



OVERVIEW OF THE SWISS TAX SYSTEM

10

10.1	Taxation of Corporate Taxpayers.....	105
10.2	Tax Charge Rate in International Comparison.....	108
10.3	Taxation of Individual Taxpayers.....	109
10.4	Withholding Tax.....	112
10.5	Value Added Tax.....	113
10.6	Other Taxes.....	116
10.7	Double Tax Treaties.....	117
10.8	Tax Proposal 17.....	117
10.9	Transfer Pricing Rules.....	117

The Swiss tax system mirrors Switzerland's federal structure, which consists of 26 sovereign cantons with 2,222 independent municipalities. Based on the constitution, all cantons have full right of taxation except for those taxes that are exclusively reserved for the federal government. As a consequence, Switzerland has two levels of taxation: the federal and the cantonal/communal level. The reform of the income tax system implemented in recent years provided for harmonization of the formal aspects of the various cantonal tax laws, for example, determination of taxable income, deductions, tax periods, and assessment procedures. The cantons and municipalities still have significant autonomy for the quantitative aspects of taxation, however, particularly with respect to determining the applicable tax rates. Consequently, the tax burden varies considerably between cantons/municipalities.

10.1 TAXATION OF CORPORATE TAXPAYERS

10.1.1 Corporate Income Tax – Federal Level

The Swiss federal government levies corporate income tax at a flat rate of 8.5% on profit after tax of corporations and cooperatives. For associations, foundations, and other legal entities as well as investment trusts, a flat rate of 4.25% applies. At the federal level, no capital tax is levied.

Taxable Persons

Taxable persons include Swiss resident legal entities, i.e., Swiss corporations, limited liability companies, and corporations with unlimited partners, cooperatives, foundations, and investment trusts with direct ownership of immovable property. As partnerships are transparent for tax purposes, the partners are taxed individually. Companies which have their registered office or place of effective management in Switzerland are considered resident.

Taxable Income

Resident companies are subject to corporate income tax on their worldwide income with the exception of income attributable to foreign permanent establishments or foreign real estate (immovable property). Such income is excluded from the Swiss tax base and is only taken into account for rate progression purposes in cantons that still apply progressive tax rates.

Non-resident companies are subject to tax only on Swiss source income, i.e., income and capital gains derived from Swiss business, permanent establishments, or immovable property, whereas income from immovable property includes income from trading in immovable property.

As a matter of principle, the legally prescribed/statutory accounts of a Swiss company and – in the case of a foreign company the branch accounts – form the basis for determining taxable income. Apart from the indirect participation exemption for shareholdings (dividend and capital gains income), various adjustments required by tax law and the use of existing loss carryforwards (the loss carryforward period can be seven years), there are very few differences between statutory profit and taxable profit. Besides personnel expenses and expenses for merchandise, the most common allowable tax deductions are amortization and depreciation, tax expense, interest expenses, and management remuneration, as well as service fees/royalties. However, these expenses may only be deducted if they meet the requirements of the arm's length principle.

“Switzerland offers a modern tax system geared to the needs of business and the economy.”

Thin Capitalization Rules

The Swiss Federal Tax Administration has issued safe harbor rules for thin capitalization purposes that apply to related party debt. Third-party financing is not affected by these rules. Specifically, a unique asset-based test is used to determine whether a company is adequately financed. The thin capitalization rules require that each asset class must be underpinned by a certain minimum equity portion (generally expressed as a prescribed percent of the fair market value but often the lower book values suffice).

Related-party debt exceeding the allowable debt as calculated according to the percentages provided from the Tax Administration is classified as equity and added back to the taxable capital for purposes of the cantonal/communal annual capital tax, unless it can be proven that in this particular case the debt terms applied meet the requirements of the arm's length principle and are therefore appropriate. Moreover, the allowable interest deductibility on debt is determined by multiplying the allowable debt by the safe harbor interest rates. If interest payments to related parties exceed the amount which can be paid based on the allowable debt, they are added back to taxable profit if market-related prices cannot be proven on an arm's length comparison. In addition, such excessive interest payments are regarded as hidden dividend payments, which are subject to withholding tax.

Group Taxation

Separate entity taxation applies in Switzerland for income tax purposes. It is not anticipated that group taxation will be introduced anytime in the near future.

Group Reorganizations

Group reorganizations are governed by the Swiss merger law, which also comprises individual tax standards alongside the legal standards as a supplement to the applicable tax laws.

Provided certain prerequisites are met, reorganizations are possible on a tax-neutral basis, as long as the applicable tax accounting values of assets and liabilities remain unaltered and the assets remain in Switzerland.

10.1.2 Corporate income tax – Cantonal and Municipal Level

Given the tax harmonization at the cantonal/municipal level, most tax rules are identical or very similar to the rules on the federal level set out above (e.g. participation exemption, loss carryforward rules and, in most cases, thin capitalization rules).

Overview of ordinary profit tax rates

Combined effective income tax rates (for direct federal and for cantonal and local taxes) for properly taxed companies in 2017 were between 12.43% and 24.16%, depending on the canton and municipality.

Special Tax Regimes

In contrast to the Swiss federal tax law, all cantonal tax laws provide special tax regimes, in addition to the direct federal tax, which may be obtained provided that the legal conditions of the tax harmonization law are met. Tax proposal 17 will replace the special tax regimes set out below with new measures aimed at underpinning and increasing Switzerland's attractiveness as a location (see section 10.8).

www.s-ge.com/corporate-taxation

Facts and figures on Corporate Taxation in Switzerland
Languages: German, English, French, Italian, Spanish, Portuguese, Russian, Chinese, Japanese

A) Holding Company

The holding company tax status is available to Swiss companies (or permanent establishments of a foreign company) whose primary purpose according to the by-laws is to hold and manage long-term equity investments in affiliated companies. Furthermore, either the participations or participation income (dividends or capital gains) must represent at least two thirds of the company's total assets or income over the long term.

A holding company which meets one of these requirements is exempt from all cantonal/communal income taxes, with the exception of income from Swiss real estate. As a matter of principle, the effective tax rate of a holding company is 7.83% (i.e., direct federal income tax rate) prior to participation relief for qualifying dividends and capital gains. A reduced capital tax on cantonal/communal tax level applies.

B) Mixed Trading Company

This has been given different names by the cantons, however in an international context, this tax status is most often referred to as the “mixed (trading) company” tax status.

A mixed company may be engaged in limited commercial business activity in Switzerland. As a general rule, at least 80% of the income from commercial activities must derive from non-Swiss sources (i.e., a maximum of 20% of income may be linked to Swiss sources). Many cantons additionally require that at least 80% of costs must be related to activities undertaken abroad.

If a company meets the above criteria, it may apply for tax treatment in accordance with the following rules:

- Qualifying income from participations (including dividends, capital gains, and revaluation gains) is exempt for cantonal and communal tax purposes.
- Other income from Swiss sources is taxed at the normal rate.
- A portion of foreign source income is subject to cantonal/municipal income taxes depending on the degree of business activity carried out in Switzerland.
- Expenditure that is justified for business purposes and is related economically to certain income and revenues is deductible. In particular, losses from participations can only be offset against taxable income from participations (i.e., income that is not obtained tax-free).
- Reduced capital tax rates are applicable.

10.1.3 Capital Tax

Annual capital tax is only levied at cantonal/communal level. The basis for the calculation of capital tax is in principle the company’s net equity (i.e. share capital, paid-in surplus, legal reserves, other reserves, retained earnings). The taxable base of companies also includes any provisions disallowed as deductions for tax purposes, any other undisclosed reserves, as well as debt that economically has the character of equity under the Swiss thin capitalization rules. Some cantons even provide for crediting the cantonal corporate income tax against capital tax.

The tax rates vary from canton to canton and depend on the tax status of the company. In 2017, this ranged from 0.0010% to 0.5250% for companies subject to ordinary taxation, and from 0.0010% to 0.4007% for companies eligible for a special tax regime.

10.1.4 Tax Relief

Tax relief can be granted at cantonal and communal level and in explicitly defined regions at federal level for qualified new investments for up to 10 years.

Federal Level

The federal government has defined economically weaker regional community centers and regions which are entitled to grant business incentives including partial or full corporate income tax breaks for up to 10 years (see section 14.2.2).

Tax breaks are provided for investment projects that meet certain requirements. Besides the creation of new production-related workplaces or investing, these also include conditions, for instance, that a competitive situation among existing companies should not arise.

Cantonal and Municipal Level

Most cantons offer partial or full tax breaks for cantonal/communal tax purposes for up to 10 years on a case-by-case basis. In particular, incentives may be obtained for creating a new presence or for an expansion project with particular economic relevance for the canton. Most importantly, however, business incentives are generally granted in connection with the creation of new jobs locally, i.e. requirement of at least 10 to 20 new jobs in most cantons.

10.2 TAX CHARGE RATE IN INTERNATIONAL COMPARISON

The international comparison of the total tax rate shows that Switzerland has a tax system which is consistently extremely competitive compared with other highly developed industrial countries. The total tax rate measures the amount of all taxes and mandatory contributions borne by the business and is expressed as a percentage of commercial profits. The total amount of taxes borne is the sum of all the different taxes and contributions payable after accounting for deductions and exemptions.

The taxes and contributions included can be divided into the following categories:

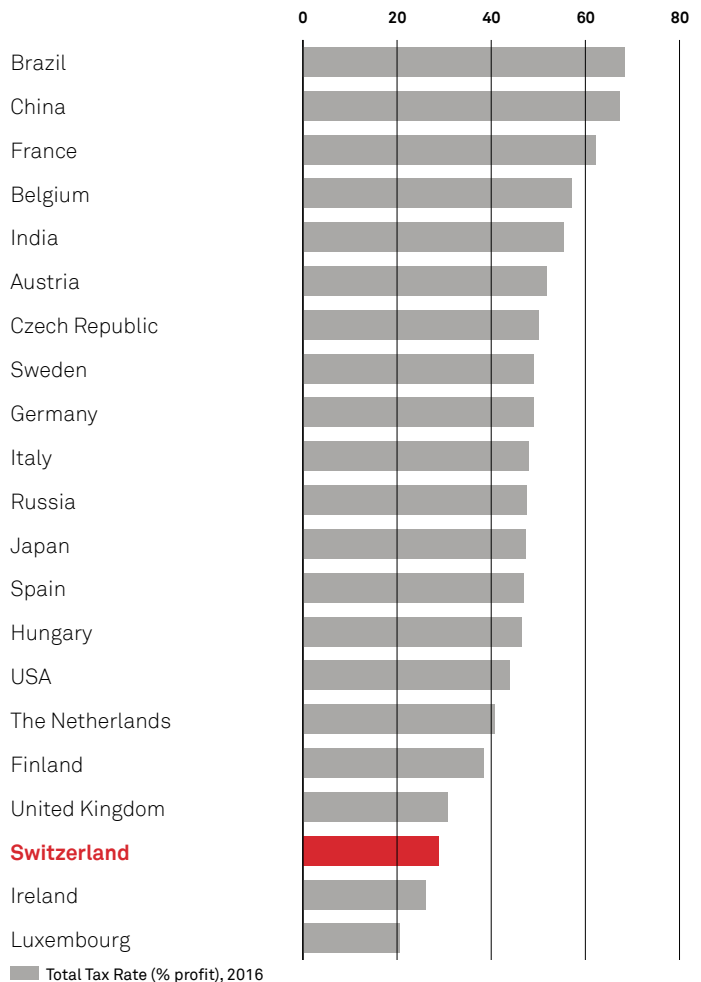
- profit or corporate income tax
- social contributions and labor taxes paid by the employer (for which all mandatory contributions are included, even if paid to a private entity such as a pension fund)
- property taxes
- sales taxes (and cascading sales taxes as well as other consumption taxes such as irrecoverable VAT)
- other taxes (such as municipal fees and vehicle and fuel taxes)

It should further be noted that the Swiss tax system is not only attractive for corporate taxpayers but also for individual taxpayers as it provides for a modest tax burden in international comparison as well.

Total Tax Rate, 2016

(% profit)

(FIG. 42)



Sources: PricewaterhouseCoopers, 2017

10.3 TAXATION OF INDIVIDUAL TAXPAYERS

10.3.1 Personal Income Tax

Taxable Persons

Individuals are subject to taxation on federal and cantonal/communal levels if they have their permanent or temporary residence in Switzerland. Temporary residence is given provided the individual, regardless of any temporary interruptions, stays in Switzerland for a) at least 30 days carrying out a professional activity or b) for 90 days or more without pursuing any professional activity. According to the Swiss tax system, partnerships are transparent; hence each partner is taxed individually.

The income of married couples is aggregated and taxed according to the principle of family taxation. The same applies to any registered civil partnerships. Income of minor children is added to that of the adults. An exception is income earned by minors that is subject to a separate tax.

The federal as well as cantonal/communal income taxes are levied and collected by the cantonal tax authorities and are assessed for a period of one year (calendar year) on the basis of a tax return to be filed by the taxpayer.

Individuals who do not set up a place of residency in Switzerland are only obliged to pay tax on their income in Switzerland.

Taxable Income

Resident individuals are subject to tax on their worldwide income. However, revenues derived from business conducted abroad, from permanent establishments, and from immovable property situated abroad are exempt and are taken into account only for the determination of the applicable tax rate (exemption with progression). The total income includes income derived through gainful activities, both as an employee and when self-employed, income from compensatory or subsidiary payments, and income from movable and immovable property. Taxable income also includes the notional rent value of property that the resident lives in.

Certain types of income such as inheritance, gifts, matrimonial property rights, subsidies paid from private or public sources, etc. are by law excluded from income tax, however, they could be subject to other taxes such as gift tax or inheritance tax (see Chapter 10.3.6). Moreover, individuals may deduct earning costs from gross income including, for example, travel costs between home and their place of work, social security contributions, and contributions to approved savings plans. Additional deductions may be claimed for dependent children and insurance premiums as well as for married couples (single and double income couples). However, the extent of deductions allowed may vary greatly from canton to canton. In addition, interest payments on loans, mortgages, etc. for business purposes are fully deductible. The deductibility of interest for private purposes related to private assets is, however, limited to an aggregate income from movable and immovable assets plus 50,000 Swiss francs. Furthermore, value-preserving property expenses can be deducted, or an all-inclusive deduction can be applied instead.

Individual tax rates are typically progressive, whereas a maximum tax rate of 11.5% applies at the federal level. The cantons may set their own tax rates. The applicable cantonal tax rates therefore vary significantly from canton to canton (around 11.4% to 33.5% in cantonal capitals). A special family rate was introduced for the 2011 fiscal year at the federal level. This is based on the rate for married couples, but provides for an additional tax deduction per child.

Capital Gains

Depending on whether a capital gain is realized on personal or business property or on movable or immovable property, such gain is taxed differently. Gains on movable personal property are exempt from taxation whereas gains realized on movable business property are attributed to ordinary income.

Losses

Contrary to personal losses, business losses are tax deductible and may be carried forward for seven years if they cannot be offset against the taxpayer's other taxable income in the respective tax period.

Distribution of Capital Contributions

Since January 1, 2011, the distribution of qualified capital contributions is tax free. They are subject to neither withholding tax (chapter 10.4) nor income tax on the part of the receiving individual. While this already applied to the repayment of share capital prior to January 1, 2011, it now also applies to repayments on investments, premiums, and assignments of joint stock companies made after December 31, 1996, as tax-free distributions.

Tax at Source

Foreign employees who do not possess a residence permit are taxed for their earned income by a tax deduction at source. If the source-taxed income exceeds 120,000 Swiss francs (500,000 Swiss francs in Geneva) per annum, a tax declaration has to be submitted. In other cases, the tax at source is definitive. The employee can, however, assert a special deduction in a separate process.

Employees who have retained their residence abroad are taxed on their earned income at the source, regardless of their nationality, and in general cannot submit a tax declaration in Switzerland for their earned income.

The legislation governing tax at source is in the process of being revised. There are plans for a reduction in the income threshold for a tax declaration. The issues being looked at primarily involve questions of procedure, in particular as regards persons who have no residence in Switzerland but have almost exclusively income from Swiss sources.

10.3.2 Wealth Tax

Net wealth tax is only levied at the cantonal/communal level in accordance with the respective cantonal tax laws and rates. The tax is based on the balance of the gross assets including but not limited to immovable property, movable assets such as securities and bank deposits, (cash) redemption value of life insurance, cars, shares of non-distributed inheritances, etc. Shareholdings in foreign businesses and plants are not subject to wealth tax, nor are properties abroad. These assets are, however, taken into account for the calculation of the applicable wealth tax rate, if it is a progressive rate (tax exemption with progression). Individuals can deduct debts from the gross assets, as well as tax exemptions, which vary from canton to canton and according to marital status and whether the person in question has children.

The wealth tax is progressive in most cantons, whereby the cantons can set their own tax rates. The maximum tax burden therefore varies considerably and ranges from 0.11% to 1%. The federal government does not charge wealth tax.

10.3.3 Expatriates

Qualifying expatriates are foreign managers and certain specialists (e.g. IT specialists) seconded to Switzerland on a temporary basis for a period of up to five years, i.e. the (secondment) contract may only be limited in time for a maximum of five years. Expatriates may claim tax relief on work-related expenses incurred due to their stay in Switzerland.

The following expenses incurred by expatriates are deductible:

- 1) relocation costs including travel costs to and from Switzerland,
- 2) reasonable accommodation costs in Switzerland if the residence abroad is still maintained,
- 3) costs for children of school-going age attending a private school provided that residence is in Switzerland and if local state-funded schools cannot offer adequate educational provisions in their language.

Instead of identifying the actual costs for relocation and accommodation, the taxpayer may claim a monthly lump-sum deduction which may vary from canton to canton. Any reimbursement from the employer of work-related costs incurred by the expatriate must be declared in the employee's payslip.

The entitlement to benefit from expatriate status for tax purposes ceases once temporary employment is replaced or superseded by a permanent position.

The federal government revised its Expatriates Ordinance. The changes envisage a restriction with regard to the group of entitled persons and more stringent requirements for the application of deductions.

10.3.4 Cross-Border Commuters

Cross-border commuters are those people who live abroad (e.g. in Germany, France, Italy, Liechtenstein, and Austria) and work in Switzerland and who commute from home to work and back each day.

The Swiss taxation of such individuals differs, depending on their place of work and domicile (home country/country of residence). The double tax treaty with Germany, for example, provides for an apportionment of the taxation rights between the two countries. The country of work is limited to a flat-rate withholding tax of 4.5% of the gross salary of the cross-border commuter. Such partial taxation of cross-border commuters in the country of work does not relieve the commuter from taxation of the earned income at the place of residence (e.g. taxation with credit). The cross-border commuter status is abandoned if the employee cannot return to his/her domicile abroad on more than 60 working days per year for business reasons. Cantonal agreements vary for cross-border commuters from France.

10.3.5 Lump-Sum Taxation

Both federal and most cantonal tax regulations provide for the possibility to make use of a special tax arrangement often referred to as lump-sum taxation. Under this, qualifying taxpayers resident in Switzerland are taxed on the basis of expenditure and living costs in Switzerland (instead of on the more customary basis of total income and total assets).

Qualifying taxpayers who may apply for lump-sum taxation are individuals who do not have a right to Swiss citizenship who take up temporary or permanent residence in Switzerland for the first time or after an absence of at least ten years and who do not carry out any gainful occupation in Switzerland. The lump-sum taxation provisions are tailored to financially independent persons who are not seeking to work in Switzerland.

In case of spouses moving to Switzerland, the requirements for benefiting from lump-sum taxation must be satisfied by both spouses. As a rule, it is not possible for one spouse to be taxed on a lump-sum basis while the other spouse is taxed on an ordinary basis.

The basis of taxation is calculated annually on the expenses incurred by the taxpayer in Switzerland and abroad. The calculation not only considers the expenses of the taxpayer but also those of the spouse and dependent children as long as they live in Switzerland. Expenses usually taken into account are food, clothing and accommodation, education, leisure activities, and all other expenses linked with the standard of living. The exact calculation is determined together with the relevant tax authorities of the canton in which the person wishes to become a resident. In any case, the measurement base must correspond either with a) at least seven times the rent paid on rental property or the rental value of the taxpayer's property if he lives in his own house or apartment or b) three times the annual costs of lodging if the taxpayer lives in a hotel or similar accommodation. If the taxpayer owns or rents more than one property, the most expensive will be taken into account. A minimum taxable income of 400,000 Swiss francs applies for direct federal tax from January 1, 2016.

Generally, individuals who apply for lump-sum taxation are considered Swiss residents and may also apply for treaty relief on their foreign-source income. Some double taxation treaties, however, allow for treaty benefits only if all income from the source country is subject to ordinary taxation in Switzerland. The abolition of lump-sum taxation continues to be the subject of political debate. Lump-sum taxation remains an option in the following cantons: Aargau, Appenzell Inner Rhodes, Bern, Friborg, Geneva, Glarus, Grisons, Jura, Lucerne, Neuchâtel, Nidwalden, Obwalden, St. Gallen, Solothurn, Schwyz, Thurgau, Ticino, Uri, Vaud, Valais, and Zug.

10.3.6 Inheritance and Gift Tax

Inheritance and gift taxes are not harmonized. Consequently, the cantons are free to levy such tax and the various cantonal laws differ considerably in almost every respect. With the exception of the canton of Schwyz, all cantons levy inheritance and/or gift taxes for certain asset transfers if the deceased or donor had been resident of the respective canton or if real estate located in the canton is transferred.

Inheritance and gift tax rates are mostly progressive and are usually based on the degree of relationship between the deceased or donor and the beneficiary and/or the amount received by the beneficiary. In all cantons, spouses are exempt from inheritance and gift taxes; most cantons also exempt direct descendants.

10.4 WITHHOLDING TAX

A federal withholding tax is levied at source on the gross amount of dividend distributions by Swiss companies, on income from bonds and similar indebtedness by Swiss issuers, as well as on certain distributions of income by Swiss investment funds, and interest payments on deposits with Swiss banking establishments.

Since the capital contribution principle came into effect on January 1, 2011, repayments of capital contributions made by the shareholder after December 31, 1996, and declared and accounted for correctly are now treated the same as repayments of nominal capital. With regard to withholding tax, these repayments are in general tax-free. The repayment of capital contributions for individuals (if shares are held as private assets) now no longer represents taxable income (see chapter 10.3.1).

Lottery winnings are also subject to withholding tax (money won in excess of 1,000 Swiss francs, valid from 2013), as are insurance benefits.

Generally, the debtor is liable for the tax and is required to withhold the amount due, irrespective of whether the recipient is entitled to a full or partial refund. A refund is only possible provided that the respective earnings are properly declared for the purposes of income taxation. The aim is to prevent tax evasion. For Swiss resident corporate taxpayers, withholding tax is reimbursed by way of a refund, whereas for individuals the tax is credited against total tax liability through the regular taxation procedure.

For non-resident taxpayers, the withholding tax generally represents a final tax burden. However, a partial or total refund may be granted based on an international double tax treaty or a bilateral agreement concluded by Switzerland with the country in which the recipient of the earnings is residing.

It should further be noted that a reporting procedure may be applied for certain qualifying dividend distributions, replacing the withholding and refund procedure.

10.4.1 Domestic Rates

The tax rate applied on dividend distributions including deemed profit distributions and interest payments relating to bonds and bond-like debt instruments as well as on interest payments made by banks or bank-like institutions to non-banks is 35%. There is no withholding tax on interest payments relating to qualifying ordinary company loan agreements. Provided that royalties, licenses, and service and similar fees payable by Swiss individuals or corporations are at arm's length, no withholding tax is levied.

10.4.2 Treaty Rates

Most double taxation treaties provide for a reduction of the normal 35% rate on dividends. The reduced rate is usually 15% for portfolio investors and 0%, 5%, or 10% for substantial corporate owners. Some treaties require the taxation of Swiss-source income in the recipient's country of residence. Otherwise no relief will be granted. With regard to interest income, most treaties allow for a reduction as well, typically up to 10%. In some treaties a full refund is granted.

However, a reduction is only possible if the person applying for treaty benefits is actually entitled to claim the treaty.

“Thanks to a number of double taxation treaties and bilateral agreements, taxpayers resident outside of Switzerland can be reimbursed for all or part of their withholding tax.”

10.4.3 Bilateral Agreements with the EU

In May 2004, Switzerland and the European Union (EU) concluded eight bilateral agreements (“Bilateral Agreements II”) in addition to the seven existing bilateral agreements (“Bilateral Agreements I,” in force since June 1, 2002).

One of the agreements is the Savings Tax Agreement providing for measures equivalent to those laid down in the EU Savings Tax Directive. To entice Switzerland to enter into the Savings Tax Agreement, the same agreement also incorporated language that was practically identical to the version of the EU Parent/Subsidiary Directive and the EU Interest/Royalty Directive in effect at that time.

Accordingly, dividend, royalty, and interest payments between Switzerland and the member states of the EU will not be subject to withholding tax, provided various conditions such as minimum shareholding and holding period are fulfilled.

As of 2017/18, the Savings Tax Agreement will now be replaced by the new Global Standard for Automatic Exchange of Information (AIA), which covers not only interest income but all types of capital gains and also trusts and foundations (AIA Agreement). The withholding tax exemption of cross-border payments of dividends, interest, and royalties between affiliated companies enshrined in the Savings Tax Agreement will continue to apply.

In general, the bilateral agreements, including the AIA Agreement, also apply to new EU member states joining the EU after July 1, 2005 (e.g. Bulgaria, Romania).

The application of the above mentioned benefits from the AIA Agreement can be denied in cases of abuse or fraud. This is because of the explicit reservation made in the AIA Agreement as to the use of domestic or agreement-based provisions for the prevention of fraud or abuse, both by Switzerland and by the individual EU member states.

Double tax treaties between Switzerland and EU member states with more favorable tax treatment of dividend, interest, and royalty payments remain unaffected.

10.5 VALUE ADDED TAX

Although Switzerland is not an EU member state, its value-added tax (VAT) system was structured in accordance with the sixth EU VAT Directive (“Sixth Council Directive on the harmonization of the laws of the Member States relating to turnover taxes” whereby turnover refers to revenue) as a non-cumulative, multi-stage tax that provides for deduction of input tax. As a result, Swiss VAT is levied as an indirect tax on most goods and services at the federal level only and applies to each stage of the production and distribution chain. It is designed as a tax owed by the supplier of goods or services (i.e., the tax liability is based on the payment made by the recipient of the goods or services).

10.5.1 Taxable Persons

Any legal entity, establishment, partnership or association without legal capacity, institution, etc. that operates an enterprise (obtains revenues through business or professional activity for a long period of time, regardless of whether there is an intention to make money) is liable for tax. There is a registration obligation if global taxable turnover exceeds 100,000 Swiss francs per year. All permanent domestic establishments of a Swiss parent company form one taxable entity together with the parent company. All domestic establishments of a foreign parent company are also classed as one taxable entity. On the other hand, the domestic establishments and the foreign parent company are each considered a separate taxable entity. A VAT obligation (without mandatory registration) also does not apply to taxable recipients in Switzerland if, in a calendar year, they render services not exceeding 10,000 Swiss francs to companies domiciled abroad that are not entered in the taxpayer register and provided that the service takes place in Switzerland according to the “place of supply is where the recipient is established” principle.

If the revenues of a taxpayer (turnover from taxable supplies of goods and services) are less than 100,000 Swiss francs per year (or less than 150,000 Swiss francs for sports clubs and non-profit institutions), then the entity is exempt from tax liability. However, any such entity may also waive exemption from tax liability. Upon registration with the Federal Tax Administration, the taxpayer receives a VAT number based on the company identification number. The VAT number is added to the company identification number (e.g. CHE123.456.789 VAT). Since January 31, 2014, the only valid number has been the VAT number based on the company identification number, which has replaced the former six-digit reference number. Taxable recipients in Switzerland who obtain services from companies domiciled abroad and who are not entered in the taxpayer register must declare the services in the context of their normal VAT returns if the place of the service is in Switzerland according to the principle “the place of supply is where the recipient is established”.

A special regulation exists for holding companies. In general the acquisition, holding, and selling of shareholdings is a commercial activity within the meaning Swiss VAT legislation. Shares of capital in other companies over 10% are classed as shareholdings, which are held with the intention of long-term investment and have a considerable influence. The qualification of the holding activity as a commercial action means that the holding company can be voluntarily registered due to the waiving of the exemption from tax. The advantage of the registration is that pre-tax that is due within the scope of the holding activities can be claimed, although the sale of shareholdings essentially represents income exempt from tax (normally, however, a pre-tax correction is necessary due to interest income).

10.5.2 Taxable Supplies

VAT is levied on the following types of services:

1. Delivery of goods in Switzerland (including Liechtenstein),
2. Provision of services in Switzerland (including Liechtenstein),
3. Purchase of services (and certain domestic deliveries) from companies domiciled abroad and
4. Import of goods.

Certain services provided to foreign recipients (as well as the export of goods and the delivery of goods abroad) are not taxed or are zero-rated with full input tax recovery. The delivery of goods for the purposes of VAT is not limited to goods deliveries as defined by Swiss commercial law. The VAT law provides for a number of transactions which, in the sense of value added taxation, are considered to be supplies of goods such as the maintenance of machinery, the rental or leasing of property, the sale of electricity, etc.

10.5.3 Taxable Amount

The basis for the calculation of the taxable amount for the supply of goods and services is the agreed upon or the collected gross remuneration (in cash or in kind). Input tax, i.e., the tax paid on purchases of goods and services, can be deducted from the value added tax owed. Consequently, only the value added is taxed (net all-phase principle).

10.5.4 Tax Rates

Since January 1, 2018, the standard rate has been 7.7% on all taxable supplies of goods or services. A reduced rate of 3.7% is applicable for accommodations. A reduced rate of 2.5% applies on certain categories of goods and services for certain basic needs such as water supply, food and non-alcoholic beverages, cattle, poultry, fish, cereals and grain, books and newspapers, services of non-commercial radio and TV broadcasts, etc.

The Federal Tax Administration offers further simplified VAT accounting for small businesses with turnover of below 5.005 million Swiss francs (incl. VAT) and a tax liability of 103,000 Swiss francs (calculated according to the applicable net tax rate) or less per year. Small businesses may opt to submit VAT based on a balanced tax rate which is lower than the standard rate of 7.7% if they, in return, waive the standard procedure for input VAT accounting, which would otherwise be deducted from the VAT levied on revenue (input VAT deduction). This simplified taxation method must be approved by the Swiss Federal Tax Administration and maintained for at least one year. Contrary to the normal case of quarterly billing, a VAT return has to be submitted only twice a year.

10.5.5 Exemptions

The law differentiates between VAT-exempt revenue and revenue excluded from VAT. No VAT is levied in either case, but a distinction is made regarding the input VAT deduction.

In cases of exclusions, no input tax deduction is possible for the taxes paid in generating the revenue excluded from VAT. Excluded activities are the healthcare sector, education, culture, sport, social care, most banking and insurance activities, rental and sale of real estate, as well as gambling and lotteries. However, for most of these excluded revenues, it is possible to opt for voluntary taxation. This option is, however, not possible in the case of banking and insurance revenue, as well as the renting and purchase of real estate exclusively for residential use. In contrast to activities excluded from VAT, exempt activities allow for an input VAT deduction for all taxes paid in generating the revenue in question (true exemption). An example of an activity exempt from tax is the export of goods (see also section 10.5.7).

Business activities abroad are not subject to Swiss VAT. These types of revenue are generally the result of international business models. A typical example is a Swiss trading company that buys products from a foreign manufacturing company and sells them to customers in a third country, shipping the products directly to those customers. Activities involving the supply of goods or services abroad only entitle the taxpayer to deduct input tax if the revenue does not qualify as VAT exempt.

10.5.6 Deduction of Input Taxes

An enterprise registered for VAT is liable for VAT on all supplies (sales tax) and will incur VAT on purchases for the business (input tax). In most cases, input taxes may be deducted from the amount of total value added taxes due, and so do not generally represent an additional burden for a business. VAT is a genuine expense only for the end consumer or for a business involved in transactions for which no input tax can be recovered (businesses with excluded income such as banks and insurance companies).

10.5.7 Exports

In addition to exported goods, certain services – if rendered to a recipient domiciled abroad – are also exempt from Swiss VAT (with credit).

However, the Swiss VAT law includes a list of services that are either taxable where the service provider is domiciled or are subject to special provisions according to this list (e.g., services in connection with real estate, hotel and restaurant services; services in relation to culture, sports, and the arts; passenger transport, etc.). Services not included in this list that are provided to a foreign recipient are not subject to Swiss VAT (a catch-all provision – the “place of supply is where the recipient is established” – is applied).

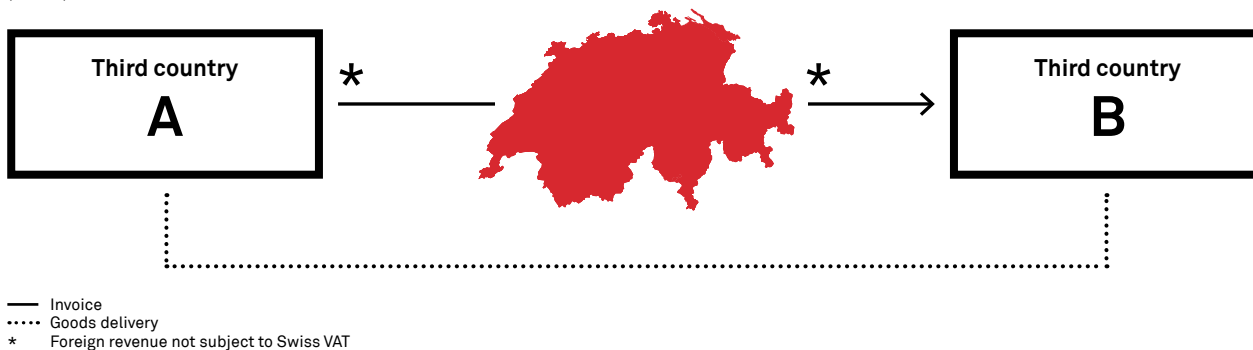
However, the VAT-exempt or non-taxable nature of such services must be proven by the underlying documents such as invoices, agreements, etc. The same applies to export shipments, where a customs export/import certificate is required for tax exemption.

10.5.8 International Business Activity

The basic VAT rules described above have the following effect in the case of a Swiss trading company that buys products from a foreign manufacturing company and sells them to customers in a third country, shipping the products directly to those customers:

International Business Activity

(FIG. 43)



Sources: compiled by the author

10.5.9 Non-Resident Enterprises

Foreign businesses supplying goods or certain services to or within Switzerland wishing to waive the exemption from tax liability or with corresponding sales revenues in excess of the threshold stated in chapter 10.5.1 are required to appoint an authorized VAT representative based in Switzerland. Such entrepreneurs may claim input VAT directly. Exempted from compulsory VAT duties are foreign companies that only provide services in Switzerland exempt from tax or recipient-centered services (except telecommunications or electronic services to non-taxable recipients), or deliveries of electricity in pipelines, gas via the natural gas distribution network, and district heating to taxable persons in Switzerland.

Non-resident entrepreneurs without taxable activities in Switzerland are entitled to a refund of Swiss VAT if their foreign activities would qualify as taxable turnover under Swiss VAT law and if the country of residence grants reciprocal treatment to Swiss entrepreneurs (VAT refund).

“At 7.7%, Switzerland has the lowest rate of VAT in Europe.”

10.6 OTHER TAXES

10.6.1 Stamp Taxes

Generally, the tax liability arises on special legal transactions such as the issuance of shares (issuance stamp tax also known as capital duty) or the trading of securities (securities transfer stamp tax).

The tax on the issuance and the increase of equity of Swiss corporations is 1% on the fair market value of the amount contributed, with an exemption on the first 1 million Swiss francs of capital paid in, whether it is made in an initial or subsequent contribution.

The transfer of Swiss and foreign securities in which a Swiss securities dealer participates as a contracting party or as an intermediary is subject to Swiss securities transfer stamp tax (often called “securities turnover tax” whereby turnover refers to revenue). Depending on the issuer’s residence (Switzerland or foreign country), the tax rate is 0.15% or 0.3% and is calculated on the consideration of the securities traded.

Swiss securities dealers are defined as any persons professionally engaged in buying or selling securities for their own account or for another person, including Swiss banks and other Swiss bank-like institutions. Furthermore, companies holding taxable securities whose book values exceed 10 million Swiss francs and remote members of a Swiss stock exchange with regard to Swiss titles which are quoted on the Swiss stock exchange are considered Swiss securities dealers.

10.6.2 Real Estate Taxes

Capital gains on Swiss immovable property are either subject to a special cantonal real estate gains tax or to ordinary corporate income tax depending on the system that is applied in the canton where the immovable property is located.

Furthermore, in some cantons the transfer of real estate is subject to a conveyance tax, whereas on the federal level no taxes of such kind are levied. As a general rule, conveyance tax is assessed on the purchase price or the taxable value of the real estate and is typically paid by the purchaser of the real estate. Depending on the canton, the applicable tax rate varies between 1% and 3%.

Moreover, about half of the cantons levy a special wealth tax on real estate. This tax is due every year in addition to the general wealth tax. The tax is levied at the place where the property is situated and is assessed on the market or taxable value of the real estate without allowing for deduction of debts. The applicable tax rate is 0.3%.

10.7 DOUBLE TAX TREATIES

To minimize the effect of double taxation in Switzerland and abroad, Switzerland has concluded tax treaties covering direct income taxes with all major industrial countries and many other countries. Most of these treaties are patterned on the principles of the OECD model convention, which defines where the income or the assets are to be taxed and also describes the method for the elimination of double taxation. Switzerland adopted the tax exemption method, exempting income allocable to a foreign country from taxation in Switzerland. The respective income and assets are only considered for the calculation of the applicable tax rate (progression). On certain income streams (dividend, interest, and license fees) both states, the state in which the income is earned and the state of the recipient's residence, are entitled to tax them. However, the double tax treaty limits the right of taxation of the source state, and the source tax can be credited against the tax levied in the recipient's state of residence. To date, more than 80 tax treaties are in effect, plus also the EU bilateral agreements as of July 1, 2005. As Swiss tax treaties are treated as international conventions, they generally supersede federal as well as cantonal/municipal tax rules.

Swiss double tax treaties apply to persons (individuals or companies) who are resident in one or both of the contracting states. As already mentioned in chapter 10.3.5, Swiss residents applying for lump-sum taxation generally qualify for treaty relief as well. However, some treaties provide for special conditions to be met in order to benefit from the treaty applied.

Apart from the tax treaties covering direct income taxes, Switzerland also concluded a few tax treaties in the area of inheritance and estate tax. Switzerland has not negotiated any double tax treaties concerning gift taxes so far. Furthermore, there are some special treaties relating to cross-border commuters, taxation of international air and transport services, and the tax situation of international organizations and their staff.

10.8 TAX PROPOSAL 17

Switzerland is currently in the process of modernizing its corporate tax system. The goal is to provide an attractive tax environment for companies and to ensure that taxation arrangements are in line with internationally established tax practices.

The Swiss Federal Department of Finance (FDF) has already prepared a new proposal with tax proposal 17 (SV17). The reform is expected to come into effect no earlier than 2020. Until then, the current attractive tax regime will remain valid at national level.

Current information on tax proposal 17 can be found on the website of the Swiss Federal Department of Finance.

www.efd.admin.ch > Tax proposal 17
Federal Department of Finance (FDF)
Languages: German, English, French, Italian

www.s-ge.com/corporate-taxation
Facts and figures on Corporate Taxation in Switzerland
Languages: German, English, French, Italian, Spanish, Portuguese, Russian, Chinese, Japanese

10.9 TRANSFER PRICING RULES

According to Swiss tax law, transactions between group companies must be at arm's length. Switzerland does not have separate transfer pricing legislation and does not plan to introduce such legislation in the near future. Instead, the Swiss tax authorities follow the transfer pricing guidelines of the OECD to determine if a transaction between related parties is at arm's length. In Switzerland, no specific documentation requirements for transfer pricing purposes must be observed. A company doing business in Switzerland should however have the appropriate documentation on file verifying the arm's-length nature of transactions with related parties.

www.efd.admin.ch
Federal Department of Finance (FDF)
Languages: German, English, French, Italian