Guidelines 02/26

HOW TO DO BUSINESS IN SWITZERLAND

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Located in the heart of Europe, Switzerland is one of the leading business locations in the world. Its success is mainly based on high productivity combined with high quality products and services, and on an investor and business friendly government with modest taxation. Currency and price stability, a first rate infrastructure, efficient capital markets and a highly professional international banking system, excellent education, as well as political stability further contribute to Switzerland's attractiveness. Switzerland offers an advantageous, multilingual environment for establishing a business or the European headquarters of a group of companies.

1. Corporate Law

Swiss corporate law is characterized by a relatively low level of regulation. There are several options when it comes to selecting the most suitable structure for a business. Swiss corporate law offers a variety of legal forms, including a legal (and separately taxable) entity and partnerships. Among the corporations, the limited liability company (Gesellschaft mit beschränkter Haftung, GmbH, [LLC]) and the stock corporation (Aktiengesellschaft, AG [Ltd.]) are very widely used. The registration of a legal entity usually takes around one to two weeks from the date of filing.

«SWISS CORPORATE LAW IS CHARACTERIZED BY A HIGH DEGREE OF FLEXIBILITY AND LEGAL CERTAINTY.»

To set up a stock corporation, a minimum share capital of CHF 100'000 is required, of which at least 20% (and in any case not less than CHF 50'000) must be paid up. Share capital and statutory accounts may be denominated in a functional foreign currency (e.g. EUR or USD), provided that this currency is significant for the company's business activities. Stock corporations may provide for a capital band (Kapitalband) in their articles of association, allowing the board of directors to increase or decrease the share capital within predefined limits without the need for a separate shareholders' resolution for each capital measure. At least one authorized and registered signatory must be resident in Switzerland. Shareholders' meetings, however, may be held virtually or in hybrid form, and resolutions may be adopted in writing, provided that the requirements under Swiss law and the articles of association are met. This allows for corporate governance structures that do not require the physical presence of shareholders in Switzerland.

A stock corporation can issue different types of shares, including preferred shares, voting shares or shares without voting rights. To set up a limited liability company, a minimum capital of CHF 20'000 is required and must be paid up in full. At least one authorized and registered signatory has to be resident in Switzerland. Due to the lower amount of registered capital, a limited liability company is a practical alternative to the stock corporation, in particular for small to medium-sized companies. In contrast to the stock corporation, each member of the company must be registered in the commercial register. A Swiss branch office of a foreign company provides a registered Swiss business address but is not considered an independent Swiss entity, i.e. the foreign parent company bears the financial responsibility.

The foreign parent company, the branch itself, as well as at least one authorized signatory (who must be a Swiss resident), must be entered into the commercial register. The general accounting regulations are brief. The annual report of a stock corporation or a limited liability company must contain the financial statement (balance sheet, profit and loss statement and notes to the financial statements) and under certain circumstances, a cash flow calculation, the business report, and the consolidated financial statements to the extent required by law. Publicly listed companies and large to medium-sized companies must have their accounts audited by an independent certified auditor. Small companies, that have no more than ten employees, may have their accounts audited in a limited form or may choose to opt out of the obligation to audit. The financial statements may be prepared according to internationally accepted standards such as US-GAAP, IFRS or FER. Bookkeeping may be maintained in Swiss Francs or foreign currency; however financial statements in Swiss Francs must be available for Swiss tax purposes, irrespective of the accounting currency used.

«LEGAL CERTAINTY, POLITICAL STABILITY AND FLEXIBILITY ARE KEY PILLARS OF SWITZERLAND AS A BUSINESS LOCATION.»

2. Taxes

The Swiss tax system features different taxes at federal, cantonal, and communal level and enables Cantons and municipalities to compete to attract good taxpayers by offering a better tax climate. As a result, there are certain Cantons with particularly low tax rates. Generally speaking, taxation in Switzerland is moderate when compared to European standards. Switzerland has one of the most comprehensive networks of Double Taxation Treaties and is, therefore, very attractive as a business location.

Generally, a company is taxable on its profit and net equity. The basis for the calculation of taxable income is the profit and loss statement, to which certain adjustments may be made (e.g., for losses carried forward). Tax rates vary from Canton to Canton. For ordinary taxed companies the range is between 12% to 22% on the profit before tax. The tax itself is deductible as a business expense. The regular 2021 corporate tax rate, for example in the Canton of Zug, stands at approx. 12% on profit before tax (cantonal, communal and federal tax combined), with capital tax of up to 0.07%. In addition, a variety of tax reduction measures are granted on request, e.g., a tax neutral step up of hidden reserves for tax purposes incl. a tax effective depreciation in case of a relocation of a company or a business to Switzerland, a privileged taxation of income generated by patented products, an increased deduction of R&D costs or the reduction of the capital tax burden.

In addition, in the Canton of Zurich under specific circumstances a notional interest deduction is available which includes the granting of an imputed interest deduction on surplus equity. The income of individuals who work or are domiciled in Switzerland is taxed at the federal, cantonal, and communal level, while their net assets are taxed at cantonal and communal level. Capital gains on privately held movable assets of individuals are generally tax exempt. Taxation of net income is progressive but capped at a maximum rate. The tax varies from Canton to Canton, the maximum rate being approx. 43.5%. Foreigners working in Switzerland pay a withholding tax levied at source, i.e. directly by the employer. As a result of the tax competition, most Cantons have abolished inheritance and gift tax for descendants; the federal government does not levy inheritance or gift tax.

A federal withholding tax of 35% is levied on income from capital assets, such as interest on bonds, dividends or other distributions to shareholders. For taxpayers in Switzerland, this withholding tax is fully credited or refunded, while for persons or entities residing abroad the tax reduction or refund depends on the international agreement (Double Taxation Treaty or multilateral agreement). The standard value added tax (VAT) rate is 8.1%, for specific goods and services a lower VAT rate of 2.6% is available. Cantonal and federal tax authorities issue tax rulings on the tax consequences of any transaction submitted to them prior to the conclusion of the transaction.

3. Labor Regulations

Foreign nationals need a residence and work permit in order to pursue remunerated employment in Switzerland. The regulations for EU-citizens are different from those for individuals coming from other countries, as the free movement of individuals between Switzerland and the EU is guaranteed by an agreement which grants EU nationals the same treatment as Swiss nationals. In contrast, non-EU citizens need an authorization in order to take up employment. Swiss labor law is generally liberal. The freedom of the employer and the employee to terminate the employment agreement, subject to the applicable notice period, is a fundamental principle of Swiss labor law. With strictly limited exceptions, terminations are legally valid and binding while subject to relatively low compensation.

4. Real Estate

Swiss law (the so-called "Lex Koller") restricts the acquisition of residential real estate by persons living abroad. The restrictions do not apply to Swiss citizens, foreigners holding a residence permit C and EU- and EFTA-nationals with permanent residence in Switzerland. The acquisition of real estate by persons living abroad requires prior approval from the appropriate cantonal authority. No such approval is required for the acquisition of real estate used for commercial purposes (i.e. permanent business establishments, such as manufacturing premises, warehouse facilities, offices, shopping centers, retail premises, hotels, restaurants, workshops or doctors' offices). Title relating to all real estate is entered in the respective land register; entries are presumed by law to be true and correct and any party relying in good faith on such entry is fully protected.

5. Intellectual Property

Switzerland regularly ranks among the top countries in the WEF Global Competitiveness Index. One of the country's most notable strengths is its world-famous scientific research institutions, and it is also renowned as an innovation-driven country. Switzerland is a signatory to all the major international intellectual property rights agreements and is reputed to have an excellent regime for the protection of intellectual property. Protection is granted equally to foreign and domestic rights-holders. The procedures to register trademarks, patents and designs with the Swiss Intellectual Property Institute are straightforward, expedited and «customer friendly». The World Intellectual Property Organization (WIPO) which administers international registrations under the Madrid Agreement and Protocol has its offices in Switzerland (Geneva). Due to Switzerland's stable and efficient legal and tax environment a large number of international companies have moved their IP portfolio to Switzerland by either setting up their headquarters or establishing IP branches in Switzerland.

6. Financial Services

A license from the Swiss Financial Market Supervisory Authority (FINMA) is required in order to engage in activities in Switzerland as a bank, securities firm, portfolio manager, asset manager of collective assets (including foreign funds), insurance companies or fund management companies. The applicant must demonstrate the viability of its business plan, adequate capitalization, logistical infrastructure and human resources. Financial intermediaries are further subject to anti-money laundering regulations. Compliance with financial market regulations is supervised by FINMA which provides helpful information on its website at www.finma.ch. Moreover, client advisers of Swiss financial service providers not subject to prudential regulation and client advisers of foreign financial institutions need to register in the client advisers register if they approach clients in Switzerland and no exemption applies.

7. Collective Investments

Joint investments by several investors or investment companies may be considered a collective investment scheme and be subject to the supervision of FINMA. The relevant documents such as sales prospectuses, articles of association or fund contracts require the approval of FINMA. No such approval is necessary for foreign collective investment schemes that are only offered to qualified investors in Switzerland (such as banks, securities firms, insurance companies, enterprises with a professional treasury, or high net worth individuals who have opted to be treated as qualified investors). Depending on the category of qualified investors addressed and the applicable distribution setup, the appointment of a Swiss representative and a paying agent may be required.

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