Family Office Services Switzerland

www.switzerland-family-office.com/double-tax-treaty-planning.html

International tax planning

A sophisticated family office in Switzerland will be able to advise you on compliant corporate double tax treaty planning. With international tax legislation becoming more complexby the year, international business owners face a much greater challenge in structuring their business assets tax efficiently. Cross border, tax-efficient and tax-compliant corporate structuring is very important for (U)HNW families in particular, because they often own internationally active businesses.

What is a double taxation agreement?

A double taxation agreement (also called a tax treaty) is a treaty between two countries (bilateral) in which it is agreed what kind of and how much tax each of the two countries is allowed to levy on income generated in the case of cross-border investments and activities. Income which is, for example, distributed to a holding company in a foreign country is, depending on what has been agreed in the double taxation agreement, not taxed twice but rather only taxed in one of the two countries involved. The same concept applies to interest, royalties and capital gains realised and remitted across a border (this also covers other types of income such as wages and pensions). In most tax treaties the countries also grant certain tax benefits to investors from the other country. A simple example of this is the significantly reduced or even completely waived dividend withholding tax when a double taxation agreement is in place.

Frequently used jurisdictions

Well-known jurisdictions used for double tax treaty planning in an international context are Austria, Cyprus, Hong Kong, Hungary, Luxembourg, Malta, the Netherlands, Singapore, Sweden, Switzerland and the United Kingdom. These countries have signed many double tax treaties, most of which are above average beneficial. Additionally, local tax rules in these countries enable (U)HNW families to structure their assets in a tax-compliant and tax-efficient way. Many of the countries mentioned above are also used to establish family holdings. Should a multi-family officehave an in-house tax lawyer, they will, as part of their service, regularly review the family's existing corporate structure(s).

Compliant structuring

Sophisticated and compliant double tax treaty planning is key to optimising the profitability of the business and is often combined with asset protection structuring. In many cases you will find a trust or family foundation on top of the international corporate holding structure.

However, double-tax-treaty planning is very complicated and will become even more complex in the coming years. If an international corporate structure is not set up correctly, it could have serious consequences. Issues such as economic substance will become a huge topic in international tax planning in the coming years. Especially smaller family offices in Switzerland which focus more on asset management, will find it very difficult to offer you tax planning based on double taxation agreements. The origin of most family offices, namely wealth management and not tax planning, implies that only a handful of offices employ tax lawyers, which might make it difficult to find a multi-family office with the appropriate knowledge on corporate and/or international tax planning.

Bilateral investment protection treaties

Bilateral investment protection agreements (BIT's) are agreements between two countries in which the countries agree that investors from the other country are not discriminated against in any way or treated worse than local investors. Furthermore, it is agreed that foreign investors are able to transfer profits or proceeds realised in the other country back to their home country. Should investments be made or assets held in politically or financially unstable countries, a BIT could be essential to protect family investments, as it would prevent expropriation. A BIT also includes dispute settlement mechanisms.

Ideally, BITs and double taxation treaties are combined by the family office when an international corporate (holding) structure is advised or established. Switzerland has signed BITs with a large number of countries. The Netherlands and Sweden are also often used for structures that focus on investment protection, as these jurisdictions have also signed numerous BITs. To our knowledge there are very few family offices that take BITs into account when advising their clients.

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