

Double taxation treaties: Switzerland, China and Hong Kong

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Switzerland has a dense network of double taxation treaties. For companies from China and Hong Kong, the treaties decide how much of every franc of Swiss profit reaches the shareholder at home.

1 Switzerland and China

The treaty of 25 September 2013 replaced the treaty of 1990. Swiss withholding tax on dividends is reduced to 5 per cent where the recipient is a company holding at least 25 per cent of the capital, and to 10 per cent in all other cases (Art. 10 para. 2 DTA CH-CN). Interest may be taxed at source at up to 10 per cent (Art. 11 para. 2 DTA CH-CN), royalties at up to 9 per cent (Art. 12 para. 2 DTA CH-CN). The treaty contains limitation-on-benefits clauses against treaty shopping.

2 Switzerland and Hong Kong

The treaty of 4 October 2011 has applied in Switzerland since 1 January 2013. Dividends paid to companies holding at least 10 per cent of the capital are free of Swiss withholding tax; other dividends are taxed at up to 10 per cent (Art. 10 DTA CH-HK). Interest is taxable only in the state of residence, and royalties may be taxed at source at up to 3 per cent (Art. 12 DTA CH-HK).

3 How the relief works

Switzerland levies its withholding tax of 35 per cent in full and refunds the excess on application (Art. 21 ff. VStG in conjunction with the treaty). For substantial participations of foreign companies, the Federal Tax Administration can authorise the Swiss company in advance to pay the dividend at the reduced treaty rate (reporting procedure). The refund

requires that the recipient is the beneficial owner; conduit structures are refused.

4 What pays off in practice

- **Apply for the reporting procedure before the first dividend**, so that cash is not tied up for months.
- **Give the holding company real substance**; the tax administration examines beneficial ownership closely.
- **Compare routes**: for many Hong Kong groups a direct holding from Hong Kong is cheaper than an intermediate company in a third state.

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