

KLÖVERN

The Supreme Administrative Court is to consider Klöverns tax surcharge case

The Supreme Administrative Court has granted the Tax Agency leave to appeal against the judgment of the Administrative Court of Appeal in February 2010 concerning a tax surcharge of SEK 493 million. Klövern has previously won the case at both the County Administrative Court and the Administrative Court of Appeal. It will now be considered by the Supreme Administrative Court as the final instance.

The Tax Agency imposed a tax surcharge of SEK 493 million on Klövern in the spring of 2006. Klövern appealed against the decision on a tax surcharge, and the matter was determined most recently by the Administrative Court of Appeal in February 2010. Klövern won and according to the judgment of the Administrative Court of Appeal, a tax surcharge cannot be imposed as no consideration of the matter had taken place after Klövern had withdrawn its request for a deduction. The Supreme Administrative Court is the last instance and will finally settle the matter of a tax surcharge. However, it may take around six months before the Supreme Administrative Court notifies its judgment. The tax surcharge has not been paid or expensed but has been recorded as a contingent liability.

"We believe, of course, that the Supreme Administrative Court will dismiss the appeal and confirm the judgment of the Administrative Court of Appeal so that the tax surcharge is finally quashed"; says Klöverns CEO, Gustaf Hermelin.

"It is not unexpected that the Supreme Administrative Court has granted leave to appeal on an issue of such principled importance. However, our view is that a tax surcharge may not be imposed in the way that has been done. This is clearly shown by the judgments of both the County Administrative Court and the Administrative Court of Appeal", say Klöverns attorneys Thomas Andersson, Deloitte and Börje Leidhammar, Wistrand law firm.

The background to the Tax Agency's decision to impose a tax surcharge is that Klövern requested reconsideration of tax assessment for 2003 in December 2003, when the company requested an additional deduction for loss of SEK 4,933 million. This loss related to sale of a subsidiary that took place during the period when the company was an IT company.

The Tax Agency considered that Klövern was not entitled to the deduction and moreover considered imposing a tax surcharge of SEK 493 million. For this reason, Klövern withdrew its request for a deduction. The Tax Agency imposed a tax surcharge of SEK 493 million despite the Tax Agency no longer having a request for a deduction on which to take a position.

Klövern will apply to the Supreme Administrative Court for leave to appeal regarding the matter of a further deduction for the loss of almost SEK 5 billion.

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