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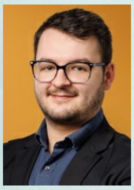

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Tax Evasion in Switzerland: Definition and Penalties

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In Switzerland, tax evasion is committed by anyone who intentionally or negligently acts in such a way that they are not fully fiscally assessed. Obtaining an unlawful refund or unjustified remission of tax is treated the same as tax evasion. In addition to the tax avoided, the penalty for tax evasion is generally equal to the amount of tax evaded.

A deviation from this standard penalty depends on the culpability of the offender. In the case of minor culpability or the existence of mitigating circumstances, the fine may be reduced to one third of the tax evaded, and in the case of serious culpability or the existence of aggravating circumstances, the fine may be increased to three times the tax evaded.

Generally, Swiss tax authorities become aware of a committed tax evasion through the automatic exchange of information with other authorities/countries, or through voluntary disclosure by the taxpayer.

Amending tax returns
In Switzerland, it is possible to amend or correct tax returns as long as they have not been finally assessed by the relevant tax administration. In Switzerland, taxpayers are required to file a tax return and the authorities then assess the tax based on the return. While the assessment is not final, the taxpayer may file a corrective tax return – a so-called rectificate – without adverse tax consequences or penalties. Once a tax return has been finally assessed by the tax authorities, the only way to report a tax evasion is to make a voluntary disclosure.

Voluntary disclosure
If a taxpayer reports their own tax evasion, they will not be penalised for the first-time tax evasion. Only the additional tax and interest on arrears will be charged. In order for nonpunishable voluntary disclosure to be valid in Switzerland, the following conditions must be met:

1. Voluntariness: The tax authority must not yet be aware of the misconduct. If the authority already has a suspicion (e.g. announcement of an investigation), in principle, a voluntary disclosure without penalty is no longer possible. According to the Federal Tax Administration (FTA), the requirement of voluntariness is no longer fulfilled if an account is subject to the automatic exchange of information and the tax authority gains knowledge of this account as a result. Listing previously undeclared assets and earned income in the tax return without comment does not constitute a voluntary disclosure.
2. Unconditional support: The taxable person (or the taxpayer's advisors) must actively and unconditionally support the tax authority in determining the previously undeclared values. This may be done, for example, by providing the necessary documents or processing information for tax purposes.
3. Serious efforts must be made to pay the additional tax and interest thereon.
4. First time disclosure: The non-punishable voluntary disclosure is only applicable once; subsequent disclosures can be made – but with penalties.

It is also advantageous if the voluntary disclosure is easily understood by the tax authorities and prepared for tax purposes.

The voluntary disclosure does not need to be in writing. However, for the purposes of documentation and traceability, it is strongly recommended to submit a written voluntary disclosure. Finally, it is advantageous to submit a complete voluntary disclosure, as otherwise the undisclosed values will no longer be covered by the immunity.

The effect of non-punishable voluntary disclosure applies to everyone involved in tax evasion – instigators, aiders and abettors, or collaborators can make use of the nonpunishable voluntary disclosure under the same conditions as the taxpayer.

In Switzerland, a 10-year retroactive period applies. For example, if a return is filed in 2025, the tax years 2015–2024 will be adjusted retroactively. In Switzerland, private capital gains are generally tax-free. Income from the sale of business assets, on the other hand, is subject to income tax and must therefore also be declared retroactively.

There is also a possible nonpunishable voluntary disclosure in the case of inheritances – the so-called inheritance amnesty. In an inheritance amnesty, subsequent taxation is reduced for the three tax years preceding the year of death. Interest on tax arrears is also charged, but no fines are due.

Biggest risks for unintentional tax evasion
In Switzerland, it is mandatory for individuals to declare worldwide income and assets if there is a tax liability in Switzerland. This could be due to residency, ownership of real estate in Switzerland, a stay in Switzerland for 30 days (with employment) or 90 days (without employment) during a calendar year, or owning or being a partner or beneficiary of a business in Switzerland.

Determining the limit on the number of working and nonworking days in Switzerland can be complicated, especially if there is no double taxation agreement with taxpayer’s country of permanent residence. It is advisable to check this if you are planning to stay in Switzerland for a longer period of time.

People also often forget to declare all their foreign bank accounts, shareholdings, etc., or income that is already taxed in another country. This must be declared even if the right to tax such income is in another country. This is important because global income and assets are necessary to determine the correct tax rate, as Switzerland has progressive tax rates.

Unintentional tax evasion can occur easily and very quickly, so it is crucial to review the tax laws in Switzerland in detail, as there are 26 different cantons, each with its own tax law. It is best to consult a tax advisor if you have a complex international income and asset structure. Tax advisors in Switzerland can advise on the need for a voluntary disclosure and assist in filing one.

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Tags: Steuerberatung, Steuern, Steuerhinterziehung, Strafe, Geldstrafe