Newsletter

Swiss Fund Tax Reporting for foreign investment funds – no longer a walk in the park?!

Answers to the 5 most frequent questions!

Foreign investment funds currently face tighter controls of their Swiss fund tax reporting. The Swiss Federal Tax Authority („ESTV“) has threatened some foreign investment funds with the exclusion from their official tax reporting list. Please find in the following answers to the 5 most frequently asked questions regarding the ramifications for Your investments funds in Switzerland:

1. What Relevance does Fund Tax Reporting have in Switzerland?

Swiss private investors are obliged to produce their tax return until a deadline between 15 March and 30 June (depending on the canton) of the following year attaching a list of their investments including investment funds. To complete their tax return including the list of investments they utilize the Swiss Fund Tax Reporting published on the official reporting list by the Swiss Federal Tax Authority. If the Swiss Fund Tax Reporting is calculated and published in time investors may benefit from a number of tax privileges, e.g. capital gains can be excluded and are tax exempt. In addition for distributing funds up to 30% of ordinary interests and dividends are tax exempt. Missing fund tax reporting will result in extra work for Swiss investors – so for answering questions from tax officers or annoyance for arbitrary tax assessment by the tax authorities. Besides positive effects for investors a precise and timely fund tax reporting on the ESTV-Webpage (www.ictax.admin.ch) is an opportunity for cost free marketing with the official stamp of the Swiss Federal Ministry of Finance.

2. Why do Swiss Tax Authorities Tighten their Controls?

On the one hand the number of foreign investment funds in Switzerland is growing rapidly. On the other hand Switzerland is tightening investor protection by increasing duties for fund representatives not only for marketing to qualified investors but also the control of such duties by the Swiss Financial Market Supervisory Authority („FINMA“). The respective grace period for the implementation of these increased duties will expire by end of 2015. Together with the revision of Swiss law regarding fiscal offences the tendency for tax controls is rising. This is due to the fact that cantonal tax authorities will get access to bank information as well that tax evasion in Switzerland is no longer a trivial offence and criminal punishment is increased drastically including arrest. Swiss cantonal tax authorities face around 4000-6000 criminal procedures of tax evasion as well as additional thousands of voluntary disclosures exempt from punishment (in 2013 alone there were 5300 persons). These numbers are still rising! The mere fund volume of several 100 billion Swiss Francs has considerable fiscal effects.

3. What Ramification does the Publication on the ESTV-Website have?

Cantonal Tax Authorities utilize Swiss Fund Tax Reporting as published on the website of the Federal Tax Authority, if it is published on time. Missing fund tax reporting will result in extra work for Swiss investors – so for answering questions from tax officers or annoyance for arbitrary tax assessment by the tax authorities. Fund Tax Reporting published on the ESTV-website is only final if it is fully correct. Corrections are possible at any time, e.g. if figures have been estimated by the tax authorities and later calculations are filed or if cantonal tax authorities challenge the calculations. Original tax figures as well as any corrections over the time stay fully visible on the official ESTV-website for

4. What happens if Tax Reporting Obligations are not fulfilled?

Due to authoritative practice by the Federal Tax Circular („Kreisschreiben“) no. 24 and 25 issued by the Swiss Federal Tax Authority foreign investment funds have to make available for investors as well as for the Swiss Federal Tax Authority ESTV the Fund Tax Reporting for income tax and wealth tax purposes as well as the annual reports that they are based on. Due to Article 79 para 4 of KKV FINMA (new) as read by Swiss authorities these duties of Swiss fund tax reporting are applied to Swiss fund representatives of foreign investment funds, too. The Swiss Federal Tax Authority ESTV has a very small team that has to handle publication of fund tax reporting data for around 25000 share classes of foreign investment funds. That means that lump sum estimation of foreign investment funds that do not fulfil their tax reporting obligations (or only provide the bare financial statements) are a nearly impossible task for them.

5. What risks do Foreign Fund Manager as well as Swiss Fund Representatives face?

Foreign Fund Managers that neglect their tax reporting duties as well as their Swiss fund representatives have recently been threatened to be „sacked“ (i.e. excluded) from the official Tax Reporting webpage of the Swiss Federal Tax Authority as well as to have their FINMA-license revoked. Swiss Fund Representatives as well as Swiss investors may be charged to prove the correctness of the Swiss Fund Tax Reporting as well as to calculate the Fund Tax Reporting at their own cost. Investors may incur trouble and/or damage due to missing or estimated tax figures which may accordingly lead to liability of Foreign Fund Managers as well as their Swiss Fund Representatives.

Swiss Fund Tax Reporting does develop as a quality feature for foreign investment funds. Swiss Fund Representatives as well as Swiss Fund Distributors are recommended to increase their due diligence and - if professional Swiss fund tax reporting is not provided - include warnings in the fund documents to reduce liability risks.

Do you have any questions? – We’re happy to help!

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