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Q&A Chapters

1 **Argentina**
Walter Keiniger, Marval O'Farrell Mairal

8 **Austria**
Clemens Philipp Schindler & Mohamed Hemdan, Schindler Attorneys

18 **Brazil**
Luciana Rosanova Galhardo & Gustavo Melo Alcântara, Pinheiro Neto Advogados

27 **Colombia**
Mónica Reyes Rodríguez, Reyes Abogados Asociados

37 **Finland**
Niklas Thibblin & Onni Viljanen, Waselius

44 **France**
Maryse Naudin & Ouri Belmin, Tirard Naudin A.A.R.P.I.

53 **Germany**
Dr. Gunnar Knorr & Marc Krischer, Oppenhoff

59 **Ireland**
Eleanor MacDonagh, Deirdre Barnicle, Alan Heuston & James Quirke, McCann FitzGerald LLP

68 **Mauritius**
Assadullah Durbarry, Durbarry Chambers

76 **Netherlands**
IJsbrand Uljée & Walter Honing, BUREN

83 **Portugal**
João G. Gil Figueira, Beatriz Valério Pimenta & Carolina Mateus Monteiro, GFDL Advogados

90 **Singapore**
Eugene Lim, Benedict Teow & Philip John Duggan, Taxise Asia LLC

97 **Sweden**
Niclas Söderlund, Michel Weimer & Christoffer Dahl, XR Legal Advokat

104 **Switzerland**
Maurus Winzap, Fabienne Limacher & Janine Corti, Walder Wyss Ltd.

113 **Thailand**
Paul Papon Charoenpao & Pop Supagorn Jittimaporn, PDLegal Thailand

119 **United Kingdom**
James Ross, Freddie Knottenbelt & Melissa Hale, Taylor Wessing LLP

129 **USA**
Devon M. Bodoh, Joseph M. Pari, Greg W. Featherman & Blake D. Bitter, Weil, Gotshal & Manges LLP

137 **Zambia**
Joseph Alexander Jalasi, Jr., Mailesi Undi & Wana Chinyemba, Dentons Eric Silwamba, Jalasi & Linyama Legal Practitioners

Switzerland


Maurus Winzap


Fabienne Limacher


Janine Corti

Walder Wyss Ltd.

1 Tax Treaties and Residence

1.1 How many income tax treaties are currently in force in your jurisdiction?

To date, Switzerland has concluded more than 100 income double tax treaties ("DTTs") and it is seeking to further extend its treaty network.

In addition, Switzerland has access to benefits similar to those in the European Union ("EU") Parent-Subsidiary Directive and the EU Interest and Royalties Directive through the Agreement on the Automatic Exchange of Information ("AEOI") in tax matters entered into by Switzerland with the EU, which provides for a withholding tax exemption for cross-border payments of dividends, interest and royalties between related entities. Further, the Federal Council has taken measures to implement the latest recommendations of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

Furthermore, the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (Multilateral Instrument or "MLI"), which was developed to efficiently implement some of the base erosion and profit shifting ("BEPS") measures into the existing networks of bilateral DTTs, entered into force for Switzerland on 1 December 2019 (see question 1.3).

1.2 Do they generally follow the OECD Model Convention or another model?

Most of the Swiss DTTs follow the OECD Model Tax Convention on Income and on Capital ("OECD MTC").

1.3 Has your jurisdiction signed the tax treaty MLI and deposited its instrument of ratification with the OECD?

Switzerland signed the MLI on 7 June 2017, and deposited its instrument of ratification on 29 August 2019. In Switzerland, the MLI entered into force on 1 December 2019. In this respect, it should be noted that the impact of the MLI on Switzerland's treaty network will be limited as Switzerland designated only 12 (out of over 100) treaties that will be amended directly through the MLI. However, Switzerland intends to implement the BEPS minimum standards by renegotiating its DTTs on a bilateral basis to make sure that the regular parliamentary approval process will be followed. To date, Switzerland has incorporated the BEPS minimum standard into a large number of DTTs and continues to conduct bilateral discussions with jurisdictions whose DTTs do not yet contain such provisions.

1.4 Do they generally incorporate anti-abuse rules?

In recent years, the treaties entered into by Switzerland have often contained specific anti-treaty shopping or anti-abuse provisions. However, even in the absence of such provisions in a treaty, a reservation of abuse of rights is inherent in all tax treaties according to the jurisprudence of the Swiss Federal Supreme Court.

Moreover, Switzerland had enacted unilateral measures against the improper use of tax treaties by way of circulars issued by the Swiss Federal Tax Administration ("SFTA") dated 31 December 1962, 17 December 1998 and 1 July 2010. These unilateral rules would only apply if there is no specific treaty provision for payments made to a Swiss company (i.e. in inbound situations) and are designed to prevent the abuse of Swiss intermediary companies.

However, due to international tax developments and following the signing of the MLI, the Federal Law on the Implementation of International Agreements in the Tax Field and its related ordinance have entered into force and replaced the previous unilateral rules (Anti-abuse Decree). These rules now also stipulate how mutual agreement procedures are to be carried out on the national level, provided that the applicable agreement does not contain any deviating provisions. Moreover, they contain the key points for withholding tax relief based on international agreements, as well as criminal provisions in connection with withholding tax relief on investment income.

1.5 Are treaties overridden by any rules of domestic law (whether existing when the treaty takes effect or introduced subsequently)?

In the hierarchy of legal norms, international law principally overrides domestic law in the event of a conflict. However, the Swiss Federal Supreme Court has established a rare exception whereby a federal act may take precedence over international law if the Swiss parliament has deliberately legislated in breach of a treaty (the so-called "Schubert practice").

1.6 What is the test in domestic law for determining the residence of a company? Has the application of the test been modified in response to COVID-19?

Companies will be considered Swiss tax resident and thus subject to unlimited taxation on their worldwide income in Switzerland if: (i) their statutory seat; and/or (ii) their place of effective management, is/are situated in Switzerland.

These rules have not been modified due to COVID-19, even though the relocation or inability of directors and managers to travel may have an impact on the company's place of effective management. However, the Swiss tax authorities did not seem to challenge a company's tax residence because of travel restrictions and other measures enacted due to COVID-19.

1.7 Is your jurisdiction's tax authority expected to revisit the status of dual resident companies in cases where the MLI changes the treaty "tiebreaker"?

Switzerland has made a reservation towards Article 4 of the MLI. It will therefore not implement the MLI tiebreaker rule into its DTTs. At the moment, there is no indication that Switzerland will reconsider withdrawing this reservation.

2 Transaction Taxes

2.1 Are there any documentary taxes in your jurisdiction?

Switzerland levies the following documentary taxes:

One-time capital duty
The issuance of new shares by, and capital contributions to, a Swiss resident company are subject to one-time capital duty at a rate of 1% (issuances up to CHF 1 million are exempt therefrom). However, relief for restructurings and migrations as well as recapitalisations is available.

Securities transfer tax
The transfer of taxable securities will be subject to securities transfer tax at a rate of 0.15% for Swiss securities and 0.3% for foreign securities, respectively, if taxable securities are transferred against consideration and at least one of the parties or intermediaries involved qualifies as a Swiss securities dealer and none of the exemptions apply. Swiss securities dealers include banks and bank-like financial institutions as defined by Swiss banking law as well as Swiss investment fund managers. It also includes individuals, companies, partnerships and branches of foreign companies whose essential activities consist in trading or acting as intermediaries in transactions involving taxable securities. Further, Swiss companies that do not engage in the securities trading business and Swiss pension funds will qualify as securities dealers if they hold taxable securities with a book value exceeding CHF 10 million.

Insurance premium tax
Certain insurance premiums are subject to an insurance premium tax at a rate of 5% (standard rate) or 2.5% (in the event of life insurance premiums).

Real estate transfer tax
Real estate transfer taxes may be triggered upon the sale of real estate property situated in Switzerland or a real estate company.

2.2 Do you have Value-Added Tax (VAT), or a similar tax? If so, at what rate or rates? Please note any rate reduction in response to COVID-19.

In Switzerland, VAT is levied at a standard rate of 8.1%. A reduced rate of 2.6% applies to some goods such as medicine, newspapers, books and food. Further, accommodation services (hotels) are taxed at a special rate of 3.8%.

Switzerland has not reduced its VAT rates due to COVID-19. However, in order to ease the financial burden on companies due to COVID-19, the Federal Council decided to waive late payment interest on VAT between 20 March 2020 and 31 December 2020.

The Swiss parliament adopted the partial revision of the Value-Added Tax Act in June 2023, which mostly entered into force on 1 January 2025. The main change of this partial revision was the introduction of a platform taxation and an obligation for all online platforms to provide information to the Swiss federal tax authorities if required. Under the new rules, online sales platforms are required to declare and pay VAT on all goods delivered through their platform. The platform is considered the supplier of the goods and is responsible for remitting the relevant VAT. This obligation applies to both domestic and foreign platform operators if they reach the turnover threshold or provide their services in Switzerland.

2.3 Is VAT (or any similar tax) charged on all transactions or are there any relevant exclusions?

Taxable transactions subject to VAT include: (i) the supply of goods or services for consideration within the Swiss territory; (ii) the purchase of services from abroad (reverse charge); and (iii) the importation of goods (import VAT).

Certain supplies, in particular financial services, insurance and real estate transactions as well as healthcare, education, culture, sport, social care, gambling and lotteries, are exempt from VAT without credit. In such cases, the taxable persons are not entitled to deduct any input tax charged on costs. In addition, certain supplies are classified as tax exempt with credit or zero-rated, typically in relation to the exportation of goods from Switzerland. These transactions allow the recovery or deduction of input tax.

2.4 Is it always fully recoverable by all businesses? If not, what are the relevant restrictions?

Businesses registered for VAT may recover or deduct any VAT paid on costs ("input tax"), provided that such costs are attributable to taxable supplies, including zero-rated supplies. Input tax related to supplies of goods or services that are exempt from VAT without credit will not be recoverable or deductible unless an option to tax is available and exercised. If a taxable business makes both taxable supplies and exempt supplies without credit for input tax, it may only recover or deduct input tax on non-attributable costs according to its deduction *pro rata*.

Furthermore, input tax may not be recovered on costs that are not used for the business acting as such (e.g. private use).

2.5 Does your jurisdiction permit VAT grouping? If so, how does this apply where a company in one jurisdiction has an establishment in another?

In Switzerland, it is possible to form a VAT group that qualifies as a single taxable person for VAT purposes. However, VAT grouping is limited to entities located in Switzerland and may include Swiss permanent establishments of foreign companies. In this context, the supply of services by the foreign head office to its Swiss permanent establishment (whether or not it is part of a Swiss VAT group) will be regarded as a supply for VAT purposes between two separate taxpayers that may attract VAT in Switzerland (reverse charge).

2.6 Are there any other noteworthy transaction taxes or indirect taxes that are payable by companies?

Aside from VAT, companies are liable for real estate transfer tax and securities transfer tax (see question 2.1).

2.7 Are there any other indirect taxes of which we should be aware?

In Switzerland, there are indirect taxes on mineral oil, alcohol and tobacco, the emission of carbon dioxide, heavy traffic, and radio and television broadcasting.

3 Cross-border Payments

3.1 Is any withholding tax imposed on dividends paid by a locally resident company to a non-resident?

Effective and constructive dividend distributions (including the distribution of liquidation proceeds and stock dividends) made by a Swiss resident company to its shareholders are subject to Swiss withholding tax at a rate of 35%. Swiss companies are required to withhold any payable withholding tax from dividends and transfer the latter to the SFTA. Distributions based on a capital reduction and/or reserves paid out of confirmed capital contributions are not subject to Swiss withholding tax. Restrictions apply to Swiss-listed companies in the sense that they may only pay out withholding tax-free dividends from their capital contribution reserves if they pay out a dividend from their taxable distributable reserves in the same amount (the so-called "50/50 rule").

Swiss withholding tax will be fully refundable or creditable to a Swiss tax resident corporate and individual shareholder as well as to a non-Swiss tax resident corporate or individual shareholder who holds the shares through a Swiss branch office if such a recipient is the beneficial owner of the distribution received and said income is recognised in the income statement or reported in the income tax return of the recipient, as the case may be.

Shareholders who are not resident in Switzerland for tax purposes (and who do not conduct a trade or business through a Swiss branch office) may be entitled to a full or partial refund of Swiss withholding tax if the country in which such a recipient resides for tax purposes has concluded a DTT with Switzerland and further conditions of such a DTT are met. Under certain circumstances, a full refund is also conceivable under the AEOI.

If the conditions set out by the applicable DTT are met, the recipient of the dividends may request a refund of the relevant Swiss withholding tax by the end of the calendar year for up to three years after the end of the calendar year in which the dividends were due.

Relief at source is available (rather than paying the relevant tax and subsequently claiming a refund thereof) under certain circumstances, provided that an application for the notification procedure has been filed with and granted by the SFTA prior to any distributions. The permit granted for the respective relief at source is valid for five years and can be renewed thereafter.

It should be noted that DTT relief is conditional upon strict substance requirements such as local office space, employees, equity ratio and business activities. In addition, the foreign entity must be properly capitalised in line with the Swiss thin capitalisation rules (see questions 3.4 and 3.5).

3.2 Would there be any withholding tax on royalties paid by a local company to a non-resident?

Royalty payments made by Swiss residents will not be subject to Swiss withholding tax unless excessive royalty payments are made to related parties (i.e. if the arm's length principle is not adhered to). Such excessive royalty payments would be requalified into constructive dividend distributions subject to 35% Swiss withholding tax (see question 3.1).

3.3 Would there be any withholding tax on interest paid by a local company to a non-resident?

Under Swiss domestic tax law, withholding tax is only levied on interest from: (i) Swiss bonds; or (ii) customer deposits held with Swiss banks. Under current law, a Swiss fixed-term instrument will be characterised as a "bond" if it cannot be excluded, pursuant to its terms, that it is held at any time by more than 10 creditors that are not banks. Swiss withholding tax will also be triggered if a Swiss borrower has more than 20 lenders that are not banks under any type of fixed-term debt instruments in the aggregate. Any Swiss withholding tax on such interest may be reduced under an applicable DTT.

By contrast, interest on individual loans, including intercompany loans, is not subject to Swiss withholding tax. However, intercompany loans or the intercompany funding of a Swiss company, respectively, must be compliant with: (i) the safe harbour interest rates published annually by the SFTA (alternatively, evidence must be provided that the interest rate is at arm's length); and (ii) the Swiss thin capitalisation rules (see questions 3.4 and 3.5). If not, the interest payment in question will be (fully or partly) recharacterised as a constructive dividend distribution with the corresponding Swiss withholding tax consequences. Under this scenario, the treaty rate for dividend payments would be applicable.

Further, a specific withholding tax may be levied on interest payments if a loan is secured by a mortgage on real estate located in Switzerland. Whereas the tax rate is 3% on the federal level, it differs from canton to canton on the cantonal level. This source tax may be refunded (in full or in part) under a DTT.

3.4 Would relief for interest so paid be restricted by reference to "thin capitalisation" rules?

The tax practice regarding thin capitalisation is laid down in circular letter no. 6a issued by the SFTA on 10 October 2024, which places a limit on the maximum amount of debt granted by related parties on which deductible interest payments are available. According to this circular letter, each asset category of the borrowing Swiss company must be financed by a certain equity portion, i.e. the maximum underlying debt for each asset category is determined by a safe harbour debt-to-equity ratio (see question 3.5). To the extent that related-party debt (including related-party guaranteed third-party debt) exceeds the maximum permissible debt as determined based on these rules, the company is deemed to be thinly capitalised for tax purposes.

As a consequence: (i) excess related-party debt, if any, will be considered hidden equity for capital tax purposes; (ii) interest payments made on such related-party debt are non-tax deductible; which (iii) would be requalified into constructive dividend distributions with the respective Swiss withholding tax consequences.

3.5 If so, is there a "safe harbour" by reference to which tax relief is assured?

According to circular letter no. 6a, issued by the SFTA on 10 October 2024, the maximum underlying debt for each asset category is determined by a safe harbour debt-to-equity ratio as shown in the table below. The calculation is based on the fair market values of the underlying assets.

Cash and cash equivalents	100%
Accounts receivable	85%
Other receivables	85%
Inventories	85%
Accrued income	85%
Domestic and foreign bonds in CHF	90%
Foreign bonds in foreign currency	80%
Listed domestic and foreign shares	60%
Non-listed domestic and foreign shares	50%
Participations	70%
Loan receivables	85%
Movable assets	50%
Factory premises/plants	70%
Home property, construction land	70%
Other real estate	80%
Goodwill	70%

As an exception thereto, a safe harbour debt-to-equity ratio of 6:1 applies to finance companies. In addition, a Swiss company that does not observe the safe harbour rules may always prove that a higher debt is still at arm's length.

3.6 Would any such rules extend to debt advanced by a third party but guaranteed by a parent company?

The Swiss thin capitalisation rules extend to third-party debt guaranteed by a related party.

3.7 Are there any other restrictions on tax relief for interest payments by a local company to a non-resident?

Interest payments on related-party debt must be both in compliance with the thin capitalisation rules and the safe harbour interest rates published annually by the SFTA (alternatively, evidence must be provided that the interest rate is at arm's length).

Further, Switzerland takes the view that the existing thin capitalisation rules are sufficient to prevent unreasonable interest deductions and has thus abstained from introducing further measures in connection with Action 4 of the BEPS project. As far as the authors can tell, there is no intention on the part of the Swiss legislator to change the current rules and implement new ones.

3.8 Is there any withholding tax on property rental payments made to non-residents?

No Swiss withholding tax is levied on property rental payments. However, if the payment is: (i) made to a related party; and (ii) not at arm's length, such excessive payments will be requalified into constructive dividend distributions subject to 35% Swiss withholding tax (see question 3.1).

3.9 Does your jurisdiction have transfer pricing rules?

Switzerland does not have any statutory transfer pricing rules. However, as a general rule, intercompany charges must be at arm's length. The tax authorities accept the transfer pricing methods described by the OECD guidelines.

Further, special guidelines apply concerning the minimum and maximum interest on loans granted to or from shareholders or related parties. With regard to the arm's length character of the interest rate, the SFTA annually publishes safe harbour interest rates in its circular letters.

3.10 Can companies in your jurisdiction obtain unilateral, bilateral or multilateral advance pricing agreements?

It is possible to obtain unilateral, bilateral or multilateral pricing agreements. However, the procedure is different.

There is no specific procedure for obtaining unilateral advance pricing agreements. Taxpayers may present the case to the competent tax authorities. In general, this means that one turns to the cantonal tax authorities for corporate income tax purposes and to the SFTA for withholding tax purposes. The authorities can then confirm that a certain price is appropriate for the fact pattern at hand (tax ruling).

A multilateral or bilateral advance pricing agreement, however, must be requested through the State Secretariat for International Finance ("SIF"). Requests to this effect must be made using the official forms furnished by the authorities.

4 Tax on Business Operations: General

4.1 What is the headline rate of tax on corporate profits?

Corporate income tax is levied on the federal, cantonal and municipal level. The effective corporate income tax rates vary from canton to canton and from municipality to municipality, and range between 11.09% and 22.31%.

The corporate income tax liability may be reduced if the IP box, R&D super deduction or notional interest deduction can be applied. On 18 June 2023, the Swiss voters approved a constitutional amendment in a public vote, allowing the implementation of the OECD/G20 project on minimum taxation, whereupon large multinational corporations with an annual turnover of at least EUR 750 million should pay at least 15% tax on their profits in each country. In Switzerland, 18 of the 26 cantons levy tax rates that are lower than the required 15%. If the minimum tax rate is not reached, the shortfall will be levied by means of a supplementary tax. The minimum tax rate was introduced on 1 January 2024 (see question 10.1).

4.2 Is the tax base accounting profit subject to adjustments, or something else?

As a general rule, the statutory financial statements form the basis for the determination of the taxable income of a Swiss company. However, this tax base is subject to certain adjustments according to Swiss tax law (e.g. in the event of constructive dividend distributions). Since 1 January 2023, it is possible to keep the functional and statutory financial statements in a foreign currency. In such a case, the taxable profit and the taxable capital will be determined in the foreign currency and converted into CHF for calculating the tax liability.

4.3 If the tax base is accounting profit subject to adjustments, what are the main adjustments?

The main adjustments relate to expenditure that is not commercially justified, and hence not deductible for tax purposes (in particular, expenses *vis-à-vis* related parties that are not at arm's length).

4.4 Are there any tax grouping rules? Do these allow for relief in your jurisdiction for losses of overseas subsidiaries?

In Switzerland, each company is considered a separate taxpayer for corporate income tax purposes. Accordingly, no income tax grouping or loss consolidation is available in Switzerland (i.e. no group taxation).

For VAT purposes, on the other hand, legal entities, partnerships and individuals who have their domicile or seat in Switzerland as well as Swiss branches of foreign entities may form a group. In this case, transactions within the VAT group are not subject to Swiss VAT as the group members are registered as a single taxable entity (see question 2.5).

4.5 Do tax losses survive a change of ownership?

Tax losses may be carried forward and offset against any taxable income generated in the next seven years and are not forfeited as a consequence of a change of ownership. There are currently political initiatives underway to extend the loss carryforward period to 10 years.

Furthermore, tax losses may be transferred to another Swiss resident company or branch in the course of a tax-neutral restructuring (e.g. merger, spin-off, transfer of a business operation) if such a transfer is not considered abusive.

4.6 Is tax imposed at a different rate upon distributed, as opposed to retained, profits?

Corporate income taxes are levied at ordinary rates on the taxable profit of the taxpayer, regardless of whether the profit is distributed or retained. However, it should be noted that, in most cantons, ordinary dividend distributions reduce the relevant capital tax base. Furthermore, such profit distributions are subject to Swiss withholding tax, which may be fully or partly refundable (see question 3.1).

4.7 Are companies subject to any significant taxes not covered elsewhere in this chapter – e.g. tax on the occupation of property?

Companies are subject to an annual capital tax on the cantonal and municipal level. This tax is calculated based on the net equity (nominal share capital, capital contribution reserves, reserves and retained earnings) plus any embedded equity and/or any other taxed embedded reserves to the extent that the aggregate taxable capital is allocable to Switzerland. Depending on the canton, a reduction of the tax base to the extent that the relevant equity relates to participations, intercompany loans and qualifying IPs may be available. The applicable tax rates vary from about 0.001% to 0.5%. Furthermore, in some cantons, corporate income tax is creditable to the annual capital tax.

Certain cantons/municipalities levy an annual real estate property tax on the taxable value of the property situated in that specific canton/municipality without taking into account any related debts or mortgages. The property will be taxed at its location, irrespective of where the owner is resident.

5 Capital Gains

5.1 Is there a special set of rules for taxing capital gains and losses?

Capital gains derived from the sale of movable assets are generally subject to corporate income tax on the federal, cantonal and municipal level and capital losses are tax-deductible. The participation exemption applies to capital gains derived from a disposal of a qualifying participation of at least 10%, provided that the minimum holding period of one year is met and leads to a virtual tax exemption of such qualifying capital gains (see question 5.2). However, recaptured depreciations (the difference between the acquisition costs and book value) on such qualifying participations are subject to ordinary taxation. Tax losses may be carried forward for the next seven years (see question 4.5).

With regard to immovable assets, there are two different systems of taxing capital gains derived from the disposal of real estate properties by companies or the transfer of an interest in a real estate company in Switzerland on the cantonal/municipal level. On the one hand, there is the monistic system where corporate income tax is levied only on recaptured depreciations and the appreciation of value above the acquisition costs is subject to real estate capital gains tax. On the other hand, there is the dualistic system where the recaptured depreciation deductions as well as the appreciation of value above the acquisition costs are exclusively subject to ordinary corporate income tax. On the federal level, ordinary taxation applies with regard to such immovable assets.

5.2 Is there a participation exemption for capital gains?

A participation exemption is available, which applies to capital gains (the difference between the sales price and the acquisition costs) derived from a disposal of a qualifying participation (at least 10%), provided that the minimum holding period of one year is met.

The corporate income tax liability will be reduced by the ratio between the net participation income (taking into account administrative and financing costs) and the aggregate taxable

income. In the event of losses or tax loss carryforwards, the qualifying participation income will be offset against these tax losses, wiping out the ensuing tax benefit.

5.3 Is there any special relief for reinvestment?

According to the Swiss restructuring rules as outlined in circular letter no. 5a issued by the SFTA on 1 February 2022, mergers, spin-offs, conversions and transfers of assets may be executed tax-neutrally, i.e. hidden reserves on such assets may be rolled over, provided that the tax liability remains in Switzerland, the assets and liabilities will be transferred at book value and the further requirements (e.g. business operation, operating fixed asset and qualifying participation), if any, are met.

Moreover, the taxation of a capital gain derived from the disposal of fixed assets (including real estate) or participations could, under certain circumstances, be deferred if such assets were replaced by other assets that are required for business operations in Switzerland.

5.4 Does your jurisdiction impose withholding tax on the proceeds of selling a direct or indirect interest in local assets/shares?

No Swiss withholding tax is levied on the direct or indirect sale of Swiss assets/shares.

6 Local Branch or Subsidiary?

6.1 What taxes (e.g. capital duty) would be imposed upon the formation of a subsidiary?

The issuance of new shares by, and capital contributions to, a Swiss resident company are subject to one-time capital duty at a rate of 1% (issuances up to CHF 1 million are exempt therefrom). However, relief for restructurings and migrations as well as recapitalisations is available.

One-time capital duty will not be triggered in the event of an allocation of capital to a Swiss branch.

6.2 Is there a difference between the taxation of a local subsidiary and a local branch of a non-resident company (for example, a branch profits tax)?

In general, a Swiss branch of a foreign head office is subject to the same corporate income and capital tax as a Swiss company. In the event of Swiss companies, corporate income tax is levied on the worldwide income with the exception of income attributable to foreign permanent establishments or immovable real estate property abroad. By contrast, a Swiss permanent establishment of a non-Swiss head office is taxed on the profit and equity allocated to such a Swiss branch in Switzerland. This allocation is usually based on separate financial statements, as if the branch office were a corporate entity separate from its head office.

Further, any dividend or liquidation dividend in excess of the nominal share capital plus confirmed capital contribution reserves made by a Swiss company is subject to Swiss withholding tax at a rate of 35%, which may be partly or fully refundable. By contrast, the remittance of funds from a Swiss branch to its head office is possible without triggering Swiss withholding tax.

While, if the founders' contribution exceeds CHF 1 million, one-time capital duty will be levied on the incorporation of a Swiss company, said tax will not fall due in the event of a Swiss branch as such a branch does not constitute a legal entity that could issue ownership rights.

The transfer of taxable securities will be subject to securities transfer tax if taxable securities are transferred against consideration and at least one of the parties or intermediaries involved qualifies as a Swiss securities dealer and no exemption applies. Swiss companies that do not engage in the securities trading business will qualify as securities dealers if they hold taxable securities with a book value exceeding CHF 10 million. Branches, on the other hand, do not qualify as securities dealers merely on account of holding taxable securities.

6.3 How would the taxable profits of a local branch be determined in its jurisdiction?

Swiss tax law regulates the profit allocation between head office and branch only in a very rudimentary way. In the event of a Swiss branch of a foreign legal entity, a fiction of full independence is generally assumed and the taxable profit is typically determined based on separate branch accounts (direct method).

Furthermore, Switzerland applies the Authorised OECD Approach ("AOA") for attributing profits to permanent establishments (branches). Therefore, when attributing profits, the functions performed, assets used, and risks assumed by the branch must be taken into account and the arm's length principle is also relevant.

6.4 Would a branch benefit from double tax relief in its jurisdiction?

A Swiss branch of a foreign company is only subject to limited tax liability in Switzerland on the basis of economic affiliation and does not qualify as a "person resident" in a treaty jurisdiction according to the OECD MTC. Accordingly, a Swiss branch was not entitled to benefit from DTTs entered into by Switzerland in general and, so far, had only been able to claim the DTT benefits arising from the DTTs between the source state and the state in which the head office is located to the extent that the relevant income is allocated to such a Swiss branch.

However, Switzerland changed its legislation with effect from 1 January 2020 in view of Article 24 para. 3 of the OECD MTC and the respective articles in the Swiss DTTs on the prohibition of discrimination against permanent establishments, whereupon Swiss permanent establishments of foreign companies may not be subject to less favourable taxation in Switzerland than Swiss companies carrying out the same activity. Accordingly, a Swiss branch of a foreign company will be entitled to treaty benefits, provided that, cumulatively: (i) there is a DTT between Switzerland and the state in which the head office is located; (ii) there is a DTT between Switzerland and the source state; and (iii) there is a DTT between the state in which the head office is located and the source state.

6.5 Would any withholding tax or other similar tax be imposed as the result of a remittance of profits by the branch?

The repatriation of profits by the Swiss branch to its head office is not subject to any withholding or any other taxes in Switzerland.

7 Overseas Profits

7.1 Does your jurisdiction tax profits earned in overseas branches?

Income attributable to foreign enterprises, permanent establishments or real estate located abroad is exempt from taxation in Switzerland.

7.2 Is tax imposed on the receipt of dividends by a local company from a non-resident company?

In general, dividends received constitute taxable income. However, the participation exemption will apply if the participation represents more than 10% of the nominal share capital or reserves of the distributing company or it has a fair market value of at least CHF 1 million (see question 5.2 for the calculation of the participation exemption).

7.3 Does your jurisdiction have "controlled foreign company" rules and, if so, when do these apply?

Switzerland does not have any controlled foreign company rules.

8 Taxation of Commercial Real Estate

8.1 Are non-residents taxed on the disposal of commercial real estate in your jurisdiction?

Any capital gains derived from the disposal of real estate properties situated in Switzerland by (Swiss or foreign) companies are either subject to corporate income tax or a combination of corporate income tax and real estate capital gains tax (see question 5.1). The same basically holds true for the sale of a real estate company, whereby most cantonal tax laws require that a majority stake in a real estate company is sold. A real estate company is defined as a company whose main actual purpose is to hold property and is mainly engaged in purchasing, selling and leasing of property.

Furthermore, many (but not all) cantons levy real estate transfer tax (ranging between 1% and 3%) on the transfer of real estate. This real estate transfer tax is generally computed based on the sales price.

8.2 Does your jurisdiction impose tax on the transfer of an indirect interest in commercial real estate in your jurisdiction?

In certain cantons, the indirect transfer of residential or commercial real estate by way of a sale of a majority stake (in certain cantons already a minority stake) of a real estate company triggers real estate transfer tax and real estate capital gains tax (see question 8.1).

8.3 Does your jurisdiction have a special tax regime for Real Estate Investment Trusts (REITs) or their equivalent?

Switzerland does not have a special tax regime for REITs.

Special rules apply to funds with direct ownership of real estate. As a general rule, funds are treated as transparent for Swiss tax purposes. This means that any income and capital is directly attributed to the investors. Funds with direct ownership of real estate are, however, treated as non-transparent (i.e. the fund is considered the taxpayer) and taxed on any income at reduced rates. Given that funds with direct ownership of real estate have already been taxed, there is basically no taxation on the level of the investor. For this reason, no withholding tax is charged on the distribution or accrual of income from direct property holdings by the fund.

9 Anti-avoidance and Compliance

9.1 Does your jurisdiction have a general anti-avoidance or anti-abuse rule?

Switzerland lacks a general statutory anti-avoidance rule in its domestic tax law. As a consequence, the Swiss Federal Supreme Court has stepped in and developed an anti-abuse doctrine, applicable to all types of Swiss taxes, to counteract abusive tax planning. According to this judicially developed anti-abuse doctrine, tax authorities have the right to tax the taxpayer's legal structure based on its economic substance, provided that such a structure has an unusual and inappropriate character, can only be explained by tax reasons and will lead to significant tax savings if recognised by the tax authority.

9.2 Is there a requirement to make special disclosure of avoidance schemes or transactions that meet hallmarks associated with cross-border tax planning?

No special disclosure is required under Swiss law. However, if a legal arrangement is deemed abusive by the competent Swiss tax authority, it will be disregarded from a tax point of view and taxed in accordance with its economic substance (see question 9.1).

Moreover, it must be noted that Swiss-based groups may be affected by the EU Directive on Administrative Cooperation ("DAC 6"). Even though DAC 6 has not been incorporated into Swiss law and does not extend to companies having their registered seat in Switzerland, intercompany transactions with EU group companies may, under certain circumstances, still trigger a reporting obligation in the EU.

9.3 Does your jurisdiction have rules that target not only taxpayers engaging in tax avoidance but also anyone who promotes, enables or facilitates the tax avoidance?

In the event of tax avoidance, affairs are arranged with a view to taking advantage of weaknesses or ambiguities in a tax system, which is not a punishable offence under Swiss law. If such a structure is considered improper or abusive, it will be disregarded and taxed in accordance with its economic substance (see questions 9.1 and 9.2). Thus, tax avoidance cannot be equated with tax evasion or fraud, which is a punishable offence under Swiss law as it involves the use of illegitimate means. Only to the extent that such a tax offence occurs may other persons who instigate, assist or participate in the tax evasion or fraud also be targeted and punished.

9.4 Does your jurisdiction encourage "co-operative compliance" and, if so, does this provide procedural benefits only or result in a reduction of tax?

While there are no statutory rules for "co-operative compliance", it is common practice in Switzerland to discuss

planned structures and transactions with the tax authorities in advance and to obtain legal certainty on the tax consequences by seeking the tax authorities' written approval prior to entering into any transactions (the so-called "tax ruling").

An advance tax ruling is binding upon the tax authorities based on the principle of dealing in good faith and takes effect in subsequent tax assessment procedures. However, it does not provide procedural benefits or a reduction of tax for which there is no legal basis.

9.5 Are there rules requiring special disclosure where a company is taking a position on a tax issue that is uncertain (open to dispute from a technical perspective)?

Switzerland does not impose any special disclosure obligations in the event of uncertain tax positions.

10 BEPS, Tax Competition and the Digital Economy

10.1 Has your jurisdiction implemented the OECD's recommendations that came out of the BEPS project?

Switzerland has adopted the global minimum standard included in Action 13 of the BEPS project for the Automatic Exchange of Country-by-Country Reports. The relevant legal framework entered into force on 1 December 2017 and includes the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports ("CbC MCAA"), the associated Swiss Federal Act on the International Automatic Exchange of Country-by-Country Reports of Multinationals ("CbC Act") and the Ordinance on International Automatic Exchange of Country-by-Country Reports ("CbC Ordinance").

Further, as part of Action 5 of the BEPS project, the spontaneous exchange of information on certain categories of tax rulings was introduced as a minimum standard and the respective legal framework to implement this standard became effective in Switzerland on 1 January 2017. Switzerland has exchanged information on certain categories of tax rulings since 2018.

In addition, the MLI entered into force in Switzerland on 1 December 2019. The MLI was developed as a measure pertaining to Action 15 of the BEPS project addressing how other BEPS measures can be efficiently implemented into the existing networks of bilateral DTTs.

Furthermore, the Swiss population approved the Corporate Tax Reform ("STAF") on 19 May 2019, which entered into force on 1 January 2020. This reform implemented, *inter alia*, measures in response to the results of the BEPS project.

The minimum tax rate of 15% for large multinational companies with an annual turnover of at least EUR 750 million as agreed by the OECD and G20 member states by means of a constitutional amendment was implemented on 1 January 2024 based on a temporary ordinance. The respective tax law will be enacted subsequently in the ordinary manner. The minimum tax rate has been implemented in Switzerland by means of a national supplementary tax. The international supplementary tax income inclusion rule ("IIR") came into effect on 1 January 2025.

10.2 Has your jurisdiction adopted any legislation to tackle BEPS that goes beyond the OECD's recommendations?

Currently, Switzerland does not intend to adopt any BEPS measures that go beyond the OECD's recommendations.

10.3 Does your jurisdiction support information obtained under Country-by-Country Reporting (CBCR) being made available to the public?

Information obtained under the Automatic Exchange of Country-by-Country Reports is directed exclusively at the relevant tax authorities and will not be made available to the public.

Multinational companies in Switzerland had to produce a report for the first time for the fiscal year 2018 and the reports were first exchanged in 2020.

10.4 Does your jurisdiction maintain any preferential tax regimes such as a patent box?

In the course of the implementation of the STAF as of 1 January 2020, OECD-compliant measures, such as the IP box, R&D super deduction and notional interest deduction were introduced. Furthermore, most cantons have reduced their corporate income tax rates.

10.5 Has your jurisdiction taken any unilateral action to tax digital activities or to expand the tax base to capture digital presence?

On 1 January 2025, the first part of the partial revision of the Value-Added Tax Act and the Value-Added Tax Ordinance, which was approved by the Federal Assembly on 16 June 2023, entered into force (see question 2.2). The partial revision of the VAT legislation stated that all consignments sold by mail-order companies had to be declared and taxed. The partial revision also provided for new administrative measures to enforce the abovementioned rules concerning the tax liability of foreign mail-order companies, such as a subsidiary liability of the sellers that use an electronic platform to supply goods to customers for the due VAT and an obligation to give information about the person providing an electronic platform to sellers to the tax authorities.

Aside from the above, Switzerland has not taken any other unilateral action to tax digital activities or to expand the tax base in order to capture digital presence to date. On the contrary, the SIF explicitly favours a multilateral approach under which profits should be allocated and taxed where added value is created, and which do not cause double or overtaxation.



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