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SWISS FORFAIT TAX RULES

All you need to know on the Swiss forfait tax system in a Q&A shape nutshell

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This Q&A contains the essentials on forfait tax, purchasing property and immigration

Switzerland has for decades had the so-called forfait taxation regime, essentially allowing foreign nationals relocating to Switzerland to pay tax on their worldwide expenditure.

The forfait regime is often mentioned alongside the UK and Irish non dom-regimes and, more recently, the Italian regime available to new residents. By comparison, the forfait regime, coupled with other advantages of the Swiss tax system, is more beneficial on many counts (e.g. legal certainty and inheritance tax). Finally, Switzerland benefits from unparalleled political stability and offers a high standard of living with a functioning infrastructure system as a matter of course.

Whereas the forfait regime was abolished locally in a number of cantons, a national vote was held in November 2014 with 59.2% voters and all cantons being in favour. So, it is fair to say that, in most of Switzerland, the forfait is here to stay (question 13).

This is to provide a Q&A format overview as follows:

- **Income, wealth and inheritance tax** (questions 1 to 9),
- **Social security** (question 10),
- **Immigration** (question 14) and
- **Property purchase** (question 16).

1. I am a non-Swiss individual intending to relocate to Switzerland. Do I qualify?

The forfait regime is available to foreign nationals taking up tax residence in Switzerland for the first time or after an absence of at least 10 years. Although the regime was originally aimed at wealthy foreigners coming to spend the autumn of their life in Switzerland there has never been a minimum age (nor maximum, for that matter).

2. Can I work?

To be eligible for the forfait regime you may not exercise any paid work in Switzerland, neither as employee nor in a self-employed capacity.

Gainful activity abroad is permissible, however.

3. I would be entitled, then. But my spouse is Swiss. Can I still get the forfait?

No, you can't. Since 2016 both spouses must fulfil all criteria.

4. I'm a dual national. Am I eligible?

No, dual citizens with Swiss nationality do not qualify either (and never did).

5. How do I calculate my tax?

Forfait taxation is essentially based on (i) the taxpayer's worldwide living expenses that serve as tax base, (ii) the rent multiple (7 x annual rent for accomodation) or (iii) the so-called control calculation to which ordinary tax rates are then applied.

Living expenses include in particular costs for accommodation, general living, cars, aircrafts and yachts, housekeeping and personnel in respect of all individuals (family members etc.) financially supported by the taxpayer.

Put simply, the tax base corresponds to what it takes to keep the family going, whereby cantons have substantial leeway in determining the practical aspects. The minimum base for Federal tax purposes is CHF 400'000.

And there is another factor to take into account, the so-called control calculation. Tax payable under forfait must be at least equal to (income and wealth) tax payable at ordinary rates on (i) Swiss real estate and related income, (ii) movable assets located in Switzerland and related income, (iii) Swiss securities and related income, (iv) Swiss intellectual property and related income, (v) Swiss source pensions and (vi) income for which treaty benefits are claimed (for treaty benefits see question 8).

Swiss securities comprise Swiss shares and dividends or interest from Swiss sources. Whereas a portfolio of non-Swiss shares held and managed by a Swiss bank should not give rise to any issues, interest, if any, on a Swiss cash account may.

Treaty protected income will typically include non-Swiss dividends or royalties subject to a withholding tax in the source country. Such income must be included in the control calculation if a reduction of source tax is claimed under an applicable treaty (question 8).

In summary, since 2016 the tax base is usually the higher of (a) CHF 400,000, (b) worldwide living expenses, (c) the rent multiple or (d) the sum of the control calculation.

6. More specifically, how much tax are we talking?

By way of example, a taxpayer with a monthly rent of CHF 5'000 will have a minimum Federal tax base of CHF 420'000 (5'000 x 12 x 7). With a monthly rent of CHF 3'500 his tax base will be CHF 400'000 (rent multiple of 3'500 x 12 x 7 = 294'000 is below minimum of 400'000).

In addition, a forfait tax payer with Swiss source income (such as dividends, interest, royalties, rental income), assets located in Switzerland or income for which treaty benefits are claimed (e.g. non-Swiss dividends) will be subject to a so-called "control calculation" (cf. question 5). The sum of that addition, if exceeding the minimum amount of CHF 400'000 or the rent multiple, will then be the tax base.

Also, since 2016 a taxpayer's overall wealth has to be taken into account. Cantonal practices vary considerably in this respect (see also question 7).

Tax payable is calculated by application of the ordinary progressive tax rates to the agreed tax base.

A married taxpayer with two children and a deemed income of CHF 400'000 would pay tax approximately as follows in Zug, Gstaad, Klosters, Geneva and Lausanne (wealth taken into consideration pursuant to table at question 7).

Place of residence	*approx. tax payable*
Zug	CHF 135’000
Gstaad:	CHF 150'000
Klosters:	CHF 140'000
Geneva:	CHF 148'000
Lausanne:	CHF 158'000

Given the wide range of applicable tax rates in Switzerland (differences not only between cantons but also between communes) there is considerable scope for "geographical tax planning".

7. “Geographical tax planning” – what do you mean by that?

Switzerland, despite its relatively modest size, has 26 cantons which are further subdivided in approx. 2300 local communes. Tax is levied at federal, cantonal and communal level. A forfait is negotiated with the cantonal authority (question 12) and a tax base to which ordinary tax rates apply determined.

Although there is a statute harmonising taxes between cantons, there are considerable differences in how the authorities apply the law in practice.

Not only that, cantons also have strongly differing tax rates and the same goes for the communes within one and the same canton. If you live at a cantonal or even communal border your next door neighbour may well pay tax at a rate differing from yours.

In other words, if your main concern is to pay as little tax as possible you will look first at the communes with the lowest rates, but also at local practice (and don't forget inheritance tax, question 9).

As a rule of thumb, the more remote the place the less expensive it will be.

By way of example, here are some minimal cantonal requirements as to minimum taxable income and wealth:

Canton	**Income in CHF**	**Wealth in CHF**
Berne	CHF 400'000	By virtue of real estate owned in Canton of Berne
Geneva	CHF 400'000	Taxable wealth taken into account by way of 10% increase of taxable income for cantonal tax purposes
Grison	CHF 400'000	CHF 8'000'000
Schwyz	CHF 600'000	CHF 12'000'000
Thurgau	CHF 500'000 - CHF 750'000	CHF 10'000'000.
Valais	CHF 250'000	CHF 1'000'000
Vaud	CHF 415'000	Taxable wealth taken into account by way of 15% increase of taxable income for cantonal tax purposes
Zug	CHF 500'000	CHF 10'000'000

Usually, a client will have an idea of where he or she wants to live (German / French / Italian speaking; city / mountains / somewhere in between) based on which the adviser makes a number of suggestions. The choice is to a limited extent narrowed by the fact that a few cantons abolished the regime (question 13).

8. As a forfait tax payer, do I get the benefit of double tax agreements (DTA)?

Any income for which treaty protection is claimed will need to be included in the so-called control calculation (question 5).

Some DTA will not accept a forfait tax payer as tax resident. Others contain express provisions in respect of forfait tax payers, namely those with Germany, Belgium, Norway, Italy, Austria, Canada the US and France. Typically, these DTA will require any treaty protected income to be included in the tax base. That said, in particular with France there is some uncertainty in practice as to the treatment of French source income.

9. Inheritance tax is what's driving me away from my current jurisdiction – how about it?

Again, Switzerland held a national vote in 2015 in which 70% of the people were against the introduction of a federal inheritance tax applying at 20% across the board.

Inheritance tax remains a matter for the cantons to decide.

All cantons offer full spouse exemption and in the vast majority both lifetime and death transfers to descendants are not subject to tax either. Vaud levies a relatively moderate inheritance tax on transfers to children and so does Geneva if the deceased was subject to the forfait regime.

Registered same sex partners are exempt, too.

Transfers to non-related donees or heirs may be hit with gift or inheritance tax up to approx. 40% depending on the canton.

The cantons of Schwyz and Obwalden (German speaking) have no inheritance tax at all, meaning that transfers even to non-related third parties are free of tax.

10. Social security? – no one ever told me

Forfait tax payers under the age of 65 are subject to social security contributions. Depending in particular on an individual's wealth the contribution may amount up to CHF 24'000 plus approx. 5% administrative costs per person.

11. New rules in 2016? – fine, but I've had my forfait for years

The new rules, in force from 1 January 2016, did not fundamentally alter the game, they essentially codified what has been practice in many cantons for some time already:

- minimum tax base at federal level is CHF 400'000 or seven times actual or deemed rent;
- an applicant's overall wealth needs to be taken into account; and
- both spouses need to fulfil the criteria (no longer "mixed forfaits"; question 3).

Existing forfait rulings remain valid for a transition period of five years (i.e. end 2020).

12. Procedure – how do I obtain my forfait and what do I have to disclose?

Obtaining the forfait is usually less of an issue than immigration, especially for non-EU nationals (question 14).

Once the residence canton and commune of choice have been identified (question 7) one would typically approach the local cantonal tax authorities. They are competent to grant a forfait ruling. Immigration authorities will have to be consulted with, too, as they issue the residence permit.

Information to be provided includes an individual's worldwide living expenses and an approximation of his or her wealth. The level of detail requested by the authorities varies greatly between cantons.

If the relevant information is provided in a forthright manner a ruling may be issued within a couple of weeks or even less.

13. Cantons offering the forfait

Forfait taxation is available in most cantons, including in particular Geneva, Vaud, Valais, Berne, Schwyz, Zoug, Grison and Ticino. Zurich and Basel are among the cantons having abolished the regime.

Following the popular vote at national level in November 2014 (59.2% of votes + all cantons voting in favour) it is fair to say that the regime is now here to stay.

14. Immigration – I heard it's complicated. How about it?

The relevant criterion is nationality, the primary distinction is made between EU and non-EU nationals.

EU-28 nationals are entitled to a residence permit, provided they are in a position to finance their life (and take out valid health insurance within three months from immigration).

As a non-EU national it is somewhat more burdensome. Typically, one would have to either (a) be able to demonstrate a particular connection to Switzerland (e.g. childhood or holidays regularly spent, family members resident or education in Switzerland), (b) be over 55 years old or (c) qualify for a "statutory exemption". Statutory exemptions may include cultural and fiscal reasons; the latter in particular may to some extent be compared to what is called "investor visa" in other jurisdictions.

Non-EU nationals may also seek a permit for education or medical reasons but that would be relevant in a forfait tax context only if the stay were for an extended period.

An applicant's family will normally be granted the right to join the forfait tax payer once he or she has obtained the residence permit.

15. Will Swiss forced heirship rules apply to my estate?

Not if you do not want them to. Foreign nationals may provide for their estate to be governed by the law of their nationality, thus getting around the Swiss forced heirship rules.

In particular in the case of EU nationals it will be necessary to also consider the EU Succession Regulation.

16. I want to buy property – can I?

Purchasing real estate is independent from an individual's tax status, meaning that the same rules apply to forfait and ordinary tax payers. Switzerland has, for a number of years now, had a statute restricting the acquisition of real property by non-Swiss nationals, the so-called "Lex Koller".

EU/EFTA nationals who are Swiss resident are not subject to any purchasing restrictions. A so-called Lex Koller-permit will be required, however, for the acquisition of a holiday home by non-residents.

Non-EU/EFTA nationals with a permanent residence permit ("C permit") are not subject to Lex Koller-restrictions either.

Non-EU/EFTA nationals with an ordinary residence permit ("B permit") are entitled to purchase their primary home without a Lex Koller-permit. The purchase of a second (e.g. holiday) home, on the other hand, will be subject to obtaining a Lex Koller-permit.

A holiday apartment passed on by inheritance within the family will not be subject to the Lex Koller-permit requirement.

In addition, there is so-called second home legislation applying regardless of nationality (i.e. to Swiss and all foreign nationals). The legislation essentially restricts the quota of holiday homes to 20% per commune.

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