

news'letter

INFORMATION AND HELP REGARDING THE 2021 OVERHAUL OF WITHHOLDING TAX

Withholding tax is changing from 1 January 2021. This change has been brought about as the result of various court rulings due to the unequal treatment of Swiss nationals and EU citizens. The purpose of the overhaul is to eliminate this kind of potential discrimination while also getting rid of the differences between individual cantons.

As an employer, this overhaul of withholding tax entails **significant, fundamental changes for you.**

The biggest changes relate to part-time employees, as well as people on daily or hourly rates. This is why, in the future, employers who are affected will have more of an interest in what their employees do outside the company as the employer will still be liable to pay the withholding tax and will therefore bear the risk.

Our withholding tax specialists have taken a comprehensive, thorough and careful look **at all the aspects and consequences** of this new withholding tax, and put together a summary of the most important changes for you.

Read on for brief descriptions of „**The most important details at a glance**“ and „**The five most important changes**“.

At the end of the document, you will find seven topics that we have looked at in detail, including **tables and clear, practical examples.** We have included three here, and the rest are available on request or for discussion in person.

Our withholding tax experts are **happy to put their expertise at your disposal,** either at your premises or ours, in order to allow you, as an employer, to **find out** about the details of the impending changes and **prepare** for them as much as possible. So don't waste any time in arranging an appointment with your advisor or our secretarial office.

Yours faithfully,

MANNHART & FEHR TREUHAND AG

Copyright: Parts and excerpts of tables and figures taken from pwc seminar and swissdec documents – Last updated October 2020

THE MOST IMPORTANT DETAILS AT A GLANCE

An excerpt of various relevant changes to federal law and the regulations:

- There is a **standardised definition** of income on which withholding tax is payable for practical purposes.
- The employer **no longer needs to use** the **withholding tax code D** (secondary employment). Instead, a complex income extrapolation is used for multiple part-time positions (including substitute earnings).
- The revised law enshrines withholding tax liability for the **de facto employer** and for the prohibited cross-border loaning of personnel.
- The criteria for the submission of a tax return (subsequent ordinary assessment) have been changed and expanded.
The tariff correction is no longer used, and the recalculation of withholding tax has been introduced for an exhaustive list of situations.
- A standardised rate determination method applies to **irregular employees on hourly pay**.
- The withholding tax rate for the 13th monthly salary in the monthly model must now be calculated using a special formula.
- If your **cantonal jurisdiction changes**, you must calculate and pay withholding tax in the new canton from the next month on.
- **ELM 5.0** is being introduced. This means that programs with ELM 5.0 will verify the calculation.
- The **entitlement provision** is being **reduced** to between 1% and 2%.
- The regulations for **artists and sportspeople** who are resident abroad have been specified and amended.

A BRIEF DESCRIPTION OF THE FIVE MOST IMPORTANT CHANGES

Part-time workers and people on hourly/daily rates

The harmonisation with the Swiss tax system means that a person's **entire income** (including secondary employment and substitute earnings) is used as the basis for calculating the tax rate. This is why the employers of people who work anything less than full time must include any other work for other employers as well as substitute earnings when determining the rate. This new method therefore eliminates the need for withholding tax tariff D for people in secondary employment.

Starting or ending employment partway through a month

The **rate calculation also applies in this case**. If an employee does not start their employment at the beginning of a particular month, or end it at the end of a month, the withholding tax rate must be extrapolated to the entire month.

13th monthly salary

The rate of withholding tax for the 13th monthly salary must now be calculated using a **special formula** if the employee was not employed for the entire period.

Changing cantonal jurisdiction

The jurisdiction of the cantons is being overhauled. From 1 January 2021, **withholding tax must always be settled with the canton that has jurisdiction**.

A company will **no longer be able** to settle exclusively with the **canton in which it has its registered office** if it employs people from other cantons.

ELM 5.0

The overhaul of withholding tax is also being accompanied by a **new standard** for payroll accounting programs. Until now, the various programs available have used ELM 4.0 verification. This was entirely limited to the transmission of information between the authorities/institutions and the customer. ELM 5.0 is **now** to be used to also **verify** the calculation within the **program**.

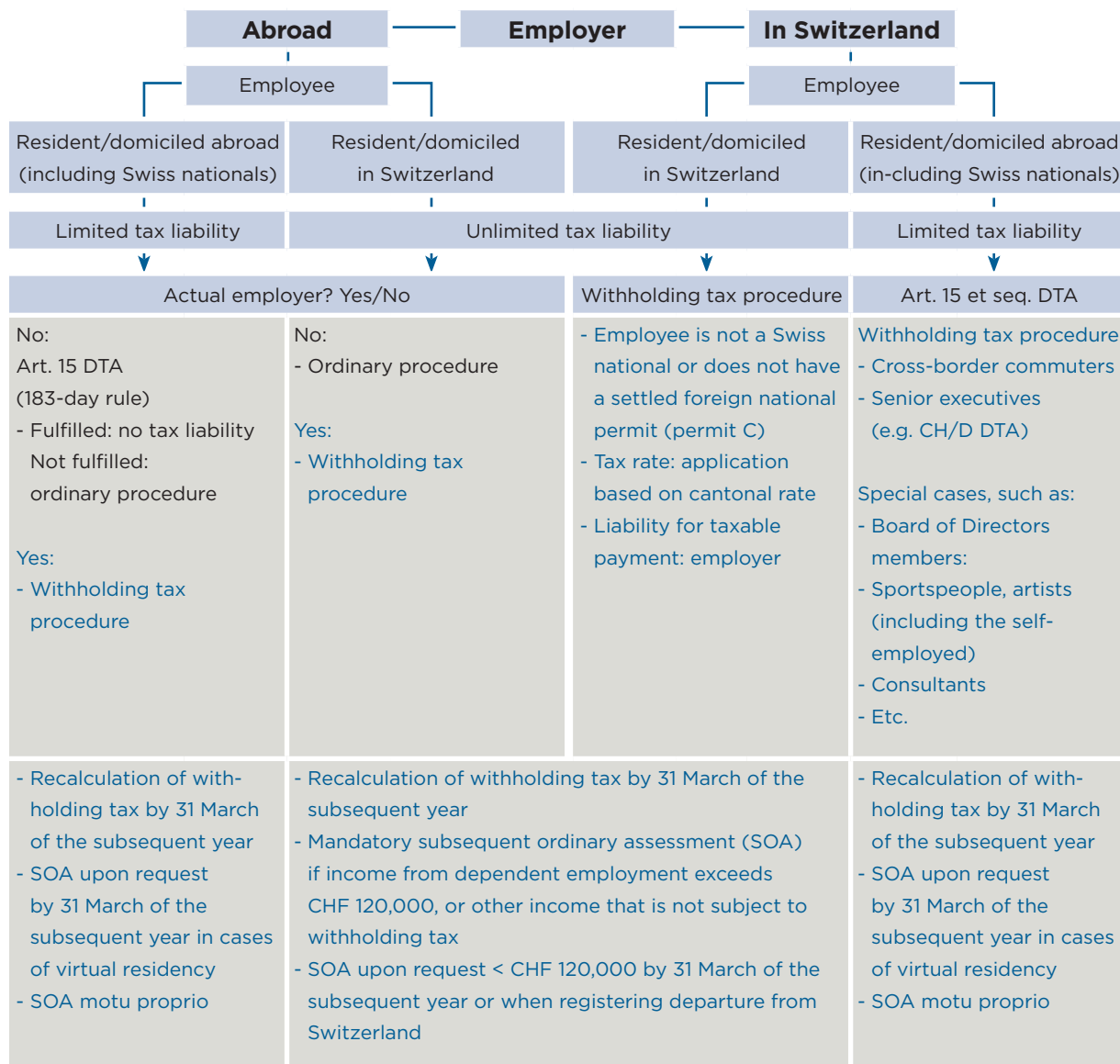
SEVEN IN-DEPTH REPORTS

We have prepared **information, tables and clear practical examples** in relation to the following topics. We have included three below, and the rest are available on request or for discussion in person.

1. Who is **liable to pay withholding tax**?
2. Where is **withholding tax owed**?
3. What is **taxable**, and when?
4. What tariff codes **will be used from 2021**?
5. How is withholding tax calculated?
6. ELM 5.0 (electronic pay reporting)
7. **Monthly or annual model?**
 - a. Monthly model – with examples for
 - > **Non-periodic payments**
 - > **13th monthly salary**
 - > **Part-time employment**
 - > **Employees on hourly and daily rates**
 - > **Family allowance**
 - b. Annual model (brief overview)

We have more figures, practical examples of numbers and specialist explanations available on request or for discussion in person. Our Account Managers and the specialist team are happy to help.

1. WHO IS LIABLE TO PAY WITHHOLDING TAX?



* Changes in 2021: coloured text

2. WHERE IS WITHHOLDING TAX OWED?

Group	Canton responsible for withholding tax
Simplified settlement procedure	Responsible compensation office
Foreign employee with no police permanent residence permit for earned income (residence or abode in Switzerland for tax purposes)	Canton of residence
Weekly commuters (with no residence or abode in Switzerland for tax purposes)	Weekly commute destination canton

- The circumstances at the time when the taxable payment falls due, and not when payment is effectively made, are what count (KS45, no. 8.5).
- A change of residence is taken into consideration from the next month on. This also applies mutatis mutandis to the establishment or abandonment of a weekly commute by employees based abroad.

3. WHAT TARIFF CODES WILL BE USED FROM 2021?

Tariff A For single people (unmarried, divorced, separated by court order or de facto, or widowed persons), who do not live together in a household with children or people requiring support. Tariff code A is also used for employees with an indeterminate marital status or unclear circumstances.

Tariff B For married couples* who are not legally or de facto separated, in which only one spouse* is gainfully employed.

Tariff C For married couples* who are not legally or de facto separated, in which both spouses* are gainfully employed, even if this earned income is also ordinarily assessed.
The dual income C tariff is also used if the other spouse* is gainfully employed in another country (gainfully employed: practising a dependent/self-employed profession or generating earned income). Tariff C is not used if the other gainfully employed spouse* is taxed in accordance with Tariff E.

Tariff D For people with income from secondary employment (requires primary employment) or for people with substitute income.

Tariff E For people taxed via social security providers using the simplified settlement procedure.

Tariff F For dual-income, cross-border commuters who live in an Italian border community and whose spouse* is gainfully employed outside Switzerland.

Tariff H For single people (unmarried, divorced, separated by court order or de facto, or widowed persons), who live together in a household with children or people requiring support and are the main contributors to their maintenance.

Tariff L For genuine cross-border commuters in accordance with the CH-D DTA who meet the criteria for assignment to Tariff A.

Tariff M For genuine cross-border commuters in accordance with the CH-D DTA who meet the criteria for assignment to Tariff B.

Tariff N For genuine cross-border commuters in accordance with the CH-D DTA who meet the criteria for assignment to Tariff C.

Tariff O For genuine cross-border commuters in accordance with the CH-D DTA who meet the criteria for assignment to Tariff D.

Tariff P For genuine cross-border commuters in accordance with the CH-D DTA who meet the criteria for assignment to Tariff H.

*Also applies to civil unions

For anyone who would like to know more, we have provided a link to the circular from the Swiss Federal Tax Administration for you on our website as a PDF download (only available in German)