

SWITZERLAND

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I INTRODUCTION

Switzerland has often been considered as a low-tax country when it was not accused of being a tax haven. The reader of this contribution will realise that, when it comes to tax litigation, the Swiss tax system is far from perfect and that, especially on the procedural side, taxpayers face many considerable challenges. Recent Swiss tax literature pointed out that statistically, taxpayers' chances to win in Swiss courts are very limited, especially compared to the tax authorities' chances (11% vs. 51%).²

Swiss authorities have an important arsenal of anti-abuse measures alongside a sophisticated system repressing tax offences. Regarding case law, although Switzerland is a country with a positive law tradition, it is noteworthy that in the field of tax litigation, the most important theories relating to the burden of proof or anti-abuse are almost all rooted in aggregates of case law. The Swiss Federal Tribunal was reorganized as per 1 January 2023. Tax and social security matters have been merged and transferred into one chamber (the new Third Public Law Chamber), which now focuses exclusively on these areas. The seat of the Third Public Law Chamber is in Lucerne. This reorganisation has increased the expert knowledge of the judges in the vast area of tax, which has a beneficial effect on the quality of judgements.³ Some judgements rendered by the Swiss Federal Tribunal since then seem to justify this expectation.

So, despite its difficulties, Swiss tax litigation can also be seen under a positive light: a passionate area of practice where uncertainty and difficulty constrain the litigant to go to the edge of knowledge and creativity, but where success is not at all impossible: *Audentis fortuna iuvat*.⁴

II COMMENCING DISPUTES

i Initiation of the tax assessment procedure

Swiss individual resident taxpayers must submit an annual tax return in which they report their annual income and wealth. The tax return for year *n* is normally due within the first months of the year *n*+1. During year *n*, taxpayers are already expected to pay taxes on a provisional (estimated) basis for the current year. For individuals, the tax year corresponds to the calendar year. Legal persons must submit a tax return after the end of their financial year. The tax return is based on the financial statements and includes the taxable income and capital of the company. Partnerships and sole proprietorships are disregarded for Swiss tax purposes. Their income and capital are directly attributed to the owners or partners. Spontaneous tax declarations must be filed in the case of real estate sales, gifts, and inheritance distributions. In all these cases, the taxpayers are not required to compute the taxes due (this is left to the tax administration, see below).

Taxpayers are required to collaborate and to share all relevant facts with the tax administration to ensure that the taxation is complete and accurate. They must especially provide additional information if the tax administration has additional questions. If the taxpayer fails to comply with this obligation, they may be subject to fines and may especially also have to accept detrimental tax consequences.

Unlike income and wealth or capital taxes, the systems of withholding tax, stamp duties and VAT rely on the principle of self-assessment (i.e., the taxpayer must not only report the relevant transactions, but also compute the taxes due).

ii Issuance of the tax assessment decision

The tax administration determines the taxes due based on the return filed by way of a formal tax assessment. The cantonal (and sometime the municipal) tax administration is in charge of levying income and wealth/capital taxes (including federal income tax, real estate gains taxes, gift taxes, inheritance taxes). Withholding tax, stamp duties and VAT are levied by the Swiss Federal Tax Administration (SFTA).

In its tax assessment, the tax administration may depart from the tax return and make certain adjustments, disallow deductions and reclassify income.

The tax authorities can carry out targeted or random audits of taxpayers. They frequently lead to tax adjustments and therefore to disputes. Arguably the most frequent topics of discussions in audits are the following: Disallowed deductions for items that are potentially not commercially justified, deemed or constructive dividend payments to the shareholder and transactions with related entities, such as

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² Amrein Delia, Hermann Charles, In dubio pro fisco? *Revue fiscale* 79/2024, p. 279 et seq.; Stefan Oesterhelt, *Revue fiscale* 77/2022, p. 908 et seq.

³ See for example: Marco Greter, Chance für die Steuerjustiz: Neuzuteilung der Steuerfälle beim Bundesgericht, *Expert Focus*, 2/22, p. 8 et seq.; Thomas Stadelmann, Vorwort, *Steuerrevue* 77/2022, p. 870 et seq.

⁴ "Fortune favors the bold": Virgil, *Aeneid*, Book X, Verse 284: King Turnus used this sentence to motivate his troops in the battle against his antagonist Aeneas; Ultimately, it did not serve him well, as Aeneas ended up killing Turnus in duel.

sister companies. The various tax authorities exchange information found in audits. Thus, for example, a VAT audit may lead to a corporate income tax audit, which may ultimately also have an impact on the individual shareholder's tax position.

A tax assessment formally establishes the tax base (e.g., the taxable income and taxable wealth or capital). On that basis, the tax rate will be applied, and the tax amount will also be invoiced to the taxpayer.

If the taxpayer omits to submit a tax return, even after they received a formal reminder by registered mail, then the tax administration must establish the taxable income and wealth (or capital) on the basis of its own discretion. The tax administration must aspire to establish a taxable income and wealth as close to reality as possible. It may not determine those factors completely arbitrarily and must rely on the facts and circumstances known to it, but it may draw its own conclusions (for example based on statistical evidence). Once a discretionary assessment has been issued, it may only be challenged on limited grounds.

iii Initiation of tax disputes

Once the tax assessment was received, and if the taxpayer disagrees with it, they may challenge it within a (non-extendable) 30-day deadline by filing a formal opposition. This will force the tax administration to reconsider, and either confirm or amend its initial assessment. If no opposition is filed, then the assessment enters into force and can only be amended under very limited conditions.

In the opposition procedure, both the taxpayer and the tax administration are free to, *inter alia*, provide or use new information, make amendments or adjustments and introduce new claims. The opposition must be filed in writing. Upon receipt of an opposition, the tax administration will re-examine the case and eventually issue a new decision. That new decision may be more detrimental to the taxpayer than the original decision. For example, if in the course of the opposition procedure the tax administration learns of new facts or reaches new conclusions, then it is free to use them against the taxpayer.

If the taxpayer disagrees with the new decision, they may file an appeal (again within 30 days, non-extendable). In cases concerning income and wealth or capital taxes, the appeal is filed with a cantonal court (often a dedicated tax court). In many cantons, there is also a second cantonal court that could review subsequent appeals against the first court's judgments. If withholding tax, stamp duties and VAT are concerned, then the authority issuing the decision is the SFTA, and an appeal may be filed with the Federal Administrative Court. The Swiss Federal Tribunal has ultimate jurisdiction in all tax matters (see Section III).

iv Time limits

The right of the tax administration to issue a tax assessment expires five years after the end of the tax year in question. The statute of limitation is, however, suspended under certain circumstances, for example, during appeal procedures. The five-year period starts all over again whenever the tax administration takes measures that show its determination in levying the tax. There is an absolute statute of limitation of 15 years to issue an assessment. The right to collect a tax is limited to five years after the tax assessment entered into force. This time period can also be suspended or restarted. There is an absolute statute of limitation of 10 years after the assessment entered into force.

v Revision and reassessment

Tax assessments that have entered into force are in principle final. If subsequently relevant facts appear that should have been taken into account at the moment of the assessments, then a revision (to the benefit of the taxpayer) or a reassessment (to the detriment of the taxpayer) may be initiated. This can happen at the request of the taxpayer or because the tax administration becomes aware of the new relevant facts. A revision is, however, not possible if the taxpayer should have mentioned the facts in question during the ordinary assessment procedure, had they applied the appropriate due diligence. The taxpayer must request a revision within 90 days as of the moment they become aware of the new fact. If there are sufficient new facts for a reassessment then the tax administration may issue new revised assessments and include late interest (and potentially open a tax evasion procedure with penalties). The revision and reassessment are subject to a statute of limitation of 10 years (e.g., if the procedure is initiated in 2023, it can cover the years back to 2013).

vi Voluntary self-disclosure

Swiss law allows taxpayers to regularise their tax situation if they had undeclared items of income or wealth in the past 10 years (earlier years are time-barred). The conditions to apply for a voluntary self-disclosure are that the tax authorities must be unaware of the undeclared items (and they were not about to find out), that the application is filed for the first time in the taxpayer's lifetime and that the taxpayer applies on his or her own initiative. The taxpayer must fully cooperate and endeavour to pay the full taxes due. If the conditions are met, then the taxpayer will have to pay back taxes for the previous 10 years, including interest. No penalties are levied. The taxpayers are not required to appear in person at the tax administration.

If a deceased person had undeclared wealth or income and if an heir informs the tax authorities accordingly, then the regularisation period is limited to the three years prior to death.

The tax authorities consider that disclosures relating to assets held in jurisdictions that are part of the Common Reporting Standard (CRS) are no longer possible as such cases would fail the 'own initiative' test.

vii Release of information

Taxpayers have a constitutional and legal right to access all documents that concern them. The tax authorities may withhold certain files while the facts are still in the process of being established (they may do that for example for tactical reasons). Once the facts are clear, however, the taxpayer has a right to access all those files, in principle including internal notes.

In an international administrative assistance context, the Swiss tax authorities (and the Swiss Federal Tribunal) have adopted a position that is generally very favourable to international exchange of information. The general tendency is that taxpayers who want to prevent the Swiss authorities from providing information to foreign authorities prevail only in rather exceptional cases. On 30 January 2025, the Swiss Federal Tribunal decided that, as a result of the war in Ukraine and until further notice, Switzerland will not exchange tax-related information with Russia.⁵

III THE COURTS AND TRIBUNALS

i Cantonal courts

Any decision from the cantonal tax administration can be challenged before an independent tribunal, generally within a non-extendable deadline of 30 days. Each canton is free to decide how to organise its tax courts, including whether one or two instances are available, but many of them have a dedicated tax tribunal and a court of appeal (typically the ones with larger populations, e.g. the cantons of Geneva and Zurich). There is currently a bill pending in Zurich that proposes to eliminate one of the two instances.

Cantonal courts can generally review all facts and provide a full review of the case. In some instances, it can even render a decision placing the appellant in a worse position than if there had been no appeal (*reformatio in pejus*).

ii Federal Administrative Court

Decisions rendered by the SFTA are subject to a potential appeal before the Federal Administrative Court, which is based in St Gallen. The Court is usually composed of three judges, although it can exceptionally be five for important matters or only one for simple ones (e.g., an obviously inadmissible appeal). All judges are elected by the federal parliament.

iii Federal Tribunal

The Federal Tribunal receives appeals against decisions issued by the last cantonal court or the Federal Administrative Court. It is the highest court of the country. It generally rules with three judges, or exceptionally five. The scope of review is limited. It does not reexamine the facts, unless they are considered to have been arbitrarily established. Hence the Federal Tribunal essentially concentrates on legal aspects of tax matters. The judges are elected by the federal parliament. On rare occasions, its decisions can be challenged before the European Court of Human Rights.

IV PENALTIES AND REMEDIES

i Authors and other parties

The taxpayer is the foreseeable author of tax offences. Alongside the taxpayer, third parties may be prosecuted for instigation, complicity, or any form of participation. During the prosecution, complicity is often used by the administrations to hold liable the board or executive directors or any de facto organs of a corporation prosecuted for tax offences.

ii Penalties: pecuniary

The Direct Federal Tax Act (DFTA) establishes a scale of penalties for the various tax offences that goes gradually in the severity of the offence. The gradation is tinged with the concepts of criminal law, and the taxpayer risks a fine for the violation of the duty to cooperate, a pecuniary penalty for evasion and a custodial sentence for the use of forgery. In addition to these basic offences, there are also aggravating elements that justify the intervention of the Federal Criminal Affairs and Investigations Division, namely serious tax offences. Although the penalty is not more serious as such, the investigative means available to the authorities are more extensive for this type of offence.

Violation of the procedural obligations (such as filing obligations) is punishable by a fine of up to 1,000 Swiss francs in simple cases and up to 10,000 Swiss francs in serious and repeated cases. The relevant behaviours punished by this offence have the characteristic that they are omissions. Both intention and negligence are sanctioned. Attempt, complicity and instigation are not punishable offenses in connection with the violation of procedural obligations.

Evasion is a classic offence in tax law. It punishes the taxpayer who causes a tax assessment to be incomplete (or not carried out) or who does not withhold amounts corresponding to a withholding tax or who obtains an illegal or unjustified tax remission. The typical case is where a taxpayer does not declare taxable items and, as a result, illegally reduces his taxes due. Punishable tax evasion may be committed either intentionally or by negligence. An attempted tax evasion (i.e. where the tax administration notices the issue before rendering an incomplete assessment) can only be committed by intention.

Tax evasion is punishable by a fine. The fines set following the evasion of taxes can be substantial since they are set according to the amount evaded, i.e. without any ceiling. They can range from one third of the amount evaded if the fault is light, to three times this amount if the fault is serious. The sentencing principles of the Swiss Penal Code are fully applicable.

⁵ Judgement of the Swiss Federal Tribunal, 30 January 2025, ref. 2C_219/2022.

Lastly, tax fraud is an offence that can only be committed intentionally. However, according to the jurisprudence, the notion of intentional behaviour must be understood broadly since it is sufficient for the taxpayer to be aware that the information they give is erroneous or incomplete to presume that they voluntarily wanted to deceive the tax authorities, at least by possible fraud, in order to obtain a lower taxation. The characteristic elements of fraud are the use of a false, falsified or inaccurate document with the aim of tax evasion. This provision provides for a prison sentence of up to three years or a monetary penalty and is therefore a criminal offence.

The pecuniary penalty is fixed in terms of a day fine (i.e., a certain number of days during which the convicted person has to pay a certain amount of money). The pecuniary penalty is at least three days fines and may not exceed 180 days fines, and the day fine is at least 30 Swiss francs and at most 3,000 Swiss francs. Thus, the maximum amount of the pecuniary penalty is 540,000 Swiss francs, even though the fines imposed for tax evasion can be substantially higher.

The DFTA also introduces the concept of serious tax offences. The notion of serious offence is not defined by the law. As a general rule, it is accepted that tax evasion exceeding the threshold of one million francs is considered as serious. With the entry into force of the laundering of money derived from tax offences (see below), one may wonder whether the threshold allowing to define a serious offence will be harmonised by the jurisprudence with the threshold defining the notion of tax offence prior to money laundering (i.e., 300,000 Swiss francs).

As for indirect taxes, each one has its own set of offences that punish non-compliance with the provisions relevant to its collection. For the sake of brevity, we shall only mention VAT. In a nutshell, the VAT Act follows a logic similar to that of direct taxes with a gradation of the severity of the offences; from the violation of procedural obligations, to the qualified tax evasion, through the simple tax evasion.

iii Remedies

The decisions of the authorities and the judicial bodies regarding tax penalties are considered as tax decisions, and the appeal process is therefore identical to the challenge of administrative decisions (see Section V.ii).

V TAX CLAIMS

i Recovering overpaid tax

As mentioned above, taxpayers are expected to pay taxes on a provisional basis during the current year. In other words, they must make estimates of the taxes that will ultimately be due. Once a tax assessment has entered into force and, therefore, once the taxes due have been established, the remaining amounts are invoiced, or excess payments are refunded (or carried forward to the next year). Claims for repayments of overpaid taxes must be filed within five years of the end of the calendar year in which the payment was made.

ii Challenging administrative decisions

If an administrative authority has created legitimate expectations, for example, by giving an assurance to a specific person in its own field of competence, and if the person has effectively acted in reliance on that assurance, then that person's good faith is legally protected. This means that the authority is bound by its assurance and the person who relied on it in good faith can enforce it in court. The entire Swiss advance tax ruling system is based on that principle: it is common practice to ask a tax authority to confirm a certain legal treatment in advance.

It is, however, not possible to challenge advance tax rulings, because they lack the characterisation of a formal decision: an advance tax ruling is merely a promise given to the taxpayer as to how a future set of facts will be treated. It is also not possible to challenge general guidelines issued by the authorities on specific legal problems.

iii Claimants and related parties

The taxpayer to whom the assessment has been notified is entitled to challenge it. Depending on the facts and circumstances, other persons or organisations may be able to file an appeal as well (e.g., other cantonal tax authorities or the SFTA, heirs, spouses, board members). Third parties may be allowed under certain circumstances to participate in the procedure (for example board members, if their potential liability is engaged).

VI COSTS

When a claim is filed with the administration, the taxpayer bears their own representation costs, if any. In principle, there are no additional costs to the taxpayer for the administration's decision.

Judicial costs must be advanced by the claimant (taxpayer). In the event the taxpayer is successful, the judicial fees are reimbursed, and procedural indemnity is rewarded. However, this procedural indemnity does not match the effective costs of representation. In practice, the amounts rewarded are so low compared to the effective costs that they must be considered as symbolic.

VII ALTERNATIVE DISPUTE RESOLUTION

i Ruling

Although not a dispute resolution process as such, the tax ruling procedure offers taxpayers an efficient and helpful way to seek legal clarity and avoid unnecessary litigation. Even if there is no express legal basis, Swiss tax authorities are willing to take anticipated positions

on fact patterns described by taxpayers beforehand. Requests filed by taxpayers typically include a detailed description of the relevant facts, a legal analysis and the conclusions that are asked to be confirmed. They aim at obtaining intelligibility on the tax administration's interpretation of the applicable legal framework, and hence a confirmation of the tax treatment that the authorities will apply to a specific situation, which proves to be very useful in complex matters.

When the authorities concur with the analysis and the conclusions provided by the taxpayers, they simply validate the requests. The advance tax rulings are binding on the administration and protect the taxpayers should they implement the described transaction or reorganisation. Such legal protection is based on the good faith principle guaranteed by the Federal Constitution and is contingent onto the fact that all relevant information has been duly disclosed. Both the SFTA and the cantonal authorities issue such rulings.

In the event where the authorities disagree with a request, they may partially or totally reject it. If so, there is no legal way of challenging such a position. The taxpayer's sole recourse is either to renounce the contemplated action, or to move forward as planned and challenge the tax assessment that will be issued subsequently using the ordinary means of initiating a formal dispute.

ii Mediation

A taxpayer may seek extrajudicial ways and call upon a mediator to help finding a solution when facing a possible dispute with the tax administration. This option is, however, not used very often in tax matters and is only available in some cantons.

iii Mutual agreement procedure

In situations of international double taxation, Swiss resident taxpayers may request the SFTA starts a mutual agreement procedure (MAP) whereby Switzerland would reach out to the foreign state with which a double tax agreement has been concluded with a view to eliminate any double taxation. Such a request must generally be filed within three years of the first notification of the action resulting in double taxation.

The MAP is a procedure between states exclusively, based on the applicable double taxation agreement, and does not directly involve the taxpayer who is not a party. The taxpayer is informed of the procedure's outcome and may accept it within 30 days. If so, the taxpayer renounces any recourse to judicial remedies and has no means to challenge the agreement reached by the authorities. Whereas the authorities have an obligation to strive to find a positive outcome eliminating double taxation, they do not have an obligation to achieve a result. If the taxpayer is not satisfied, their only option is to refuse the proposed agreement and to rely on the ordinary dispute procedures to challenge any Swiss tax assessment. Modern treaties frequently foresee an arbitration clause which allows the taxpayer to bring the matter to arbitration.

Switzerland has made important efforts to achieve efficient and speedy procedures in view of improving legal certainty and eliminating double taxation.

VIII ANTI-AVOIDANCE

i General tax avoidance theory

Swiss tax legislation does not include an explicit general anti-avoidance rule. However, Swiss laws are governed by the general principle that a manifest abuse of a right is not protected by law. The Federal Constitution requires that government institutions and private persons shall act in good faith. On the basis of these principles, the Federal Tribunal has developed the criteria of tax avoidance. Tax avoidance is constituted if:

- the legal structure or transaction chosen is unusual, inappropriate or inadequate to its economic purpose (objective element);
- tax motives are the only reason for the structure or transaction chosen (subjective element); and
- were it accepted by the authorities, the legal structure or transaction would lead to significant tax savings (effective element).

The above criteria are reviewed on a case-by-case basis. Tax avoidance should be constituted only in very exceptional situations. It is generally accepted that taxpayers take tax planning into account and select tax-optimised structures or transactions in their business operations. If the conditions of tax avoidance are met, then the tax authorities may rely on the economic substance rather than the legal structure of a given situation (substance over form). Pursuant to the Swiss Federal Tribunal's case law, the prohibition of abuse of law is also an unwritten concept of Switzerland's double tax treaties.

ii Transfer pricing

Switzerland has no specific transfer pricing legislation. Generally, the OECD's transfer pricing guidelines are followed by the tax authorities. The arm's-length standards is used to determine whether transactions between related entities can be recognised from a tax perspective (e.g., whether deductions can be admitted). If the arm's-length principle is violated, the consequence is that the tax authority may not only disallow deductions, but it may consider that a deemed dividend was paid, with potential significant withholding and income tax consequences to the shareholder.

iii Interest rates between related parties and thin capitalisation

Interest rates used between related parties should reflect fair market rates (i.e., be at arm's length). The SFTA issues annual guidelines on safe haven interest rates. Interest payments that are deemed non-compliant with the arm's-length principle (or that exceed acceptable thresholds) will be reclassified into deemed dividend payments. As such they will not be deductible and may be subject to dividend withholding tax.

The SFTA has also issued safe haven rules on thin capitalisation establishing the percentages with which different assets of the company may be debt-financed for tax purposes. Related party debt that exceeds the allowable debts may be characterised as equity for tax purposes (i.e., ‘hidden equity’). Interest paid on that part of the equity will not be deductible and may be treated as a dividend payment subject to withholding tax.

IX DOUBLE TAXATION TREATIES

Although most decisions of the Federal Tribunal in recent years covered administrative exchange of information issues, the most important rulings on double taxation treaties probably were the ones addressing treaty benefits entitlement, most particularly beneficial ownership. The Federal Tribunal notably held in 2005 that all double taxation agreements included an implicit anti-abuse rule. Since then, the SFTA has continued to focus on the subject and to develop new doctrines aimed at fighting against abusive schemes or structures lacking beneficial ownership, which are regularly tested before the courts. The Federal Tribunal generally

X YEAR IN REVIEW

As in recent years many disputes in 2024 concerned dual residency questions of both companies and individuals, whose place of tax residence was disputed. Such conflicts not only arose in international situations, but very frequently also in intercantonal situations (typically where a taxpayer claims to have left a high-taxing canton in order to become a resident of a neighbouring low-taxing canton). Higher-taxing cantons have developed a very sophisticated skillset (and frequently entire dedicated teams) in order to challenge certain taxpayers’ residency claims. To the tax authorities, it makes almost no difference whether a dispute concerns an international or an intercantonal case, as the factual and legal questions are almost identical. Case management can be more cumbersome internationally, but given the general exchange of information provisions found in treaties, taxpayers would be ill-advised to assume that the Swiss tax authorities would not be able to obtain necessary information from other countries. Figures actually show that the number of requests for exchange of information filed by Switzerland has skyrocketed in 2023. For both individual and corporate taxpayers, substance over form rules apply (i.e., centre of vital interest, place of effective management).

We could also observe that tax authorities would generally criminally prosecute taxpayers more often, and especially also in dual residency cases, than they would have in the past. We expect this trend to be confirmed in the coming years. It must be noted that the federal government has announced in January 2024 the project of modernizing the administrative criminal law. This will have to be closely followed.

On the judicial level, there were noteworthy judgements that were rendered by the newly organized Federal Tribunal (see Introduction, above). Amongst others, in a leading case about intercantonal dual-residency, the Federal Tribunal has very strongly emphasized the importance of the principle of legality in taxation.⁶ In another case, the court elaborated on fundamental and philosophical principles on the rule of law and the democratic legitimacy of tax laws, and even quoted a battle cry of the American Revolution: “*The particular importance of the principle of legality in tax law stems from the fact that it is ‘an essential feature of the modern constitutional state’ to interfere with the property of citizens and levy taxes only on the basis of a formal law — that is, a law backed by democratic legitimacy (“no taxation without representation” (...)). Unlike in most other areas of law, the principle of legality in tax law holds the status of a constitutional right, protecting individuals from being taxed by the authorities without a formal legal basis.*”⁷ In similar cases in the past, other considerations, such as the good faith principle, but also (implicitly) the protection of the financial interests of cantons were frequently been given a somewhat bigger importance. These recent developments, if they really set a new trend, are certainly good news for taxpayers.

XI OUTLOOK AND CONCLUSIONS

There is a general trend of Swiss tax authorities to challenge and often even to criminalize arrangements made by taxpayers that are deemed to be too aggressive. The first step of the strategy is still to try to settle quickly with the tax inspector in order to avoid any judicial escalation of the case. There is a certain asymmetry between tax authorities and taxpayers, as the tax authorities are in a position to strategically select the cases that they want to bring to court.⁸ Similarly, the outlook for taxpayers who face the eventuality of a long judicial tax procedure may not be as grim as it may have been in the past. The trend towards more specialization and expertise at the level of the Federal Tribunal should be beneficial. “Easy wins” for the tax authorities may become a bit less frequent.

⁶ Judgement of the Swiss Federal Tribunal, 17 August 2023, ref. 9C_710/2023.

⁷ Judgement of the Swiss Federal Tribunal, 26 October 2023, ref. 9C_335/2023, published in: BGE/ATF 150 I, para. 4.4.1

⁸ See Amrein Delia, Hermann Charles, In dubio pro fisco? Op. cit., p. 281.

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Born in 1978, Robert Desax graduated from the University of Fribourg, Faculty of Law, in 2002 (*lic. iur.* 2002 including special mention Bilingual Licentiate). In 2005, he passed the Zurich bar exam and obtained an LLM in international tax law from the Vienna University of Economics and Business in 2006. After that, he worked in the international tax department of one of the Big Four audit firms. In 2010 he earned the Swiss certified tax expert diploma. Prior to joining Walder Wyss in 2016, he was a senior associate in a large international law firm, where he had been a member of the tax team for more than five years. He is a member of the International Fiscal Association (IFA), of EXPERTsuisse, of the International Bar Association (IBA) and of the Swiss/French Chamber of Commerce.

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Fouad Sayegh is a regular lecturer on various tax matters. He is listed by Chambers and Partners, The Legal 500, Best Lawyers and Who's Who Legal as a Tax and Private Client leading practitioner. Clients and market commentators praise him: 'Fouad Sayegh is a very bright, smart tax lawyer, who has sound knowledge of the Swiss tax law and is very creative'.

Fouad Sayegh holds a law degree from the Geneva Law School and an LLM in international taxation from New York University (NYU). Prior to joining Walder Wyss, he was a partner in another leading Swiss law firm. His work experience also includes positions in New York and Hong Kong. Fouad Sayegh served as an associate judge at the Administrative Tribunal of First Instance of Geneva (tax section).

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