



Thinking beyond borders: Management of extended business travelers - Switzerland



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01

Key message

An individual's liability to taxation in Switzerland is based on the concept of residence. An individual resident in Switzerland is taxed on their worldwide income and wealth.

Non-residents are subject to taxation on certain categories of income from Swiss sources.

Switzerland has 26 cantons (member states within the federal state of Switzerland) and the tax rates, as well as tax law and practice, can vary from canton to canton.

1 Key message

Extended business travelers could be taxed on employment income relating to their Swiss workdays, unless exempt by treaty.

02

Income tax

2 Income Tax

2.1 Liability to income tax

A person's liability to Swiss tax is determined by their residence status.

Residence is defined as the place where a person stays with the intention of settling permanently and which therefore provides the center of personal and business interests. A person will also be considered resident if they remain in Switzerland for a continuous period of more than 90 days (without gainful activity) or 30 days (with gainful activity such as employment) in a calendar year. In practice, however, it is likely that most business travelers to Switzerland will be considered as non-residents or treaty exempt.

For non-residents, the income relating to Swiss duties is, in most cases, subject to a withholding tax (except where an exemption from withholding tax was filed).

The withholding tax is calculated monthly based on the gross monthly salary (including any benefits) with the actual rate determined by the level of income, marital status, number of dependents, canton and – if applicable – church tax. Each of Switzerland's 26 cantons has a different withholding tax tariff. For business travelers to Switzerland, the withholding tax tariff of the canton where the business traveler registered with the authorities, or the canton where the (economic) employer is based, is normally applicable.

Individuals living in countries/jurisdictions bordering Switzerland may be taxed differently under special tax treaty provisions applicable to cross-border workers (Germany, Italy, France, Austria, Liechtenstein). Each situation would have to be looked at individually.

2.2 Tax trigger points

Technically, there is no minimum threshold/number of days that exempts a non-resident employee from Swiss withholding tax. Each case needs to be considered separately based on facts and circumstances.

To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will most likely not apply if the Swiss entity is their economic/effective employer.

2.3 Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income, as well as any other benefits paid to, or on behalf of, the individual. In some cases, however, the travel costs to Switzerland as well as Swiss accommodation costs can be (partially) exempt from Swiss taxation.

2.4 Tax rates

Tax rates vary from canton to canton but are progressive and depend on individual personal circumstances (such as marital status, number of dependents, church affiliation, etc.).

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Social Security

3 Social Security

3.1 Liability to social security

Extended business travelers who are European Union (EU)/ European Economic Area (EEA) citizens employed by an employer located in an EU/EEA member state can, in most cases, remain subject to their home countries/jurisdictions' social security schemes. This exemption is based on the EU/EEA/Swiss rules with respect to postings and/or simultaneous employment. For coordination between Switzerland and UK, UK is no longer covered in the EU/EEA agreement (as from 1st January 2021). A new bilateral agreement between UK and Switzerland will be in place as from November 2021 forward.

Other extended business travelers may, in some cases, stay in their home countries/jurisdictions' social security systems and also obtain an exemption from paying Swiss social security based on the provisions of a social security treaty signed between their home countries/jurisdictions and Switzerland. Switzerland has concluded social security treaties with nearly 50 countries/jurisdictions.

If no continued home country/jurisdiction social security coverage and no subsequent exemption from social security contributions is available, an extended business traveler could be subject to Swiss social security as set out below.

Individuals having a gainful activity in Switzerland are required to contribute to the mandatory old age and disability insurance scheme. Employers must also contribute. The contribution is 10.60 percent of total remuneration (uncapped), of which 5.30 percent is charged to the employee and 5.30 percent to the employer. Individuals are also subject to mandatory unemployment insurance. The contributions (employee and employer each pay half of the total) are 2.2 percent of remuneration up to an annual salary of 148,200 Swiss francs (CHF). There is no additional solidary surcharge as of 1st January 2023.

Retirement and disability pensions are compulsory for individuals with annual earnings between CHF 22,050 and CHF 88'200. The employer's contributions must be at least equal to those of the employee. Rates vary according to age. Most pension plans give additional pension coverage in excess of these minimum requirements.

Individuals are also subject to mandatory occupational and non-occupational accident insurance premiums. Each individual has to obtain Swiss health insurance, which is not linked to the employer.

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Compliance obligations

4 Compliance obligations

4.1 Employee compliance obligations

For residents in most cantons, tax returns are due by 31 March following the tax year-end, which is 31 December. An extension can be filed to extend the deadline until 30 June and, in some cantons, even extend until 30 November. Tax returns are required to be filed by tax residents only (mandatory joint filing for married couples).

In case the individual is subject to withholding tax (not a Swiss national, married to a Swiss national or not a C-Permit holder or married to one), they only have to file a return if the annualized gross income exceeds CHF 120,000. For persons below the threshold, there is, however, an option to file a Swiss tax return to claim for additional personal deductions. This request has to be filed by 31 March following the tax year (no extensions are possible).

Non-residents normally do not have to file a return but can file for a voluntary source tax adjustment, if the employment income was subject to withholding tax and to avoid double taxation. As per the tax year 2021 non-resident taxpayers have the option to file a Swiss tax return if more than 90 percent of their household income is earned in Switzerland (so-called Swiss quasi-resident). Quasi-residents who opt to file an ordinary Swiss tax return, need to file a request to file before 31 March of the year following the respective tax period. Such request has to be filed annually.

4.2 Employer reporting and withholding requirements

Withholding tax on employment income is covered under the withholding tax (Quellensteuer) system. The employer is obliged to report on a monthly or quarterly basis the gross salary, as well as the deducted withholding tax, to the authorities.

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Immigration

5 Immigration

5.1 Work permit/visa requirements

Switzerland has a dual system for granting foreign nationals access to the Swiss labor market. Under the Agreement on the Free Movement of Persons, EU-27/EFTA nationals, regardless of their qualifications, are entitled to a Swiss residence and work permit provided that they are employed by an employer based in Switzerland. Such locally employed EU-27/EFTA nationals may take up work in Switzerland immediately after a simple registration with their Swiss residence community (or, in certain cantons, with the cantonal immigration authority instead).

On the other hand, employees from all other states (regardless of whether locally employed or assigned) as well as assigned EU-27/EFTA nationals have no entitlement to be granted a work permit. They therefore have to formally apply for a work permit (incl. entry visa, if required), for which (i) admittance is basically granted only to senior managerial staff and highly qualified and/or specialized professionals, and (ii) corresponding work permits are subject to numerical limits/quotas which are set annually. In case of non-EU/EFTA nationals to be locally employed, it is also required to evidence that recruiting efforts on the domestic and EU labor market were unsuccessful or vain.

Other than in respect of certain specific countries/jurisdictions, Swiss immigration law does not provide for specific business traveler rules. Rather, every business trip must be individually assessed with a focus on potential work permit requirement applicability, bearing in mind that with only few exceptions, all professional activities are subject to such requirement.

5.2 Other immigration considerations / Immigration compliance

Taking up work prior to obtaining the appropriate residence and work permit is considered illegal and therefore could be penalized under Swiss law, and both the employee and the employer may be held liable.

Swiss work conditions and minimum salary requirements irrespective of assignment type, and also for local employments to a certain extent – mainly in case of applicability of a collective labor scheme.

Federal legal provisions regulate and limit the acceptability of staff lease and agency. In particular, cross-border staff lease and agency into Switzerland is generally prohibited. According to continuous authority practice, however, an exception applies to staff lease within a group of companies. Thus, basically only own employees of an employer may be assigned to Switzerland and such employees must not be lent to third parties (e.g., customers) in Switzerland.

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Other issues

6 Other issues

6.1 Double taxation treaties

Switzerland has entered into double taxation treaties with more than 90 countries to prevent double taxation and allow cooperation between Switzerland and overseas tax authorities in enforcing their respective tax laws.

6.2 Permanent establishment implications

There is potential that a permanent establishment (PE) could be created as a result of extended business travel and home office work in Switzerland, but this would be dependent on the type of services performed and the level of authority the employee has.

6.3 Indirect taxes

Switzerland levies value-added tax (VAT) at a standard rate of 8.1 percent. Certain products are exempt from this tax (such as healthcare, social security, insurance, and the export of goods); others are taxed at a reduced rate of 2.6 percent. Finally, any overnight stays at a hotel and other accommodation will be taxed at a rate of 3.8 percent.

6.4 Transfer pricing

With respect to transfer pricing, Switzerland has embraced the widely recognized international arm's length principle. Transfer pricing issues could arise if, for example, an employee provides a service for the benefit of an entity in one jurisdiction while the respective costs are borne by the entity in a different jurisdiction. The possible consequences and remedies to such situations depend on the nature and complexity of the services performed.

6.5 Local data privacy requirements

Switzerland has data privacy laws.

6.6 Exchange control

Switzerland has no currency restrictions.

6.7 Non-deductible costs for extended business travelers

As the withholding tax is calculated on the gross salary, any other employee social security contributions and pension contributions, etc., will not be allowed as a deduction.

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