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NEWSLETTER

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Dr. iur. Bernhard Madörin
Tax and Fiduciary Expert
Licensed Audit Expert RAB
Licensed Insurance Intermediary FINMA

Michael Hasler
Certified Fiduciary Specialist
Licensed Audit Expert RAB

International tax law for individuals

Dear Sir or Madam,

With the increase in cross-border relationships, the importance of international tax law is on the rise; similarly, the number of cases of international double taxation is growing. With the ever widening data exchange between nations, we will see an increase in these issues. Double taxation agreements may help alleviate these issues; however, due to differing national tax systems, this might not always be the case. It does not avoid indirect double taxation, as described in the following paragraph.

Property abroad
For taxes in Switzerland, worldwide income and assets are relevant for the tax rate. The tax calculation is based on an international tax allocation. Assets and income are allocated to the different countries; liabilities and deductions are then assigned according to this proportion. Total worldwide income and assets then determine the tax rate that will be applied to income and assets that have been allocated to Switzerland. Direct taxation of property is always at the location of the property; additionally the tax burden in Switzerland increases due to the higher tax rate. This results in indirect double taxation. However, as this property is not liable to direct taxation in Switzerland, double taxation agreement is not applicable. This not only affects property that has been let, but also to self-inhabited property, as the deemed rental income comes into effect. In most cases the increase is marginal; in extreme situations it can lead to a tax increase of CHF 3’000 or more per year. Simply omitting to declare the property is no longer an option. Countries with an automatic exchange of information (AEOI) or a mutual administrative assistance agreement with Switzerland will pass on these data to the Swiss tax authorities. Even the sale of such a property will not go unnoticed. Any transfer of the proceeds of the sale to Switzerland will lead to an unaccountable growth in assets; should the proceeds of the sale stay abroad, any balance will then be passed on to Switzerland at the end of the year, leading yet again to unaccountable asset growth. A voluntary self-disclosure without penalty is not possible anymore where AEOI agreements are already in force; in countries where such agreements come into force in 2018, disclosure needs to be made by the end of 2017. Otherwise besides the evaded taxes including interest a fine of similar amount will be issued.

To give you an overview of the countries with which Switzerland has signed agreements to automatically exchange data, we have assembled this map.

International relations
In daily work routine, there are quite a number of employees who during the week work in Switzerland, but over the weekend return to their families who are living abroad. This will de facto lead to a division of taxation. The Swiss job income is liable to Swiss tax at source; all remaining factors are allocated to the location of the family's residence. Generally a rate adjustment will be granted for the costs of the international commuting and various other tax deductions like purchase of pension fund benefits. However, there are regulations, like those in Basel-Stadt for example, stipulating that more than 90% of the family income has to be generated in Switzerland as condition for a rate adjustment. The Federal Act of the Revision of Taxation at source for employment income, which will most likely come into effect in 2020, envisages a main part of worldwide family income as prerequisite; precise details need to be worked out by the Federal Department of Finance in cooperation with the cantons. The same solution of an option for a subsequent regular assessment as for family residence in Switzerland would be obvious. This would simplify administration and would also serve fair taxation. A different matter is if the family lives in Switzerland as well. This involves a tax declaration if the income is above CHF 120'000. All deductions can be specifically determined, and all other additional income plus the various possibilities for deductions are also considered.

Specific problems will arise if international weekly residents have been working for a Swiss employer in a foreign country abroad. Depending on the country where they have been working, these income-generating days abroad are subject to the foreign tax authority; so these foreign work days need to be claimed back in Switzerland to avoid double taxation.

International pension funds
With an international career an employee builds up a wide variety of claims to pension fund benefits and entitlements of state pensions. There certainly are numerous social security agreements, among others the agreement between Switzerland and the EU that will prevent double subordination. However, cross-border compatibility cannot be achieved this way, therefore a separate claim for state pensions has to be made in each country. A practical amalgamation of pension fund assets is almost impossible or fails because of high tax burden. According to an OECD model convention –civil servant pensions as an exception – the place of residence generally is decisive for the taxation of pension and capital payments. However, differing regulations from this model have to be taken into account. Pension payments are generally liable to income tax, either in full or in part. However, there are countries that do not impose taxes on pension or capital payments coming from abroad. Moreover, if a double taxation agreement with Switzerland is in effect, then either tax at source will not be deducted here, or otherwise it can be claimed back. Taxation of capital payment can either be privileged, as happens in Switzerland, or it can be subject to income tax (partial allowances). As a consequence, massive differences in taxation between countries do exist. In the past it was possible to avoid high taxation due to forgetfulness, but a close look on the AEOI map shows that this should be avoided. Thus a change of domicile can be both agreeable from a climate's point of view and also broaden the horizon. Should homesickness become too much of a problem, there's nothing to stop you returning home.

International double taxation
The double taxation agreements between Switzerland and foreign nations eliminate double taxation and allocate income and assets to either one or the other nation, based on clear norms. What sounds clear can in reality lead to considerable fiscal problems, particularly in those situations where both nations are working on the assumption that the taxpayer is domiciled within their boundaries. With taxes between 30 and 50% (in either country) this can lead to an overall tax burden of 60 - 100%. As tax collection is in force, the taxpayer runs the risk of becoming insolvent. It can easily take quite a number of years until both nations have come to an amicable solution after a so-called mutual agreement procedure. Furthermore, it is possible that the statute of limitation will prevent amendment of all years.

Substantial international tax experience
Sound knowledge and substantial experience are the basic requirements to be able to give appropriate advice regarding international relationships to achieve optimal tax results. For over 10 years, artax has been a member of an international organisation, Morison KSi, and through it maintains substantial cross-border consultancy activity. On our website you will be able to find all those countries with which artax has already found solutions for specific international tax cases.

Kind regards
artax Fide Consult AG

Member of Morison KSi

Gartenstrasse 95, Postfach, 4002 Basel
Tel: +41 61 225 66 66, Fax: +41 61 225 66 67
info@artax.ch, www.artax.ch