

## Sweden

Sweden has met all aspects of the terms of reference (ToR) for the calendar year 2018 (year in review) except for identifying all potential exchange jurisdictions for future rulings (ToR I.4.2.1). Sweden receives one recommendation on this point for the year in review.

In the prior year report, as well as in the 2016 peer review, Sweden received the same recommendation. As it has not yet been addressed, the recommendation remains in place.

Sweden can legally issue three types of rulings within the scope of the transparency framework. In practice, Sweden issued rulings within the scope of the transparency framework as follows:

- 28 past rulings;
- For the period 1 April 2016 - 31 December 2016: five future rulings;
- For the calendar year 2017: three future rulings, and
- For the year in review: six future rulings.

Sweden publishes some of their tax rulings in redacted form on Swedish Board of Advanced Tax Rulings' website.<sup>1</sup>

Peer input was received from one jurisdiction in respect of the exchanges of information on rulings received from Sweden. The input was generally positive, noting that information was complete, in a correct format and received in a timely manner.

## Introduction

This peer review covers Sweden's implementation of the BEPS Action 5 transparency framework for the year 2018. The report has four parts, each relating to a key part of the ToR. Each part is discussed in turn. A summary of recommendations is included at the end of this report.

### A. The information gathering process

Sweden can legally issue the following three types of rulings within the scope of the transparency framework: (i) preferential regimes;<sup>2</sup> (ii) permanent establishment rulings; and (iii) related party conduit rulings.

#### **Past rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1, I.4.2.2)**

For Sweden, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2014 but before 1 April 2016; or (ii) on or after 1 January 2010 but before 1 January 2014, provided they were still in effect as at 1 January 2014.

In the prior years' peer review reports, it was determined that Sweden's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Sweden's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

#### **Future rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1)**

For Sweden, future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

In the prior years' peer review reports, Sweden was recommended to amend its rulings practice in order to be able to identify all potential exchange jurisdictions for future rulings.

In the year of review, there was no change from the prior year process adopted by the STA to identify the information on potential exchange jurisdictions for the relevant future rulings, which consisted in consulting the text of the ruling. This recommendation was included in the 2016 peer review report and the 2017 peer review report, and has not yet been implemented, and the recommendation is therefore retained.

It should be noted that to respond to this recommendation, the Swedish Ministry of Finance is currently drafting new legislation in order to fulfil the BEPS Action 5 minimum standard. The proposed legislation is scheduled to be approved by parliament by June 2020. It should furthermore be noted that the Swedish Tax Agency ("the STA") is working on amendments to its rulings practice and routine regarding written answers to external legal questions. However, the routine cannot be finalised until the legislation on tax rulings has been approved by the Swedish parliament. According to the new legislation and the new routine, the STA will be able to identify all potential exchange jurisdictions regarding future rulings, and this will be taken into account in the next year's peer review.

#### **Review and supervision (ToR I.4.3)**

In the prior years' peer review reports, it was determined that Sweden's review and supervision mechanism was sufficient to meet the minimum standard. Sweden's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

## Conclusion on section A

Sweden has met all of the ToR for the information gathering process except for identifying all potential exchange jurisdictions for future rulings (ToR I.4.2). Sweden is recommended to continue its efforts to amend its rulings practice to require taxpayers to provide information on all potential exchange jurisdictions for future rulings as soon as possible.

## B. The exchange of information

### Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)

Sweden has the necessary domestic legal basis to exchange information spontaneously. Sweden notes that there are no legal or practical impediments that prevent the spontaneous exchange of information on rulings as contemplated in the Action 5 minimum standard.

Sweden is a party to international agreements permitting spontaneous exchange of information, including (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (“the Convention”), (ii) the Directive 2011/16/EU with all other European Union Member States, (iii) the Nordic Convention on Assistance in Tax Matters and (iv) double tax agreements in force with 62 jurisdictions.<sup>3</sup>

### Completion and exchange of templates (ToR II.5.3, II.5.4, II.5.5, II.5.6, II.5.7)

In the prior year peer review report, it was determined that Sweden’s process for the completion and exchange of templates were sufficient to meet the minimum standard. Sweden’s implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

For the year in review, the timeliness of exchanges is as follows:

Past rulings in the scope of the transparency framework	Number of exchanges transmitted by 31 December 2018	Delayed exchanges		
		Number of exchanges not transmitted by 31 December 2018	Reasons for the delays	Any other comments
	0	0	N/A	N/A
Future rulings in the scope of the transparency framework	Number of exchanges transmitted within three months of the information becoming available to the competent authority or immediately after legal impediments have been lifted	Delayed exchanges		
		Number of exchanges transmitted later than three months of the information on rulings becoming available to the competent authority	Reasons for the delays	Any other comments
	6	0	N/A	N/A
<b>Total</b>	6	0		

Follow up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	0	N/A	N/A

## Conclusion on section B

Sweden has the necessary legal basis for spontaneous exchange of information, a process for completing the templates in a timely way and has completed all exchanges. Sweden has met all of the ToR for the exchange of information process and no recommendations are made.

## C. Statistics (ToR IV)

The statistics for the year in review are as follows:

Category of ruling	Number of exchanges	Jurisdictions exchanged with
Ruling related to a preferential regime	1	<i>De minimis</i> rule applies
Cross-border unilateral advance pricing agreements (APAs) and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles	N/A	N/A
Cross-border rulings providing for a unilateral downward adjustment to the taxpayer's taxable profits that is not directly reflected in the taxpayer's financial / commercial accounts	N/A	N/A
Permanent establishment rulings	4	<i>De minimis</i> rule applies
Related party conduit rulings	1	<i>De minimis</i> rule applies
<i>De minimis</i> rule	N/A	N/A
IP regimes: total exchanges on taxpayers benefitting from the third category of IP assets, new entrants benefitting from grandfathered IP regimes; and taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption	N/A	N/A
<b>Total</b>	<b>6</b>	

## D. Matters related to intellectual property regimes (ToR I.4.1.3)

Sweden does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[5]</sup>) were imposed.

## Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
Sweden experienced delays in identifying all potential exchange jurisdictions for future rulings.	Sweden is recommended to continue its efforts to amend its rulings practice to require taxpayers to provide information on all potential exchange jurisdictions for future rulings as soon as possible. This recommendation remains unchanged since the 2016 peer review report and the 2017 peer review report.

## Notes

<sup>1</sup> Available at: <https://www.skatterattsnamnden.se/>.

<sup>2</sup> With respect to the following preferential regime: Tonnage tax regime.

<sup>3</sup> Parties to the Convention are available here: [www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm](http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm). Parties to the Nordic Convention on Assistance in Tax Matters are Denmark, Faroe Islands, Finland, Iceland, Norway and Sweden. Sweden also has bilateral agreements with Argentina, Armenia, Australia, Austria, Barbados, Belgium, Botswana, Brazil, Bulgaria, Canada, Chile, China (People's Republic of), Croatia, Czech Republic, Egypt, Estonia, France, Georgia, Germany, Greece, Hungary, India, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Kenya, Korea, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Netherlands, New Zealand, Nigeria, North Macedonia, Pakistan, Poland, Portugal, Romania, Russia, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, United States, Viet Nam and Zambia.



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