

Swiss Companies

The Swiss Limited Company's Example

(Aktiengesellschaft: AG or Société Anonyme:SA)

SECURITIES | INVESTMENTS | CREDIT FACILITIES | UNIT TRUST | ROYALTIES | TURN AROUNDS | ALTERNATIVE CAPITAL ARRANGEMENTS

STURTA AG

INDEX

SUBJECT **Page**

- Why Switzerland? 3
- Use of Swiss Companies 4
- Incorporation: Requirements 5
- Incorporation Procedure 6
- Taxation 7
- FAQ – Frequently Asked Questions 8
- Fees & Expenses 10

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WHY SWITZERLAND?

Switzerland is proud to be one of the most attractive business location in Europe. Among the many benefits of setting up business operations, the following are the main pillars of Switzerland's success:

- Political, financial, social and economic stability;
- Liberal authorities in a country with modest taxes;
- Efficient capital market and highly professional banking system;
- Currency and price stability as well as low capital costs;
- State-of-the-art infrastructure and high quality of life;
- Excellent level of education of the workforce;
- A favourable fiscal environment;
- High productivity together with high quality products and services;
- Double Tax Treaty Network.

Because of the need of substance, we observe a move from traditional offshore jurisdictions to onshore jurisdictions. Since Switzerland is probably one of the best-equipped countries to move to without directly experiencing a large increase in the overall effective tax rate, the trend for international businesses to move their activities to Switzerland is increasing further.

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USE OF SWISS COMPANIES

Swiss companies may be used in a variety of ways to accumulate foreign source income or to preserve confidentiality and personal wealth. Such uses may include the following:

- **Investment Holding**

Swiss companies are frequently used to hold investments in foreign-based subsidiary or associated companies, foreign real estate, equities or bonds-quoted in international or domestic stock exchanges, and foreign joint-venture projects.

- **International Trade**

The movement of goods across international borders offers many opportunities for the use of Swiss companies. This may take the form of commission agencies, transfer pricing structures, or the hire or leasing of capital assets.

- **Consultancy Services**

The provision of financial services to international clients, as well as engineering, management or computer consultancy services to international contractors can be routed through Swiss companies. A Swiss company may also be used to provide the services of entertainers or sportsmen to international promoters.

- **Licensing and Patents**

Intellectual property such as patents, copyrights, designs, computer software, and the technical know-how may be owned by a Swiss company and licensed to third party licensee or sub-licensee. International franchises can be similarly structured through a Swiss company.

- **Control & Finance**

Intra-group loans may be routed through a Swiss company to rationalize finance costs and to centralize funding controls. Financing of foreign subsidiaries or joint-ventures may be more efficient if directed through a Swiss company.

INCORPORATION REQUIREMENTS

- **Incorporators**

1 Founder (as per Art. 625 Code of Obligation «CO»); The incorporator may appoint one or more proxies to form the corporation on his/her behalf; accordingly, his/her presence in Switzerland is not required.

- **Capital**

A Swiss corporation must have a share capital of at least CHF 100,000 which must be paid in on the date of the incorporators' meeting. The corporate capital remains in a blocked account at a Swiss bank during the incorporation process. Upon publication of the company in the Commercial Registry, the corporate capital will be available to the company.

- **Articles of Incorporation**

The incorporators must adopt written articles of incorporation which set forth the name, domicile, purpose, share capital, par value and type of shares, transfer restrictions (if any) and the basic organization of the corporation.

- **Board of Directors**

At least 1 member of the board of directors or officer must be domiciled in Switzerland (Art. 718 para 4 CO).
(SICURTA AG can provide members to the Board as well as administrators)

- **Auditors**

The incorporators must appoint one or more auditors. At least one auditor must have its domicile in Switzerland.
Note: Small and «mid-sized» companies do not require auditing.

- **Domicile**

The corporation must have a registered domicile in Switzerland. It may have either its own offices or a c/o address, in which case a third party acts as a domicile holder for the corporation.
(where required, SICURTA AG can easily make available offices spaces at its premise at a small cost basis)

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INCORPORATION PROCEDURE

- **Incorporators' Meeting**

The incorporators' meeting must be held before a Swiss Notary Public; However, the incorporators may appoint a proxy for such meeting. At the meeting, the incorporators adopt the articles of incorporation and elect the members of the board of directors and the auditors. All these resolutions must be embodied into a notarized deed of incorporation. This deed of incorporation further confirms that the incorporators have subscribed to all the units and gave their contribution(s) to the share capital.

- Where required, SICURTA AG can handle such procedure by being directly appointed by its Principals/Founding's Members.

- The meeting with the Founding' Member with SICURTA AG is highly recommended in order to establish his identity

- **Filing with the Commercial Registry**

After the incorporators' meeting, an application for registration of the company must be filed with the Office of the Commercial Registry at the domicile of the company. SICURTA AG can assist in carrying out this requirement. This application sets forth the essential information relating to the company, information that will also be published in the Commercial Registry, and must be accompanied by the following documents: (i) Notarized Deed of Incorporation, (ii) Certified copy of the articles of incorporation, (iii) Declarations of acceptance from the initial board members and auditors, (iv) Confirmation by a Swiss bank that the initial capital has been paid-in, (v) Board resolution concerning the constitution of the board of directors and, if so decided, the appointment of its officers.

- **Registration in the Commercial Registry**

The company becomes a legal entity only upon its registration in the Commercial Registry. Notice of the registration is published in the Swiss Official Gazette of Commerce.

- **Time needed for Formation**

The entire incorporation process normally takes approximately **two weeks** from the date of the incorporators' meeting, but may be shortened to around **three to five business days** upon consultation with the Office of the Commercial Registry.

TAXATION

- Corporate Income Tax is levied at the Federal, Cantonal and Municipal;
- The **Canton of Zug** as example of one of the lowest tax rate but **Other Cantons** offer also interesting tax rates (incl. but not limited to Schwyz, Nidwalden, Obwalden, Lucerne, etc.)-> The Federal Corporate Income Tax is 8.5% flat. Since income and capital taxes are deductible in determining taxable income, the effective tax rate that a company pays on its profits before tax is of 7.83%;

- **Withholding Tax**

A 35% withholding tax is imposed mainly on dividends distributed by resident companies, as well as on interest from bonds issued by Swiss debtors and on bank deposits. On the other hand, interest on loans and royalty payments are not subject to withholding tax. However, thanks **to an extended treaty network**, dividend distributions by the Swiss companies can generally be made without the imposition of withholding taxes. In addition to the application of double tax treaties, the so-called «capital contribution principle» applies. As a result, **repatriations of shareholder contributions are not subject to withholding tax** based on domestic law. This new rule enables the structuring of e.g. relocations in a Swiss withholding tax in an efficient way. Under the Switzerland-EU savings agreement and benefiting from the EU parent-subsidiary directive, withholding tax is reduced to 0% on cross-border payments of dividends between related companies residing in EU members states and Switzerland provided the parent company holds at least 25% of the capital of the distributing company. Many of Switzerland's tax treaties provide for a 0% or 5% residual withholding tax rate for qualifying investments.

- **Stamp Duty**

Stamp duty is levied on the issuance and increase of the equity of Swiss corporations at a rate of 1% on the fair market value of the assets contributed by the direct shareholder. An exemption applies to the first CHF 1 Mio. of paid in share capital, whether it is made as an initial or subsequent contribution. Special rules allow for reorganizations (mergers, share for share deals, spin offs, and the like) to take place without triggering stamp duty, provided certain conditions are met. Stamp duty is also levied on the issuance and transfer of shares and of debenture certificates, including all written acknowledgments of debts for fixed amounts issued for the purpose of collecting capital. Finally, there is a stamp duty on insurance premiums

- **Thin Capitalization** - The debt equity ratio should not exceed 1: 6, namely the capital may borrowed should not exceed 6 times the shareholder's equity;

• **VAT (or "TVA")** - the value added tax at 8% for all supplies of goods and services is levied.

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FAQ- FREQUENTLY ASKED QUESTIONS – PART 1

- **How long does it take to set up a company in Switzerland, and what are the costs ?**

Once the preliminaries for setting up the business have been settled (corporate structure, legal form, consulting, etc.), a Swiss company may be set up in 2-3 weeks. The process can be further accelerated in cases where the time is of essence. Fixed costs for setting up a Swiss company are usually around CHF 6,500 .- (excl. VAT). Total start-up costs vary by the authorized capital.

- **How much of a corporation's capital has to be paid in?**

The minimum capital required is CHF 100'000 .- .

- **Are there any laws regarding the nationality of the company's founders, and is their presence required during the incorporators' meeting in Switzerland ?**

The nationality of the company's founders is irrelevant. Their presence at the incorporators' meeting is not required but preferred, although the founders may appoint a nominee (i.e. SICURTA A.G. via a notarized proxy/power of attorney)

- **What are the requirements regarding the nationality of members of the Board of Directors ?**

At least one managing director domiciled in Switzerland.

- **May the members of the board of directors and the management be held accountable to shareholders or creditors ?**

The members of the board of directors and the management are jointly and severally liable to the company, any shareholder and any creditor of the company for damages caused by willful or negligent violation of their duties.

FAQ- FREQUENTLY ASKED QUESTIONS – PART 2

- **What are the requirements regarding the nationality of the members of the board of directors?**

At least one Managing Director domiciled in Switzerland (For “substance companies” SICURTA AG can easily provide offices and employee(s) demonstrating a real presence and activities)

- **May the members of the board of directors and the management be liable to shareholders or creditors?**

The members of the board of directors and the management are jointly and severally liable to the corporation, any shareholder and any creditor of the corporation for damages caused by willful or negligent violation of their duties.

- **What are the corporate tax rates and what tax incentives exist?**

Switzerland is characterized by a low overall tax burden for companies. There are attractive options for optimizing corporate taxes, on a case-by-case basis. Depending on their choice of location and activity focus, the Swiss company may enjoy tax incentives or other benefits.

- **Which license is required if the Swiss company will be engaged in providing asset management services?**

A Swiss company acting as independent asset manager must apply for a financial intermediary license before starting the activity. Such license is granted through the Anti Money Laundering Control Authority ("SRO") in Switzerland.

FEES AND EXPENSES – as indication then every case will be different

- **FORMATION FEE** CHF 6'500.-

Includes:

- Meeting with the client(s)
- Client(s)'s identity verification according to the VQF-SRO 's standards «Know your customer»
- Verification of company's name requested at the Commercial Registry of the relevant Canton
- Notary's Fees
- Preparation of Statutes and By-Laws, Notarial General Assembly (in German)
- Commercial Registry's Fees
- Registration of VAT number
- Transfer to the Notary

- **ANNUAL FEE** CHF 8'000.-

Includes:

- Provision of office spaces, dedicated telephone lines, mail handling and forwarding
- Provision of Director(s) and Secretary(-ies)*
- In accordance with SICURTA A.G.'s Schedule of Fees **Hourly rate between**

Fr. 190.- and Fr. 350.-

- **ANNUAL AUDITING FEE** CHF 2'000.- (min. p.a.)

- **BANK ACCOUNT OPENING** CHF 650.-

N.B.: Fees shown above are exclusive of 8%VAT

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