

Tax Planning on UK residents relocating to Switzerland



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Please note that international tax law is a complex subject and you should not rely on this article without professional advice on the facts of your case.

UK resident high earners planning to leave the UK for Switzerland have a number of options available to them. We look at some of the issues which need to be considered when taking up residency in Switzerland. A key difference between the UK and Switzerland is that Switzerland taxes individuals at three different levels – at a federal (national) level, in each “Canton” and in the “Commune” in which you are resident. Generally there is an option for non-Swiss nationals who move to Switzerland either to be taxed based on their actual income and wealth, or to negotiate a ‘forfeit tax’.

The ‘Forfeit Tax’

This option for taxation is available, in certain circumstances, to non-Swiss nationals who take up residency in Switzerland. It covers your income tax and wealth tax exposure. When moving to Switzerland you can negotiate with your canton the lump sum of tax which you are required to pay annually to cover your liability for income and wealth tax. In Switzerland, only around 3,600 individuals are currently taxed on this basis, with the majority based in Geneva, Grisons, Tessin, Vaud and Valais. A number of high profile individuals have moved to Switzerland to take advantage of this regime.

Forfeit tax – you cannot work in Switzerland

Currently, to be taxed on this basis you must not carry out any “lucrative activity” in Switzerland. This is a key point which makes the regime favourable to wealthy entertainers, investors or Formula 1 drivers; amongst others. There have been suggestions recently, mostly in Geneva, that in order to attract more wealthy individuals and, for example, hedge funds, to Switzerland, the forfeit tax may be opened up to individuals who are also working in Switzerland. Although finance directors in the cantons are favourable this would prove highly controversial and will be difficult to bring into force.

The forfeit tax is already unpopular with many Swiss people and political parties, and has actually been abolished in Zurich. There have also been suggestions that it be abolished in Vaud. The recent influx of foreigners putting pressure on accommodation, schools and other public services will not improve popular sentiment.

Forfeit tax is a tax on expenditure in Switzerland

Under the forfeit system your tax is based on your personal living expenses. This will include all costs of living for any dependants. The tax payable will, as a general rule, not be lower than five times the annual rental value of the property in which you reside. It does not extend to any property you have available outside Switzerland. There is an annual 'control' check carried out on the lump sum amount. The agreed amount is compared to the amount of tax which you would have paid on both:

1. Swiss source income (i.e. any dividends from Swiss companies, rents from Swiss property); and
2. Any overseas income for which tax relief from foreign tax is required under a double tax treaty or a relief at source is applied due to domicile.

If this total exceeds the forfeit amount, it is the higher tax which will apply.

The usual Swiss tax regime

There are several levels to Swiss tax and the rates vary from one canton to the next. However, when you become Swiss resident you are, on the face of it, subject to Swiss income tax on your worldwide income. Certain types of non-Swiss income are exempt from Swiss tax, including income from foreign based real estate. The rates at a federal level are banded and vary depending on your marital status as well as how many children you have; the highest rate at this level is around 13%.

Income tax is also charged by the canton in which you reside. The rates will vary from one canton to another. As a rule of thumb, the tax rates generally increase when the quality of life in the canton improves. Broadly speaking German speaking cantons further east are less "touristic" for these purposes and better deals can be done. Geneva is probably of most interest to UK individuals as this is a particularly popular area for people to move to. The very top rate of income tax in Geneva is 34.9% but this is only charged on earnings of over 579,000 Swiss Francs (roughly £330,000) per annum. This compares favourably with the UK where the additional rate of 50% will be charged on all earnings over £150,000.

Wealth tax is also chargeable at the cantonal (but not federal) level and is levied on the net wealth of an individual at rates varying from around 0.2% to 1%. Non-Swiss assets (as well as certain Swiss based assets) are exempt from this charge.

Considerations regarding the forfeit tax

Whether the forfeit tax is beneficial depends on your circumstances. By way of an example, if your income is from royalties or investments there may be years when you do not realise a high yield, or may even suffer a loss. You would still be tied in to the forfeit tax and bound to pay over a lump sum to the Swiss authorities.

The type of income which you will receive after moving to Switzerland will also need to be borne in mind. Several forms of income will be exempt from the standard Swiss income tax system and electing for the forfeit tax if the majority of your income falls within these definitions may be a costly decision.

Second homes in France

Often, individuals moving to the most popular of Swiss cantons, Geneva, will want a ski chalet or similar second home over the border in France. Care needs to be taken when doing so, if you have elected to be taxed on the forfeit basis. Although there is a double tax treaty between France and Switzerland, individuals whose forfeit tax is based on the rental value of their residence, are not classed as Swiss resident under this treaty. This means they are unable to benefit from the terms of the treaty. As a result, they will run an increased risk of being deemed to be resident (and consequently subject to worldwide income tax) in France, if significant amount of time is spent at the French property. It also means that they could face liability to the French anti-avoidance tax whereby non-residents, with a French based habitation, are subjected to French income tax on a deemed income of three times the rental value of the property.

No Swiss Capital Gains Tax

There is generally no capital gains tax in Switzerland for private (i.e. non-professional gains). The possibility of converting income into gains is usually high on the agenda of individuals moving to Switzerland to work. The idea is that they are taxed under the normal Swiss regime but are exempt from any charge on their capital gains. A particular consideration here is that any individual moving from the UK will have to remain non-resident for 5 whole tax years or any capital gains they make during their period of non-residency will be chargeable upon their return to the UK. More of a pressing issue is that there are provisions of the Swiss Federal Tax Code which deem such capital received as income and if this arrangement is suggested, careful thought must be given to its effectiveness.

Continuing to Work

Of course, the most crucial consideration is whether a person who is moving to Switzerland also wants to keep working. If so, this work would need to be conducted outside Switzerland if they wish to benefit from the forfeit regime. This can cause problems as the individual may well become taxable in the country where they are carrying on that work, unless they can benefit from double tax treaty protection. An option worth considering is carrying out work from Monaco or France as this may be beneficial from a tax perspective; the former being a location with regular flights via Nice from Zurich and Geneva.

Live in Switzerland – work in France

There are specific provisions under a separate tax agreement which govern the position of Swiss residents travelling regularly to work in France and vice versa. These individuals generally remain taxable only in the country where they are resident, although a small percentage of “compensation” (4.5% of salary) is due to the country in which they work. This will work for Swiss residents taxed on the ordinary basis however individuals taxed on the Swiss forfeit basis may have some difficulties coming within these arrangements as they may not be deemed a “resident of Switzerland” for the purposes of these arrangements. This may however be worth

exploring further with the French tax authorities depending on the specific facts of each case.

Swiss forfeit tax – work in Monaco

Working in Monaco for a Monegasque company (“SAM”) can be more efficient as, although there is corporation tax at 35% in Monaco, the exposure can be reduced by tax deductible salaries or director fees paid out of the Monegasque company to the Swiss resident. The shareholders of the Monegasque company can be separate from the managers receiving the director’s remuneration. With no income tax in Monaco, individuals taxed under the Swiss forfeit system can avoid tax in both countries on the income received. Care needs to be taken to structure the set-up so that you do not fall within the social security net in Monaco which can result in charges up to 28%. There are also formalities which must be completed in Monaco for trading companies. Whether this will be a practical option will turn on the nature of the business to be undertaken and where the activities will take place.

Summary

This article only touches on the numerous considerations which are required when electing for the standard or forfeit regime of taxation in Switzerland. The optimum position can only be determined when assessed in light of your precise personal circumstances and advice should always be sought when moving to Switzerland.

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