COVID-19 – Switzerland

Due to the spread of the COVID-19, the government has categorized the situation in Switzerland as "extraordinary" which allows the government to impose urgent measures and tax actions.

Switzerland has quickly mobilized to support businesses and individuals in order to limit the economic impact of the COVID-19.

- **Necessary tax measures**

a. Value added tax

Legal entities will have the possibility to extend payment periods for VAT, customs duties and incentive taxes as well, without late payment interest. In order to benefit from the payment deferrals, companies have to file a written request by post or email.

The interest rate will be reduced to 0.0% during the period from end of March to 31 December 2020. The late interest rate of 0.0% applies to all VAT payments.

In addition, the Swiss Federal Administration has instructed the administrative units to check accounts as soon as possible, without waiting for the payment deadlines and taking advantage of payment deadlines.

b. Direct tax

First of all, many cantons have automatically extended the regular deadline for submission of the 2019 individual tax returns, withholding tax claim and on another note, deadline in regards to cases for juridical persons.

At the federal level, the same regulations as described above (VAT section) apply to direct federal tax from March to 31 December 2020.

At the cantonal level (Geneva), the fiscal measures adopted by the State Council in the current epidemic context are:

- Extension of the deadlines to submit tax returns or correct the 2019 withholding tax;
- The facilitation of the payment. However, it is necessary to file a request within a set time limit;
- Elimination of interest arrears on cantonal and communal tax invoices and 2020 installments until the end of the current year.

- **Exceptional measures regarding teleworking for cross-border workers**

Because of the public health situation, many cross-borders workers have to work from home. Furthermore, the Swiss tax authorities have restricted entry to Switzerland from Austria, France, Germany and Italy to Swiss citizens, holders of a residence permit in Switzerland and person with a certified professional reason for entering Switzerland.

a. Tax agreement

On 19 March 2020, Switzerland, France and Germany have recently decided to adopt a common tax consensus adapted to the exceptional circumstances of COVID-19.

In principle, the home countries of cross-border commuters have the right to tax third-country and home-country work-days. When employees are required to work in their home country more often than they would have usually done, their home country would have the right to tax these home office work-days.

As example in the canton Geneva, the income of a cross-border individual living in France and physically working in Switzerland must be taxed in Switzerland according to the double tax treaty. However, if a frontier worker exercises his activity at home in France, his income should be taxed in France.

Due to the exceptional situation caused by COVID-19, the French Ministry has decided that cross-border workers will keep their tax regime applicable even though they work from home, which means that they will remain subject to the Swiss tax system. As a result, France will not claim its right to tax the teleworking days of its cross-border worker during the quarantine-time.

b. Social security agreement

In theory, according to EU Regulation No. 883/2004 on the coordination of social security, a cross-border worker from a EU or EFTA member state, who only works in one state, is subject to social security in the state of employment as long as the employee does not perform a substantial amount of his work activity (more than 25% of the activity) in his country of residence.

In consequence, a frontier individual who works in Switzerland and lives/returns home each night in France, should be subject to the social security regulations in the country of work, Switzerland. However, if the working time in France exceeds 25%, the cross-border worker and the Swiss resident employer will be subject to French social security.

Through the collaboration between the States, cross-border workers will remain subject to social security in Switzerland during the period of containment as they are required to work from home. No A-1 form has to be requested to confirm. As a result, due to the circumstances, France will not claim its right to subject the frontier individual to French social security.

- **Corporate tax - Risk of permanent establishment**

If the containment period is extended, the risk is that a home office might meet the conditions to be defined as a fixed place of business. It means that it can lead to the taxation by the French tax authorities of the profits arising from the employee's activity exercised in France.

Based on the exceptional circumstances and the short period, it should not be sufficient to consider a permanent establishment. Nevertheless, the risk is present.

- **Other legal actions**

- Debtors cannot be prosecuted (freezing) for the period from the 19 March to 4 April 2020 included. No measures can be taken to collect the corresponding debts or declare a company bankruptcy. Kindly note that the board of directors still has the obligation to notify the judge if the company is overindebted;
- Employers can ask for deferral of payment concerning the social security contributions;
- Extension of short-time and simplification of procedures.

Due to the quick changes, additional measures should be adopted from the Swiss government. All our team remains at your entire disposal to discuss with you about the latest tax developments and will be glad to assist you assist you with the new tax and legal regulations.

Stay Home and Take care!