied here. Passenger transport between Sweden and other countries is supplied abroad.

Cultural and similar services

The following services are always regarded as supplied where the activities actually take place:

- cultural and artistic activities
- sporting activities
- scientific activities
- educational activities

- activities of an entertainment character
- activities that resemble those listed above, e.g. fairs and exhibitions.

As from 1 January 2011 this exception applies only when the services are supplied to a party who is not a trader, e.g. a private individual. In the case of sale to a trader the exception then applies only to admission to cultural, artistic, sporting, scientific and entertainment events. This means, for example, that a foreign trader will continue to pay Swedish VAT at the ticket office.

Restaurant and catering services

Restaurant and catering services are supplied where the service are physically provided. Thus a restaurant in Sweden must also charge Swedish VAT irrespective of who buys the services. Similarly a catering service which is provided in Sweden must be taxed here. If you yourself sell catering services that are performed in, for example, Denmark, Danish regulations apply.

Special regulations will be introduced for restaurant services on trains.

Short-term hire of vehicles/vessels

Hiring out of a vehicle, e.g. a car, for a maximum of 30 days is a service that is supplied in the country where the customer collects the vehicle. Irrespective of whether a trader or a private individual hires the car you must as vendor charge VAT if the customer collects the car in Sweden. For vessels the time limit is 90 days.

If you hire or hire out a vehicle/vessel for a longer period than 30 or 90 days respectively the respective main rule applies.

Exceptions to the main rule when selling services to traders

Transport of goods and work on movable property

The following services are supplied abroad if they are only utilized outside the EC and the purchaser is a trader:

- transport of goods
- transport-related services (e.g. loading and unloading)
- work on goods that are movable property.

Exceptions to the main rule when selling services to private individuals

Intermediary services

Intermediary services that you supply to a party who is not a trader (e.g. a private individual) are supplied where the

principal transaction (the sale that is arranged) takes place. It is immaterial in which country the purchaser lives.

Intermediary here means that, for example, A supplies goods or a service in B's name and on B's account. Acting as intermediary presupposes that there is a principal transaction (e.g. sale of goods).

Transport services

Goods transport which takes place in Sweden is supplied in Sweden. Goods transport taking place between two EC countries for a party who is not a trader (e.g. a private individual) is supplied in the country where the transport begins. This means, for example, that a Swedish haulier that carries the furniture of a Swedish private individual from Germany to Sweden may charge German VAT.

Transport-related services

Transport-related services, e.g. loading or unloading, are supplied in the country where the service is physically performed, if the person who buys the service is a party who is not a trader (e.g. a private individual).

Work on movable property

Services which consist of valuation of, or work on, movable property are supplied in the country where the services are physically performed, if the purchaser is a person who is not a trader (e.g. a private individual). A repair to a product is an example of work on movable property.

Intellectual services

These services, which are often called intellectual services or "paragraph 7 services", will not be covered by the main rule when the purchaser is a not a trader (but for example a private individual) outside the EC. The exception to the main rule means that the sale is made abroad.

The main rule applies to sale within the EC.

A person who sells intellectual services from a country outside the EC to a party who is not a trader in Sweden must declare and pay VAT in Sweden.

This group of services includes, for example, advertising, computer services, information, banking and financial services, insurance, hiring of labour, telecommunications and electronic services.

EC sales list of goods and services

In the EC sales list you have hitherto reported the value of goods you have supplied VAT-exempt to other EC countries because the purchaser has quoted a valid VAT-registration number and the goods have been transported to another EC country. As from 2010 you must as a rule also report the value of the services that you have to report in box 39 of the tax return. Read more under the heading "Changes in the VAT section of the VAT and PAYE return".

Submit the EC sales list electronically or on form SKV 5740. You use the same form for reporting both goods and services.

Report the value of services only if both of the following conditions are satisfied:

- You sell the services VAT-free under the main rule for sale to a trader.
- The purchaser is in another EC country and has to declare and pay VAT on the purchase.

How often should you submit the EC sales list?

The main rule is that you must submit the EC sales list for goods every calendar month and for services every calendar quarter.

Submit a summary of

services	every calendar quarter
goods	every calendar month
goods and services	every calendar month

Application for reporting of goods calendar-quarterly

If you sell goods you can apply to submit the EC sales list every calendar quarter instead of every calendar month. The precondition is that the total value of sales and transfers of goods between EC countries does not exceed SEK 1 000 000 excluding VAT during the quarter when you make the application or any of the four preceding quarters. As from 2012 the maximum amount will be SEK 500 000.

If the Swedish Tax Agency grants your application you begin your new method of submitting the EC sales lists with effect from the first calendar quarter after the calendar quarter when the Swedish Tax Agency granted your application. As soon as the value of your sales and your transfers exceeds the maximum amount the Swedish Tax Agency will cancel the decision. If this occurs you must submit information for the month or months that have passed not later than the 20th (or 25th if filing electronically) of the month after the month when the Swedish Tax Agency decides that you are to revert to monthly reporting.

You apply electronically or on a special form. It will be possible to download the form from the Swedish Tax Agency website. Submit the application in good time before the calendar quarter when you want to begin quarterly accounting. For the first quarter of 2010 however it is sufficient to submit an application not later than 15 January.

Apply in time

If you do not apply by 15 January 2010 the EC sales list for January 2010 must have reached the Swedish Tax Agency not later than Monday 22 February 2010 (or 25 February in the case of electronic filing).

When should you submit the EC sales list?

The EC sales list must reach the Swedish Tax Agency not later than the 20th of the month after the expiry of the

period (month or quarter) when you have supplied goods or a service that have to be reported. If you submit the information electronically it must have been received not later than the 25th of the same month. You should submit the EC sales list only for the period when you have supplied goods or services that have to be reported.

How should you submit the EC sales list?

You may submit the EC sales list in one of the following ways:

- electronically with the aid of the Swedish Tax Agency electronic service "Periodisk sammanställning" [EC sales list/recapitulative statement]
- electronically with the aid of the Swedish Tax Agency file transfer service
- on form SKV 5740.

File transfer is most suitable for companies who have to submit a large amount of information.

You may use the electronic services without giving prior notice of who is submitting the information. However the party submitting the information must log in with electronic identification.

If you submit the EC sales list on a form at the right time, you will in most cases automatically receive a form sent to you next month or quarter depending on the reporting period. However it is always your own responsibility to submit an EC sales list for the correct period – even if you do not have a form sent home or if you have received a form for the wrong period. If you cannot submit the information electronically you must order a form in good time.

The Swedish Tax Agency will only to a limited extent be able to send out forms on the basis of information you have supplied in your VAT and PAYE return.

You can order forms for the EC sales list on the Swedish Tax Agency order service or via the service phone 020-567000. You can also obtain forms at the nearest tax or service office.

Changes in the VAT section of the VAT and PAYE return

Because of the new VAT rules the Swedish Tax Agency plans to make certain minor changes to the VAT section of the VAT and PAYE return. The purpose of the changes is to provide an agreement between the amounts reported in the VAT and PAYE return and in the EC sales list.

The changes apply to the following boxes and with effect from the accounting period January 2010.

Box 21 – Purchase of services from another EC country under the main rule

Here you report the value of services that you have bought from a vendor in another EC country under the main rule. The main rule implies that the services are considered to be supplied in Sweden and you as purchaser are liable for tax and have to account for the output VAT. The main rule applies to all services liable to VAT with the following exceptions:

- property services
- passenger transport
- cultural, educational, sporting, scientific, entertainment and similar activities
- restaurant and catering services
- short-term hiring out of vehicles.

Purchase of certain property services that are exempted from the main rule is instead reported in box 24. Compare the connection between boxes 39 and 40.

Box 24 – Other purchase of services

Here you report the value of services other than those you have to report in boxes 21 or 22 and for which you as purchaser are liable to tax and have to report output VAT.

Examples of purchase of services for which you have to account here:

- Services within the construction sector which you as purchaser have to report and pay VAT on – known as reverse tax liability. Reverse tax liability also applies to a party who sells building services to a party who in turn sells building services.
- Services that are connected to properties in Sweden and that are carried out by a foreign trader who has voluntarily chosen not to be liable for tax on the sale. There are certain exceptions to this rule.

Box 39 – Sale of services to a trader in another EC country under the main rule

Here you report the value of services you have supplied VAT-exempt to a trader in another EC country under the main rule for sale to a trader. You report the value even if the purchaser is not registered for VAT. The main rule implies that the services are considered supplied in the other EC country and that the purchaser is liable to tax on the purchase.

You must also report the value of the services supplied in an EC sales list, provided that the purchaser has a VAT-registration number and that the services are liable for tax in the other EC country. Otherwise you should not report the value in the EC sales list, which means in turn that the information there will be different from that in the VAT and PAYE return.

The main rule applies to all services subject to VAT with the following exceptions:

- property services
- passenger transport services
- cultural, educational, sporting, scientific, entertainment and similar activities
- restaurant and catering services
- short-term hiring out of vehicles.

Sale of services that are exempted from the main rule and supplied outside Sweden is instead reported in box 40.

Box 40 – Other sale of services supplied outside Sweden

Here you report other sale of services that are supplied outside Sweden and which you are not to report in box 39. This applies, for example, to

- services that do not follow the main rule and that you sell to a trader in another EC country, compare with box 39
- work on movable property, intermediary services and transport services that you sell to a purchaser who is not a trader in another EC country
- services you sell to a purchaser in a country outside the EC
- travel to other countries when you do not use profit margin taxation. (In the case of profit margin taxation you must instead report the tax base in box 07.)

Refund of VAT within the EC

Electronic application only

As from 1 January 2010 you must use the Swedish Tax Agency's electronic service "Momsåterbetalning inom EU" [VAT Refund within the EU] to apply for refund of VAT from an authority in another EC country. You cannot therefore apply on a paper form after 31 December 2009 even if the application applies to time before 2010.

You must make an application to the Swedish Tax Agency, which will forward your application to the country you have chosen.

No copies of invoices

You should not normally append copies of invoices to your application for refund of VAT. Instead you should describe the invoices with the aid of the codes you will find in the electronic service. Some countries may require electronic copies of invoices for amounts over a certain limit.

New minimum amounts

You will not be able to apply for refund of amounts smaller than the following:

Application period	Minimum amount
At least three calendar months but less than one calendar year.	400 Euros or the equivalent in the other country's currency.
One calendar year or what remains of a calendar year, even if it is less than three months.	50 Euros or the equivalent in the other country's currency.

New final date of application

You must apply not later than 30 September in the year after the calendar year to which the application period applies. You cannot make an incomplete application and complete it later.

The rules governing which VAT is refunded are not changing.

Application to countries outside the EC

You apply to countries outside the EC in the same way as before.

How to use the e-service

For your company to be able to use the e-service you must first inform the Swedish Tax Agency of who is going to use it on the company's behalf. You must give this notification on a form which the Swedish Tax Agency will be producing. The person using the service must have electronic identification. That requires a Swedish personal identity number.

How to use the service:

1. Go to www.skatteverket.se/e-tjanster . Click on "Momsåterbetalning inom EU" [VAT Refund within the EU].
2. Fill in and submit the application in accordance with the instructions not later than 30 September in the year after the calendar year to which the application period applies. You cannot complete the application retrospectively.

If your company was not registered for VAT during the period concerned it is not possible to submit an application. In other cases we forward your application to the other

country and you will receive electronic confirmation that the Swedish Tax Agency has received it.

The other country will process your application and send you confirmation by e-mail of the fact that your application

has been received. You may also receive questions about the application from the other country by e-mail or be asked to send copies or in exceptional cases originals of documents.