# SWITZERLAND


**Name of the firm** **BAKER & NORTON GROUP**

**Address**

Rue du Lac 36
1815 Clarens (Montreux))
Switzerland

**Contact**

Hugo Marchand hugo.marchand@baker-norton.chail Tel. No. +41 21 983 24 50

Tax Partner www.baker-norton.ch


## AT A GLANCE

| | |
|---|---|
| Name of the tax | Value Added Tax |
| Local name | Taxe sur la valeur ajoutée (TVA)<br>Mehrwertsteuer (MWST)<br>Imposta sul valore aggiunto (IVA) |
| Date introduced | January 1st, 1995 |
| Administered by | Federal Tax Administration (VAT Division) |
| VAT rates | Standard: 8%<br>Reduced: 2,5%<br>Special : 3,8% |
| Others | Zero-rated<br>Exemption with credit<br>Exemption without credit |
| VAT Number format | CHE 123.456.789 TVA<br>CHE 123.456.789 MWST<br>CHE 123.456.789 IVA |

| | |
|---|---|
| VAT return periods | Quarterly (usual)<br>Monthly (optional in case of credit VAT situation where excess of input over output VAT occurs regularly)<br>Half-yearly (if the taxpayer has elected to be taxed under the balance tax rate method) |
| VAT return filing period date | VAT returns must be filed within 60 days from the period-end |
| VAT payment | VAT must be paid in Swiss francs. |
| Thresholds registration | Nil (however, for enterprises with turnover below CHF 100,000, a voluntary exemption may apply) |
| Recovery of VAT by non-established Businesses | YES (with the observance of the reciprocity rule) |

---

## HISTORY OF VAT

Switzerland has introduced a value added tax system in 1995, when it replaced the sales tax ("ICHA" or "Impôt sur le chiffre d'affaires") that has been in effect since 1941. The tax is levied on the following principles: competitive neutrality; efficiency of payment and imposition; transferability. In 2010, a new VAT law was enacted to make Swiss rules clearer and more accessible to taxpayers, as well as to provide a wider range of options, flexibility and better control.

Switzerland not being a member of the European Union ("EU") is not bound by the EU Directives or the case law of the European Court of Justice ("ECJ"). Nevertheless, in drafting the Swiss VAT law, the Swiss Parliament wanted both to account for the Swiss specialties and make the Swiss VAT law compatible to the EU legislation whenever possible.

Non-Swiss taxpayers shall therefore make sure that they appreciate both the similarities and the differences between the Swiss regulations and the EU ones when doing business in Switzerland. For example, Switzerland does not apply the single entity view for cross border head office/branch structure, some services qualify as supply of goods, or no distinction between B2B and B2C has to be considered for place of supply purposes.

It should finally be noted that the imposition of VAT had always been limited in time. Currently, VAT is authorized by the Constitution until the end of 2020. However, from today's perspective, there is hardly any doubt that this time limit will be extended again.

**SCOPE OF VAT**

VAT applies, basically, to the following transactions:

- The supply of goods or services in Switzerland made for a consideration by a taxpayer.
- The receipt of reverse-charge services or, in some cases, of goods by any person (whichever its VAT status) in Switzerland who purchased the items from an entity that is established outside of Switzerland and that is not registered for VAT in Switzerland (services and goods for which the recipient is liable for the VAT due). It should, however, be noted that services and goods purchased by non-taxpayers are not subject to the reverse charge if the amount due to the foreign supplier does not exceed CHF 10,000 per calendar year.
- The importation of goods from outside of Switzerland and Liechtenstein, regardless of the status of the importer.

Liechtenstein is considered to be the domestic territory for Swiss VAT purposes. Likewise, Switzerland is considered to be part of the territory of Liechtenstein for the purposes of VAT in Liechtenstein. Specific rules also apply to some locations in Switzerland such as Samnaun, Sampuoir or Tschlin.

**REGISTRATION**

Is considered a taxpayer any person who, regardless of its legal form, purpose or result, carries on a business in Switzerland. Carrying on a business involves the independent exercising of professional, industrial or commercial activities with the purpose of earning a sustainable income from supplies, together with the intention to execute regular transactions and acting externally in one's name.

May be exempt from VAT registration anyone, who: i) within one year generates in Switzerland turnover from taxable supplies of less than CHF 100,000, unless he or she waives the exemption from tax liability - the turnover is measured by the agreed considerations without the tax; ii) carries on a business with their place of business abroad, which makes supplies in Switzerland subject exclusively to the acquisition tax - not exempt from VAT registration is, however, anyone who carries on a business with their place of business abroad, which in Switzerland renders telecommunication or electronic services to recipients who are not liable to the tax; iii) as a non-profit, honorary sporting or cultural association or as a charitable organization generates in Switzerland a turnover from taxable supplies of less than CHF 150,000, unless he or she waives exemption from tax liability - the turnover is measured by the agreed considerations without the tax.

Taxpayers should be registered with the Federal Tax Administration in writing within 30 days after the beginning of their tax liability, or 60 days for persons who become taxable solely because of the acquisition tax. A penalty may be levied for late VAT registration. In the case of

tax evasion, fines of up to CHF 800,000 may be charged. The amount of the fine varies depending on the circumstances.

The "reverse charge" is a form of self-assessment for VAT through which the recipient accounts for the tax. The reverse-charge mechanism applies to the following situations:

- A Swiss recipient receives services from a supplier domiciled abroad who is not registered for Swiss VAT, and the place of supply is in Switzerland.
- Data carriers without market value are imported into Switzerland, and certain services and rights are associated with these data carriers.
- A supply of goods is made in Switzerland by a business that is established abroad and that is not registered for Swiss VAT, and the supply is not subject to import VAT.

A Swiss recipient is liable for the settlement of VAT under the reverse-charge mechanism if the recipient is a taxpayer or, if he is not, if the value of the supplies received exceeds CHF 10,000 per calendar year.

Legal persons with their seat or commercial units in Switzerland can form a VAT group if they are related as a result of a so-called "joint supervision." The group may include Swiss branches of foreign entities, to the extent that the foreign entities are under the same said "joint supervision" as the other VAT group members. Although Liechtenstein is considered to be domestic territory for Swiss VAT purposes (and vice versa), it is not possible to form a VAT group that includes both Swiss and Liechtenstein entities.

The tax group must appoint a tax representative who will deal with the VAT-related proceedings of the group. The minimum period for which the tax group can exist is one year. VAT group members are treated as a single taxpayer with a single VAT number. The following are the significant aspects of a VAT grouping:

- The VAT group submits a single, consolidated VAT return for all of its members.
- VAT is not chargeable on transactions between group members.
- All VAT group members are jointly and severally liable for the group's VAT liabilities.

A so-called "non-established business" is a business that does not have a legal seat or fixed establishment in the territory of Switzerland. A non-established business that makes supplies of goods or services in Switzerland must register for VAT if it is liable to account for Swiss VAT on supplies. A non-established business must appoint a tax representative if it supplies goods or services subject to Swiss VAT. The appointment of a representative does not constitute a permanent establishment in accordance with the Swiss direct taxes provisions.

## VAT BASIS AND APPLICABLE RATES

The VAT is calculated on the consideration actually received. The consideration includes in particular also the reimbursement of all costs, even if they are invoiced separately, and the public law charges payable by the taxpayer. For supplies to closely related persons, the

consideration is deemed to be the amount that would be agreed between independent third parties. For barter transactions the market value of each supply is deemed to be the consideration for the other supply. For exchange repairs the consideration covers only the wage for the work carried out. For supplies in lieu of payment the consideration is deemed to be the amount which is thereby satisfied.

Are not included in the VAT basis: Ticket taxes, property exchange taxes and the VAT itself payable on the supply; Amounts, which the taxpayer receives from the person receiving the supply as reimbursement of outlays made in their name and for their account, provided they are disclosed separately (transitory items); The portion of the consideration that, on sale of an immoveable good, relates to the value of the land; The cantonal contributions to water, sewage or waste funds included in the price of disposal and supply services, to the extent these funds pay therefrom contributions to disposal organizations or waterworks.

Mutually independent supplies must be treated separately. Several mutually independent supplies, which are aggregated into one unit or are offered as a combination of supplies, may be treated as a single unit according to the predominant supply, if they are made against an aggregate consideration and the predominant supplies represent by value at least 70% of the aggregate consideration (combination). Supplies that are economically closely related and interact with one another in such a way that they are to be regarded as an indivisible whole, qualify as a unitary economic transaction and are to be treated according to the character of the aggregate supply. Ancillary supplies, in particular caps and packaging, are treated for tax purposes in the same way as the main supply.

The VAT rates are the following:

- Standard rate: 8%
- Reduced rate: 2.5%
- Special rate: 3.8% (for hotel accommodation)

The standard VAT rate applies to all supplies of goods or services, unless a specific measure provides for a reduced rate or an exemption.

Goods and services taxable at the 2.5% rate are for example: books, newspapers and magazines; food and drinks (except provided by hotels and restaurants); drugs; water in pipes; etc.

Goods and services taxable at the 3.8% rate are hotel accommodation, including breakfast.

## PLACE OF SUPPLY RULES

The place of supply or delivery is the place at which: i) the good is located, at the time of the creation of the ability to dispose over it commercially, of its delivery or of its availability for use or exploitation; ii) the transport or shipment of the good to the customer or to a third party on his or her instructions begins.

The place of delivery of electricity and natural gas in pipes or cables is, however, deemed to be the place at which the recipients of the delivery have their place of business, or a permanent establishment for which the delivery is made, or, in the absence of such a place of business or such a permanent establishment, their place of residence or the place, from which he or she works.

The place of supply for most supplies of services is, in principle, deemed to be the place at which the recipient of the service has its place of business or a permanent establishment, for which the service is rendered, or in the absence of such a place of business or such a permanent establishment, its place of residence or the place of his or her normal abode.

However, some exceptions exist. These exceptions include the following:

- Services that require the physical presence of the customer, who is a natural person, are VATable at the place where these services are provided (for example, beauty or curative therapies and treatments, family advisory or child care), even if exceptionally supplied from a distance;
- Services of travel agents and event organizers are VATable at the place where the person rendering the service has its place of business or a permanent establishment, or, in the absence of such a place of business or such a permanent establishment, the place of residence or the place, from which the person works;
- Services in the fields of culture, art, sport, science, education or entertainment, and similar services including the activities of organizers and related activities are VATable at the place where the these activities are actually performed;
- Restaurant services are VATable at the place where the service is actually rendered;
- Passenger transport services are VATable at the place where the transport actually takes place;
- Services related to immovable property (for example, intermediation, administration, valuation, services in connection with the preparation and coordination of construction works such as architectural, engineering and supervising services and land and building monitoring, and accommodation services) are VATable at the place where the property is situated;
- Services in the field of international development and humanitarian aid are VATable at the place where for which the services is destined.

The rule providing that the place of supply is the domicile of the recipient applies to supplies of electricity power or natural gasoline in pipes, even though those supplies are treated as supplies of goods and not services.

The reverse-charge mechanism applies to electronic services, supplies of electricity power or natural gasoline in pipes and telecommunication services only if the Swiss service recipient is a VAT-registered business. Consequently, foreign businesses that provide electronic supplies of services to persons who are not registered for VAT must register for VAT in Switzerland and charge Swiss VAT if their turnover in Switzerland exceeds the annual threshold of CHF 100,000.

For all other services, the reverse-charge mechanism applies regardless of whether the recipient of the services is registered for VAT.

## TIME OF SUPPLY RULES

The time when VAT becomes due may be called the "time of supply" or the "tax point." In Switzerland, taxable turnover must be declared for the VAT quarter (or VAT month, if monthly declarations are filed) in which the sales invoice for a supply is issued or in which payment is received (if no invoice is issued).

If the declaration is made on a cash basis, the turnover must be declared for the quarter in which payment is collected.

The tax point for a prepayment is when the supplier receives the consideration or when the invoice is issued, whichever is earlier.

The tax point for reverse-charge services for a taxpayer is when the invoice is received or when the service fee is paid. In all other situations, including declarations made on a cash basis, the effective payment date is decisive.

The time of supply for imported goods is the official date of importation.

## EXEMPTIONS

The terms "taxable supplies" refer to supplies of goods and services that are liable to VAT at any rate.

The term "VAT-exempt without credit" refers to supplies of goods and services that are not liable to tax and that do not give rise to a right of input tax deduction. VAT-exempt without credit supplies (list not exhaustive) include:

- Healthcare,
- Financial transactions,
- Insurance,
- Education (unless opted for taxation),
- Real estate (unless opted for taxation),
- Etc.

In some specific cases, taxpayers are entitled to tax any supply exempt from the tax their supplies, provided that the VAT is openly disclosed. Election conditions shall be thoroughly ascertained before charging any VAT in this case.

Conversely, some supplies are characterized as "VAT-exempt with credit (zero-rated)", which means that no VAT is chargeable, but the supplier may recover the related input tax.

VAT-exempt with credit supplies (list not exhaustive) include:

- Exports of goods and services,
- Supplies of certain goods and services to airlines,
- Services with the place of supply abroad,
- Etc.

## RECOVERY OF INPUT VAT

As a general rule, a taxpayer may recover input VAT incurred in the course of their business activity, which is VAT on purchases, to the extent that the purchases of goods and services are related to taxable supplies. This includes VAT-exempt supplies with credit and supplies rendered outside Switzerland or Liechtenstein that would be taxable if rendered domestically.

A taxpayer generally recovers input VAT by deducting it from output tax, which is VAT charged on supplies made. If the amount of input VAT recoverable in a period exceeds the amount of output VAT payable in the same period (credit VAT situation), the taxpayer is entitled to a refund of the excess amount. A VAT repayment is paid automatically within 60 days after the return is received by the Swiss VAT authorities.

Input VAT basically includes: domestic VAT invoiced; acquisition tax declared; import tax paid or payable, which has been assessed unconditionally or has been assessed conditionally and fallen due, as well as the tax declared for the import of goods.

Deduction of the input tax is permissible if proof is provided that input tax was paid. Effective from January 1st, 2010, VAT rules allow the tax authorities to accept all means of proof. According to a recommendation of the Swiss VAT authorities, a valid tax invoice or customs document and proof that the input VAT was paid should support a claim for input tax.

Input tax may not be recovered on purchases of goods and services that are not used for taxable business purposes (for example: goods are acquired for private use; some goods are handed over without consideration). Also, input tax directly related to making tax-exempt supplies without credit is generally not recoverable.

If a taxpayer makes both tax-exempt supplies without credit and taxable supplies, it may not recover input tax in full. This situation is referred to as "partial exemption". In Switzerland, the amount of input tax that a partially exempt business can recover may be calculated using the following two-stage calculation:

- The first stage identifies the input VAT that can be directly allocated to taxable or to tax-exempt supplies without credit. Input tax directly allocated to taxable supplies is deductible, while input tax directly related to tax-exempt supplies without credit is not deductible. Tax-exempt supplies with credit are treated as taxable supplies for these purposes.

- The next stage identifies the amount of the remaining input tax (for example, input tax on general business overhead) that may be partly allocated to taxable supplies and accordingly only partly recovered. The calculation may be performed using a general pro-rata method based on the values of taxable supplies made versus tax-exempt supplies without credit, or it may be performed using another appropriate method.

Switzerland refunds VAT incurred by businesses that are neither established nor registered for VAT in Switzerland or Liechtenstein. Non-established businesses may generally claim Swiss VAT to the same extent as Swiss VAT-registered businesses. However, restrictions apply to certain types of expenditure for claimants established in certain countries.

Refunds are made on the condition of reciprocity. Repayments are currently made to claimants from the following countries:

| | | | | | | |
|---|---|---|---|---|---|---|
| Australia | Canada | Finland | Ireland | Luxembourg | Portugal | Sweden |
| Austria | Croatia | France | Israel | Macedonia | Romania | Taiwan |
| Bahrain | Cyprus | Germany | Italy | Monaco | Saudi Arabia | Turkey |
| Belgium | Czech Republic | Greece | Japan | Netherlands | Slovak Republic | UK |
| Bermuda | Denmark | Hong Kong | Latvia | Norway | Slovenia | USA |
| Bulgaria | Estonia | Hungary | Lithuania | Poland | Spain | |

The deadline for refund claims is June 30th following the calendar year in which the supply received was invoiced. This deadline is strictly enforced.

Claims may be submitted in French, German or Italian. The claimant must appoint a representative who is a natural person or a legal entity whose domicile or registered office is in Switzerland. The claim period is one year. The minimum claim amount is CHF 500.

Refunds are generally made within six months after the date of application. However, the Swiss VAT authorities pay interest on refunds made after this period if reciprocity rules are observed.

## COMPLIANCE OBLIGATIONS

The tax is levied by tax period. The tax period is the calendar year. The Federal Tax Administration permits the taxpayer on request to use the business year as the tax period.

Swiss VAT returns are usually submitted for quarterly periods.

If the taxpayer has applied to be taxed under the balance tax rate method (that is, the tax due is calculated by multiplying the gross total taxable turnover by the balance tax rate authorized by the Swiss tax authorities), VAT returns must be submitted on a half-yearly basis.

Taxpayers with a regular excess of input over output VAT may apply to submit monthly returns.

On application the Federal Tax Administration allows, in justifiable cases, other reporting periods and stipulates the conditions therefor.

The VAT return is due, together with full payment, 60 days after the end of the VAT settlement period. VAT must be paid in Swiss francs.

Interest at a rate of 4 % (since 2012.01.01) a year may be assessed for the late payment of VAT. Penalties may be also assessed for the late submission of a VAT return.

In principle, the effective reporting method is to be used. When applying this method, the tax claim is calculated as the difference between the domestic tax payable, the acquisition tax and import tax declared and the input tax balance for the corresponding reporting period.

Reporting using the "balance" or the "flat rate" tax rates is also permitted in very specific cases.

The tax is reported based on the agreed consideration. The Swiss tax authorities also allow taxpayers, upon application, to report on the basis of the consideration collected. The form of reporting chosen must be retained for at least one tax period.

The Swiss tax authorities may force a taxpayer to report on the basis of the consideration collected, if: they receive to a significant extent considerations, before they perform the supply or issue an invoice; or there is reasonable suspicion that the taxpayer is misusing the reporting based on agreed considerations to create for themselves or a third party an unlawful benefit.

A Swiss taxpayer must generally provide a VAT invoice for all taxable supplies made, including exports. A VAT invoice is, in principle, necessary to support a refund under the VAT refund scheme for non-established businesses. A VAT credit or debit note may be used to correct the VAT charged and reclaimed on a supply of goods or services. These documents must be cross-referenced to the original VAT invoice.

The invoice must clearly identify the supplier, the recipient and the nature of the supply and, as a rule, contain the following elements:

a. the name and the location of the supplier, in the form in which they present themselves in business transactions, and the number, under which they are entered in the Register of Taxpayers;
b. the name and location of the recipient of the supply, in the form in which they present themselves in business transactions;
c. date or period of the rendering of the supply, to the extent it differs from the invoice date;
d. nature, object and scope of the supply;
e. the consideration for the supply;
f. the applicable tax rate and the tax amount payable out of the consideration; if the consideration includes the tax, the quotation of the applicable tax rate suffices.

Swiss VAT is not chargeable on supplies of exported goods.

However, to qualify as VAT-free, export supplies must be supported by evidence that the goods have left Switzerland. Acceptable proof includes the officially validated customs documentation.

If a Swiss VAT invoice is issued in a currency other than Swiss francs ("CHF"), the amounts must be converted to Swiss francs, using the appropriate exchange rates published by the Federal Tax Administration, which are available on its website (monthly or daily rates are available).

If no clear tax advantage is gained, the use of a group exchange rate may be allowed.

## SPECIAL CASES

Some operations are subject to ad hoc rules or have special vat regimes. This is the case, *inter alias*, for the following. The supplies to employees against a consideration involve VAT consequences. VAT is to be calculated on the consideration actually received. Supplies made by the employer to employees that must be declared in the salary certificate, are deemed to be rendered against a consideration. The tax is to be calculated on the amount that is also applicable for direct taxes. Supplies, which do not have to be declared in the salary certificate, do not constitute such that are made against a consideration and it is assumed that a business reason exists. To the extent lump sums are permissible for determining the wage elements applicable for direct tax purposes that also serve to assess the VAT, such may also be used for VAT purposes.

A supply is deemed to be made by the person who appears as the supplier. If a person acts in the name of and for account of another person, the supply is deemed to be made by the person represented, if the representative: i) can prove that it acts as representative and can clearly identify the person represented; and ii) the existence of a representation relationship is expressly notified to the recipient of the supply or is given by the circumstances. In a triangular relationship, the supply relationship between the person appearing as the supplier and the person actually making the supply is characterized in the same way as the supply relationship between the person appearing as the supplier and the person receiving the supply.

Please also note that the VAT imposed on importation may be refunded, upon application, if the conditions for input tax deduction are wanting and: the goods are re-exported unchanged without prior handover to a third party as part of a delivery in Switzerland and without having been earlier taken into use; or the goods were taken into use in Switzerland, but are re-exported as a result of cancellation of the delivery- in this case the refund is reduced by the amount, which represents the tax on the consideration for use of the goods or on the loss of value caused by use of the goods and on the non-refunded import customs duties and duties based on non-customs-based federal laws.

The tax is refunded, only if: the re-export takes place within 5 years after the end of the calendar year in which the tax was imposed; and b. the identity of the goods exported with those earlier imported has been proven. The refund may also, in the specific cases, be made dependent on proper declaration in the import state.

The applications for refund are to be submitted on notification for the export procedure. Subsequent refund applications can be considered, if they are submitted in writing to the Federal Customs Administration within 60 days of issue of the export document, with which the goods were assessed under the export procedure.

## RIGHTS OF THE TAX PAYER AND OF THE VAT AUTHORITIES

First of all, taxpayers must supply the Swiss tax authorities in good faith with information about all matters that could be of significance for the tax liability or for measurement of the tax and to submit the documents required.

The statutorily protected professional confidentiality is reserved. Persons subject to professional confidentiality are obliged to open their books or records, but may hide the names and addresses of their client or replace them with codes, but not their residence or place of business.

In cases of doubt, on application of the Swiss tax administration or of the taxpayer, the President of the competent Chamber of the Federal Administrative Court appoints neutral experts as controlling bodies.

Upon written enquiry by the taxpayer about the VAT consequences of specifically described facts, within a reasonable period, the Federal tax Administration must generally provide the information requested. The information is legally binding for the enquiring taxpayer and the Federal Tax Administration but it cannot be applied to other facts.

The taxpayer must keep its books of account and records in accordance with the principles of Commercial Law. The Federal Tax Administration may in exceptional cases impose more extensive recording obligations, if it is essential for proper imposition of the VAT.

The taxpayer must retain in a proper manner its books of account, vouchers, business documents and other records until the absolute time limitation of the tax claim.

Business documents that are required in connection with the calculation of de-taxation and own use of immoveable goods, are to be retained for 20 years.

The Federal Council stipulates the conditions, under which vouchers that are necessary under this law for enforcement of the tax, may be transmitted and retained in paperless form.

If the tax liability ends, the period runs from this date.

If the taxpayer discovers in the course of drawing up its annual accounts errors in its tax returns, it must correct them at the latest in the return for the reporting period, in which the 180$^{th}$ day after the end of the relevant financial year falls.

The taxpayer is obliged to correct retroactively errors in returns recognized relating to past tax periods, to the extent the tax claims for these tax period have not become legally valid or are time limited.

The retroactive corrections of the returns must be notified in the form prescribed by the Federal Tax Administration.

In the case of system-based errors that are difficult to ascertain the Federal Tax Administration may, under specific conditions, grant the taxpayer relief.

A person may be jointly and severally liable with a taxpayer; this is the case, for example, of : the partners in an unregistered partnership, a general or limited partnership within the scope of their civil law liability; every person or unincorporated entity that is a member of a VAT group - for all taxes payable by the group; upon a transfer of a business: the previous tax debtor for three years after the announcement or reporting of the transfer for tax claims that arose before the transfer; etc. And a person that takes over a business enters into the tax rights and obligations of his legal predecessor.

It should also be noted that anyone entrusted with or that is consulted on the execution of this law must maintain confidentiality about what he has become aware of in the performance of his duties towards other authorities and private persons and refuse insight into official documents.

There is, however, no duty of confidentiality: i) in the performance of administrative assistance and in fulfilling an obligation to report criminal acts; ii) towards executive bodies of the judicature or administration, if the authority entrusted with the execution of this law has been authorized by the Federal Department of Finance to provide information; iii) in a specific case towards the debt enforcement and bankruptcy authorities or in the reporting of debt enforcement or bankruptcy offences to the prejudice of the Federal Tax Administration; iv) for the information, whether someone is or was entered in the Register of Taxpayers.

Also, the Federal Tax Administration is authorized to process the data and information necessary for imposition and collection of the tax; this includes also information about administrative and criminal prosecutions and sanctions. For this purpose it maintains the data collections necessary for the purpose and the means to process and store them.

The Federal Council stipulates the necessary provisions about organization, processing and storage of the data and information, in particular the data to be captured, access, processing rights, period of storage, deletion and protection against unperceived alteration.

The Federal Tax Administration can make the necessary data and information accessible to the persons in the Federal Customs Administration entrusted with the imposition and collection of the VAT by means of the call-up system. The provisions concerning confidentiality and administrative assistance are applicable. The documents stored on the basis of this provision are equated to the originals.

The Federal Tax Administration also reviews the fulfilment of the obligation to register as a taxpayer and the tax returns and payments. The Federal Tax Administration can as well perform audits to the extent this is necessary to clarify the facts. For this purpose these persons must grant the Federal Tax Administration access to their accounts and related vouchers. The same applies for third parties under the obligation to provide information. The Federal Tax Administration can require of the taxable person that it submit additional documentation, such as: the audit report, if one is to be issued for the taxable person; a turnover reconciliation; etc.

An audit may also consist of the demand for and review of comprehensive documentation by the Federal Tax Administration. An audit must be notified in writing. In justifiable and exceptional cases notification of an audit may be waived. The taxpayer may also, by justified application, require an audit. The audit is to be performed within two years. The audit is to be concluded within 360 days of notification with an assessment notice; it states the amount of the tax claim in the period audited.

The findings made during an audit of a qualifying bank or savings institution relating to third parties may be used exclusively for the enforcement of the VAT. Bank secrecy and the professional confidentiality of the Stock Exchange Law are to be observed.

If none or only incomplete records are available or if the results reported obviously do not match the actual facts, the Federal Tax Administration makes a fair assessment of the tax claim. The tax claim is established with an assessment notice.

If the exact establishment of individual important facts for the measurement of the tax creates for the taxpayer excessive inconvenience, the Federal Tax Administration may grant relief and allow the tax to be determined approximately, provided that as a result there is no significant loss or increment of tax, no material distortion of the competitive situation and no excessive complication of the tax return for other taxable persons and the tax audit.

The right to audit taxpayers is time-limited 5 years after the end of the tax period in which the tax claim was established. The time limitation is interrupted by a written declaration, requiring confirmation of receipt, aimed at establishing or correcting the tax claim, a ruling, an appeal decision or a judgment. A corresponding interruption of the time limitation may also be achieved by the announcement of an audit or the commencement of a surprise audit. If the time limitation is interrupted by the Federal Tax Administration or an appeal body, the time limitation begins to run anew. It then runs for two years. The time limitation is suspended, as long as for the relevant tax period a criminal tax procedure under this law is being carried out and the person liable for payment has been notified. Interruption and suspension are effective towards all persons liable for payment.

The right to establish the tax claim is in any case time-limited 10 years after the end of the tax period in which the tax claim arose.

Rulings of the Federal Tax Administration can be contested by appeal within 30 days of communication. The appeal is to be submitted to the Federal Tax Administration in writing. It must contain the petition, its justification citing the evidence and the signature of the appellant or of his or her representative. If the appeal does not satisfy these requirements or if the petition or its justification lacks the necessary clarity, the Federal Tax Administration grants the appellant a short period for improvement.

It combines this additional period with the risk that, if the period of grace expires unused a decision will be made based on the files or, if petition, justification, signature or power of attorney are missing, not to consider the appeal. If the appeal is raised against a properly justified ruling of the Federal Tax Administration, on application or with the consent of the appellant it is to be forwarded as an administrative appeal to the Federal Administrative Court.

The appeal procedure is to be continued despite withdrawal of the appeal, if there are indications that the contested ruling does not comply with the applicable provisions of the law.

---

*This material has been prepared in summary form for general informational purposes only and is not intended to be relied upon as accounting, tax or other professional advice. The content is based on information current as of December 1st, 2013. Changes to the tax laws and other applicable rules covered may have been proposed. Therefore, readers should contact their local TRA contact firm to obtain further information or a specific advice. Neither TRA, nor any other member of the TRA organization, can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication.*

---