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Switzerland

TAX DISPUTES

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This country-specific Q&A provides an overview of tax disputes laws and regulations applicable in Switzerland.

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SWITZERLAND TAX DISPUTES



1. Is it necessary for a taxpayer to register with the tax authority? Are separate registrations required for corporate income tax and value added tax/sales tax?

The Swiss tax system does not require any specific registration with the cantonal or federal tax authorities for direct taxes (individual and corporate income taxes, individual wealth tax and corporate capital tax). Corporations are entered into the Register of Commerce and individuals are identified by the Population and Immigration Office. On the basis of this information, the tax authority will spontaneously register the taxpayers.

However, there are certain conditions for tax liability. Both individuals and corporations may become subject to Swiss income and wealth tax on the basis of a "personal" or an "economic" connection to Switzerland.

A personal connection exists if an individual qualifies as a Swiss resident for tax purposes by establishing a domicile in Switzerland or by remaining in Switzerland for a protracted period of 30 days if engaged in gainful activities (90 days without gainful activities). An individual who does not qualify as a Swiss resident for tax purposes may nevertheless become subject to Swiss income tax by establishing an economic connection. This is the case for certain investments and gainful activities in Switzerland, such as domestic real estate, domestic self-employment, or board-membership in a Swiss company.

A corporation has a personal connection with Switzerland and is thus considered to be a Swiss resident if it has its statutory seat or place of effective management in Switzerland. Non-resident companies may be subject to Swiss corporate taxes on the basis of an economic connection if they have a permanent establishment, immovable property or other economic relations in Switzerland.

Individual and corporate taxes are assessed on the basis of an annual tax return filed by the taxpayer. The final income tax burden depends on the taxpayer's personal

and financial situation and varies from canton to canton and commune to commune. Certain groups of individuals, such as foreign nationals without a C-permit, are taxed at source (PAYE tax system). This tax system is applied either instead of or in parallel with the filing a tax return.

Registration is separate for value added tax (VAT). In this respect, registration with the federal VAT authority is either mandatory or voluntary.

2. In general terms, when a taxpayer files a tax return, does the tax authority check it and issue a tax assessment - or there a system of self-assessment where the taxpayer makes their own assessment which stands unless checked?

The assessment system varies depending on the tax concerned.

Direct taxes are levied in accordance with a mixed procedure: the taxpayer submits a tax return, in principle within three months of the end of the tax period. The competent tax authority examines the return and issues an assessment decision, which determines the tax base, the applicable tax rate and the amount of tax.

The cantonal tax authorities assess individuals and legal entities for cantonal income and wealth/capital taxes as well as federal individual and corporate income taxes. Companies are initially assessed by the tax authority on a provisional basis following the submission of annual tax returns. The final assessments are issued after the tax base has either been the subject of a tax audit or has been declared final by the authorities.

Withholding tax, stamp duty and VAT are subject to the principle of self-assessment, meaning that the taxpayer must determine the amount of tax due, declare it and pay it to the tax authorities. Under these procedures, an audit is carried out after the submission of a tax return

and the payment. It is followed by a formal decision of the Federal Tax Authority (FTA).

3. Can a taxpayer amend the taxpayer's return after it has been filed? Are there any time limits to do this?

Taxpayers may amend their tax returns after filing, as long as the final tax assessment decision has not been issued.

4. Please summarise the main methods for a tax authority to challenge the amount of tax a taxpayer has paid by way of an initial assessment/self-assessment.

In the case of direct taxes, the additional tax assessment procedure allows the tax authority that discovers that a tax assessment that has entered into force is incomplete to subsequently collect the uncollected tax, plus interest on arrears. An additional tax assessment procedure may be initiated by the tax authority within ten years of the end of the relevant tax period and must in any case be completed in the limitation period of fifteen years from the end of the tax period. The taxpayer is informed in writing of the initiation of an additional tax assessment procedure against him. If the taxpayer is deceased, the procedure is initiated against his heirs.

There is no formal additional tax assessment procedure for withholding tax, as the procedure is based on a self-assessment. However, the authority may raise new questions and issue a new invoice.

5. What is the procedure where a taxpayer has not registered so is unknown to the tax authority (for example a newly incorporated company or a foreign company operating through a permanent establishment?)

A tax return is sent to all individuals subject to Swiss tax, regardless of the registration at the Cantonal Population Office.

Corporate entities that have their statutory seat in Switzerland are entered in the Register of Commerce and will thus be spontaneously included in the tax roll. It is only in the case of a foreign company deploying an activity in Switzerland without having a registered affiliate or when the statutory seat is abroad while the effective management is in Switzerland that a concern arises. The tax authority will approach the

representatives of the foreign entity in Switzerland if they are known.

In practice, the tax authorities tend to challenge a related entity registered in Switzerland from two alternative angles: the first one is based on the place of effective management in Switzerland, while the second one is based on transfer pricing, which is the most common angle.

6. What are the time limits that apply to such challenges (disregarding any override of these limits to comply with obligations to relief from double taxation under a tax treaty)?

As a general rule, the right to tax expires five years after the end of the accounting period. The prescription period cannot be extended, but it may be suspended or interrupted. In general, there is however an absolute time limit of 15 years.

The five-year prescription period is suspended during appeal proceedings or while the taxpayer is neither resident nor staying in Switzerland. The prescription continues to run as soon as the ground for suspension disappears. The statutory prescription period that has already elapsed thus remains valid.

A new five-year time limit starts every time the competent authority takes a measure establishing or enforcing the tax claim of the taxpayer. This includes the delivery of the tax return, the request to complete the annexes to the tax return, as well as the notice that the assessment will be made at a later point in time. The prescription period also starts again when a criminal procedure for tax fraud is initiated.

7. How is tax fraud defined in your law?

Tax evasion is defined as the offence whereby the taxpayer, intentionally or through negligence, causes a tax assessment not to be made or to be incomplete.

Tax fraud additionally requires the taxpayer to intentionally use fraudulent documents (e.g., a balance sheet that do not show the correct assets and liabilities for direct taxes) or to develop a scheme or a "web of lies" to mislead the tax authorities (indirect taxes).

8. How is tax fraud treated? Does the tax authority conduct a criminal investigation

with a view to seeking a prosecution and custodial sentence?

Criminal tax litigation focuses on investigating and punishing offences such as tax evasion or tax fraud.

Tax evasion is prosecuted and judged by the tax administrations themselves. It is however still considered a criminal prosecution and the taxpayer enjoys the rights of an accused person, in particular the right to remain silent and not to incriminate himself. Tax evasion is punishable by a fine of between one third and three times the amount of tax evaded, depending on the taxpayer's cooperation.

Tax fraud is prosecuted by ordinary criminal prosecutors and is listed on a person's permanent criminal record. It is referred by the cantonal tax authorities to the public prosecutor who will bring the matter before the cantonal criminal court. The court will rely on the administration's investigation and will not order investigative measures of its own. Tax fraud is generally punishable by imprisonment up to 3 years, monetary penalty or a fine of up to CHF 10,000, in addition to the amount of tax evaded. The statute of limitations for tax fraud is 15 years.

Tax fraud can also result in prosecutions for money laundering. Anyone who commits an act that hinders the identification of the origin, discovery or confiscation of assets that he knew or should have presumed to be the result of a qualified tax offence may be punished by up to three years imprisonment or by a pecuniary penalty. The amount of tax evaded must be at least CHF 300,000.

9. In practice, how often is a taxpayer audited after a return is filed? Does a tax authority need to have any justification to commence an audit?

Every tax return filed goes through a formal tax assessment process with the tax authorities in charge. The tax authorities may then request additional information and statements. At the end of this audit process, a formal tax assessment is issued. Swiss corporate income tax law does not outline specific audit process. The tax authorities will generally review the tax return and may request further information or inspect the taxpayer's premises in order to assess him on a true and complete basis.

For indirect taxes levied under the self-assessment procedure, the FTA will not immediately verify the taxpayer's spontaneous assessment and payment, but

may later proceed to a tax audit covering several years.

It should be noted that there is no general rule regarding the frequency of these audits. In any case, they are not regular but rather random.

10. Does the tax authority have to abide by any standards or a code of conduct when carrying out audits? Does the tax authority publish any details of how it in practice conducts audits?

The FTA, the Swiss Tax Conference (STC), EXPERTsuisse and the IFF-HSG have documented the principles and rules of conduct in the "Tax Code of Conduct 2021". Its aim is to ensure the efficient implementation of legal requirements and to strengthen the trust between taxpayers, tax agents and tax authorities over the long term. It is intended as a recommendation for employees of tax administrations and tax agents or representatives of companies working in the tax field. In addition, the FTA publishes circulars for cantonal tax authorities, fiduciaries and natural and legal persons. They provide information on certain aspects of direct federal tax, withholding tax and stamp duty.

11. Does the tax authority have the power to compulsorily request information? Does this extend to emails? Is there a right of appeal against the use of such a power?

The taxpayer has a duty to co-operate during the tax assessment procedure in administrative proceedings. The taxpayer must also provide information to the tax authority upon request. As a rule, the courts do not order any discovery of their own, but limit themselves to assessing the case based on the facts presented by the taxpayer and the tax authority. If a court deems that the facts provided are not sufficient to support a decision, it may remit the case back to the competent tax authority with instructions.

In criminal proceedings, a taxpayer accused of committing a tax offence is not obliged to disclose any information or documents, but has a right to remain silent in accordance with the privilege against self-incrimination.

All deficiencies of the tax authority's decision (whether of a legal or factual nature) can be appealed. The cantonal courts have full jurisdiction to review legal and factual questions.

12. Can the tax authority have the power to compulsorily request information from third parties? Is there a right of appeal against the use of such a power?

Tax law requires a number of third parties (employer, persons having a contractual relationship with the taxpayer, etc.) to provide certificates, information and data to the tax authorities during the taxation procedure. Other authorities and third parties have a direct duty to provide information spontaneously (certain companies, spouses, heirs). If the taxpayer does not provide the required certificates or refuses to request them, the tax authority may request them directly from the third party concerned. Legally protected professional secrecy (such as banking secrecy or attorney-client privilege) is reserved.

In cases of tax fraud, bank secrecy may be lifted. In addition, if any suspicion of money laundering arises, bank employees may be required to provide information to the competent authorities.

Any document or communication between attorneys and their client is protected and the privilege may not be waived. Furthermore, attorneys do not have the obligation to report suspicions of money laundering, unless they are acting as a financial intermediary in the transaction and suspect that the amounts involved are the result of tax fraud.

13. Is it possible to settle an audit by way of a binding agreement, i.e. without litigation?

Swiss tax authorities are generally open to discussing a particular case with the taxpayer before they issue a decision if they feel they need further information on certain points and are amenable to solid arguments for a particular tax treatment.

Moreover, for a number of offences considered to be reasonably minor, the prosecuting authorities can issue penalty notices without court involvement, allowing early resolution of criminal law offences before trial. The prosecuting authority may also be willing to grant a type of plea deal especially when the facts or the legal interpretation are unclear.

Additionally, taxpayers are offered a voluntary disclosure procedure for undeclared assets and income subject to taxation in Switzerland. This procedure provides the opportunity for a taxpayer to spontaneously disclose tax offences such as tax avoidance or tax fraud before the tax authority initiates an additional tax assessment. This

allows the taxpayer to avoid facing a criminal prosecution and fines.

14. If a taxpayer is concerned about how they are being treated, or the speed at which an audit is being conducted, do they have any remedies?

An administrative decision may be challenged by lodging a formal complaint or an appeal on the grounds that it is unlawful, unconstitutional or contrary to the taxpayer's legitimate expectation. In specific cases, the unlawfulness may also result from the taxpayer in question being discriminated against in relation to another taxpayer.

There is generally no time requirement or deadline to render a decision, which makes it difficult to anticipate when a decision can be expected. Courts must however render their decisions within a fair and reasonable time, which will depend on the individual case.

15. If a taxpayer disagrees with a tax assessment, does the taxpayer have a right of appeal?

Administrative tax litigation is generally referred to as assessment litigation in Switzerland. It is standard procedure in Swiss tax law that assessment litigation takes place before the tax authorities as a first step, before an appeal can be brought by the taxpayer to the administrative courts. For the detailed procedures, cf. question 16.

16. Is the right of appeal to an administrative body (independent or otherwise) or judicial in nature (i.e. to a tribunal or court)?

The taxpayer may generally not challenge immediately his assessment in court. Rather, within 30 days of its notification, the taxpayer may turn to the tax authority that issued the tax assessment to compel it to render a new decision. This procedure allows numerous disputes to be resolved in a quick and efficient way at little cost. The tax authority will then issue a decision on the formal complaint. This procedure is very common, often eliminates the need for court proceedings and generally takes only a few months. However, for complicated issues, this procedure offers limited solutions and tax authorities usually prefer to stand by their initial assessment and leave it to a higher independent body (i.e., a court) to make a binding judgement.

If the taxpayer does not agree with the newly issued administrative decision, he may start judicial proceedings before the competent administrative court (cf. question 27).

17. Is the hearing in public? Is the decision published? What other information about the appeal can be accessed by a third party/the public?

Oral proceedings and hearings are the exception in mixed and self-assessment procedures. Generally, the taxpayer is not entitled to a public hearing in assessment litigation. However, there are some cantonal procedural rules that provide for the possibility of an oral hearing. In principle, these are public, but the taxpayer can request a private hearing, which will generally be granted when the tax proceedings deal with business and financial aspects that are legitimately private to the taxpayer.

If decisions are published, they remain anonymous.

The Federal Supreme Court sometimes discusses its decision in public in cases that it holds to be particularly important. However, this is not a hearing but a public display of the court's decision-making process, as the parties involved are not invited to participate in any way.

18. Is the procedure mainly written or a combination of written and oral?

In tax matters, the procedure is generally based on written exchanges. Assessment litigation, closing arguments and appeals consist thus of written proceedings. Where there are exceptional oral closing arguments, the arguments should only summarise the written submissions.

In criminal cases, the accused taxpayer has the right to a public trial before a court. He can request a private hearing or trial by presenting valid reasons. For the closing, the canton decides whether both written and oral arguments can be submitted. Criminal proceedings in the case of tax fraud are generally oral and public. In case of an appeal against a criminal law decision, the appellate court may opt for written proceedings if the decision only relates to legal issues. The procedure before the Federal Supreme Court is generally based on written exchanges, as oral hearings are rare.

19. Is there a document discovery process?

There are two situations, both in a criminal context, in

which the authorities have policing powers allowing a document discovery process. The first situation concerns the usual but in fact infrequent cases in which the tax authority transmits the tax fraud case to the cantonal criminal authorities which have policing powers. The second situation concerns cases in which the criminal affairs and investigations division of the FTA intervenes. This division has policing powers in cases of a well-founded suspicion of serious tax offences and if the head of the Federal Department of Finance authorises the FTA to conduct an investigation in cooperation with the cantonal tax authorities and to order a search.

20. Are witnesses called to give evidence?

Witness evidence does not play a significant role in assessment litigation, but is available in criminal litigation. Despite that, it hardly ever plays a role in tax litigation. Usually, witnesses give oral evidence that can only be taken into account if the facts cannot be sufficiently clarified otherwise.

21. Is the burden on the taxpayer to disprove the assessment the subject of the appeal?

In assessment litigation, the burden of proof is on the taxpayer to prove elements that reduce or eliminate the tax burden. The tax authorities bear the burden of proving elements that give rise to the obligation to pay or increase the tax.

In the assessment procedure, the taxpayer has a duty to cooperate and to provide the tax authority with certain documents and information. Non-compliance with this obligation often results in a reversal of the burden of proof. The role of the judge is to assess whether the tax authority has determined the tax due in accordance with the legal framework.

In criminal tax litigation proceedings, the prosecution must prove that an offence has been committed. The taxpayer has no obligation to cooperate. The role of the judge is to assess whether the prosecutor has proved that an offence has been committed. The principle of investigation is applicable.

22. How long does an appeal usually take to conclude?

Judicial proceedings may take between one and two years before judgment, depending on the workload of the courts and the complexity of the matter.

23. Does the taxpayer have to pay the assessment pending the outcome of the appeal?

The taxpayer does not have to pay the disputed tax in order to appeal the tax authority's decision, as only tax assessments that have entered into force and are no longer subject to appeal are enforceable. However, the tax authorities will often set a deadline for the payment of taxes that have not been finally assessed.

In the case of indirect taxes, a taxpayer may pay the tax, but must clearly state that the obligation to pay the tax is disputed and that the payment made is conditional.

24. Are there any restrictions on who can conduct or appear in the appeal on behalf of the taxpayer?

Generally speaking, only the taxpayer to whom the tax assessment has been notified is entitled to bring a tax claim against the authorities. Depending on the case and the circumstances, other persons or entities may have a right of appeal (e.g., another tax authority in cases of inter-cantonal double taxation, a legal representative, heirs, or the administrators of a bankrupt assets). With regard to direct income tax, both the competent cantonal tax authority and the FTA have the right to appeal against tax assessment decisions, without having to file a prior formal complaint. With regard to withholding tax, the liable person is not the same as the one entitled to a full or partial refund of the withholding tax, under Swiss law or treaty law. Any person claiming a full or partial refund has the right to submit a formal complaint against the authorities. In the field of tax at source, a formal complaint may be lodged by any interested person (the taxpayer and the debtor of the taxable benefit).

Lately, the Swiss Federal Supreme Court has rendered numerous decisions about administrative assistance procedure, in particular on party status. The Court recalled that in order to be entitled to appeal, a person must qualify as a party, even though the Federal Act on International Administrative Assistance in Tax Matters of 28 September 2012 does not explicitly define party status. In addition to the person concerned by the request for administrative assistance, other persons have the right to appeal if they have an interest worthy of protection in the annulment or modification of the contested decision. A bank, as the holder of the information, should therefore only be granted party status if its own interest is affected by the final decision. This is typically not the case if it 'only' has to provide information on its clients and not on the transactions it

has itself carried out. Thus, banks, as mere holders of information, generally do not have party status. The bank does have party status in particular if there are serious concerns that the foreign authorities will violate the principle of speciality.

25. Is there a system where the "loser pays" the winner's legal/professional costs of an appeal?

As a general rule, each party bears its own costs. The taxpayer only has to pay the procedural fees if he loses the case. The competent authorities will thus request an advance on the procedural fees. Nevertheless, these costs may also be borne by the successful appellant if their behaviour caused or significantly delayed the investigation. Moreover, all or part of the costs incurred because of inquiry measures may be charged to the taxpayer or any other person who is required to provide information, if those inquiry measures have been made necessary by a breach of procedural duties. A party may be exempted from bearing the procedural costs if the proceedings are of general interest or if the taxpayer is unable to pay.

If the taxpayer partially wins, they will have to pay part of the court fees. Advances on fees will be reimbursed to the taxpayer and their lawyer's or representative's costs may be partially borne by the state (request of compensation for necessary expenses).

26. Is it possible to use alternative forms of dispute resolution - such as voluntary mediation or binding arbitration? Are there any restrictions on when this alternative form of dispute resolution can be pursued?

Alternative dispute resolution procedures are not provided for in Swiss tax law. However, given the overall complexity of taxation in Switzerland, taxpayers have an interest in discussing the more complex cases with the tax authorities at an early stage, prior to the implementations of any actions. Prospective taxpayers, such as international corporations considering moving to Switzerland, can obtain confirmation of their future taxation with a tax ruling. The same applies to individuals, so that they can be fully aware of the tax consequences of a transaction or structure.

Tax rulings are commonly used in Swiss tax practice, although the law does not expressly refer to it. A tax ruling does not provide for a preferential taxation compared to what the applicable law prescribes. It constitutes a quick and efficient way to provide for

clarity in readiness for taxation. To obtain a ruling, the taxpayer has to disclose all relevant information, fully and truthfully disclosed, usually in the form of a letter.

If the competent tax authority (cantonal or FTA for withholding tax) agrees with the taxpayer, the ruling request is sent back to the taxpayer with the stamp of the authority, which provides the taxpayer with confirmation from the state on the tax treatment of a transaction or a situation. Tax rulings are not public.

There is no legal entitlement for a taxpayer to obtain a ruling, even though tax authorities are usually willing to consider ruling requests. This means that taxpayers cannot contest the refusal of a ruling request.

Regarding the binding effect of such rulings, the taxpayer is protected by the constitutional principle of good faith provided that the facts on which the agreement was based correspond to the actual situation and that all relevant elements (both favourable and unfavourable) have been presented. Swiss case law also emphasises that the taxpayer may not diverge from the facts stated in the ruling.

With regard to other means of alternative dispute resolution, double taxation treaties concluded by Switzerland usually refer to mutual agreement procedures. Such procedures also constitute a minimum standard under the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI), signed by Switzerland on 7 June 2017. It may be initiated to eliminate double taxation that has occurred in violation of the treaty. In this context, advance-pricing agreements are a specific kind of mutual agreement procedure in the area of transfer pricing. An increasing number of double tax treaties allow the taxpayer to initiate an arbitration procedure if the mutual agreement procedure fails to reach an understanding within a certain timeframe provided for in the applicable treaty. Tax arbitration is meant to be an incentive for the competent authorities to come to a quick and satisfactory agreement.

27. Is there a right of onward appeal? If so, what are all the levels of onward appeal before the case reaches the highest appellate court.

In disputes relating to direct taxes (both cantonal and federal), there are two levels of cantonal administrative courts (the first and second instance administrative court) before appealing to the Swiss Federal Supreme Court. The different appeals must be filed within 30 days of notification of the contested decision.

For indirect taxes (withholding tax, stamp tax, VAT), the Federal Administrative Court, as the ordinary administrative court of the Swiss Confederation, hears appeals as the first and only instance before a case can be referred to the Federal Supreme Court.

If the taxpayer or the competent tax authority considers that the decision of the cantonal court of second instance or of the Federal Administrative Court is unlawful, they appeal to the Swiss Federal Supreme Court. The Swiss Federal Supreme Court is Switzerland's highest judicial authority and generally rules with three judges. It issues final decisions in tax matters and will either hand down a final decision on the merits of the case or remit it back to the lower courts or the tax authority.

The cantonal courts and the Federal Administrative Court have full jurisdiction to review both legal and factual questions. The Swiss Federal Supreme Court does not re-establish the facts of the case but only applies the law on facts already determined. It may only correct the facts if they have been incorrectly established in a flagrant manner by the lower court or have been based on a violation of the law.

28. What are the main penalties that can be applied when additional tax is charged? What are the minimum and maximum penalties?

As a preliminary remark, it should be underlined that, with regard to direct taxes, the fact that the taxpayer seeks to save taxes is not punishable. In Swiss tax law, offences and sanctions are designed as follows:

Negligent failure to carry out procedural duties refers to situations where, for example, the taxpayer fails to file a tax return or to comply with a duty to provide information. Regarding the sanction, for income and equity taxes, the penalty is limited to CHF 1,000 (or CHF 10,000 for more serious cases or in the event of recurrence). For other types of taxes, the limit is different.

The unlawful reduction of the amount of tax due may be penalised on two main grounds. On the one hand, tax evasion (i.e., where the taxpayer with intent or negligently omits certain items from their tax return, or generally causes a final assessment to be incomplete) belongs to the lowest category of criminal offences and is only subject to a fine. The fine may vary from one-third to three times the amount of tax evaded, and is subject to a statute of limitation of 10 years. Regarding attempted tax evasion, the fine amounts to two-thirds of

the amount determined for complete tax evasion. The statute of limitations is six years. For tax fraud, cf. question 8

29. If penalties can be mitigated, what factors are taken into account?

The penalty will vary depending on the degree of fault or negligence, a primary defence being the lack of intent that mitigates the penalty without exempting from liability.

30. Within your jurisdiction, are you finding that tax authorities are more inclined to bring challenges in particular areas? If so, what are these?

In two recent cases, the Swiss Federal Supreme Court cleared up uncertainties surrounding tax rulings and offshore structures. In this regard, the Court confirmed that the tax authorities should be stricter when dealing with exotic offshore structures. Moreover, it has been clarified that only cantonal tax authorities have the power to grant tax rulings.

Until February 2017, following a decision of the Swiss Federal Supreme Court, Swiss tax authorities had adopted a formalistic view on the notification deadlines to be respected to avoid the retaining of withholding tax

(dividend notification procedure). The 30-day deadline for notification was seen as a forfeiture deadline rather than an indicative deadline. Consequently, in the case of non-compliance with such notification deadline, withholding tax was immediately due on any dividends that were not declared in the notification procedure and interest on late payment was to be paid on the withholding tax due. However, on 15 February 2017, the Swiss Withholding Tax Act was amended in connection with the application of the notification procedure on intra-group dividends (withholding tax relief at source). As a result of this amendment, although the 30-day deadline remains unchanged, interest on late payment is now prohibited. Therefore, for a period of one year following the entry into force of the new provisions, companies that paid such interest to the FTA have been able to claim these payments back. The new regulation also provides for a retroactive effect whereas the refund shall also apply to cases that occurred before the entry into force of the new provisions, unless the tax claims or the late payment interest claims are time-barred or have already effectively been assessed prior to 1 January 2011.

More generally, Swiss tax authorities are paying more attention to transfer pricing issues and take a stricter approach with regard to structures and intra-group transactions involving offshore entities and locations. Swiss tax authorities follow the OECD Guidelines and methods. However, depending on the complexity of the case, it is advisable to request a tax ruling.

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