

## Swiss corporate tax

Having successfully implemented the Corporate Tax Reform in 1997, which reduced the income tax burden at corporate level, Switzerland can promote its position as a favourite holding location and attract new European and global headquarters, business control centres as well as intellectual property holding and financing companies of international groups.

The Swiss system operates at three levels; cantonal, federal and local authority.

As cantons are members of the federation they are able to raise taxes, apart from those which are the responsibility of the federal government.

There has been a recent effort to harmonise direct taxes between the cantons and municipalities. All cantons were forced to adapt their tax legislation following the Federal Tax Harmonization Law, but the tax rates have not been harmonized and differ a lot from one canton to another.

Each canton has its own tax laws as well as tariffs, tax rates and exemptions.

### Swiss Companies

Swiss companies are subject to federal corporate income tax, cantonal or municipal corporate income taxes and cantonal or municipal net worth taxes (capital duty).

Corporation taxation applies to all corporate bodies except partnerships, which are transparent for tax purposes as partners are taxed individually.

Switzerland's classic corporate tax system results in economic double taxation, for example dividend income from company profits, which has already been subject to corporate tax, is also subject to income tax. Specific relief applies only to holding companies in a bid to avoid economic triple taxation.

### Tax rates

The federal corporate income tax rate is 8.5 per cent, but the cantonal tax rates vary considerably.

In general the rates are progressive, but some cantons have introduced digressive tax rates, which is a flat rate of tax on profit above a certain minimum which is untaxed. These are applied when a certain level of profit is reached.

In Switzerland all taxes due by corporate tax payers are tax deductible. This is not the case in most other countries so Swiss tax rates should not be compared with foreign tax rates.

If the aggregate of all rates in Switzerland amounts to 30 per cent (of which 8.5 per cent is federal tax), the effective rate would only be about 23 per cent (of which 7.8 per cent is federal tax) compared to a country where taxes are not a deductible expense for tax purposes.

### Foreign companies

These may be subject to Swiss corporate taxation if they:

- are investors in a business in Switzerland
- have a permanent establishment in Switzerland
- own Swiss real estate
- have claims secured by mortgage on Swiss real estate
- act as a broker of Swiss real estate

Foreign companies are taxed only in respect of Swiss source income or Swiss assets.

For a business entity to be subject to Swiss tax laws there must be a permanent business operation that contributes to the profits of the company on its own account, or is an important part of the business of the company.

Swiss tax law defines a permanent establishment as a fixed place of business where the business activity of the enterprise is wholly or partly carried out.

This includes branches, factories, workshops, sales agencies, permanent representations, mines and other places of extraction of natural resources. A building, construction or installation site constitutes a permanent establishment if it lasts a minimum of 12 months.

### **Branches**

Under Swiss tax laws, a branch is a business entity belonging to an individual person or a corporation based abroad. Swiss tax liability is limited to Swiss taxable items or events.

Swiss branches are taxed only on earnings attributable to the operation in Switzerland. The split of profit between the main company and the branch is based on the accounts of the branch.

A branch of a foreign corporation is taxed in Switzerland in the same way as a joint stock company.

One of the main tax advantages of setting up a branch instead of a resident company is that distributions from the branch to the main company (abroad) are not subject to 35 per cent federal withholding tax

### **Special tax regimes**

These exist for the following types of companies:

- Holding companies
- Domiciliary/auxiliary companies
- Service companies

Holding companies enjoy privileged tax treatment at both federal and cantonal tax level, whereas domiciliary/auxiliary companies and service companies only benefit from privileged tax treatment at cantonal level, therefore paying normal federal corporate tax.

### **Holding Companies**

Both the Cantonal and the Federal authorities give preferential treatment to holding companies.

At federal level there is a difference in the tax treatment of pure holding companies and mixed holding companies.

### **Mixed holding companies**

Swiss companies with substantial participations, (i.e. significant shareholdings in other corporations) also carry out another business activity besides just holding and financing subsidiaries.

These companies receive tax relief at federal, cantonal and municipal levels, by participation exemption, which operates as a reduction of tax due.

The reduction is calculated according to the percentage of the net income from qualifying participations to the company's total net income.

The following income may qualify:

- dividends received from participations of minimum 20 per cent in the capital or minimum CHF 2 million (fair value);
- capital gains realized on participations held for at least one year if minimum 20 per cent is sold

There is largely no federal tax on the profits of pure holding companies.

Cantons exempt holding companies from all income taxes. Therefore a holding company is not dependent on the deduction of tax due.

The net result is that all dividends and any profit from their sale and interest income are tax-free.

A holding situation exists if two thirds of the assets are equity investments or two thirds of the income is from equity investment.

This results in almost complete exemption from tax at cantonal and municipal level.

	<b>Limited liability company (GmbH)</b>	<b>Incorporated company (SA/AG)</b>	<b>Swiss Branch</b>
<b>Founders</b>	at least two partners	at least three shareholders	main company
<b>Capital requirements</b>	CHF 20,000 of which min CHF 10,000 paid up.	CHF 100,000 of which at least 20% of the nominal or CHF 50,000 is paid up.	Endowment capital as decided by main company.
<b>Liability</b>	Limited liability	Limited by shares	The main company is also liable for branch losses.
<b>Incorporation</b>	Articles of association signed off before a notary public+ public registration	Articles of association signed off before a notary public+ public registration	Public registration commercial register
<b>Name</b>	free + company type (SARL, GmbH)	free + company type (SA, AG)	Name of main company
<b>Accounting obligations</b>	To maintain proper accounting books. To prepare Financial Statements. To retain the accounting records and supporting documents generally for minimum 10 years. Financial Statements accounts must have be audited by professionally qualified auditors if certain thresholds are met or if required in Articles of Associations.	To maintain proper accounting books. To prepare Financial Statements. To retain the accounting records and supporting documents generally for minimum 10 years. Financial Statements accounts must have be audited by professionally qualified auditors if certain thresholds are met or if required in Articles of Associations.	To maintain proper accounting books. <b>To prepare Financial Statements.</b> To retain the accounting records and supporting documents generally for minimum 10 years.
<b>Management</b>	At least one Manager	Board of Directors	Managing Director domiciled in Switzerland
<b>Taxation</b>	Corporate tax + Personal Income Tax on income distributed.	Corporate tax + Personal Income Tax on income distributed.	Corporate tax + Personal Income Tax on income distributed.

Qualifying pure holding companies pay 8.5 per cent federal tax (effective 7.8 per cent) on income not qualifying for federal tax participation exemption.

### **Domiciliary and Auxiliary Companies**

All cantons grant domiciliary and auxiliary companies extensive tax privileges. Profits and capital are taxed at a reduced rate. A pure domiciliary company in the canton of Valais, for example, may be almost exempt from tax.

The tax status of these companies applies to those whose revenues are exclusively, or primarily, derived from commercial activities outside of Switzerland.

Income from business transactions in Switzerland is subject to ordinary taxation.

### **Swiss company requirements Service Companies**

Administrative companies perform services for foreign-affiliated firms, offering administrative, technical, scientific or marketing assistance.

In many cases their costs are covered by an affiliated company.

As a rule, such companies may not derive income from third parties.

At cantonal or municipal level these companies benefit from tax relief on their income.

Service companies are taxed on a “cost plus” basis. Generally, annual taxable profit is fixed at 5 to 10 per cent of the company’s overheads.

### **Advanced tax ruling**

Obtaining a ruling from the tax authorities is very common in Switzerland.

It is advisable to contact the tax authorities to explain the economical background of a business or transaction and to negotiate a ruling before setting up and starting a business activity.

A ruling can be related to the granting of special tax status for a company or for an individual but tax authorities also issue advance decisions on how a business and/or a particular transaction will be fiscally treated.

Advanced rulings provide legal security for businesses operating from Switzerland.

Most rulings are granted for a period of five years and can be renewed.

In the majority of Cantons tax registers are not open to public inspection, which safeguards the confidentiality of the financial and legal affairs of taxpayers.

### **What ILS can provide**

- Structuring and establishing of holding companies
- Establishment of bank accounts
- Preparation of contracts
- Administration
- Accounting
- Officers of the company, subject to restrictions

### **The next step**

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