

SELECTED TAX ISSUES WHEN STARTING MY OWN BUSINESS

- **SOLE PROPRIETORSHIP**
- **LIMITED LIABILITY COMPANY /
JOINT STOCK COMPANY**

1. Income / fortune taxes
2. Source tax
3. Social security
4. Use of accumulated pension funds for self-employed activity
5. VAT liability
6. International aspects





1. INCOME / FORTUNE TAXES

A. SOLE PROPRIETORSHIP

1) Individual income taxes

- Sole proprietorship ≠ separate legal entity =>
No separate tax liability for self-employed activity
- Federal and cantonal / communal income taxes
- Worldwide taxation of income and taxation of the family: common taxation of private and business income
- Net business profit



1. INCOME / FORTUNE TAXES

A. SOLE PROPRIETORSHIP

1) Individual income taxes

- Taxation at business location vs residence location
- Private assets vs **business assets**:
 - **Predominantly** used for business purposes
 - => mixed asset used for more than 50% for business = business asset
 - Depreciation on business assets only



1. INCOME / FORTUNE TAXES

A. SOLE PROPRIETORSHIP

1) Individual income taxes

- Taxable gain on sale of business assets (vs tax free capital gain on sale of private assets (except real estate))
- Taxable basis = fair market value – book value
- Taxed together with other income (plus social security contributions)
- Tax deductible loss on sale of business assets (vs non deductible capital loss on sale of private assets)



1. INCOME / FORTUNE TAXES

A. SOLE PROPRIETORSHIP

2) Individual fortune taxes

- Cantonal / communal income taxes
- Worldwide taxation of fortune and taxation of the family: common taxation of net private and business assets
- Business assets reported at book value (i.e. after amortization)
vs private assets reported at fair market value



1. INCOME / FORTUNE TAXES

A. SOLE PROPRIETORSHIP

3) Important tax pitfall

change of use from business use to private use =
deemed taxable business income

Considered as a deemed alienation

- Terminating self-employed activity: business assets become private assets
- Mixed asset predominantly used for business purposes
afterwards predominantly used for private purposes
- Taxable basis = fair market value – book value
- Taxable together with other income (plus social security contributions)



1. INCOME / FORTUNE TAXES

A. SOLE PROPRIETORSHIP

3) Important tax pitfall

**change of use from business use to private use =
deemed taxable business income**

Considered as a deemed sale

- Also applicable for real estate!
- Taxable basis = fair market value – book value
- Taxed together with other income (plus social security contributions)
- Partial tax deferral possible upon specific request, but sometimes limited effect



1. INCOME / FORTUNE TAXES

A. SOLE PROPRIETORSHIP

3) Important tax pitfall

**Transfer of business assets to business abroad =
deemed taxable business income**

Considered as a deemed liquidation

- Taxable basis = fair market value – book value
- Taxed together with other income (plus social security contributions)



1. INCOME / FORTUNE TAXES

B. LIMITED LIABILITY COMPANY (SÀRL) / JOINT STOCK COMPANY (SA)

1) Company

a) Income taxes

- Legal entity => separate tax liability for company and for shareholder
- Federal and cantonal / communal profit taxes
- Net worldwide business profit



1. INCOME / FORTUNE TAXES

B. LIMITED LIABILITY COMPANY (SÀRL) / JOINT STOCK COMPANY (SA)

1) Company

a) income taxes

- Shareholder's / employee's salary deductible vs
distribution of profits (dividend) to shareholder not deductible
- Loss carry-forward: 7 financial years
- Taxation at business location
- Company taxes deductible



1. INCOME / FORTUNE TAXES

B. LIMITED LIABILITY COMPANY (SÀRL) / JOINT STOCK COMPANY (SA)

1) Company

a) income taxes

➤ Federal tax - GE – VD cantonal / communal taxes: flat tax rates:

➤ GE federal / cantonal / communal tax 23-24%

future progressive reduction to 13%

➤ VD federal / cantonal / communal tax 22-23%

future progressive reduction to 13.80%



1. INCOME / FORTUNE TAXES

B. LIMITED LIABILITY COMPANY (SÀRL) / JOINT STOCK COMPANY (SA)

1) Company

b) capital taxes

- Cantonal / communal capital taxes
- Net business assets



1. INCOME / FORTUNE TAXES

B. LIMITED LIABILITY COMPANY (SÀRL) / JOINT STOCK COMPANY (SA)

2) Shareholder = Employee

a) Income taxes

- Separate tax liability for company and shareholder - employee
- Shareholder's – employee's salary fully included in taxable basis
- No tax credit for corporate income tax paid by legal entity, but:
- Dividend taxation: preferential tax treatment if shareholding $\geq 10\%$:
Dividends taxable at 60% for federal and GE cantonal / communal taxes; at 70% for VD cantonal / communal taxes



1. INCOME / FORTUNE TAXES

B. LIMITED LIABILITY COMPANY (SÀRL) / JOINT STOCK COMPANY (SA)

2) Shareholder = Employee

b) Fortune taxes

- Value of shareholding in Sàrl or SA added to taxable financial assets
- Value of non quoted companies determined on basis of financial accounts



2. SOURCE TAX

A. SOLE PROPRIETORSHIP

- Foreign workers resident in CH without C permit are taxed at source on their employment income.
- But: income from self-employment is **not** subject to source tax.
- => obligation to file a tax return, even if
 - Foreign and without C permit
 - Source tax withheld on income from employment



2. SOURCE TAX

B. LIMITED LIABILITY COMPANY (SàRL) / JOINT STOCK COMPANY (SA)

- Shareholder = Employee
- Source tax on salary if:
 - Resident in CH – no Swiss citizen – no C permit
 - Non-resident in CH – employment activity in CH
 - Commuter cross-border working in GE



3. SOCIAL SECURITY

A. SOLE PROPRIETORSHIP

1) First pillar - AVS

- Compulsory affiliation to social security as self-employed
(old-age; survivors; invalidity; income compensation allowance for service and maternity;
family allowance)
- No unemployment contributions and no coverage
- Self-registration to Caisse AVS
- Social security contributions calculated on net business income
- Progressive rates; max. approx. 10.5% as of CHF 56'200 net income without upper limit



3. SOCIAL SECURITY

A. SOLE PROPRIETORSHIP

2) Second pillar – occupational pension scheme

- No compulsory affiliation to occupational pension scheme; optional insurance possible.

3) Pillar 3a – linked individual provident measures

- Private voluntary insurance
- Blocked account / insurance
- Contribution with affiliation to pension fund: max. CHF 6'768;
without affiliation to pension fund: max. CHF 33'840 or 20% of net business income

4) First pillar– second pillar – third pillar a: contributions tax deductible



3. SOCIAL SECURITY

B. LIMITED LIABILITY COMPANY (SàRL) / JOINT STOCK COMPANY (SA)

EMPLOYEES OF SOLE PROPRIETOR

1) First pillar – AVS

- Company = Employer
- Shareholder = Employee
- Compulsory contributions to social security for all employees
- Contributions by employer and employee (6.25% of gross salary for employer and 6.25% for employee)
- (old-age; survivors; invalidity; income compensation allowance for service and maternity; family allowance)
- Unemployment contributions and coverage



3. SOCIAL SECURITY

B. LIMITED LIABILITY COMPANY (SàRL) / JOINT STOCK COMPANY (SA) EMPLOYEES OF SOLE PROPRIETOR

2) Second pillar – occupational pension scheme

- Compulsory affiliation of all employees to occupational pension scheme as of annual salary of CHF 21'150
- Contributions by employer and employee
- Contribution rates vary according to pension fund institution
- Additional voluntary coverage possible => tax planning opportunities



3. SOCIAL SECURITY

B. LIMITED LIABILITY COMPANY (SàRL) / JOINT STOCK COMPANY (SA) EMPLOYEES OF SOLE PROPRIETOR

3) Pillar 3a – linked individual provident measures

- Voluntary contribution as employee
- Contribution with affiliation to pension fund: max. CHF 6'768;
without affiliation to pension fund: max. CHF 33'840 or 20% of net salary

4) First pillar– second pillar – third pillar a: contributions tax deductible

- Employer: deductible from corporate tax base
- Employee: deductible from taxable income



4. USE OF ACCUMULATED PENSION FUNDS FOR SELF-EMPLOYED ACTIVITY

- It is possible to take out pension funds accumulated as an employee in order to start self-employed activity
- Sole proprietorship only, not Sàrl or SA
- Income tax due on amount taken out at privileged tax rates



5. VAT LIABILITY

- All businesses are liable to VAT, whatever legal form (i.e. also sole proprietorship)
- Exception: if annual turnover on Swiss territory related to taxable supplies of < CHF 100'000
- Legislative proposal to limit exemption if annual turnover worldwide < CHF 100'000
- Possibility to remain liable to VAT even with turnover on Swiss territory of < CHF 100'000, even before making any turnover
- Advantage: deduction of input VAT
- Self-registration as VAT taxpayer
- Usual VAT rate: 8%



5. VAT LIABILITY

- In principle, all supplies of goods or services outside of CH territory are VAT exempt.
=> Export of goods or services VAT exempt but VAT input tax deductible
- In principle, acquisition of goods in CH from abroad is subject to import tax
- In principle, acquisition of services in CH from abroad is subject to acquisition tax
- Liability to acquisition tax as of CHF 10'000 per calendar year!
- Import tax and acquisition tax are deductible VAT input tax



6. INTERNATIONAL ASPECTS

A. SOLE PROPRIETORSHIP

1) Individual income / fortune taxes

- Individuals resident in CH are taxed on worldwide net income /fortune with exemption of income / fortune from a business operated outside of CH. Exempt income still has to be reported in CH and is determining for tax rate
- Individuals resident outside of CH have a limited tax liability in CH,
 - i.a. if a business is operated in CH
 - => CH net business profit / fortune is taxed in CH



6. INTERNATIONAL ASPECTS

A. SOLE PROPRIETORSHIP

2) Social security

➤ Principle:

domicile in CH or gainful employment in CH => compulsory liability to and benefits from CH social security

- Consequence: possible issues of double liability to CH and foreign social security
=> advice recommended!



6. INTERNATIONAL ASPECTS

B. LIMITED LIABILITY COMPANY (SàRL) / JOINT STOCK COMPANY (SA)

1) Company

a) Income / capital taxes

- Companies resident in CH are taxed on worldwide net profit /capital with exemption of income /capital from a business operated outside of CH.
- Companies resident outside of CH have a limited tax liability in CH,
i.a. if a business is operated in CH



6. INTERNATIONAL ASPECTS

B. LIMITED LIABILITY COMPANY (SàRL) / JOINT STOCK COMPANY (SA)

2) Shareholder / employee

a) Individual income taxes

- **Individuals resident in CH** are taxed on worldwide net income /fortune, in principle also on employment income for work performed abroad
- **Individuals resident outside of CH** have a limited tax liability in CH for employment income for work performed in CH => source tax, exception for cross-border commuters VD
- Exception: **double taxation agreement**

b) Social security

- Idem sole proprietorship => advice recommended



Thank you for your attention

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