

Re-domestication of offshore companies in Switzerland

The crisis affecting the global economy and the reactions of certain governments are leading groups to consider the possibility of repatriating some of their operations in offshore centres to an internationally recognised onshore jurisdiction.

Switzerland offers the advantage of a well-known and reputable financial and business centre. Swiss legislation creates an environment that is both flexible and disciplined, particularly in terms of regulations, accounting rules and supervision, thereby offering a guarantee of trustworthiness and security.

Switzerland also offers advantages that cannot fail to appeal to international groups. It has a skilled workforce and enjoys an ideal geographical location at the heart of Europe. It is also a prestigious financial and commercial centre in which large numbers of companies have set up their headquarters. It also offers attractive tax treatment for groups of

companies which, in particular, can benefit from a special tax status depending on their type of business. Here the Swiss authorities tend to display a degree of flexibility, as written agreements in principle can be obtained.

If you are interested in re-domesticating offshore companies in Switzerland, you should bear in mind that Swiss law offers a number of options to enable the transfer of the company's headquarters and its business to this country. In particular, by transferring its headquarters, a company is able, under certain conditions, to continue existing under Swiss law without the need for liquidation.

We are pleased to give you an overview of the possibilities available under Swiss law to relocate companies located abroad, and in particular in the so-called offshore jurisdictions.

Transfer of registered office

Swiss law stipulates that, if permitted by the foreign law under which it operates, a company can become subject to Swiss law without either liquidation or a new incorporation.

Clearly, the company concerned must meet the conditions laid down by the foreign law and must be able to adapt to one of the forms of corporate organisation recognised under Swiss law. Our experience suggests that these conditions are frequently met. In effect, many offshore jurisdictions permit the transfer of a company's registered office. This makes it quite straightforward, for instance, for a foreign company, such as a Limited company (Ltd) or Limited Liability company (LLC) to adapt to the Swiss Société Anonyme (SA) status or that of a Société à responsabilité limitée (Sarl) incorporated under Swiss law.



Relocate your offshore business with a limited legal and fiscal impact

International merger

Swiss law allows cross border mergers and hence enables a Swiss company to take over a foreign one (merger by absorption) or to join forces with it to establish a new entity in Switzerland (combination merger). One additional requirement is that the law governing the foreign company must allow this type of cross border merger.

Switzerland has a highly attractive corporation tax rate compared to other countries

a. Swiss fiscal legislation

Switzerland is a country characterised by a high degree of fiscal stability, and is also party to a large number of international agreements for the avoidance of double taxation (over 70). It also entered into an Agreement with the European Union, on 26 October 2004, on the Taxation of Savings Income.

b. Relocation

Usually, the transfer of a company from an offshore zone can be undertaken with no major problems and with limited, or non-existent, tax consequences. FIDFINVEST has a network of experts in this field with an in-depth knowledge of international law who can give you the best possible advice on the most suitable approach to adopt.

Additionally, a foreign company that becomes subject to Swiss law may, depending on the circumstances, be able to take this step without any major initial tax consequences, particularly if it had no prior links with Switzerland.

c. Switzerland: a fiscally attractive country

Switzerland has three levels of taxation: federal, cantonal and communal.

As regards direct taxes (tax on profits), the standard effective tax rate is around 15–17% in Zug and Lucerne and 18–20% in Zurich, of which 1/3 (8,5%) goes to the Confederation (federal direct tax) and 2/3 to the canton and commune.

However, all cantonal regulations permit a reduction of around 80% in cantonal and communal tax for companies that mainly operate abroad, in respect of their foreign-source income.

An application can therefore be made to the cantonal tax authorities for a formal agreement (status) to apply these legal provisions, and to enable certain entities (depending on their type of business) to enjoy a reduced rate of taxation. Agreements are normally signed for a period of 5 years, and are renewable as long as the original conditions under which they were granted still apply.

Here are some examples of particular types of tax status that can be obtained:

- Auxiliary company status: intended for companies mainly engaged in a commercial activity abroad (e.g. trading companies).
- Holding company status: intended for pure holding companies. The conditions for these companies include the stipulation that they must not have any commercial activity in Switzerland. If that is the case, all revenue generated by this type of

company is exempt from cantonal and communal tax (including revenue other than that obtained as a holding company).

- Principal structure: applicable at federal and cantonal level and intended for companies with a centralised sales, R&D and marketing function, etc. Part of the profit is attributable to permanent establishments located abroad and is therefore totally exempt in Switzerland.
- Tax holiday: under certain conditions, it is still possible to obtain exemption from corporation tax at cantonal and communal level for a maximum period of 10 years.

We should make it clear that the above information is generic in nature and does not cover all relevant tax issues, notably those concerning indirect taxes.

Given the present international context and, in particular, the increased pressure on tax havens, it seems to be an appropriate time to reconsider any offshore legal structures which may no longer be serving a useful purpose or which could have an adverse impact in terms of image. Switzerland has a favorable legal framework for this type of restructuring, and at the same time offers the possibility of a prior discussion with the authorities on the effects of such a decision.

Please do not hesitate to contact us to study and implement your plans to re-domesticate offshore companies in Switzerland.

