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Recent Developments in International Taxation

Switzerland

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Introduction

The following report provides an overview of the most significant legal, administrative and judicial developments in Swiss tax law from mid-2024 to mid-2025. Section 2 considers the implementation of Pillar Two and connected domestic changes. Section 3 gives an overview of VAT developments, specifically, inter alia, 2025 rules for platform operator liability in cross-border e-commerce. Section 4 discusses key judicial developments, highlighting recent case law with implications for cross-border taxation, beneficial ownership and treaty abuse. Section 5 provides an analysis of the proposed inheritance and gift tax initiative, examining its constitutional, international and practical enforcement dimensions.

Implementation of the Organisation for Economic Co-operation and Development (OECD) global minimum tax (Pillar Two) in Switzerland

Legal framework

On 18 June 2023, Swiss citizens approved an amendment to the constitution authorising the implementation of a 15 per cent minimum tax for large multinationals. This constitutional amendment allowed for the Federal Council, Switzerland's executive branch, to pass the requisite legislation. Later, on 22 December 2023, the Federal Council adopted the Pillar Two implementing ordinance, which includes, in particular, the introduction of the qualified domestic minimum top-up tax (QDMTT), with effect from 1 January 2024.

To avoid erosion of the Swiss tax base to other nations, the Federal Council introduced, from 1 January 2024, the QDMTT. The income inclusion rule (IIR) came into effect beginning from 1 January 2025, whereas an implementation date has been under discussion for the undertaxed profits rule (UTPR).

Switzerland applies the 'one-stop shop' principle, whereby in cases where multiple constituent entities of an in-scope multinational enterprise group are located in Switzerland, only one of these entities is designated as liable for the QDMTT, IIR or UTPR tax in Switzerland alone. The taxpayer is free to choose which of the Swiss entities shall assume this role. The canton of residence of the designated entity is then responsible for assessing and administering all Pillar Two tax obligations for the group within Switzerland.

Compensatory measures introduced by Swiss cantons

Following federal adherence to the 15 per cent global minimum tax, Swiss cantons actively reformed their tax policies to keep them competitive with the new worldwide standard while continuing to stay attractive for multinationals. Such adjustments come in different forms, such as tax rate adjustments, purposeful legislation and direct fiscal incentives. Below is an outline of some cantonal responses.

CANTON OF SCHAFFHAUSEN

This canton introduced a progressive corporate tax rate from 2024 onward. Under the new system, profit up to CHF250,000 is taxed at an effective overall tax rate of 13.45 per cent; profit of between CHF250,000 and CHF1m is taxed at an overall tax rate of 14.45 per cent; and profit over CHF15m has an effective overall tax rate of 15 per cent, aligning with the OECD minimum tax requirement. This framework ensures that small and medium-sized enterprises remain under a favourable tax regime, while large multinationals are taxed according to global standards.

CANTON OF GRISONS (GRAUBÜNDEN)

The canton initiated a consultation process for a draft law proposal that would implement targeted tax relief in the shape of qualified refundable tax credits (QRTCs). The credits aim at fostering economic growth, while being compatible with OECD requirements by not lowering the taxable basis. Firms contributing high value-added activities would qualify for these credits. The draft law anticipates that 75 per cent of cantonal QDMTT revenue would be devoted to funding these QRTCs, while 25 per cent would be available for distribution among municipalities. The refundable nature of the credits ensures that companies can benefit, even in the absence of taxable profits.

CANTON OF ZUG

Zug put forward the 'Location Development Act' (Standortentwicklungsgesetz), which will take effect from 1 January 2026. The initiative implements an organised system of direct subsidies for businesses undertaking innovation and sustainability initiatives. The programme has up to CHF150m a year (for 2026–2028) available, with budgets for the future decided on by the Cantonal Council. Qualifying businesses (businesses with an average profit for a year of more than CHF500,000) can get up to 1.5 per cent of that profit expressed as an annuitised subsidy annually. There are specific instruments, such as sustainability grants (CHF30/ton CO₂ savings); innovation grants for ten per cent R&D payroll and 35 per cent for connected infrastructure; and income-based grants for five per cent in profits based on intellectual property.

VAT for mail order trade and platform operators

Legal framework

As from 1 January 2019, Switzerland amended its VAT laws related to mail order businesses. Both foreign and local mail order businesses are subject to Swiss VAT under new laws if their turnover in small consignments (with amounts of import tax not exceeding CHF5) sent into Switzerland equals or exceeds CHF100,000 annually. After reaching this amount, all consignments sent into Switzerland, irrespective of their value, are regarded as domestic supplies and taxable for Swiss VAT.

As from 1 January 2025, Switzerland established a new regime, imposing VAT liability on platforms that arrange for goods to be sold through them. This regime greatly extends Swiss VAT legislation.

Effective from 1 January 2025: platform operators

The new framework proposes a dual-transaction approach under legal fiction, where the operator of the platform would be regarded as being both the purchasing party from the initial seller (small seller) and selling party to the final consumer in Switzerland. This approach would allow tax responsibility to be concentrated in the hands of a few recognisable online intermediaries instead of being spread across many vendors (the aforementioned small seller).

The VAT charge for platform operators arises when platforms mediate between buyers and sellers, bringing about the conclusion of contracts using digital interfaces. This includes cross-border and national transactions.

However, the regulation excludes platforms that do not take part in or benefit directly from the transaction, such as those that solely provide advertisements or payment platforms. The distinction aims at preventing an extraordinary administrative burden, and keeping a clear distinction between facilitators and true suppliers.

Platforms can take advantage of input tax deductibility when procuring from non-VAT registered vendors as a means to maintain VAT neutrality. This involves the possibility, in certain circumstances, to deduct notional input VAT (ie, because the 'small seller' may have paid no VAT). The 'small seller' is still secondarily liable for VAT when platforms are not compliant. The regulation shall apply regardless of the platform's location, as long as there is an adequate link to Switzerland, for example, as the place of delivery of the goods.

Anticipating these developments, the Swiss Federal Tax Administration issued comprehensive guidance for operators, including checklists, examples and technical documentation. They are urged to review their contractual arrangements, technology infrastructure and compliance procedures to check if these are caught within the scope of the new VAT regime.

Key judicial developments

9C_635/2023 – bonds and derivatives: beneficial ownership

On 3 October 2024, in a landmark ruling, the Swiss Federal Supreme Court decided on an entitlement to refund withholding tax on interest from Swiss federal bonds held by a Danish bank. The bank acquired bonds and, at the same time, entered into cross-currency interest rate derivative contracts for hedging purposes, covering interest as well as exchange rate risk. The central question was whether the bank still held beneficial ownership of the interest income, a requirement for a refund under the relevant double taxation agreement.

The Court broke from its former 'double interdependency' test and instead considered simply whether the recipient assumed economic risk from the income. It held that the Danish institution did assume such risk because it was liable for making payments under the swap arrangements regardless of whether it received the bond interest. The institution was hence considered the beneficial owner of interest income and the claimant for a withholding tax refund.

Nonetheless, the Court remitted the case to the lower court for review as to whether treaty abuse was involved in the arrangement. It made clear that, even if beneficial ownership is found, the denial of a refund is possible if there is no economic substance in such a structure and if such a structure is created mainly for tax evasion purposes. The Swiss Federal Tax Administration has the responsibility for proving treaty abuse.

With this ruling, Swiss law comes into alignment with OECD standards, lending further clarity to how derivative operations on Swiss securities shall be analysed and under what conditions taxpayers are entitled to claim a refund of Swiss withholding tax (for national and international purposes). This case has the potential to revamp Swiss treaty abuse case law.

Inheritance and gift tax initiative: upcoming public vote

During the second half of 2025, Switzerland is set to hold a national referendum on a popular federal initiative that would introduce a new framework for taxing inheritance and gifts. This proposed constitutional amendment, referred to as the '*initiative pour l'avenir*', seeks to implement a 50 per cent tax rate on lifetime asset transfers and inheritance exceeding CHF50m, with revenue earmarked for climate-related initiatives.

The initiative proposes a one-time progressive tax in the Federal Constitution, targeting all Swiss-resident individuals transferring assets through gifts or on death. Transfers to spouses, registered partners and charitable foundations would be exempt.

However, from a constitutional standpoint, the initiative raises several notable concerns. It appears to clash with the foundational tenets of the Swiss Federal Constitution, such as the principles of universal taxation and economic capacity, as well as protections related to property rights and economic freedom. Critics argue that the measure's narrow scope could be interpreted as discriminatory, potentially breaching the standard of equal treatment under the law.

Switzerland's sparse network of inheritance tax treaties also presents a practical hurdle. Agreements with countries such as Germany, the United Kingdom and the Netherlands typically assign sole taxing rights to the country of residence at the time of death, which could restrict Switzerland's ability to enforce the proposed tax.

To address such enforcement gaps, a departure tax has been floated as a possible remedy. However, this solution carries its own legal risks: it could impose taxes on unrealised gains, so-called 'dry income', inhibit freedom of movement and arguably, breach proportionality requirements.

Enforcement, broadly speaking, remains a major sticking point. In the absence of treaty-based collection mechanisms, Switzerland could struggle to recover taxes from assets held abroad, ultimately undermining both the initiative's efficacy and Switzerland's reputation for legal and economic reliability.

The Federal Council and both chambers of Parliament have advised against the proposal. Central to their objections are fears of double taxation (given that inheritance taxation is traditionally a cantonal matter) alongside concerns over legal ambiguities in coordinating federal and cantonal systems, and the potential for the measure to dissuade high-net-worth individuals from settling or remaining in Switzerland.

Additionally, since many (but not all) cantons currently exempt transfers between spouses and direct descendants, the initiative's passage would compel significant revisions to existing legal frameworks at the cantonal level.