

DOING BUSINESS IN  
SWITZERLAND 2018





# INTRODUCTION

The Moore Europe *Doing Business In* series of guides have been prepared by Moore Global member firms in the relevant country in order to provide general information for persons contemplating doing business with or in the country concerned and/or individuals intending to live and work in that country temporarily or permanently.

*Doing Business in Switzerland 2018* has been written for Moore Europe Ltd by Refidar Moore AG. In addition to background facts about Switzerland, it includes relevant information on business operations and taxation matters. This Guide is intended to assist organisations that are considering establishing a business in Switzerland either as a separate entity or as a subsidiary of an existing foreign company. It will also be helpful to anyone planning to come to Switzerland to work and live there either on secondment or as a permanent life choice.

Unless otherwise noted, the information contained in this Guide is believed to be accurate as of 1 July 2018. However, general publications of this nature cannot be used and are not intended to be used as a substitute for professional guidance specific to the reader's particular circumstances.

Moore Europe is part of the Moore Global Network Limited. Found in 1907, the network is one of the world's major accounting and consulting networks comprising 271 independently owned and managed firms and 614 offices in 112 countries around the world.

Our member firms' objective is simple: to be viewed as the first point of contact for all our clients' financial, advisory and compliance needs. They achieve this by providing sensible advice and tailored solutions to help their clients' commercial and personal goals. Moore Global member firms across the globe share common values: integrity, personal service, quality, knowledge and a global view.

**Brussels, September 2018**



# CONTENTS

<b>1. Switzerland at a glance</b>	<b>1</b>	Controlled foreign corporation (CFC) rules	16
Geographical location and population	1	Tax incentives	16
History	1	Taxation of foreign operations	16
Languages and climate	2	Tax rate	17
Politics and government	2	Assessment procedure	17
Currency, time zone, weights and measures	2	Returns and payments	17
General Economic Outlook	2	Value added tax	17
<b>2. Doing business</b>	<b>3</b>	Taxable persons	17
Main forms of business organisation	3	Taxable events	18
Introduction	3	Taxable amount	18
Sole proprietorship ( <i>Einzelunternehmung</i> )	3	Rates	18
Entities without separate legal status	3	Exemptions	18
Entities with a separate legal personality	4	Non-residents	19
Association ( <i>Verein</i> )	5	<b>7. Personal taxation</b>	<b>20</b>
Foundation ( <i>Stiftung</i> )	5	Income tax	20
Labour relations and working conditions	6	Territoriality and residence	20
Work permits, visas etc	6	Persons liable	20
<b>3. Finance and investment</b>	<b>8</b>	The family unit	20
Business regulation	8	Taxable income	20
Banking and local finance	8	Taxation of employment income	20
Exchange control	8	Taxation of business income	21
Investment incentives	8	Taxation of investment income	21
<b>4. The accounting and audit environment</b>	<b>9</b>	Capital gains	22
<b>5. Overview of the tax system</b>	<b>10</b>	Losses	23
General remarks	10	Allowances and deductions	23
Legal principles	10	Tax rates	24
Main taxes	10	Church tax	25
Appeals	11	Special tax régimes	25
<b>6. Taxes on business</b>	<b>12</b>	Returns and payments	25
Corporate income tax	12	Appeals	25
Scope and extent	12	Inheritance and gift taxes	25
Company residence	12	Wealth tax	26
The tax year	12	<b>8. Other taxes</b>	<b>27</b>
Taxable entities	12	Stamp duties/capital duty/registration duties/transfer taxes	27
Taxable income	12	Property tax	27
Capital gains	12	Immovable property transfer tax	27
Deductions	13	<b>9. Social security contributions</b>	<b>28</b>
Dividends, interest and royalties	13	General remarks	28
Group taxation	13	First pillar – Old-Age and Disability Insurance (AHV)	28
Losses	14	Second pillar – Occupational Retirement and Disability Insurance (BVG)	28
Withholding taxes	14	Third pillar – Individual Savings	28
Thin capitalisation	15	Self-employed contributions	29
Transfer pricing	15	Regulation for citizens of EU Member States	29
Other significant anti-avoidance rules	16		

<b>10. Moore in Switzerland</b>	<b>30</b>
<b>Appendix 1: Double tax treaties</b>	<b>31</b>
Comprehensive double taxation treaties	31
Double tax treaties: air transport and shipping	32
Double taxation treaties: estates, gifts and inheritances	32
Social security agreements	32
<b>Appendix 2: Moore around the world</b>	<b>33</b>

# 1. SWITZERLAND AT A GLANCE

## Geographical location and population

Switzerland is located at the heart of Europe. It borders five other European countries: Germany, Austria, Liechtenstein, Italy and France. As of 2016 its population was estimated at 8 372 000 inhabitants, living in an area of 41 285 km<sup>2</sup> (a population density of 204 inhabitants per square kilometre – 450 in the midlands and 27 in the Alps). Approximately 2 million foreigners live in Switzerland, which is about 24% of the population. Many of them have migrated from Italy (15.9%), Germany (15.2%), Portugal (12.3%), Serbia (6%) and France (5.5%). In addition 320 000 border-crossing commuters work in Switzerland, living in the border regions.

Switzerland is a federation with 26 states (cantons). It does not have a capital but the seat of its government and administration is Bern; other main cities are Zürich, Geneva and Basel.

## History

The official date of birth of the Old Swiss Confederation is 1 August 1291. This date can be found on a document of alliance (Federal Charter) whose age of more than 700 years has been confirmed by radio nuclear (C<sup>14</sup>) analysis recently. It all began with a new transalpine trading route and with three small valleys in central Switzerland that had remained outside the focus of the neighbouring rulers for a long time. As a reward for help in several war expeditions to Italy, the Holy Roman Emperor Frederick II exempted the valleys of Uri (1231) and Schwyz (1240) from the jurisdiction of any ruler other than the Emperor himself.

This new trade route brought those regions far from the centres of power to the attention of the counts of Habsburg, whose seat was in northern Switzerland and who were trying at that time to strengthen their dynastic power. The Hapsburgs tried to reach their goals by military force but were defeated several times by the Swiss over the course of the 14th century (in the battles of Morgarten 1315, Sempach 1386 and Näfels 1388). Finally, they left their Swiss seat for Austria, from where they succeeded in taking the thrones of Germany and Austria, and the Holy Roman Empire (all Holy Roman Emperors from 1438 to the Empire's dissolution in 1806 were Hapsburgs). The Hapsburg dynasty remained in power in Austria and later Austria-Hungary until 1918.

French kings and Italian princes recruited mercenary troops in central Switzerland throughout the later Middle Ages and into the Early Modern Period. In 1512, Swiss troops captured Milan and Pavia and in 1513 they won the battle of Novarra against the French. The old Swiss Confederacy was at the summit of its power.

The defeat of Marignano in 1515 set the end to Swiss expansion. The lesson learned at Marignano was that taking different sides in foreign conflicts could result in defeat. Most historians regard Marignano as the key event leading to Switzerland's neutrality.

After a brief period of French domination, which saw the establishment of the Helvetic Republic (1798-1803), the old confederal structure was restored under the Act of Mediation, which saw the addition of six new cantons (St. Gallen, Graubünden, Aargau, Thurgau, Ticino and Vaud) with equal rights to the original 13. The Act of Mediation gave most of the competences to the cantons, preserved political equality and stood in front of the law for all citizens.

After the defeat of Napoleon, the great powers meeting at the Congress of Vienna in 1815 were agreed on the principle of Swiss neutrality, which they recognised in perpetuity and Swiss independence, which they guaranteed.

In 1848, under the influence of the liberals and radicals, a new federal constitution was adopted. This strengthened central power in Switzerland, but allowed the cantons extensive rights of self-determination, particularly in areas that had proven to be delicate (e.g. education). In many respects, the constitution of 1848 resembled the constitution of the United States of America.

The constitution was revised in 1874 and a new constitution adopted in 1979, but neither differs significantly from the constitution of 1848.

The Swiss franc was re-established as the common currency throughout Switzerland in 1850.

Curiously, despite various popular initiatives and unsuccessful attempts, mostly in the 20th century, women's right to vote was introduced at federal level only as late as 1971. At cantonal level, it was not until 1990 that the last canton still to hold out against women's suffrage was obliged to grant it.

### Languages and climate

There are four official languages in Switzerland: German (which is the first language of 65.6% of the population), French (22.8%), Italian (8.4%) and Rhaeto-Roman (0.6%).

The climate in Switzerland is moderate north of the Alps, being influenced by ocean winds, and Mediterranean south of the Alps.

### Politics and government

Switzerland, officially the Swiss Confederation, is a federal republic with a directorial system under a direct democracy. Certain powers lie with the 26 cantons; others are reserved to the federal government. The separation of powers into executive, judicial and legislative is one of the cornerstones of the Swiss constitutional system. Legislative powers are exclusively reserved to Swiss citizens.

The head of State is the Federal Council, consisting of seven councillors. On a rotating basis, each of them will act as their president for one year as elected by the Federal Convention (*Vereinigte Bundesversammlung*, composed of all members of the parliament and the representatives of the cantons). The Federal Council is the executive body for all powers allotted to the federation. For 2018, the President of the Federal Council, and hence the ceremonial head of state as well as of the executive arm of government, is Alain Berset. Switzerland does not have a separate head of government.

The Swiss parliament consists of two houses: the National Council (*Nationalrat*), which has 200 members, elected by the Swiss citizens of each canton in proportion to its population and by proportional representation, and the Council of States (*Ständerat*), which consists of 46 cantonal representatives, two from each canton (except for one for each of the six 'half-cantons'). Thus while the larger cantons dominate the *Nationalrat*, the smaller cantons may block legislation in the *Ständerat*. All major political parties are represented in the two houses. None of them holds a determining majority.

Switzerland is home to many international organisations. It joined the Council of Europe in 1979 and the United Nations in 2002. Although it is not a member of the European Union or of the European Economic Area, it is a member of EFTA (the European Free Trade Area), the Schengen area and has agreements on social security, savings taxation and other tax matters with the European Union (see Chapters 6 and 7).

### Currency, time zone, weights and measures

The Swiss Franc (ISO designation: CHF) is the unit of currency. One franc is equal to 100 centimes. The Swiss National Bank manages the Swiss currency. At the time of going to press (late-August 2018), the Swiss franc was quoted against the euro at EUR 1 = CHF 1.1393 and against the US dollar at USD 1 = CHF 0.9847.

In Switzerland, there is a single time zone, Central European Time (CET), being GMT (Greenwich Mean Time) +1. In summer, Switzerland follows the daylight-saving time system (DST), starting on the last Sunday in March and ending on the last Sunday in October, during which clocks are advanced by one hour.

Switzerland uses the metric system of weights and measures (the MKS system). Temperature is measured in degrees Celsius.

### General Economic Outlook

In contrast to most other economies, Switzerland was not hit very hard by the global financial crisis. Its unemployment rate was never higher than 3.2% and remains more or less at this level. The Global Competitiveness Report of the World Economic Forum ranked Switzerland in first place, in front of the United States and Singapore. Inflation rates in Switzerland are very moderate and currently hover around 1% per year.



## 2. DOING BUSINESS

### Main forms of business organisation

#### Introduction

Swiss business forms, especially partnerships and companies formed under Swiss law, are mainly regulated in the Swiss Code of Obligations (*Obligationenrecht/Droit des Obligations*). The main forms of business entity are listed in Table 1.

Table 1

Business entity (German designation)	Abbreviation	English translation
<i>Einzelunternehmung</i>		Sole Proprietorship
<i>Stille Gesellschaft</i>		Silent Partnership
<i>Einfache Gesellschaft</i>		Simple Partnership
<i>Kollektivgesellschaft</i>	KollG	General Partnership
<i>Kommanditgesellschaft</i>	KommG	Limited Partnership
<i>Aktiengesellschaft</i>	AG	Joint-stock company
<i>Kommanditaktiengesellschaft</i>	KommAG	Partnership limited by shares
<i>Gesellschaft mit beschränkter Haftung</i>	GmbH	Limited-liability company
<i>Genossenschaft</i>		Cooperative
<i>Verein</i>		Association
<i>Stiftung</i>		Foundation

#### Sole proprietorship (*Einzelunternehmung*)

One-person businesses (sole proprietors, sole traders), which are of great importance to the Swiss economy, are not explicitly regulated by law and do not qualify as legal entities. The main advantages of a sole proprietorship are the flexibility and the simplicity of the organisational structure. Its main disadvantages exist with regard to funding as well as the issue of succession after the founder's withdrawal.

A one-person business can be defined as a business that an individual runs in his or her own name and which is his or her own responsibility, which ultimately means that he or she has unlimited liability.

If the business is a commercial or production enterprise or an enterprise run in a commercial manner, the sole proprietor is generally obliged to enter it in the Commercial Register. If turnover does not exceed CHF 100 000 per year, the sole proprietor does not have to enter it in the Commercial Register; however, he or she may choose to do so.

#### Entities without separate legal status

##### *Silent partnership (Stille Gesellschaft)*

Silent partnerships are not explicitly regulated by law; however, they are quite common in the business environment. A silent partnership is a partnership arrangement in which the silent partner contributes capital and is entitled to a specific share of the partnership profits. However, the principal is the only party entitled to represent the partnership; only the principal, therefore, has all rights and duties towards third parties.

Since there are no regulations, there is contractual freedom: for example, the silent partner may not have any participatory rights, although he may explicitly ask for these. According to practice, a silent partner may even dominate the internal decision-making process.



### ***Simple partnership (Einfache Gesellschaft)***

If two or more persons join forces on a contractual basis for achieving a particular purpose of making a profit, a simple partnership is usually formed – if it does not have the elements of a general partnership or a limited partnership.

A simple partnership is characterised by the unlimited liability of its partners for the partnership's debts. A simple partnership may have economic and non-economic aims; they are often used temporarily only. However, a simple partnership may not carry on a commercial business. It does not have the status of a legal entity, is not allowed to own a firm name and it cannot be entered in the Commercial Register.

### ***General partnership (Kollektivgesellschaft)***

In a general partnership, two or more individuals join forces to form a common commercial or production enterprise or an enterprise run in a commercial manner. This kind of general partnership has to be entered in the Commercial Register. If such a partnership is not run in a commercial manner, it will only exist as a general partnership if it is entered in the Commercial Register.

Even though, according to the predominant theory, a general partnership is not considered to have a separate legal status, it is allowed to acquire rights and assume obligations; it is also allowed to sue and it can be sued.

The general partners have unlimited liability (not excluding their private property) for the partnership's debts.

### ***Limited partnership (Kommanditgesellschaft)***

In a limited partnership also, two or more persons join forces for achieving a particular purpose. A limited partnership is comprised of at least one individual (the general partner) who has unlimited liability for partnership debts and of one or more limited partners who are only liable to the extent of their capital contribution. A legal entity may be a limited partner. As a consequence, the limited partnership is more flexible than the general partnership.

## **Entities with a separate legal personality**

### ***Joint-stock company (Aktiengesellschaft)***

A joint-stock company is a company with a minimum share capital of CHF 100 000, divided into tradable equity interests (shares).

A joint-stock company is liable for company debts to the extent of its business assets only. One share must have a nominal value of at least CHF 0.01 (1 centime) and at least the greater of 20% and CHF 50 000 of the share capital must be fully paid up.

The company's supreme corporate body is the general meeting of shareholders. It has to elect the Board of Directors, whose task is to manage the business of the company. It is also possible for the Board of Directors to consist of a single person. At least one person that can legally represent the company has to be a Swiss resident. Certain companies, such as international holding companies, may file an application for an exemption from this rule.

The joint-stock company is still the most common legal entity in the Swiss business environment. The main reason for this is the fact that the shareholders (owners) may remain anonymous.

**Partnership limited by shares (*Kommanditaktiengesellschaft*)**

A partnership limited by shares is a partnership whose capital is divided into shares and one or more members of the partnership must have unlimited liability (as with an ordinary partnership).

This legal entity, however, has almost completely lost its importance in Switzerland.

**Limited liability company (*Gesellschaft mit beschränkter Haftung*)**

A limited-liability company is also a company with a predetermined capital. The liability of the members for the debts of the company is usually limited to the amount of the nominal share capital. The total share capital has to be at least CHF 20 000 and be fully paid up.

The company's most important executive body is the members' meeting. Unless otherwise provided, the members manage the company; however, in the members' meeting or in the articles, other persons may be appointed to manage the company. At least one managing partner/director has to be Swiss-resident.

The cost of incorporating a GmbH (as for an AG) includes professional fees for drafting the articles of association (if not standard), translation fees, notary fees as well as a registration fee for publishing mandatory information in the Commercial Register.

**Cooperative (*Genossenschaft*)**

A cooperative is an entity organised along corporate lines, which consists of an unlimited number of persons or commercial companies. The main objective of a cooperative is to promote and/or protect certain economic interests of its members. Thus, cooperatives may be seen as a means of fostering self-help. At least seven people need to join forces in order to form a cooperative. This form of entity pursues in general an open-door policy. According to this policy, new members should be able to join such a cooperative fairly easily.

Similarly to a joint-stock company, a cooperative consists of the general meeting of members, the administration and the auditor. This type of business entity is often used in the agricultural industry or even in the form of a consumer's cooperative or purchasing cooperative. As a matter of fact profit-focused cooperatives still exist today, even though the former large insurance and banking associations have mostly been converted into AGs.

**Association (*Verein*)**

The association is designed for organisations that pursue non-profit objectives. Entities with members paying a membership fee may, however, also be used to run a commercial activity and the entity is only liable for debts to the extent of the association's assets except as provided otherwise in its articles. The association's corporate bodies are the general meeting of members as well as the managing board.

The association is the ideal legal entity to use in order to pursue non-profit interests, since it can be adapted to suit individual needs, and also because it has independent legal status as well as the capacity to have legal rights and obligations.

**Foundation (*Stiftung*)**

A foundation is a legal entity, but it does not consist of a body of persons as compared to other legal entities. It is a legal entity that is established by dedicating funds for a specific purpose, either by way of a public deed or a will.

The dedication of property for this specific purpose is lasting and irrevocable. An amendment of the purpose is not permitted. Nevertheless, the foundation is found in commercial law, in the form of a so-called corporate foundation. In this case, the foundation is either the legal and equitable owner of the company or it is the main shareholder of a company that runs the business.

All pension plans in Switzerland are organised in the form of a foundation and consequently, are totally independent from the employers.

### **Labour relations and working conditions**

Generally, Switzerland allows a great deal of freedom in concluding a working contract. The parties may agree anything that does not go against the provisions of the Employment Code.

The maximum weekly working hours are 45 hours for industrial, technical, office and sales personnel and 50 hours for all others. With special permits these hours can be exceeded permanently by 4 hours per week. In addition, personnel are allowed to work 170 hours overtime per year for those with a 45-hour restriction and 140 hours in the case of all others. Every employee is entitled to a minimum four weeks of paid vacation per year. For apprentices and employees over 50 years of age, five weeks' paid vacation per year is granted.

Most of the special provisions regarding rest periods or night work may be individually agreed and amended, provided there are good reasons.

Switzerland does not have a generally applicable minimum wage; however, there are certain tariff agreements, particularly in the construction business, which contain minimum wages.

For employees there are regulated notice periods in Switzerland. They are one month during the first year of employment; two months from the second year to the ninth year and three months thereafter.

Special protection is granted to employees on maternity leave and to apprentices.

In case of illness, the employer has to continue paying full pay for a period from one month in the first year of employment to a maximum six months for employees of more than 20 years' service. Most employers have an insurance policy covering the salary payments after one month.

Social peace has a very long tradition in Switzerland (practically no significant strikes during the last 100 years) since trade unions and employer associations generally agree on necessary changes in compensation levels and social welfare. Trade unions do not play a major role in Switzerland (membership is about 25% of all employees) since most employees and workers are satisfied with the working conditions applying to them.

### **Work permits, visas etc**

Switzerland has a dual system for the admission of foreign workers. Gainfully employed nationals from EU/EFTA States can benefit from agreements on the free movement of persons. Only a limited number of management-level employees, specialists and other qualified employees are admitted from all other countries.

Employees from 25 of the 28 EU Member States and the EFTA countries benefit from full freedom of movement. They are allowed to stay and pursue gainful employment in Switzerland for three months without a permit. Only a simple report (online) is required. If their gainful employment lasts more than three months, an application for a residence permit becomes necessary.

In a referendum held on 28 February 2014 voters accepted an initiative that intends to limit the inflow of foreign workers into Switzerland. This may change the present system within the next two years.

The **short-term residence permit (L)** is issued for a total duration of 12 months and is granted to persons whose limited employment relationship lasts less than one year. The place of residence and work may be changed freely.



The **initial residence permit (B)** has a term of validity of five years and may be extended for another five years without any further formalities. It is granted to persons holding an employment contract with an employer for an unlimited period or for a period of longer than 12 months.

The **permanent residence permit (C)** is granted to the EU-15 (Member States as at 30 April 2004) and EFTA nationals after a regular and uninterrupted stay of five years in Switzerland. Nationals from any other countries may obtain the C permit after a regular and uninterrupted stay of 10 years. The cantons have the authority to issue the permits.

**Frontier workers** may take up a salaried or self-employed occupation anywhere in Switzerland (full geographical and professional mobility) while retaining their main domicile in any EU/EFTA country. They have to return to their country of residence at least once a week. They must report to the local authorities. If the employment exceeds three months, a G permit is required, issued by the migration office nearest their place of work. A valid identity card or passport is necessary for the application.

EU and EFTA nationals are entitled to exercise a self-employed occupation in Switzerland. They must report to the local authorities and apply for a residence permit for self-employed persons. If they can prove that they actually intend to exercise a self-employed occupation which enables them to cover their own needs, they will be granted a residence permit for five years.

## 3. FINANCE AND INVESTMENT

### **Business regulation**

Generally, there are no restrictions on foreigners wishing to do business in Switzerland or any ownership restrictions for foreigners except for residential property other than owner-occupied. Foreign investors may use whichever Swiss legal form they find appropriate for doing business in Switzerland.

It is recommended that appropriate information on how to start business in Switzerland and possible restrictions be obtained from lawyers and tax advisers and also from the local Chamber of Commerce.

All business units with a legal status plus the qualifying partnerships (see Chapter 2) including registered branches of foreign entities need to register with the local commercial register. Only minimal information is filed and under certain circumstances it is possible to remain anonymous, if desired. No financial information (other than nominal capital) is registered.

Apart from certain professions (medical practitioners, lawyers, auditors) only a few businesses need permission from a supervising body (finance institutions – banks, insurance companies, wealth management – personnel search and lending) to carry on their business.

Competition, as well as mergers and takeovers, is regulated moderately.

Switzerland protects intellectual property by copyright, patent law and trademark legislation.

### **Banking and local finance**

Switzerland is known for its banks and insurance companies as well as its private wealth management. Besides multinational retail banks, there are state-protected banks (cantonal banks), cooperative banks and privately owned regional and local banks.

The main equity exchange in Switzerland is the SIX Swiss Exchange Ltd, located in Zürich. The other exchange of any size is the BX Berne eXchange in Bern, which is comparatively small and is mainly used by companies with a relatively small market capitalisation.

### **Exchange control**

In Switzerland there is no exchange control. Consequently, capital may be repatriated without restrictions or approval.

### **Investment incentives**

For promoting new employment, newly formed manufacturing, trading or service companies may receive tax exemptions or concessions as investment incentives in certain areas (land incentives, increased amortisation rates or increased provision rates). Such incentives are granted at a cantonal and communal level (rarely at the federal tax level) and may be granted for up to 10 years.

## 4. THE ACCOUNTING AND AUDIT ENVIRONMENT

Every business is obliged to keep accounting records and to prepare balance sheets and income statements for a period not exceeding 12 months (except in the year of incorporation).

There are different accounting rules applicable to small, medium and large entities. Generally, the accounting rules apply to all entities with the exception of the rules for small entities which apply to sole proprietorships and partnerships only, as well as associations and foundations not registered or not subject to audits.

Small entities with a turnover of less than CHF 500 000 may only provide an income and expense compilation without rules for the evaluation of assets and liabilities. However, they must accrue for expenses and income attributable to the accounting period. Micro-entities with a turnover of less than CHF 100 000 can do without accruals and remain on a mere cash basis.

Medium entities are required to apply the accounting rules (Swiss GAAP) and must provide notes to the financial statements. They are subject to a limited audit provided they have not chosen the opting-out possibility, which exists for entities that have fewer than 10 employees.

Large companies are subject to a full audit and must produce a cash-flow statement and a directors' report.

For details, see Table 2.

Table 2

	Small	Medium	Large
Balance-sheet total		< CHF 20 million	> CHF 20 million
Turnover	< CHF 500 000	< CHF 40 million	> CHF 40 million
Average number of employees		<250	>250
Legal forms	sole proprietorship	all	all
	partnerships		
	associations		
	foundations		
Audit requirement	No	Limited Audit	Full Audit

## 5. OVERVIEW OF THE TAX SYSTEM

### General remarks

Swiss taxes are generally levied on a federal, cantonal and communal level. Based on the Swiss Constitution, the Federal Government is entitled to the receipts from indirect taxes (customs duties, excise duties), whereas the cantons and communes are basically the recipients of direct taxes on income and capital. Since 1940, the Federal Government has had the right to levy a direct tax on income; however, the cantons and communes continue to be the principal recipients of direct taxes.

### Legal principles

Due to Switzerland's federal structure, each of the 26 cantons has its own specific constitution and tax law according to which taxes on income as well as capital are levied. Together with the federal law on the direct federal tax, there are accordingly 27 different tax laws in existence governing the levying of a direct tax on income. A new law on the harmonisation of cantonal and communal direct taxes was enacted in 1990 and became effective throughout Switzerland as from 1 January 2001. The purpose of this Act was largely to standardise the principles of assessment underlying cantonal direct taxes. The authority for setting tax rates remains with the cantons, so that the total tax burden will continue to vary from canton to canton.

Contrary to the common continental system of civil law, some tax-based questions may often not be easily answered in Switzerland based on the tax laws themselves. As with the case law of Anglo-Saxon jurisdictions, Swiss tax law has also been determined by a series of ground-breaking judgments of the Swiss Federal Court, the highest court in Switzerland. As a supplement to Swiss tax law, the Swiss Federal Tax Administration regularly publishes administrative regulations (circulars, leaflets, instructions).

Swiss tax law is characterised by a relationship of mutual trust between the tax authorities and taxpayers. As Swiss tax laws seldom give detailed information with regard to their application, it is necessary to discuss in advance their interpretation with the tax authorities. As a result of these discussions, the tax authorities usually provide an advance tax ruling about the specific application of the relevant tax rules.

### Main taxes

The main taxes in Switzerland, and the levels at which they are levied, are shown in Table 3.

Table 3

Tax	Federal	Cantonal <sup>1</sup>	Communal <sup>1</sup>
Corporate income tax	Yes	Yes	Yes
Personal income tax	Yes	Yes	Yes
Inheritance and gift tax	No	Yes	Yes
Value added tax	Yes	No	No
Wealth tax	No <sup>2</sup>	Yes	Yes
Real property transfer tax	No	Yes	Yes
Stamp duties	Yes	No	No
Customs duties	Yes	No	No
Excise duties	Yes	No	No

#### Notes

<sup>(1)</sup> Not all cantons and communes levy all the taxes that they are entitled to levy

<sup>(2)</sup> Company net worth tax is solely a cantonal tax; personal net worth (wealth) taxes are a cantonal and communal prerogative.





### Appeals

A taxpayer has 30 days within which to appeal against an assessment. In the first instance, the appeal lies to the tax authorities themselves. If the taxpayer is dissatisfied with the authorities' decision, he can appeal to the cantonal tax court. Appeals from the decision of that court lie to the highest cantonal court, and thence to the Swiss Supreme Court, whose decision is final.

Appeals against federal tax assessments may be made directly from the cantonal tax court to the Supreme Court.

## 6. TAXES ON BUSINESS

### Corporate income tax

#### Scope and extent

Companies resident in Switzerland are in principle subject to corporate income tax (CIT) levied by the federation as well as by the cantons and communes on their worldwide income. Allocation rules (among cantons and communes) and double tax treaties may restrict these taxation rights.

Non-resident companies are subject to Swiss taxation (at all levels) on their Swiss-source income only. This will apply to Swiss branches of foreign companies, participations in Swiss partnerships and the ownership of Swiss immovable property (directly or indirectly by mortgages or by acting as intermediary).

#### Company residence

Companies are considered resident in Switzerland if they have their legal seat (incorporation and address in Switzerland) in Switzerland or if their effective management is located in Switzerland.

#### The tax year

The normal tax year for corporate income tax is the calendar year, but companies are not obliged to draw up their accounts to the calendar-year end. Tax is payable on a current-year basis, on the profits of the accounting year ending in the calendar year.

#### Taxable entities

Companies (see Chapter 2), associations and foundations are subject to corporate income tax. Entities without a separate legal personality are transparent and taxed at partner level. Foreign entities are classified according to the closest Swiss equivalent.

Pension schemes, generally organised in the form of foundations, are exempt from CIT.

#### Taxable income

Taxable income is determined from the net profit after tax (taxes are a deductible expense for CIT purposes) as disclosed in the financial statements. Adjustments may become necessary for the following reasons:

- Differences between the applied accounting principles and tax regulations (e.g. different depreciation rates; disallowed accruals etc)
- Any non-deductible expenses including hidden profit distributions must be eliminated
- Qualifying dividend income will be eliminated (see under 'Dividends, interest and royalties' below)
- In certain cantons, capital gains on immovable property are separately taxed and consequently will be eliminated from the CIT computation
- Unrealised foreign-exchange profits or losses will be eliminated
- The income of foreign branches of a Swiss company and from foreign immovable property is exempt

#### Capital gains

Capital gains are generally treated as regular income for CIT purposes. The main exception is capital gains from qualifying investments (a minimum 10% shareholding held for at least one year), which are not taxed (this is the participation exemption for capital gains). In some cantons, capital gains derived from immovable property are taxed separately at special tax rates.

When capital gains derive from like-kind exchanges of business assets, it is possible to defer taxation if the tax accounting rules are strictly observed.

## Deductions

Expenses incurred in the ordinary course of business are generally accepted as tax-deductible. Consideration that is excessive or that cannot be commercially justified is added back to taxable income.

## Depreciation

Whereas there is no set rate for tax depreciation, the federal tax authorities set guideline (safe-haven) rates, as illustrated in Table 4. Higher rates may be permitted if they can be justified.

Table 4

Type of asset	Safe-haven rate (%)
Commercial buildings	2.0
Industrial buildings	4.0
Furniture and fixtures	12.5
Plant and machinery (general)	15.0
IT equipment and cars	20.0
Tools	22.5
Patents and goodwill	20.0

The above rates are applicable for the straight-line method of depreciation (depreciation based on the historical acquisition value). For the reducing-balance method, the depreciation rates are usually doubled. A few cantons allow accelerated depreciation.

## Interest

The deductibility of interest payments may be restricted by thin capitalisation and transfer pricing rules.

## Taxes

Unusually, corporate income tax is deductible in computing taxable income. This results in an effective corporate tax rate that is lower than the headline rate (see under 'Tax rates' below).

## Dividends, interest and royalties

Dividends, interest and royalties are treated as regular income in Switzerland subject to CIT.

If, however, the recipient Swiss company owns at least 10% of the capital (or voting power) of a distributing domestic or foreign company or if the participation exceeds a current fair market value of CHF 1 million, the so-called participation exemption applies effectively to exempt the dividend from CIT.

The actual mechanism for exempting the dividend is a little more complicated, however. The gross dividend is included in taxable income, but at the tax calculation stage, the tax is reduced by the proportion the net qualifying dividend bears to total net income. The net dividend is the gross dividend reduced by a flat 5% for management costs (the actual management costs may be deducted if lower) and financing costs.

## Group taxation

There is no group taxation in Switzerland.

## Losses

Tax losses incurred in any one year may be carried forward for a maximum of seven years and may be set off against all types of taxable income and gains. There is no carry-back of losses.

## Withholding taxes

### Dividends

There is a withholding tax (*Verrechnungsteuer*) of 35% on all dividend distributions from Swiss companies to both residents and non-residents, individuals as well as companies. Swiss companies in receipt of dividends from other Swiss companies may receive reimbursement of the withholding tax on request. Alternatively, the distributing company may apply to the tax authorities to make the payments gross. If the application is granted, the obligation to withhold is waived, but the distributing company must report all such payments.



Switzerland's double tax treaties (see Appendix 1) will normally reduce the 35% rate of withholding, sometimes to zero, on distributions to non-residents. The tax treaty will provide for partial or full reimbursement of the tax withheld.

Under the agreement of 26 October 2004 between Switzerland and the European Union, Switzerland will exempt dividends to qualifying EU associated companies under the rules applicable under the original version (90/435/EEC), as amended up to that date, of the EU-Parent Subsidiary Directive. Accordingly, there will be no withholding tax on the payment of dividends to an EU-resident company that has one of the corporate forms listed in the Directive and has directly held at least 25% of the share capital of the Swiss company for at least two years. In addition, the recipient company must be subject to corporate income tax and not also be resident in a third country outside the European Union.

### Interest

Withholding tax of 35% is levied on deposit interest paid by Swiss banks and on bonds issued by Swiss companies to non-resident recipients.

Switzerland's double tax treaties (see Appendix 1) will normally reduce the 35% rate of withholding on interest paid to non-residents.

There is no withholding tax on interest paid to Swiss residents.

### Royalties

Switzerland does not levy withholding tax on the payment of royalties.

### Other income payments

Swiss withholding tax is also levied on lottery prizes from domestic lottery agencies as well as on certain insurance benefits. Lump-sum benefits from life-insurance policies as well as life annuities and pensions paid are taxed at rates shown in Table 5.

Table 5

Type of income	Withholding rate
Lottery winnings	35%
Life annuities and pensions	15%
Other insurance pay-outs	8%

Swiss residents may elect to have the insurance benefits reported directly to the federal authorities by the insurance companies. In this case no tax is withheld and no refund necessary.

### Thin capitalisation

There are thin-capitalisation rules in Switzerland. The federal authorities have indicated the following safe-haven guidelines

A firm may borrow funds up to the percentage of its assets indicated below:

- 100% of its cash
- 85% of all other current assets and loans
- 90% of domestic and foreign bonds in CHF
- 70% of investments in subsidiaries, land, homes, apartments and intangible assets
- 80% of foreign bonds in foreign currencies and all other immovable property
- 60% of listed securities
- 50% of non-listed securities and furniture and fixtures

### Transfer pricing

Affiliated companies often take over a specific function within their group, and some even exclusively render services internally among foreign group companies. Due to the increasing tendency to allocate profits among group companies in the international environment, the OECD has issued guidelines on intercompany transfer pricing in order to counteract this problem.

The purpose of the OECD guidelines is to avoid double taxation for the company and to make sure that the international tax authorities receive their fair share of the profits. A significant part of these guidelines concentrate on the transfer pricing methods; these methods allow the parties involved to determine the arm's length price, such as the comparative price as used among independent third parties.

Compared with other countries, Switzerland has not issued any specific transfer-pricing rules. Therefore, there are neither specific documentation guidelines for international enterprises nor separate monetary penalty regulations for unfair pricing. In order to determine transfer prices, Switzerland relies on the OECD guidelines in order to determine appropriate pricing ('to ensure the parties deal with each other at arm's length'). Usually, the taxpayer has to prove that the price really corresponds to what an independent third party would pay.

Nevertheless, Switzerland has a long tradition of allocating profits among related parties operating in different cantons. Consequently, most enterprises operating in different cantons are familiar with the various profit-allocation methods.

Internationally, the taxpayer has to decide according to which criteria the price is finally to be determined. The most commonly used method is the so-called comparable uncontrolled-price method.

### Other significant anti-avoidance rules

Switzerland has unilateral measures against treaty abuse (established in 1962 and amended in 1998). Under the currently applicable measures:

- A Swiss company may not pay out more than 50% of the treaty-benefited income in the form of charges to non-qualified persons. If this company also has income from non-treaty countries, no more than 80% of that income may be paid out in the form of similar tax-deductible charges to non-qualified persons
- A foreign-controlled company has to pay out at least 25% of its treaty-benefited income to its (foreign) shareholders as a dividend
- The thin-capitalisation rules also have to be applied
- However, active companies (with employees and a fixed place of business producing or selling) may pay more than 50% to non-qualifying persons. The distribution rule also does not apply to such companies, provided the payment of potential withholding tax for future dividends is secured. Pure holding companies and listed companies may also benefit from this relief. Mixed holding companies are only relieved from the dividend-payment rule

All bilateral rules as written in double tax treaties, however, prevail. The Swiss measures against treaty abuse may not be applied in relation to the United States.

### Controlled foreign corporation (CFC) rules

Switzerland has no CFC legislation. However, if such an entity does not have substance in the foreign country and its place of management is in Switzerland, Switzerland has the right of taxation according to its residence rules. Where substantial parts of the CFC's business are carried out in a Swiss permanent establishment, the attributable income will be taxed in Switzerland.

### Tax incentives

Most cantons provide a tax holiday to newly incorporated companies that are of interest to the local economy and provide employment. Depending on the size of investment and the number of employees the holiday may be granted for up to 10 years.

In very few and clearly defined regions there may be a tax relief for federal purposes also.

### Taxation of foreign operations

All cantons (but not the Federal Government) grant certain tax concessions to companies that perform only limited or no domestic business activities in Switzerland.

### *Holding companies*

Pure holding companies, whose main statutory activities consist of the regular administration of participations and which do not carry out any domestic business activity, are completely exempt from cantonal and communal income taxes if the participations or the income from participations make up at least two-thirds of all shares or income respectively in the long term. Income from Swiss immovable property is, however, not exempt from cantonal and communal income taxes.

Due to the federal participation exemption, Swiss holding companies are virtually exempt from income taxes. Since capital gains from participations (where a capital investment of at least 10% is held and sold – see under 'Capital gains' above) are also largely exempt from direct federal taxes, a holding company resident in Switzerland may even sell participations on a largely tax-exempt basis.

### *Domiciliary companies*

Domiciliary companies undertake administrative activities but do not carry on a business in Switzerland. They benefit from a complete exemption from any cantonal and municipal taxes on income from substantial participations. Other income from activities from abroad (e.g. income under licence agreements or rights over intangible property) is only partly taxed (usually at around 10% to 20%), whereas other domestic income is taxed according to ordinary Swiss taxation principles.

**Mixed domiciliary companies**

A mixed domiciliary company carries on most of its business activities abroad but does carry on business in Switzerland to a limited extent. Due to the domestic activity, however, such companies have much more substance. Taxation is analogous to that of domiciliary companies.

All of these tax concessions are presently under review due to pressure from the European Union and the OECD. As a first reaction, some of the jurisdictions (e.g. the canton of Obwalden) have therefore introduced EU-compatible concessions such as the licence box. Under a Memorandum of Understanding concluded with the European Union on 30 June 2014, Switzerland has agreed to phase out all the above régimes together with the finance-branch régime. This is unlikely to be accomplished before 2020 at the earliest, but further changes to the Swiss taxing rules in order to preserve Switzerland's attractiveness as a company location can be expected.

**Tax rate**

The rate of federal corporate income tax is 8.5% on income after tax. This results in an effective rate of 7.83% on income before tax.

Each canton has its own rates and each commune charges a multiple of the cantonal rate. These combined rates vary from as low as 4.185% (Meggen, canton Lucerne) up to as high as 23.8% (Avully, canton Geneva) on income after tax.

The lowest rate of corporate income tax (including federal tax, cantonal tax and communal tax) on income before tax would be 12.32%.

**Assessment procedure**

Companies do not self-assess corporate income tax. The cantonal authorities are responsible for issuing final assessments based on the company's tax return.

**Returns and payments**

The company receives a provisional assessment for income and capital taxes from the cantonal authorities during the tax year. The provisional assessment is based on the data from the last filed tax return. Where the company is aware of a substantial difference between the amount of income provisionally assessed and the actual income likely to be realised in the tax year, it may ask for an amended assessment from the authorities. The provisional tax has to be paid by the end of the tax year.

The annual returns have generally to be filed by 31 March of the calendar year following the year in which the company's accounting year ends. Extensions up to 31 December may be granted. If there were underpayments, interest will be charged. The authorities also pay interest on overpayments.

**Value added tax**

Following the example of the European Union, Switzerland decided to substitute its former sales tax by a new value added tax, effective from 1 January 1995. This tax is now governed by the federal Value Added Tax Act, which came into effect on 1 January 2001.

**Taxable persons**

Characterisation as a taxable person for Swiss VAT purposes depends on the definition of a business. In general, persons who supply goods and services in the course of an independent business are taxable persons for VAT purposes. Taxable persons can be individuals, partnerships or companies. Taxable persons with a turnover of below CHF 100 000 annually (CHF 150 000 for non-profit sports and cultural associations and certain charitable institutions) may file an application for exemption from VAT obligations.

In addition, persons liable to customs duty are subject to VAT on the import of goods.

Finally, the import of services supplied by companies that have their business establishment outside Switzerland leads to tax liability where the Swiss customer receives imported services with a total value exceeding CHF 10 000 annually.

### Taxable events

VAT is a general tax on the consumption of goods and services. It is levied at all stages of production and distribution, as well as on the importation of goods, domestic services and the importation of services.

The following transactions are taxable:

- The supply of goods for consideration
- The supply of services for consideration
- The private use of goods and services
- The import of services for consideration and
- The import of goods

### Taxable amount

The taxable amount is the consideration paid in cash or in kind in return for the supply of goods and services. The taxable amount for the import of goods is, in principle, the consideration that would have been paid on an arm's length basis. Input tax, i.e. the tax paid on purchases of goods and services, may be deducted. In effect, only the value added is taxed.

### Rates

There is a standard rate of 7.7% and two reduced rates. All non-exempt supplies not taxed at one of the two reduced rates is taxed at the standard rate.

A reduced rate of 3.7% applies to the letting of hotel rooms, holiday homes, guest rooms, camping grounds etc. A super-reduced rate of 2.5% applies to certain goods and services, including:

- Food and drink, except for alcoholic beverages and services rendered in the hotel or catering sectors
- Medicines and
- Newspapers, magazines, books and certain other printed material.

### Exemptions

The law provides for two kinds of exemptions, i.e. an exemption without credit for input tax ('true exemption') and an exemption with credit for input tax ('zero-rating').

The main supplies that are exempt without credit are:

- Services performed in the areas of health, social services and social security
- Education
- Cultural activities
- Changes in ownership of property and its long-term leasing and
- Supplies in the area of financial services, e.g. the supply of shares, credit-card services, management of certain unit trusts, money lending (excluding hire-purchase and credit sales), insurance

The main supplies that are exempt with credit are:

- The export of goods
- The supply of foreign goods temporarily imported into Switzerland and
- The supply of work on movable goods for foreign persons to the extent the goods are exported





### Non-residents

Non-established businesses (businesses not established in Switzerland and without a fixed establishment in Switzerland from which the supplies are made) with taxable turnover in Switzerland in excess of one of the thresholds mentioned above must register for VAT and appoint a Swiss VAT representative. Such businesses may claim back their input VAT directly. Non-established businesses without taxable outputs in Switzerland are entitled to a refund of the Swiss VAT if their foreign activities would qualify as taxable turnover under Swiss VAT law and if the country of residence grants reciprocal treatment to Swiss businesses.

## 7. PERSONAL TAXATION

### Income tax

#### Territoriality and residence

Individuals are deemed to be resident in Switzerland if they stay in Switzerland with the intention of residing there permanently or if they stay and work in Switzerland for more than 30 days or if their habitual abode in Switzerland lasts longer than 90 days, ignoring brief interruptions. Residents are subject to unlimited taxation, which is to say they are taxable on their worldwide income and wealth.

Non-resident individuals are subject to limited taxation (i.e. on their Swiss-source income only). Swiss-source income includes income from a Swiss branch, Swiss partnership, income from employment under certain conditions and income from immovable property located in Switzerland.

#### Persons liable

All physical persons are liable to income taxes.

Partners of a partnership, if individuals, are subject to income tax on their share of the partnership's profits.

#### The family unit

The income and wealth of a couple who are legally and economically married and not separated (including two people in a registered same-sex union) are combined and taxed according to various methods (splitting, separate rates for couples, any other) depending on the canton of residence. Federal taxes are levied on a separate rate schedule for couples. All the income and wealth of dependent children is included in the taxable base of the supporting parent, with the exception of a child's earned income and capital gains from the child's own immovable property. The age of majority is 18.

#### Taxable income

All income, whether derived periodically or on a single occasion, is taxable. This includes, but is not limited to:

- Income from employment
- Income from self-employment
- Investment income (including deemed income from owner occupation)
- Income from social security, pensions and annuities

There is relief available for investment income from participations of at least 10%, on capital payments from pension plans and similar insurance vehicles as well as on income from self-financed annuities.

Private capital gains are not taxed in Switzerland, with the exception of gains from the sale of immovable property (but only at the communal level; there is no federal tax on private gains) and capital gains from business assets.

There are a few types of income elements that are not exempt, such as income from military or other civil service performed as a citizen's duty etc. However, if not explicitly exempt by law, any income is taxable.

#### Taxation of employment income

All types of direct or indirect remuneration under an employment relationship, whether paid in cash or in kind, and by whomever provided, are in principle subject to income tax.

#### Reimbursement of expenses

To the extent that reimbursements of expenses incurred by the employee in carrying out the duties of the employment do not exceed the actual expenditure, they are not taxable, provided that the expenses can be substantiated. Any excess over the expenditure incurred is taxable.

**Benefits-in-kind**

The general rule is that all benefits-in-kind are taxable at their market value.

Employer-provided cars available for private use are valued at 0.8% of the acquisition price (or the cash purchase price in the case of leased cars) per month, subject to a minimum of CHF 150 per month.

Certain benefits are exempt from tax if they do not exceed set minimum amounts. So, for example, free tickets to cultural or sporting events are exempt up to CHF 500 per event; membership of sports clubs and gymnasia is exempt up to CHF 1000; and fees for further education paid directly to the educational institution are exempt up to CHF 12 000. Where the education is directly related to the employer's business, there is no charge to tax.

**Pensions**

The state retirement pension is fully taxable. Private pensions are fully taxable if the contributions were fully deductible.

**Director's remuneration**

Directors are treated as employees, and director's fees are thus normally taxable as employment income. However, where the director is also a shareholder and the director's remuneration is regarded as exceeding an arm's length amount, the excess is treated as if it were a disguised dividend.

**Deductions**

Deductions may be claimed for a variety of expenses incurred by the employee in connection with the employment. These include:

- Commuting expenses (provided the distance from home to work exceeds 1.6 km): depending on the transportation used, a lump-sum deduction may be granted, e.g. CHF 0.70 per km for travel by private car, capped at CHF 3000 at the federal level
- Equipment (including computers, telephones etc), professional literature and tools used for the employment
- Further professional or vocational training
- Exceptional accommodation needs

In practice, both at federal and cantonal levels, employees may claim a lump-sum deduction at the federal level for all expenses other than commuting, accommodation and training, of 3% of net income, with a minimum of CHF 2000 and a maximum of CHF 4000. All cantons also provide for lump-sum deductions and many (e.g. Zürich) adopt the federal rules.

Social security contributions (for which see Chapter 9) are fully deductible in computing taxable income from employment.

**Taxation of business income**

Included under this heading are all revenues from the activities of self-employed sole entrepreneurs and partners carrying on a business or profession. Income from agriculture or forestry is also taxable under this heading.

Taxable income is computed according to generally accepted accounting principles, modified where necessary by specific tax law, e.g. for tax depreciation. All expenses related to the business may be deducted, provided they are commercially justifiable.

**Taxation of investment income****Dividends**

Both domestic and foreign dividends are taxable. Where the taxpayer holds at least 10% of the capital of the distributing company, 40% of the dividend is exempt (this increases to 50% if the shareholding is a business asset rather than a private asset).

A withholding tax of 35% is deducted at source from Swiss-source dividends. The withholding tax is deductible from the taxpayer's final liability.

### **Interest**

All forms of interest from bank deposits, bonds, loans etc is taxable. Interest on securities and bank deposits is subject to withholding tax of 35%, deductible from the taxpayer's final liability.

### **Royalties**

Royalties are normally business income, unless the underlying property is held privately. There is no withholding tax on royalties.

### **Rental income**

Income from the letting or renting of immovable property is subject in Switzerland to income tax. Both the Confederation and the cantons apply the same rules. The income from property of natural persons resident in Switzerland is taxed together with other income and gains. Property owners resident abroad must file a tax return as persons subject to limited tax liability in respect of their property income of the previous year.

Under Swiss tax legislation, the rental value (*Mietwert*) of the owner-occupied property (including holiday homes) of natural persons is a taxable object. As a rule, this rental value is computed by reference to the amount of rent that would be demanded from a third party by the landlord and be payable by the tenant (the so-called 'standard rent' – *Vergleichsmiete*).

Loan interest is generally deductible in full from both rent actually received and from rental value in the case of owner-occupiers, as are property costs (in part). Relevant property costs are treated differently depending on whether they are property maintenance costs or expenditure that increases the value of the property. Whereas expenditure that preserves the value of the property is fully deductible, expenditure that increases the value of the property is not deductible from taxable income. However, improvement expenditure can be taken into account on the disposal of the property. The dividing line between improvement expenditure and maintenance costs is not always clear in practice.

Rental income from foreign property is exempt in the hands of Swiss-resident taxpayers, but is taken into account in determining their tax rate, under the 'exemption with progression' principle.

### **Capital gains**

At the level of the Confederation, private capital gains, whether on movable or immovable property, are exempt from tax. Gains from the alienation of business assets are taxable as business income.

The cantons also differentiate between business immovable property and private immovable property. Profits from business immovable property are subject in most cantons to normal income tax or profits tax. In certain cantons, gains from business immovable property are subject to a separate land profits tax. The same applies to gains from private immovable property in all cantons. Gains from immovable property are taxable in the commune or canton in which the immovable property is situated.

It is always the person making the disposal who is taxable. Where an economic transfer takes place, the person subject to tax is the person who transfers the power to dispose over immovable property for monetary consideration. Relief from tax on property gains is available in certain cases (e.g. acquisition of land by inheritance or by an *inter vivos* gift).

Tax is charged on every gain from the disposal of immovable property. It is the net gain realised on the transfer of ownership over immovable property that is taxable. The net gain is calculated by determining the difference between the original cost (the purchase price plus improvement expenditure) and the sale price.



To the extent that gains from immovable property are subject to taxation, these gains can be set off by losses from immovable property. Where gains from immovable property are subject to a separate tax, however, a set-off of losses is generally not available, as the land profits tax is in such cases a property tax. Some cantons do, however, allow losses from immovable property to be set off.

In most cantons, the rate of tax depends on two factors, namely the amount of the gain and the period of ownership. Rates may be either flat or progressive and may reach a maximum of 40%, depending on the particular canton. Mostly, short-term gains are subject to surcharges, whereas long-term gains are usually privileged.

See also under Chapter 8.

### Losses

At the federal and cantonal level, current-period losses may be set off against other income of the period, whatever the source of that income (so that e.g. losses from a business may be set off against the taxpayer's investment income or employment income). This applies equally to the losses of a spouse, registered cohabitee or child within the same family unit.

To the extent that losses cannot be set off in the current period, they may be carried forward against the income of subsequent periods. Business losses may be carried forward for a maximum of seven years.

Losses may not be carried back, except in the canton of Thurgau, which allows for a one-year carry-back.

### Allowances and deductions

Interest payments are deductible up to an amount not exceeding the total of investment income plus CHF 50 000.

Medical expenses may be deducted at federal and cantonal level. At the federal level, deduction is only available where these expenses exceed 5% of net income. Most other cantons also impose this threshold, but it can be as low as 0.5% depending on the canton concerned.

Insurance premiums for health or life assurance are deductible at federal and cantonal level, subject to ceilings. For the Confederation, the ceiling is CHF 1700 per year for single taxpayers and CHF 3500 for married or registered cohabiting couples, with an extra CHF 700 (maximum) for each minor child.

Personal allowances, in respect of the taxpayer's personal, family or other circumstances, are as such not available at the level of the Confederation or in 18 of the 26 cantons. In eight cantons, allowances are available, however, ranging from CHF 2000 for a single taxpayer in Bern to CHF 18 000 in Basel Stadt (increasing to CHF 28 000 for single taxpayers with children).

By contrast, a spouse's earned-income deduction is available at the federal level and in every canton except Thurgau. This is awarded to the spouse with the lower taxable income. For the Confederation, the minimum deduction is CHF 8100 and the maximum CHF 13 400.

Some cantons allow extra deductions for taxpayers aged 65 and over, and some also give special relief to taxpayers with small incomes.

A child allowance is available at federal level and in most cantons. The amount of the federal allowance is CHF 6500.

### Tax rates

Federal income tax is charged on a progressive scale, as shown in Table 6.

Table 6 Married couples (and registered same-sex unions)<sup>1</sup>

Band of income (CHF)	Rate of tax
First 28 300	0%
Next 22 600	1%
Next 7500	2%
Next 16 900	3%
Next 15 000	4%
Next 13 100	5%
Next 11 300	6%
Next 9500	7%
Next 7500	8%
Next 5600	9%
Next 3900	10%
Next 1900	11%
Next 1900	12%
Next 750 800	13%

### Note

<sup>(1)</sup> Includes also widows, widowers, separated and single parents maintaining a minor child or a child undergoing full-time education

Taxable income above CHF 895 800 is taxed at a single flat rate of 11.5%.

Table 7 All other taxpayers

Band of income (CHF)	Rate of tax
First 14 500	0%
Next 17 100	0.77%
Next 9800	0.88%
Next 13 800	2.64%
Next 17 300	2.97%
Next 5600	5.94%
Next 25 500	6.60%
Next 31 000	8.80%
Next 41 400	11.00%
Next 579 200	13.20%

Taxable income above CHF 755 200 is taxed at a single flat rate of 11.5%.

In addition to federal income tax, individual taxpayers are also subject to cantonal and communal income tax.

In most cantons, communal income taxes are a multiple of the cantonal taxes. Maximum combined tax rates vary from as low as 12.625% (Meggen, canton of Lucerne) to 32.32% (Cluny, canton of Geneva).

### Church tax

For certain qualifying religions ((Evangelical) Reformed, Roman Catholic, Christian Catholic and Jewish) there is an additional church tax, charged as a surcharge on income and wealth tax.

### Special tax régimes

The federal tax law and some cantonal laws (including Geneva, Zürich and Zug) contain some special regulations for expatriates regarding the deduction of relocation costs and additional professional expenses not compensated by the employer.

Foreign individuals moving to Switzerland and Swiss citizens who return to Switzerland after a period of at least 10 years abroad and who do not carry on gainful employment or self-employment in Switzerland may benefit on application from a lump-sum taxation régime based on a multiple of their living expenses only. At the federal level, this multiple is seven. The régime is available to relatively wealthy taxpayers, however. At the federal level, the taxpayer's minimum tax base for making an application is CHF 400 000. The tax base, it should be noted, cannot be less than the aggregate of the taxpayer's Swiss-source income plus all foreign-source income for which the individual claims treaty protection.

Lump-sum taxation is also available at the cantonal and communal level, but there are now five cantons (Appenzell Ausser-Rhoden, Basel Land, Basel Stadt, Schaffhausen and Zürich) that have abolished lump-sum taxation, and a referendum calling for it to be abolished at the federal level is to be held in the near future.

### Returns and payments

The taxpayer receives a provisional assessment to income and wealth tax from the cantonal authorities during the tax year. This provisional assessment is based on taxable income and wealth declared in the taxpayer's last tax return. Where the taxpayer is aware that there will be a substantial difference between the income provisionally assessed and the actual income likely to be realised in the current tax year, he or she may apply for an amended assessment from the authorities to be paid during the tax year.

Annual tax returns have generally to be filed by 30 April of the calendar year following the income year. Extensions up to 31 December may be granted. If there have been underpayments, interest will be charged. The authorities also pay interest on overpayments.

Based on the individual's tax return, the cantonal authorities assess all taxes (including the federal taxes) and issue the final tax assessment. The taxes have to be paid 30 days after receiving the invoice.

### Appeals

See Chapter 5.

### Inheritance and gift taxes

There is no inheritance or gift tax at the federal level. The latest attempt to introduce one was rejected by a referendum in June 2015.

The right to tax inheritances and gifts currently lies with the cantons. With one exception, (Schwyz) all cantons levy an inheritance tax and almost all of them also levy a tax on lifetime gifts. Those that do not are Lucerne and Schwyz. The tax is levied by the canton where the transferor is resident at the time of the transfer, with the exception of immovable property, in the case of which the canton where the immovable property is located may levy the tax.



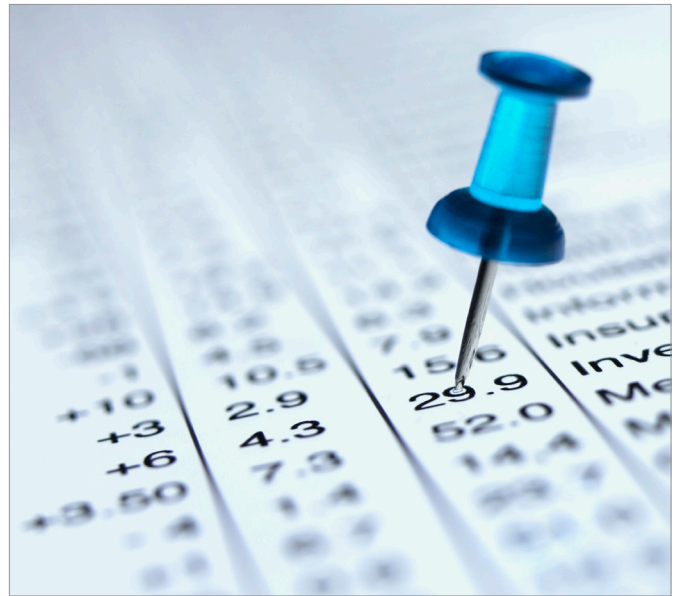
The tax rates for inheritance and gift taxes depend on the degree of the relationship between transferor and transferee and the size of the inheritance or gift, and vary substantially among the cantons. Currently, all direct descendants are exempt from inheritance and gift taxes in all cantons.

### Wealth tax

There is no federal wealth tax.

Cantonal and communal wealth taxes are levied on the net worth of the taxpayer's assets, i.e. market value of all assets less all debts). They also vary considerably among the cantons and communes and can at the maximum level be as high as 1.027% (Thonex, canton of Geneva) and as low as 0.098% (Wollerau, canton of Schwyz).

Most cantons levy a progressive wealth tax, but flat rates are in force in Appenzell Inner-Rhoden, Glarus, Lucerne, Nidwalden, Thurgau, Schwyz and Uri.





## 8. OTHER TAXES

### Stamp duties/capital duty/registration duties/transfer taxes

A liability to stamp duty arises in certain legal transactions involving particular deeds (particularly where securities are involved).

The stamp duty is imposed according to the federal law on stamp duties. The issue of shares and the processing of related deeds are events that give rise to a stamp-duty liability.

Capital duty is due on the issue of participation rights and on the increase in par value of shares in a Swiss company or cooperative. The rate of the duty is 1% of the capital; no duty, however, is levied on the first CHF 1 000 000 of share capital. Also the contribution by the shareholder without corresponding consideration is a taxable event for stamp duty purposes, even though the nominal par value remains unchanged.

Furthermore, a liability to stamp duty arises on any transactions involving the processing of the following documents: bonds, shares, participation certificates, profit-sharing certificates and units in mutual funds). The stamp-duty rate on foreign securities is 0.3%, whereas domestic securities are subject to duty at a rate of 0.15%. The duty is, however, only due and payable if a Swiss securities dealer (typically a Swiss bank) acts as a contracting party or intermediary.

Certain insurance-premium payments are also subject to stamp duty. For life insurance, the duty is levied at a rate of 2.5 % of the cash premium; for all other insurances, the stamp duty is levied at a rate of 5% of the cash premium. There are, however, a number of exemptions. For example, the duty is not charged on policies covering illness, accidents, fire or theft.

### Property tax

The purchase of immovable property in Switzerland is restricted for non-Swiss citizens and is subject to permission. A purchase is always looked at from an economic point of view. Therefore, each legal transaction that gives a non-resident control over immovable property without the need for a special permit is seen as tantamount to the direct purchase of such immovable property. An example of such a transaction is the purchase of the majority of shares in a property company.

The income from and the value of immovable property is subject to income and wealth tax. In addition a few communes still levy a property tax.

### Immovable property transfer tax

The immovable property transfer tax is strictly assessed on the transaction value or, if higher, on the fair market value of the property. The tax burden is mainly proportional and varies between 1% and 2%. An increasing number of cantons have abolished this tax, and some have replaced it with a registration duty of between 0.2% and 0.7% of the sale price.

See also under 'Capital gains' in Chapter 7.

## 9. SOCIAL SECURITY CONTRIBUTIONS

### General remarks

The Swiss social security system consists of three elements (so-called 'pillars'). The purpose of these three pillars is to provide social security via different measures for old age, death and invalidity. The first pillar, old-age and disability insurance (AHV), is supposed to ensure that the essential basis for gaining a livelihood is appropriately covered for the whole Swiss population. The second pillar, the compulsory occupational retirement and disability insurance (BVG), is supposed to ensure, together with the first element, that the standard of living of all employees can be maintained. The third pillar, individual savings, provides an individual with the opportunity to close any possible gaps in the first and the second pillar or to help in obtaining a higher level of income or benefits for retirement, death benefits or invalidity benefits.

### First pillar – Old-Age and Disability Insurance (AHV)

Old age and disability insurance is an insurance compulsorily required by the government. It insures each individual who is gainfully employed in Switzerland. In the instance of retirement or invalidity, this insurance provides the insured person with a pension. In order to finance this insurance, every individual employed in Switzerland has to pay a regular contribution based on his or her salary. AHV premiums are 10.25% of the total salary and the liability is equally shared between the employer and employee. For the purposes of determining the premium, there is no ceiling on the salary; however, the maximum yearly pension payments receivable from AHV are currently CHF 28 200.

Furthermore, premiums have to be paid for compulsory governmental unemployment insurance (ALV). These premiums are also based on the salary and belong to the first pillar. The premium for the ALV is 2.2% of the salary up to an annual salary of CHF 148 200 and the premium is also equally shared between the employer and employee. For salaries exceeding CHF 148 200 the rate is 1%.

All premium payments in respect of the first element (i.e. the premium payments made by the employer as well as the employee) are fully tax deductible.

### Second pillar – Occupational Retirement and Disability Insurance (BVG)

Employees with an annual salary of between CHF 24 675 and CHF 84 600 are required to have occupational retirement and disability insurance (BVG). Moreover, the employer is required to establish a pension fund for the employees who are required to be insured; alternatively, the employer may add these employees to an already existing pension scheme. Pension funds are mostly foundations that are not subject to tax provided that they satisfy the necessary requirements. It is possible for voluntary contributions to be made when an individual's salary exceeds CHF 86 600. The maximum salary that can be insured under this programme is CHF 846 000.

The size of the payments that are to be paid by the employer and the employee is determined by the pension scheme. The payment made by the employer must be no less than the aggregate amount of employee payments. The employer's premiums to insure the compulsory salary are usually between 5% and 10% of the salary. If the company pension fund meets the abovementioned requirements, the premiums paid by the employer and the employee will be tax-deductible.

### Third pillar – Individual Savings

Compared to the second pillar, which is primarily a collective pension scheme, the third pillar is an individual pension fund or a 'secured' fund. Officially recognised third-pillar funds may only take the form of a secured fund with an insurance company or a 'secured pension-plan arrangement with a bank. Premiums paid to a secured fund have to serve irrevocably for the payment of pensions. Pensions may only be paid out no earlier than five years before pensionable age (65 years for men, 64 years for women). Early pension payments are only allowed in the instance of total disability, when an individual joins another tax-exempt pension fund or another officially recognised pension scheme or starts or ceases his or her own business. Furthermore, premium payments can be paid out in order for an individual to finance and purchase his or her home. They can also be paid out when an individual ceases to be resident in Switzerland.

The premiums paid to a pension fund of this type are limited and depend on the individual's income. If the individual does not have the appropriate occupational retirement and disability insurance, the premiums must not exceed a maximum of 20% of business income, or currently no more than CHF 33 840, per year. If the individual does have the appropriate occupational retirement and disability insurance, premiums may currently not exceed CHF 6768 per year.

The premiums mentioned above are tax-deductible. On the other hand, if an early pay-out from these plans is made, the money received would be subject to (privileged, special rates) taxation.

### Self-employed contributions

The contribution rates for self-employed taxpayers in 2018 are shown in Table 8.

Table 8

Type of insurance	Rate (%)
AHV (old age)	7.80
IV (disability)	1.40
EO (military service compensation)	0.45
<b>Total</b>	<b>9.65</b>

The contributions are payable on gross income and there is no ceiling. However, if the taxpayer's gross income falls between CHF 9400 and CHF 56 400, there is a progressively increasing minimum contribution.

### Regulation for citizens of EU Member States

According to the agreement on free movement of persons between Switzerland and the European Union, Switzerland applies the EU social security regulations 883/2004/EC, which provides a number of exemptions from Swiss social security contributions for temporary residents in Switzerland coming from EU Member States.

For example, there is an exemption for an employee being transferred and paid by an employer resident in an EU Member State if the prospective duration of his or her work assignment does not exceed 12 months. If – for unexpected reasons – the period of 12 months has to be extended, this permission can be prolonged and usually will be granted.

Switzerland also has bilateral social security agreements with other countries (see Appendix 1).

## 10. MOORE IN SWITZERLAND

Moore firms in Switzerland are coordinated by an umbrella organisation.

**Moore Switzerland Association**

**23 avenue de France**

**1202 Geneva**

T +41 (0)58 911 8600

F +41 (0)58 911 8697

Moore Refidar firms are based in Geneva and Zurich.

**Refidar Moore AG**

**Europastrasse 18**

**8152 Glatbrugg**

**Zürich**

T +41 (0)44 828 1818

F +41 (0)44 828 1880

International tax: **Hélène Staudt**

**Moore Refidar SA**

**23 avenue de France**

**1202 Geneva**

T +41 (0)58 911 8600

F +41 (0)58 911 8697

International tax: **Jacques Grossen**

Moore Refidar SA also has offices in Lausanne and Nyon

Other Moore member firms have offices in Aarau, Geneva, Lausanne, Lucerne, Lugano, St Gallen and Zug.

## APPENDIX 1: DOUBLE TAX TREATIES

### Comprehensive double taxation treaties

Switzerland has comprehensive double taxation treaties with the following countries:

Albania	Egypt	Liechtenstein	St Vincent and the Grenadines <sup>1</sup>
Algeria	Estonia	Lithuania	Serbia <sup>3</sup>
Andorra	Finland	Luxembourg	Singapore
Anguilla <sup>1</sup>	France	Macedonia <sup>3</sup>	Slovakia <sup>4</sup>
Antigua and Barbuda	Gambia <sup>1</sup>	Malawi <sup>1</sup>	Slovenia
Argentina	Georgia	Malaysia	South Africa
Armenia <sup>2</sup>	Germany	Malta	South Korea
Australia	Ghana	Mexico	Spain
Austria	Grenada <sup>1</sup>	Moldova <sup>2</sup>	Sri Lanka
Azerbaijan	Greece	Mongolia	Sweden
Bangladesh	Hong Kong	Montenegro <sup>3</sup>	Taiwan
Barbados <sup>1</sup>	Hungary	Montserrat <sup>1</sup>	Tajikistan
Belarus <sup>2</sup>	Iceland	Morocco	Thailand
Belgium	India	Netherlands	Trinidad and Tobago
Belize <sup>1</sup>	Indonesia	New Zealand	Tunisia
Bosnia Herzegovina <sup>3</sup>	Iran	Norway	Turkey
British Virgin Islands <sup>1</sup>	Ireland	Oman	Turkmenistan
Bulgaria	Israel	Pakistan	Ukraine
Canada	Italy	Philippines	United Arab Emirates
Chile	Ivory Coast	Poland	United Kingdom
China	Jamaica	Portugal	United States
Colombia	Japan	Qatar	Uruguay
Croatia	Kazakhstan	Romania	Uzbekistan
Cyprus	Kosovo <sup>3</sup>	Russian Federation	Venezuela
Czech Republic <sup>4</sup>	Kuwait	San Marino	Vietnam
Denmark <sup>5</sup>	Kyrgyzstan	St Kitts and Nevis <sup>1</sup>	Zambia <sup>1</sup>
Ecuador	Latvia	St Lucia <sup>1</sup>	

<sup>(1)</sup> By extension of the 1954 treaty with the United Kingdom

<sup>(2)</sup> The treaty concluded with the former USSR applies

<sup>(3)</sup> The treaty concluded with the former Republic of Serbia and Montenegro applies

<sup>(4)</sup> The treaty concluded with the former Czechoslovakia applies

<sup>(5)</sup> Includes the Faroe Islands

Treaties have also been signed with the British Virgin Islands, Costa Rica, Jersey, Peru and Zimbabwe, but these are still either to be ratified or not in force.

**Double tax treaties: air transport and shipping**

Switzerland has double tax treaties with the following countries covering profits from air transport, or from shipping and air transport, only.

Argentina	DR Congo	Rwanda
Bahrain <sup>(1)</sup>	Kenya <sup>(1)</sup>	Saudi Arabia <sup>(1)</sup>
Brazil	Lebanon	Togo <sup>(1)</sup>
Burundi	Oman <sup>(1)</sup>	

<sup>(1)</sup> Air transport only

**Double taxation treaties: estates, gifts and inheritances**

Switzerland has agreements covering taxes on inheritances with the following countries. The treaties do not cover lifetime gifts.

Austria	Finland	Sweden
Denmark	Germany	United Kingdom
Faroe Islands	Netherlands	United States of America

Switzerland also has a tax co-operation agreement with Austria and the United Kingdom.

**Social security agreements**

According to the agreement on free movement of persons between Switzerland and the European Union, Switzerland applies the EU social security regulations 883/2004/EC. The same applies with respect to the other EFTA countries, Iceland, Liechtenstein and Norway, as they are EEA members.

Switzerland has pre-existing bilateral agreements with some EU Member States. These have largely been superseded by the EU regulations, but may be applied where, occasionally, they give a more beneficial result. The following non-EEA countries have social security agreements with Switzerland, the terms of which differ from case to case.

Argentina	India	San Marino
Australia	Israel	Serbia
Bosnia-Herzegovina	Korea	Turkey
Brazil	Macedonia	United States
Canada	Montenegro	Uruguay
Chile	Philippines	

## APPENDIX 2: MOORE GLOBAL AROUND THE WORLD

Moore member firms may be found in 107 countries and territories around the world, with correspondent firms in another eight.

Albania	Ecuador	Liechtenstein*	Saudi Arabia
Argentina	Egypt	Lithuania	Serbia
Australia	El Salvador*	Luxembourg	Seychelles
Austria	Finland	Macedonia	Singapore
Azerbaijan	France	Malaysia	Slovakia
Bahamas	Germany	Malta	South Africa
Bahrain	Ghana*	Mauritius	South Korea
Bangladesh	Gibraltar	Mexico	Spain
Belgium	Greece	Moldova	Sri Lanka*
Belize	Guatemala	Monaco	Suriname
Bermuda	Guernsey	Mongolia*	Sweden
Bolivia	Honduras	Morocco	Switzerland
Brazil	Hong Kong	Nepal*	Taiwan
British Virgin Islands	Hungary	Netherlands	Tajikistan*
Bulgaria	India	New Zealand	Thailand
Burundi	Indonesia	Nicaragua	Tunisia
Cambodia*	Iraq	Nigeria	Turkey
Canada	Ireland	Norway	Uganda
Cayman Islands	Isle of Man	Oman	Ukraine
Chile	Israel	Pakistan	United Arab Emirates
China	Italy	Panama*	United Kingdom
Colombia	Japan	Paraguay	United States
DR Congo	Jersey	Peru	Uruguay
Costa Rica	Jordan	Philippines	Venezuela
Croatia	Kazakhstan	Poland	Vietnam
Cyprus	Kenya	Portugal	Yemen
Czech Republic	Kuwait	Qatar	Zambia
Denmark	Latvia	Romania	Zimbabwe*
Dominican Republic	Lebanon	Russia	

\*denotes a correspondent firm only

For more detail, see [www.moore-global.com](http://www.moore-global.com) under 'Locations'.

©September 2018, Moore Europe, on behalf of Moore Global Network Limited

Moore Global Network Limited  
1 Hill Street  
London  
W1J 5LA  
United Kingdom

We believe the information contained in this Guide to be correct at the time of going to press, but we cannot accept any responsibility for any loss occasioned to any person as a result of action or refraining from action as a result of any item herein. Printed by Moore Europe Ltd, a member firm of Moore Global Network Limited (MGNL). Moore Europe is a company incorporated in accordance with the laws of England and provides no audit or other professional services to clients. Such services are provided solely by member firms of Moore Europe in their respective geographic areas. Moore Europe and its member firms are legally distinct and separate entities owned and managed in each location.

## MOORE GLOBAL NETWORK

We've spent more than 100 years serving clients through our professional services. With more one-to-one support from senior partners than you might be used to, you'll always be working with professionals. Our services will help you navigate new markets effortlessly, and take advantage of every opportunity.

For more information on how our global services and sector expertise can help your business thrive in over 100 countries, just get in touch.

## CONTACT US

Find your nearest member firm at  
**[www.moore-global.com](http://www.moore-global.com)**

Or email:  
**[marketing@moore-global.com](mailto:marketing@moore-global.com)**



**[www.moore-global.com](http://www.moore-global.com)**

---

We believe the information contained herein to be correct at the time of going to press, but we cannot accept any responsibility for any loss occasioned to any person as a result of action or refraining from action as a result of any item herein. Printed and published by © Moore Global Network Limited. Moore Global Network Limited, a company incorporated in accordance with the laws of England, provides no audit or other professional services to clients. Such services are provided solely by member and correspondent firms of Moore Global Network Limited in their respective geographic areas. Moore Global Network Limited and its member firms are legally distinct and separate entities. They are not and nothing shall be construed to place these entities in the relationship of parents, subsidiaries, partners, joint ventures or agents. No member firm of Moore Global Network Limited has any authority (actual, apparent, implied or otherwise) to obligate or bind Moore Global Network Limited or any other Moore Global Network Limited member or correspondent firm in any manner whatsoever.