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Tax at Source Reform

The changes to anticipate for 2021

May 2020

We would like to inform you about the new reform in Switzerland regarding Swiss withholding tax and ordinary taxation, which introduces new features for employers from 2021 onwards. The aim of this reform is to reduce the inequality of treatment between those subject to tax at source and those subject to ordinary taxation (i.e., tax return filing).

The old provisions had to be adapted as they did not comply with the principle of equal treatment provided in the Agreement on the Free Movement of Persons (FMPA) between Switzerland and the European Union/EFTA. In essence, the revision introduces a subsequent compulsory ordinary taxation for resident taxpayers subject to withholding tax and, under certain conditions, for non-residents. Additional deductions will be abolished.

What's new for Employers

As of 1 January 2021, employers of persons subject to withholding tax must settle directly with **the canton in which they reside** and no longer with the canton where the head office of their company is located. They must consider the **taxpayer's marital status** and dependents based on his or her family situation **at the end of the month preceding** the payment of the taxable benefit and no longer on 31 December of the year in question. Changes in the scales apply to income acquired by way of compensation as well as to additional income.

Unified Territorial Jurisdiction for Tax at Source

The canton to which the right to tax at source belongs corresponds to the canton in which the tax is paid throughout the year.

	Employee's place of residence	Employer's residence[1]	Competence for taxation
Resident[2]	Geneva	Geneva	Geneva
Resident[2]	Other canton	Geneva	Other canton
Non-resident	Other than Switzerland	Geneva	Geneva
Non-resident	Other than Switzerland	Other canton	Other canton
Artist, sportsman, speaker	Indifferent	Indifferent	Canton where the activity is carried out
Weekly commuter	Indifferent	Indifferent	Canton of stay in the week

1 Domiciled or residing in terms of tax law or has its registered office or administration.

2 From now on, employers will also have to make monthly withholding tax deductions for foreign resident employees who do not hold a settlement permit, even if they have taxable assets or own property in Geneva.

Harmonization of the consideration of family status

From 1 January 2021, the employer must apply the scale corresponding to the family status at the end of the month preceding the payment of the taxable benefit and no longer at the end of the year concerned.

Limit on the collection fee

The employer receives a collection commission, the rate of which remains fixed between 1% and 2%. A specific rate of 1% applies for lump-sum benefits. This commission is now capped at CHF 50 per benefit.

Deletion of Scale D, creation of Scale G

Income acquired in compensation paid directly by a fund will be subject to the new scale, progressive scale, which replaces the current scale D. Income from an additional activity will have to be extrapolated on a 100% income to determine the tax rate and will be subject to the same ordinary scales.

Lump-sum deduction of acquisition expenses for artists, sportsmen and women and lecturers

The flat-rate deductions will now be 50% for artists but remain at 20% for sportsmen and sportswomen and lecturers without the possibility of claiming actual costs.

What about software

The revision of withholding tax, which considers the latest technological developments will force employers to adapt and update their payroll processing software (i.e., Swissdec ELM 5.0, available from the 2nd semester 2020).

In addition, employers will need to be aware of the new provisions of the withholding tax revision as they are responsible for the accuracy of the calculations.

Subsequent ordinary taxation

From 1 January 2021, the new federal law introduces a subsequent ordinary taxation (i.e., tax return filing) for persons taxed at source.

For residents, subsequent ordinary taxation is mandatory for taxpayers:

- Whose gross income subject to withholding tax exceeds a certain amount (set at federal level at CHF 120'000), or
- Who have income not subject to withholding tax, or
- Who have taxable assets.

For non-residents, subsequent ordinary taxation is also introduced but only upon application made before 31 March of the year following the tax year concerned. A non-resident taxpayer can benefit from it if; 90% of his worldwide income is taxable in Switzerland (including that of his spouse), that his situation is comparable to that a taxpayer domiciled in Switzerland or that subsequent ordinary taxation is necessary to claim deductions under a double tax agreement. Since ordinary taxation of non-residents is optional, the application must be renewed each year.

Removal of additional deductions: Taxpayers subject to withholding tax can no longer claim any deductions in addition to those included in the flat-rate scales. If a taxpayer wishes to deduct 3rd pillar A contributions, voluntary pension contributions (buy-backs), alimony, training costs or childcare costs, he must apply for subsequent ordinary taxation (i.e., filing of a tax return) and, if he is a non-resident, meet the requirements (please refer to comments linked to non-residents). To be noted that the voluntary subsequent ordinary taxation will apply until the end of the withholding tax liability. This is therefore an irrevocable election for persons residing/domiciled in Switzerland.

We stay at your side to start this new year and to face new challenges

Sandrine Berrette
Senior Manager
Phone +41 58 286 56 25
sandrine.berrette@ch.ey.com

César Da Silva
Senior Manager
Phone +41 58 286 58 39
cesar.dasilva@ch.ey.com