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# COMPANIES AND TAXATION IN SWITZERLAND AND IN PARTICULAR IN THE CANTON OF ZUG

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# 1. Introduction

Switzerland takes a leading position in international business as a commercial and financial centre, unchanged to prior years. The banking system, the legislative and political stability and other economic factors are still considered strong advantages to found new or transfer existing business to Switzerland.

In recent years, the EU has continued to grow and is the largest combined market in the world measured on its gross domestic product. Switzerland is not an EU-member, but has used the possibility to enter into meaningful bilateral agreements with the EU. These agreements allow Switzerland to continue with its participation in the EU-market and to strengthen its existing relationships with the various EU countries. Although Switzerland had to make some concessions regarding EU and other countries, e.g. banking secrecy, the Helvetic Confederation was able to successfully demonstrate its advantages and attractiveness during the Financial- and EU-crisis, thanks to a functioning economy and effective governmental institutions.

Switzerland's future will continue to be influenced by the developments in the EU. However, Switzerland has positioned itself very well during the past recent years as non-EU member and has already solved problems, which still need to be addressed and will bring uncertainty to currently emerging countries and regions such as Eastern Europe and Asia. On the other hand, Switzerland remains maintaining important relationships with countries in North and South America and in Asia, which will continue gaining economic importance regardless of social, political and economic challenges yet to be addressed in these emerging markets.

Considering the unpredictable development in the EU area and the (political) uncertainties in Asian and (South-) American countries, Switzerland remains an attractive and reliable alternative.

An important factor in becoming such an attractive country for business played without a doubt also the Swiss taxation law, and in particular the taxation law of the canton of Zug. The tax law of Zug offers very competitive tax rates for all kind of companies, and even more favourable tax rates for certain tax-privileged entities. Companies or investors with an international orientation can obtain interesting tax advantages by incorporating the use of such privileged types of companies. Also the pressure from abroad against such privileged taxed companies should not worry the market participants excessively, as Switzerland and its cantons are already analysing possible compensatory solutions, in order to keep the tax burden on the known low level. "Last but not least" it can also be mentioned that, particularly in Zug, it is possible to find interesting and favourable solutions for clients because of the industry focused approach of the (tax) authorities.

This brochure shall provide you with a brief summary of the possible types of companies in Switzerland and of the tax advantages and legal requirements in the canton of Zug.

Zug, January 2013

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## 2. Types of Companies in Switzerland

The following sections provide a brief summary of the different types of companies in Switzerland with an emphasis on the joint stock corporation.

### 2.1. Sole Trading Firm

The sole trading firm ("Einzelfirma") is not an actual form of company and is not explicitly regulated in the law. In Switzerland the sole trading firm plays an important role (as a one-man enterprise or sole businessman).

If business is carried out on commercial principles, the sole trading firm must be entered in the Commercial Register. The sole proprietor is liable for debts with his entire wealth. The sole trading firm is used in general as a simple form of organisation for tradesmen or contractors. This form is, however, considered unsuitable for foreign investors.

### 2.2. Ordinary Partnership

If two or more parties enter into a contract to form an association to pursue a joint purpose, this gives rise to an ordinary partnership. The partners in ordinary partnerships are liable - on an unlimited and joint and several basis - with their entire wealth for the company's liabilities. An ordinary partnership may pursue economic or non-economic goals but it may not carry out business on commercial principles. An ordinary partnership may not have its own corporate name and cannot be entered in the Commercial Register. In practice ordinary partnerships exist in the form of joint venture or consortia.

### 2.3. General Partnership and Limited Partnership

Two or more individuals may enter into an association for the purpose of operating a business on commercial principles under a joint corporate name. The company is officially founded with its registration in the Commercial Register. The partners are jointly and severally liable with all their wealth for all the company's liabilities. In the case of the limited partnership, the limited partner is liable up to a certain amount, the so-called limited partner's contribution. This type of company is considered not suitable for foreign investors.

### 2.4. Limited Liability Company

The limited liability company is a capital company and has a fixed capital, also called company capital. The company capital must amount to at least CHF 20'000.

The partners' meeting is the supreme body of the company. The limited liability company does not offer any noteworthy advantages over the joint stock corporation, except for the lower capital requirements.

The main disadvantage with respect to the limited liability company is the restrictive possibility to transfer company shares, which requires public notarisation. This results in the fact that the marketability of shares of limited liability companies is severely restricted. The company capital serves as a basis to secure repayment of its liabilities and to secure creditworthiness. The partners' identity and their credit-rating play a larger role for the limited liability company. In the limited liability company partners may incur a limited personal liability in addition to liability with the company's assets. Each partner is personally liable on a subsidiary basis; however this only applies if the company capital was not paid up in full. The partner's liability is, moreover, limited to the extent of the amount not yet paid in. The company share may not be issued in the form of a security but only as a normal document of proof; the company contribution of each partner is listed in the company's articles. Another important disadvantage is the public disclosure of the holders of company shares in the Commercial Register. The limited liability company is less suited to foreign investors than the joint stock corporation.

## 2.5. Joint Stock Corporation

### 2.5.1. General Aspects

The joint stock corporation is regulated in the Swiss Code of Obligations ("CO") in Art. 620 to Art. 763. It is the most common form of companies in Switzerland. The capital stock (share capital) of the company amounts to a minimum of CHF 100'000. In the case of bearer shares the capital must be paid in full. If registered shares are issued, a minimum of 20 % of the nominal capital must be paid in, at least however CHF 50'000.

The share capital may be divided into partial amounts; the nominal value must amount to at least CHF 0.01 per share. Bearer or registered shares may be issued; shares are only issued after the successful registration of the company in the Commercial Register.

Shareholders' liability is limited to the capital stock (share capital); nonetheless if there are tax arrears or debts to social security institutions, the Board of Directors faces increased liability. Moreover, the shareholder is under an obligation to pay the subscription amount in full if such amount was not paid in full throughout the foundation of the Company.

### 2.5.2. Joint Stock Corporation's Executive Bodies

The general meeting of all shareholders is the supreme executive body of the company. Its duties, rights and obligations are stipulated in the company's articles of incorporation. The shareholders' meeting elects the board of directors whose tasks consist of the ultimate management of the company. Furthermore, the shareholders' meeting appoints the auditors who examine the company's financial statements in accordance with Swiss law and the articles of incorporation. The shareholders' meeting passes resolutions concerning the distribution of profits; it takes place each year.

The Board of Directors consists of at least one person. In accordance with Art. 718 para 3 CO, the company must be represented by a person who is domiciled in Switzerland. This may be a board member or a director. There are no further additional requirements regarding the composition of the board of directors or its officers. The duties of the Board of Directors are stipulated in the articles of incorporation and in organisational by-laws. Management may be delegated to other people; this must be regulated in the organisational by-laws or in the articles of incorporation. The Board of Directors has certain non-transferable and inalienable duties and obligations which are stipulated in Art. 716 lit. I CO. These duties include among others the ultimate supervision of the company, the establishment of the organisation, planning and reporting to the shareholders.

The auditors represent the third body of the joint stock corporation, aside the General Shareholders Meeting and the Board of Directors. Swiss law knows two types of audits with different levels of assurance: the ordinary audit and the statutory limited examination. Under certain conditions the company can also make use of an opting out and waive the obligation to have its financial statements audited. For further information see section 2.8.

## 2.6. The Foundation

From a legal point of view the foundation is not a company but an establishment. The foundation is an establishment with the purpose to manage funds for a particular reason and goal. The foundation comes into being based on a notarised deed of foundation or by a last will and testament. The assets must be transferred to the foundation permanently and irrevocably. A change in the purpose is not provided for. The foundation also exists in the form of a company foundation, but this is only used relatively seldom in practice.

## 2.7. Other Types of Companies

In addition to the above mentioned forms of companies there are also the co-operative, the association or the corporation with unlimited partners. These types of companies shall not be dealt with here as they have little economic importance in Switzerland.

## 2.8. Accounting and Auditing

On 1 January 2013 a new accounting law came into force in Switzerland. This new law is no longer referring to the legal form of an entity but other factors. The sole trading firms and partnerships whose revenues do not reach CHF 500'000 can keep their books by just keeping simple records about the income, expenses, assets and liabilities. It should be noted however that other laws and or requirements (e.g. VAT) can impose proper accounting records even at lower thresholds for these companies. Companies which exceed certain thresholds (i.e. revenue > CHF 40 million, total assets > CHF 20 million, full-time employees > 250) are required to disclose additional information in the notes to the financial statements as compared to small and medium sized companies, to prepare and disclose a cash flow statement and to prepare a management report.

The companies have a transition period of two years to apply this new law. This means that from 1 January 2015 the new accounting rules will be mandatory for all companies. The new rules concerning the preparation of consolidated financial statements will become applicable one year later, i.e. effective 1 January 2016.

Regarding the obligation to audit the financial statements, Swiss law knows two types of audits with different levels of assurance: the ordinary audit and the statutory limited examination. Under certain conditions the company can also make use of an opting out and waive the obligation to have its financial statements audited.

The ordinary audit is the most comprehensive approach. Such audit is required by law for economically important companies. Such companies include public companies (whose shares are listed on the stock exchange) or companies that exceed two of three critical thresholds in two consecutive financial years (i.e. revenue > CHF 40 million, total assets > CHF 20 million, fulltime employees > 250).

The auditors examine throughout an ordinary audit whether:

- the financial statements and, where appropriate, the consolidated financial statements comply with the law, the articles of incorporation and the applicable accounting principles
- the proposal of the Board of Directors to the General Shareholders Meeting on the appropriation of available earnings complies with the law and the articles of incorporation
- an internal control system exists

If the requirements for an ordinary audit are not met, the financial statements of the company shall be examined through a statutory limited examination. In practice, this affects the majority of all capital companies. The areas to be examined throughout such a statutory limited examination are described in Art. 729a CO and are less extensive when compared to an ordinary audit. The audit scope predominantly consists of making inquiries and appropriate substantive testing. The audit opinion provides negative assurance.

The auditors examine throughout a statutory limited examination whether there are indications that:

- the financial statements are **not** in accordance with the law and the articles of incorporation
- the proposal of the Board of Directors to the General Shareholders Meeting on the appropriation of available earnings does **not** comply with the law and the articles of incorporation

With the consent of all shareholders/partners, and provided that the company has no more than ten full-time employees on average, the company can make use of an opting out and waive the obligation to have its financial statements audited. This allows very small companies to benefit from this option and lower external costs. If shareholders/partners have decided to benefit from this option, this waiver also applies to subsequent years. Any shareholder/partner has however the right to require such audit, within 10 days before the shareholders/partners meeting.

## 3. The System of Taxation in Switzerland

In view of its importance the main focus on the following pages will be on the taxation of joint stock corporations. The same tax principles apply to the taxation of limited liability companies.

Although Switzerland's system of taxation can be said to be stable, modifications are nonetheless introduced on a continuous basis. The key changes have been taken into account in this brochure. However, the specific situation should be clarified in every case in consultation with a tax adviser. The status reflects the legislation in force at the end of December 2012.

### 3.1. General Aspects

In Switzerland fiscal sovereignty lies with the municipality, the canton and the confederation. The cantonal and municipal taxes are assessed as a unit; the municipal portion is taken into consideration in the form of a surcharge („basis for taxation“). Federal taxes are also assessed by the canton but they are calculated and invoiced separately.

The tax burden varies from canton to canton and from municipality to municipality due to differing base rates for taxation, while the tax rates for federal taxes are the same all over Switzerland.

At **cantonal level** income tax and property tax is levied (in the case of private companies and individuals). In the case of investment companies profit tax and capital tax are levied.

At **federal level** no capital tax or property tax is levied.

### 3.2. Taxation of Private Companies

From a tax point of view private companies consist of the sole trading firm, partnerships (the general partnership and the limited partnership) and the ordinary partnership. All other self-employed persons, so-called professionals or free-lancers, are placed on a par with the owners of these firms. The owner or partner of a private company is directly taxed with income tax on profit. The same principle applies to the assets for which the owner or partner is taxed for their respective proportionate share of the assets. It is therefore necessary to differentiate between private assets or company assets in the case of owners or partners of private companies. This differentiation is important since - for example - tax deductible write-offs are permitted on business assets or capital gains on private assets are exempt from tax. Tax exemption of private capital gains has been successively restricted in practice which led to reclassifications of tax exempted capital gains to taxable investment income.

### 3.3. Taxation of Investment Companies

Investment companies (joint stock corporations, limited liability companies, cooperatives) and associations and foundations are independent subjects for taxation and are liable for tax on profits and tax on capital in Switzerland. The fiscal year corresponds to the business year (12 months).

**Federal tax** is assessed on profit and amounts to 8.5 % of the net profit (or 7.834% of earnings before tax). There is no taxation of capital at this level.

**Cantonal tax** is 0.5 ‰ of capital (standard rate). The basis applicable for calculating taxable capital is the amount of capital on hand at the end of the fiscal year after appropriation of the profit, but a minimum of the amount of capital paid in. Profit is taxed as follows (standard rate):

- |    |                                  |        |               |
|----|----------------------------------|--------|---------------|
| a) | for the first CHF 100'000        | 3.00 % | (2014: 3.00%) |
| b) | for profit exceeding CHF 100'000 | 6.00 % | (2014: 5.75%) |

The standard rate is multiplied with the current taxation base rate. The taxation base rate for the Municipality of Zug incl. the cantonal portion and church taxes currently amounts to 148.82 % (status 12.2012).

The maximum profit tax of a (regularly taxed) investment company in the canton of Zug with net earnings of CHF 1'000'000 amounts to 17.0 % (municipal, cantonal and federal tax).

*Example of calculation:*

	Taxable profit	CHF	1'000'000.00		
a)	3 % of	CHF	100'000.00	CHF	3'000.00
b)	6 % of	CHF	900'000.00	<u>CHF</u>	<u>54'000.00</u>
			100 %	CHF	57'000.00
	<i>Cantonal*</i> (incl. municipality)	<u>148.82 x 57'000.00</u>		= CHF	84'827.40 = 8.48 %
		100			
	<i>Federal</i> 8.5 % max. tax rate on/CHF 1'000'000.00			= <u>CHF</u>	<u>85'000.00 = 8.50 %</u>
	<i>Total profit tax</i>			CHF	169'827.40 = 16.98 %

In addition to which *capital tax is payable*:

0.744 ‰	Cantonal and municipal tax*
0.744 ‰	(calculated on the capital plus reserves)

\* differs between municipalities. The example shown is for the City of Zug (status 12.2012).

The basis for taxable earnings (profit) is the profit shown on the balance sheet approved by the General Shareholders Meeting which is ascertained in accordance with accepted accounting standards. Any depreciation and provision for reserves which are not tax deductible and any profits not booked in the profit and loss account will be added to such basis.

Taxable losses from seven business years preceding the fiscal year may be set off against the profit earned in the current tax year.

## 3.4. Tax-privileged Forms of Companies

Tax-privileged forms of companies (holding, domiciliary and mixed companies) have been introduced at cantonal level to increase the attraction of Switzerland as a business location.

### 3.4.1. Holding Company

Holding companies may take the form of a joint stock corporation, a limited liability company, a co-operative or branch of foreign investment companies.

The following conditions must be fulfilled for a company to be granted the status of a holding company:

- statutory purpose must mainly consist of permanent administration of equity participations; the purpose must be stipulated in the articles of incorporation and this purpose must actually be pursued
- no business operations in Switzerland
- equity participation must have been held for at least 1 year;
- holding of at least one qualified equity participation of 10 % or CHF 2 million market value;
- 2/3 of the assets must stem from equity participations and free-float shares or alternatively 2/3 of profits must derive from equity participations or dividends from free-float shares;
- extensive trading with free-float shares is not permitted.

The pursuit of secondary purposes may only be of minor significance. Such secondary purposes may consist of the following:

- auxiliary activities for the corporate group (group management functions, group financing, asset management)
- management of subsidiaries (subordinate management tasks)
- controlling of intellectual property rights insofar as this does not require any human resources. Controlling of trademarks, licenses as a subsidiary purpose only permitted abroad
- holding real estate property

#### **Cantonal Tax:**

Holding companies do not pay any profit tax at cantonal level (so-called „holding privilege“). Capital is taxed at a rate of 0.02 ‰; however there is a minimum tax of CHF 250 (multiplied by the base taxation rate).

Income from real estate property in Switzerland is subject to ordinary taxation as well as income privileged by double tax treaties (interest and royalties).

#### **Federal Tax:**

No capital tax is levied. The normal rate is applied as a basis for the taxation of profit (8.5 %). Profit tax decreases in proportion to the net income from these equity participations in relation to the entire taxable net profit (so-called „participation deduction“). This means that a purely holding company which only generates income from equity participations is also exempt from income tax at federal level.

Other income from securities, loans, interest, commission etc. is taxed at the normal rate (8.5 %).

### 3.4.2. Companies with Equity Participations

An investment company with equity participations which does not meet the requirements of a holding company as described in Section 3.4.1 may nonetheless benefit from tax savings. An investment company or co-operative must

- a) have an equity participation of at least 10 % of the share capital or capital stock of other companies *or*
- b) participate in a least 10% of the profits and reserves of another company, or
- c) the market value of the equity participation must amount to at least CHF 1 million.

If a), b) or c) applies, then profit tax decreases in proportion to the net income from these equity participations in relation to the entire taxable net profit (so-called „participation deduction“).

In principle, companies with such qualified equity participations are taxed like ordinary investment companies. As is the case with federal taxes, such companies benefit from tax exemption to the extent of their income from equity participations (dividend income) from qualified equity participations in accordance with a), b) or c). Tax exemption is only granted conditionally on capital gains from the sale of such equity participations (prerequisite conditions: at least 10 % share of capital stock or 10% interest in distributable reserves, acquisition of equity participation later than 1.1.1997).

### 3.4.3. Mixed Company

Mixed companies are enterprises whose business activities are mainly related to abroad and who only engage in business activity in Switzerland to a minor extent. Only joint stock corporations, limited liability companies, co-operatives and branches of foreign investment companies may apply for the tax status of a mixed company.

The following conditions must be fulfilled on an accumulative basis in order to qualify for the tax status of a mixed company:

- business activities mainly abroad; at least 80 % of income from abroad
- purchasing in Switzerland only by way of exception if invoiced as between third parties; (“at arms’ length”)
- no production or commercial activities of its own in Switzerland, administrative activities are however permitted.

Mixed companies have their own office premises and own personnel in Switzerland.

#### **Federal Tax:**

Mixed companies are taxed in the same way as a normal investment company, i.e. 8.5 % of the profit.

No capital tax.

**Cantonal Tax:**

First of all the company's taxable net profit is calculated. This net profit is in a next step allocated to profit generated in „Switzerland“ and „abroad“. The income attributed to „Switzerland“ is subject to normal taxation. A flat-rate deduction of 25 % is made for administration costs and tax.

Other income from Switzerland includes income from Swiss securities, interest, interest and royalties privileged by double tax treaties, income from real estate property in Switzerland.

Income from abroad is usually taxed on a quota basis, (i.e. a percentage depending on the intensity of administration activities). This quota is calculated on the basis of the number of employees in Switzerland.

*Example:*

Up to 5 employees	10 %
6 - 10 employees	15 %
11 - 30 employees	20 %
over 30 employees	25 %

Net profits from controlling equity participations are exempt from tax. No participation deduction is granted (at cantonal level).

Capital tax is 0.1 ‰; a minimum however of CHF 250, multiplied by the base taxation rate.

*Example:*

Bex AG trades worldwide with commodities which it buys abroad and as a rule also sells abroad. The company has a total of 16 - 20 employees in Zug.

Extract from income statement	CHF (thousand)	
Total turnover	650'000	(100 %)
Turnover in Switzerland	39'000	( 6 %)
Interest Switzerland	800	
Net profit from equity participations	2'500	
Depreciation on equity participations without profit distribution	1'000	
Total net profit	30'000	

**Question:** How much is the taxable net profit?

**Line Account for Indirect Attribution - an approach to a solution:**

		Total	CH-Income	Amounts from equity participations (CH/abroad)	Income from abroad
Total net profit for determination of applicable rate		30'000			
Net income from controlling equity participations				2'500	
Administration Expense 5% of Revenue				-125	
Minus depreciation on equity participations without profit distribution				-1'000	
Other passive income:					
Interest			800		
minus share of expenditure	25 %		-200		
Apportionment		-1'975	600	1'375	
Residual operational profit		28'025			
- of which Swiss percentage of turnover	6 %	-1'682	1'674		
Foreign profit		26'343			26'343
- of which in Switzerland	20 % *		5'269		5'269
<b>Total taxable net profit</b>			<b>7'551</b>		
* depending on the scope of business activities in Switzerland (number of employees)					

**3.4.4. Domiciliary Company**

Domiciliary companies are enterprises which only engage in administrative activities in Switzerland but not in any business activities. Purely domiciliary companies may not have their own personnel or their own offices in Switzerland.

Joint stock corporations, limited liability companies, co-operatives and branches of foreign investment companies may be eligible for the tax status of a domiciliary company. The following conditions must be fulfilled in order to be granted the status of a „domiciliary company“:

- no business activities in Switzerland
- no income from trading in Switzerland
- purchase and sale of goods abroad as a matter of general principle

Any type of business activity abroad is permitted.

**Federal Tax:**

Domiciliary companies are taxed in the same way as normal investment companies, i.e. 8.5 % of the profit.

No capital tax.

**Cantonal Tax:**

Other income from Switzerland is subject to normal taxation. A flat-rate deduction of 25 % is made for administration costs and taxes.

The other income from Switzerland includes income from Swiss securities, interest, interest and royalties which are privileged by double tax treaty, income from intellectual property rights from Switzerland (if this income is negligible).

In the case of purely domiciliary companies (which do not have their own personnel or offices of their own) income from abroad is tax-free.

Capital tax is 0.075 ‰, at least however CHF 250, multiplied by the tax base rate.

*Example:*

Facts:

Company C-AG is 100 % foreign controlled and has no personnel in Switzerland. It engages exclusively in foreign trading business (buying and selling). For reasons of creditworthiness and to partly pre-finance trading transactions C-AG holds a securities portfolio with a bank in Zug which is made up about 95 % of shares and bonds issued by foreign companies and governments.

**Question:** How does the tax attribution look for the domiciliary company?

**As a rule attribution is carried out indirectly - an approach for a solution:**

		Total	CH-Income	Amounts-from equity participations (Switzerland/abroad)	Income from abroad
Net profit as per income statement		20.5 million			
Interest income		1.5 million			
- from Switzerland 100'000			100'000		1'400'000
- from abroad 1.4 million					
Minus flat-rate deduction for expenditure incl. tax expense	25 %		-25'000		
Total other CH-income net			75'000	---	1'400'000
Taxable foreign percentage	0 %		---	←	0 %
<b>Total taxable net profit</b>			<b>75'000</b>		

The taxable net profit is taxed at the rate of the total profit.

### 3.5. Withholding Tax

Distributions of profit of all companies domiciled in Switzerland are subject to tax at source of 35 %. This tax at source (so-called „withholding tax“) is to be passed on to the recipient (i.e. 35 % withholding tax is retained when dividends are paid). The company distributing a dividend is obliged to remit the withholding tax to the tax authorities; in this connection it is irrelevant whether it is a hidden or open distribution of profit (e.g. dividends or distribution of pecuniary value).

Furthermore, certain interest payments as well as lottery wins and capital lump-sum benefits from life insurance (reduced rate) are subject to withholding tax. In Switzerland royalties are not liable for any tax at source.

Recipients of such distributions who reside in Switzerland may reclaim the full withholding tax if they declare this income in their tax return. Recipients resident abroad may claim a refund within the limits of the double tax treaty (DTT) between the recipient's country of residence and Switzerland. Depending on the DTT the recipient may be left with a so-called „basic tax“; this corresponds to the portion which he cannot reclaim.

Within the framework of the new EU interest savings agreement between Switzerland and the EU as well as certain DTT agreements dividends, interest and royalties between affiliated companies are exempt from tax at source. The following conditions must be met in this respect:

- a) the parent company must hold at least 25 % of the company's share capital
- b) one company must be domiciled in Switzerland while the other must be domiciled in an EU member state
- c) the companies in question are investment companies and these are subject to corporate tax

### 3.6. Stamp Duties

So-called stamp duties are imposed by way of a transaction tax on the issuance of securities (stamp tax) and on the transfer of deeds and securities (turnover tax).

Stamp tax is levied on the creation and increase of nominal values of equity rights to a Swiss joint stock corporation, limited liability company or co-operative. A typical case is the formation of a joint stock corporation: 1 % stamp tax is due on the share capital, whereby the first CHF 1'000'000 of the capital stock is tax-exempt.

The assignment of deeds and securities (bonds, shares etc.) is subject to turnover tax if one of the contracting parties is a Swiss securities dealer (typically a Swiss bank). In addition, stamp duty is levied on payments of insurance premiums.

### 3.7. Value Added Tax

The law on value added tax (VAT) came into force in 1995 and was renewed by a new VAT law in 2010. In accordance with this law, deliveries and services supplied within Switzerland for value are subject to VAT at a rate of 8.0 % (normal rate). A lower VAT rate of 2.5 % is applicable to goods required in daily life.

Tax liability is triggered in principle if annual turnover exceeds CHF 100'000. For services purchased from abroad tax liability kicks in already at CHF 10'000.

VAT is a net all-phase tax, i.e. the tax subject may deduct his VAT burden, the so-called input tax, from his turnover tax. Switzerland's VAT system is comparable with the EU's VAT system.

## 4. The Formation of a Joint Stock Corporation

### 4.1. Formation

The first step is to check with the Swiss Federal Commercial Register whether the company name is still available. In principle fantasy names or a physical description or names which describe the company's activities may be used. It is compulsory to add either „AG“ (Ltd. / Inc.) or „Aktiengesellschaft“ (joint stock corporation) to the name.

In order for a company to be set up, the share capital must be paid in to an escrow account („share capital payment account“). Only once the share capital has been paid in may the formation formalities be carried out. The formation has to take place in the presence of a notary public (or a public certifying officer) and the founding member (s). The following documents must be presented in connection with the formation:

- the company's articles of incorporation (in most cases these are standard articles; the purpose of the company must be adjusted accordingly)
- a bank confirmation that the share capital has been paid in
- share subscription warrants
- written confirmation of acceptance of appointment as member(s) of the Board of Directors
- written confirmation of acceptance of appointment as auditors
- in the case of domiciliary companies: a written confirmation of the domicile holder of acceptance of election of domicile

The public deed records the following:

- that the statutory requirements of law are fulfilled
- the number of shares which the founding members represent
- confirmation that the articles of incorporation are binding on the founding members

The deed which contains the founding documents is to be signed by each founding member and the notary public (public certifying officer).

### 4.2. Articles of Incorporation

The articles of incorporation contain the following particulars among others:

- name and domicile of the company
- the object and the purpose of the company
- the amount of the capital stock and the nominal value of the individual shares and the type of shares (bearer or registered shares)
- the manner of convening the General Shareholders Meeting and shareholders' voting rights
- the rights and obligations of the members of the Board of Directors
- the form in which the company makes its announcements and notices

### 4.3. Recording in the Commercial Register

The company is entered in the Commercial Register of the Canton of Zug. The application for recording the entry is made enclosing the notarised deed of foundation and the certified articles of incorporation. Recording of the entry in the Commercial Register is published in the Swiss Official Trade Gazette (SHAB). Once the recording of the entry in the Commercial Register has been published, the company may freely dispose of the capital. The company comes into being as an independent legal entity upon entry in the Commercial Register.

## 5. The Advantages of a Joint Stock Corporation in Zug

As outlined on the previous pages, the tax burden in Zug is considered to be very attractive in an international comparison. The tax burden for a mixed company or holding company lies between 8.5 to 12%, for a normal operating company between 13% and 17% for a net profit up to CHF 1'000'000.

The joint stock corporation has the advantage over the other types of companies that the shareholders can remain anonymous and do not appear in any register.

Additional tax savings can be generated by tax-privileged forms of companies whereby the tax burden of a purely holding company or a domiciliary or mixed company can under certain circumstances become negligible.

In addition to the interesting tax privileges Zug also offers other important and valued benefits to companies and individuals:

- very efficient and flexible network with (tax) authorities
- close distance to the airport in Zurich and the city of Lucerne, as well as the regions in the South
- Zug is located on one of the major European transit routes from North to South ("Gotthard route").
- high density of qualified personnel (ETH, University of Zurich, University of Lucerne)
- international orientation (schools, worldwide acting companies, expatriate communities)
- location right on the lake and close to ski resorts in the surrounding vicinity

Zug meets all the requirements which international companies demand of an attractive location.

## 6. Final Remarks

The information and explanations provided in this brochure give a brief summary of the types of companies and system of taxation in Switzerland. The main emphasis was focussed on the joint stock corporation in the Canton of Zug since this type of company is the most widespread form of legal entity. In practice, joint stock corporations are frequently formed for use as tax-privileged companies.

Unfortunately this brochure cannot offer any universally valid solutions but it shall help to raise the right questions and consider important matters. It is of eminent importance to analyse and examine each individual case to ascertain the most advantageous and practicable solution for your business with respect to the type of company and its tax status.

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