



Data Protection – from a Swedish Perspective
Tax Administration 3.0
Challenges of the Digital Self-Taxation Model

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Background

- Sweden is since 1766 a very open society when it comes to documents held by public authorities.
- The main rule is that all documents are public and possible for everyone to access.
- Our Secrecy Act makes some of the information non-accessible.
- Tax Decisions are public information (not the tax returns).
- Swedes love tax and our Tax Authority.

The Obvious Risks with Tax Administration 3.0

Personal
Integrity

Trade
Secrets

Profiling
Automated
Decision
Making

System
Collapse

Data Protection Regulation

THE EUROPEAN UNION CHARTER OF FUNDAMENTAL RIGHTS (ECHR)

GDPR

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC

National Data Protection Acts
Normal Taxation
“White Collar Crimes”

GDPR and Tax Crimes

- Artikel 2.2. This Regulation does not apply to the processing of personal data:
 - [(a)-(c)]
 - (d) by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, including the safeguarding against and the prevention of threats to public security.
- Directive (EU) 2016/680 - Criminal Data Act (2018:1177)

GDPR and Taxes

Article 23.1 c): Rights under 12-22, 34 and 5 can be limited by law – includes taxation.

“when such a restriction respects the essence of the fundamental rights and freedoms and is a necessary and proportionate measure in a democratic society”

Swedish Data Protection Law and Taxes

Act (2001:181) on the processing of data in the Swedish Tax Agency's taxation activities:

“A taxpayer does not have the rights under Art 21.1 GDPR – not to be subject to data processing including profiling.”

Public Administration Act (2017:900)

“28 § A decision may be taken by one officer alone or by several officers jointly **or automatically.**”

Legal Persons

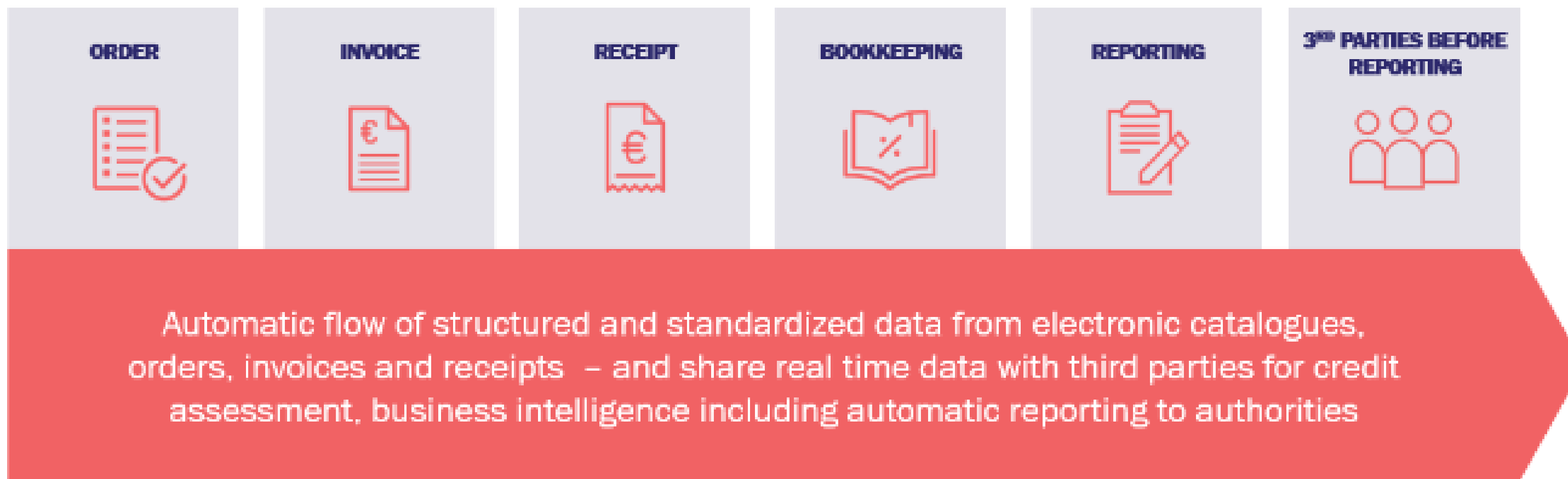
- Not covered by the GDPR
- Not covered by national Swedish Law
- Covered by ECHR?
- Art 8 **Everyone** has the right to the protection of **personal** data concerning him or her.

Indirect protection by information related to corporations could cover information about natural persons...?

DIRECTIVE (EU) 2016/943
TRADE SECRETS

Nordic Smart Government & Business

Aligning the digital infrastructure in order to make business data accessible and usable across the Nordics



Problems

- It is likely that Tax Administration 3.0 will need a lot of profiling and automated decisions making.
- To what extent will this be “proportionate measure in a democratic society”?
- Is “rules to data” the solution?
- Technological solutions? Edge Computing?

Conclusions

- In general GDPR is applicable on Tax Administration (in Sweden).
- There are limitations in processing sensitive data (art 9) under Swedish legislation.
- No right to object against automated decisions and processing, including profiling.
- However the processing/profiling should follow general principles under the GDPR
- Legal persons not in general protected under GDPR, but indirectly and through ECHR?
- Is the protection of trade secretes sufficient?