



# APA & MAP COUNTRY GUIDE 2018 – SWEDEN

New paths ahead for international tax  
controversy





## SWEDEN

### APA PROGRAM

KEY FEATURES	
<b>Competent authority</b>	Swedish Tax Agency ('STA')
<b>Relevant provisions</b>	<p>Law (2009:1289) on Advance Pricing Agreements Regarding International Transactions;</p> <p>Regulation (2009:1295) on Advance Pricing Agreements Regarding International Transactions;</p> <p>Bill (2009/10:17) Advance Pricing Agreements Regarding International Transactions; and</p> <p>Guidance available on the STA website.</p>
<b>Types of APAs available</b>	Unilateral, bilateral, and multilateral APAs are available.
<b>Acceptance criteria</b>	<p>An APA application will only be accepted if the transaction(s) to be covered is considered by the STA to be of a sufficiently complex nature and the arm's length principle is applicable to the Taxpayer's circumstances. The STA will make an assessment of the eligibility of the Taxpayer on a case by case basis.</p> <p>The transactions covered by the application must be assessed separately from other transactions not covered by the application,</p> <p>The Taxpayer must provide the information required for an APA to be concluded. The TP method chosen in the application, after any adjustments, must be deemed to be able to provide a price that corresponds to what two independent parties would have applied. APAs may only be granted if a mutual agreement on pricing of international transactions has been concluded with the foreign jurisdiction state listed in the APA application with which Sweden is a DTT partner.</p>



## SWEDEN (cont'd)

### KEY FEATURES (cont'd)

<b>Key timing requests, deadlines</b>	There is no specific guidance on key timing requests or deadlines. In practice, the timeline for the APA application process is negotiated with the STA during the pre-filing stage.
<b>APA term limits</b>	The APA is valid for a predetermined period of three to five years.
<b>Filing fee</b>	The filing fee for a new APA is SEK 150,000 (approx. USD 17,400).
<b>Rollback availability</b>	There is no specific guidance on rollbacks; however, they may be available on a case by case basis at the discretion of the STA.
<b>Collateral issues</b>	Administrative or tax issues that are relevant to and may affect the outcome of the APA should be addressed and resolved at the pre-filing stage with the STA.

### PRE-FILING REQUIREMENTS

<b>Overview</b>	A pre-filing meeting will be conducted with the applicant and the STA unless special reasons imply that such a meeting should not be held. However, in practice, it is likely that the STA will be open to allowing pre-filing meetings. If the request for a pre-filing meeting is accepted, the meeting will cover the conditions of a proposed APA, the timeline of the APA application process, and the information and documentation required to be included in the application.
<b>Anonymous pre-filing availability</b>	Anonymous pre-filing is not available.

### APPLICATION REQUIREMENTS

<b>Content of application</b>	<p>An application for an APA should be sent in four copies and contains the following:</p> <ul style="list-style-type: none"><li>■ the name, billing address, any organisation numbers, personal number or any equivalent registration numbers, or equivalent foreign numbers for the relevant parties;</li><li>■ information regarding which tax years the application concerns;</li><li>■ information regarding which jurisdictions will be involved;</li></ul>
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## SWEDEN (cont'd)

### APPLICATION REQUIREMENTS (cont'd)

#### **Content of application (cont'd)**

- information regarding any foreign APA that cover the entities in the applications and if this APA concerns similar transactions as the Swedish APA application;
- a description of the parties to the APA and their respective organisation and business;
- information regarding the nature and scale of the transactions;
- a functional analysis;
- a comparative analysis;
- a description of the chosen TP method;
- justification for the chosen TP method and its feasibility; and
- information regarding the assumptions and conclusions that form the basis of the chosen TP method.

#### **Language**

No specific guidance.

#### **SME provisions**

No specific guidance.

### OTHER PROCEDURAL CONSIDERATIONS

#### **General**

The STA follows a standard pre-filing, application and monitoring process. There are no unique procedural aspects.

#### **Monitoring & compliance**

The Taxpayer must notify the STA without undue delay if any circumstances arise that the assumptions and conditions in the APA are no longer valid. Details regarding what should be included in the notification are settled on a case by case basis.

#### **Renewal procedure**

There is no specific regulation for renewal of an APA. It is at the discretion of the STA to adapt its procedure to take into consideration an application for an APA that is already in existence. The filing fee for a renewal application is SEK 100,000 (approx. USD 11,600).



## SWEDEN (cont'd)

### MAP PROGRAM

#### KEY FEATURES

<b>Competent authority</b>	Swedish Tax Agency ('STA')
<b>Relevant provisions</b>	There are no specific provisions for the MAP procedure in domestic law. Taxpayers must rely on the MAP provisions under DTTs.
<b>Acceptance criteria</b>	Taxpayers may request a MAP if taxation has or is likely to occur that is not in accordance with the provisions of a DTT to which Sweden is signatory.
<b>Key timing requests, deadlines</b>	Taxpayers have three years to present a case to the STA under the EU Arbitration Convention (90/436/EEC).

#### APPLICATION REQUIREMENTS

<b>Content of application</b>	<p>The MAP request should contain the following information:</p> <ul style="list-style-type: none"><li>■ name, address, social security number or organisation number of the applicant;</li><li>■ the country in which the matter applies;</li><li>■ reference to which article of the DTT was incorrectly applied and a statement of why the applicant considers that the agreement was incorrectly applied;</li><li>■ name, address and, if possible, identification number of any foreign affiliated company in association with the applicant company as well as a statement of the relationship between the two companies;</li><li>■ the tax year or years of the application;</li><li>■ name of tax office or similar that has taken the adjustment abroad;</li><li>■ description of all relevant facts in the case and a statement of the grounds for taxation in the other country;</li><li>■ statement of amounts and how these have been calculated;</li><li>■ for transfer pricing cases, relevant transfer pricing documentation;</li></ul>
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## SWEDEN (cont'd)

### APPLICATION REQUIREMENTS (cont'd)

#### **Content of application (cont'd)**

- copies of relevant documents sent to or received from relevant foreign tax authorities;
- whether the question has been appealed to a court in Sweden or abroad and copies of such judgments;
- indication of any APA or other agreement that is relevant to the matter;
- possible power of attorney to represent the applicant;
- applicant's possible proposals for resolving the matter; and
- other relevant information or documents.

#### **Language**

Documentation may be submitted in English or Swedish.

### OTHER PROCEDURAL CONSIDERATIONS

#### **Interaction with domestic proceedings**

No specific guidance.

#### **Arbitration**

As Sweden is a member of the European Union, Taxpayers may initiate the arbitration procedure under the Tax Dispute Resolution Mechanism Directive on 10 October 2017. The Directive is applicable to matters submitted after 1 July 2019 on issues related to the tax year starting on or after 1 January 2018. The EU Arbitration Convention also imposes a binding obligation on EU member states to eliminate double taxation under DTTs including, if necessary, by reference to the opinion of an independent advisory body.

### STATISTICS

#### **APA**

There were 12 active APA application requests in 2017 and ten completed applications. The average completion time in 2015 was 36 months for bilateral and multilateral APAs. The STA has had an APA program since 2010.

#### **MAP**

Sweden had a total of 179 active MAP applications as of 31 December 2016. The average time needed to close MAP cases is 34 months for transfer pricing cases, and 31 months for other cases.



## SWEDEN (cont'd)

### DOUBLE TAXATION TREATY NETWORK

The following treaties include MAP provisions which are the basis for bilateral and multilateral APA negotiations:

Albania	Cayman Islands	India
Andorra	Chile	Indonesia
Anguilla	China	Iran
Antigua & Barbuda <sup>(IV)</sup>	Cook Islands	Iraq
Argentina	Costa Rica <sup>(IV)</sup>	Ireland
Armenia <sup>(I)(IV)</sup>	Croatia	Isle of Man
Aruba	Cyprus	Israel
Australia	Czech Republic	Italy
Austria	Denmark	Jamaica
Azerbaijan <sup>(IV)</sup>	Dominica	Japan <sup>(I), (IV), (VI)</sup>
Bahamas	Egypt	Jersey
Bahrain <sup>(IV)</sup>	Estonia	Kazakhstan
Bangladesh <sup>(IV)</sup>	Faeroe Islands	Kenya
Barbados	Finland	Korea (Republic of)
Belarus	France	Kosovo
Belgium	Gambia	Kuwait
Belize <sup>(IV)</sup>	Georgia <sup>(IV)</sup>	Latvia
Bermuda	Germany <sup>(VIII)</sup>	Lebanon
Bolivia	Gibraltar	Liberia <sup>(IV)</sup>
Bosnia-Herzegovina	Greece	Liechtenstein <sup>(IV)</sup>
Botswana	Greenland	Lithuania
Brazil	Grenada <sup>(IV)</sup>	Luxembourg <sup>(VI)</sup>
British Virgin Islands	Guernsey	Macao <sup>(IV)</sup>
Brunei	Hong Kong	Macedonia
Bulgaria	Hungary	Malaysia
Canada	Iceland	Malta



## SWEDEN (cont'd)

### DOUBLE TAXATION TREATY NETWORK

Marshall Islands <sup>(IV)</sup>	Qatar <sup>(IV)</sup>	Taipei <sup>(III)</sup>
Mauritius <sup>(IV)</sup>	Romania	Tanzania
Mexico	Russia	Thailand
Monaco	Saint Kitts & Nevis	Trinidad & Tobago
Montenegro	Saint Lucia <sup>(IV)</sup>	Tunisia
Montserrat <sup>(IV)</sup>	Samoa <sup>(IV)</sup>	Turkey
Namibia	San Marino	Turks & Caicos Islands
Netherland Antilles	Saudi Arabia <sup>(IV)</sup>	Ukraine
Netherlands	Serbia	United Arab Emirates
New Zealand	Seychelles <sup>(IV)</sup>	United Kingdom <sup>(I), (IV)</sup>
Nigeria <sup>(IV)</sup>	Singapore	United States
Norway	Slovakia	Uruguay
Oman	Slovenia	Vanuatu
Pakistan	South Africa	Venezuela
Panama <sup>(IV)</sup>	Spain	Vietnam
Philippines	Sri Lanka	Zambia
Poland	St Vincent & The Grenadines	Zimbabwe
Portugal <sup>(VI)</sup>	Switzerland <sup>(IV)</sup>	

#### NOTES

- I denotes treaties with MAP arbitration provisions.
- II denotes treaties with the USSR that remain applicable until a separate tax treaty is concluded.
- III denotes treaties between the countries' representative office in Taipei and the Taipei Economic and Cultural Office in the relevant country.
- IV denotes treaties that became effective within the last five years.
- V denotes treaties that are awaiting ratification.
- VI denotes MAP provisions identical to para 3, art 25 of the OECD Model Convention with respect to Taxes on Income and on Capital.
- VII arbitration is to be conducted under the statutes of the ECJ.
- VIII arbitration is to be conducted under the statutes of the ICJ.



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