MOORE STEPHENS

Essential tax aspects of emigration and immigration for high net-worth individuals

Moore Stephens Europe

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1.1 Leaving Austria

1.1.1 Preliminary remarks

Individuals who intend to emigrate from Austria must take into account the tax consequences as well as all the reporting formalities. Austria has concluded double tax treaties with France, Germany, Italy and Switzerland. These treaties regulate taxing rights between the countries that are parties to the respective treaty and allocate the income that a person obtains between them so as to avoid double taxation.

1.1.2 Terminating residence in Austria

When transferring residence to France, Germany, Italy or Switzerland, it is necessary to consider whether a nexus remains for continuing liability to Austrian tax. Such a nexus may consist of a place of residence, a holiday home or an extended regular physical presence (stay). A place of residence is any place where an individual has a dwelling in his or her possession with the intention of using and retaining it. In this connection, it does not matter whether the dwelling is actually or currently in use; the possibility alone suffices. In order definitively to surrender a place of residence, it is necessary to sell it, let it or render it no longer habitable, by, for example, removing all the furniture. As regards holiday homes, special regulations (the Second Homes Ordinance – *Zweitwohnsitzverordnung*) apply.

Furthermore, the individual must also cease to have a habitual place of abode in Austria. This exists where the individual continues to spend time (be physically present) in Austria in circumstances that indicate that the stay is not merely temporary. This will always be the case if the stay exceeds six months.

Should the individual be simultaneously resident in two countries (under their domestic tax laws), the double tax treaty is applied to determine in which of the two the individual will be considered resident for treaty purposes (‘the residence state’). The residence state will then be entitled to tax the individual on his or her worldwide income. Where the treaty allows the other state to have taxing rights, the system provides for a credit or exemption (with progression) in the residence state in order to avoid double taxation.

1.1.3 Tax consequences of changing residence

Emigration from Austria and the consequent loss of taxing rights for Austria may give rise to an ‘exit tax’. This is the case where, for example, the taxpayer holds shares in a company.

In the private sphere, when an individual emigrates to another member state of the European Union (EU) or the European Economic Area (EEA), the individual may request that the exit-tax liability as determined at that point not become due and payable until an actual disposal of the asset in question. Emigration to a third country, however, is deemed to give rise to an immediate liability to tax, charged on the capital gain (the difference between the market value and the acquisition cost).

In addition to exit tax in the private sphere, Austria also charges an exit tax in the commercial sphere. In this case, an instalment procedure is available if the destination country is an EU or EEA state. In respect of current assets, the tax on the silent reserves may be paid in equal instalments over two years, and in respect of fixed assets, over seven years. However, should emigration to a third country take place or no request be made for payment by instalments, the tax on silent reserves is due and payable immediately.

Where there is neither a place of residence nor of habitual abode in Austria, the Austrian state nevertheless reserves the right to tax certain income, to the extent there is a nexus. Such income includes, in particular:

- Income from an agricultural or forestry business carried on in Austria
- Income from independent, business and dependent services performed or enjoyed in Austria
- Income from a permanent establishment, including a share in the profits of an Austrian partnership
- Income from letting or renting out Austrian immovable property
- Income from Austrian capital
- Income from the disposal of land in Austria

In particular cases, a 20% withholding tax applies, rising to 25% or 27.5% in special cases. This applies, inter alia, to income from the exercise of an independent activity as an artist, architect, lecturer, athlete or performer. Also subject to withholding tax are supervisory directors' fees and income from business or technical consultancy services performed in Austria, as well as income from staff hire.

1.1.4 Social insurance on termination of residence

In the area of social security, there are several bilateral and multilateral agreements that govern reciprocity between the contracting parties and ensure that their nationals receive equal treatment. Amongst other things, this means that insurance periods for compliance with a minimum number of contribution periods on which entitlement to certain benefits (above all for old-age pensions) depends are cumulated and reciprocal entitlement to benefits-in-kind such as health services in the event of illness or accident is ensured.

1.2 Coming to Austria

1.2.1 Preliminary remarks

On becoming resident or adopting a habitual place of abode in Austria, an individual becomes subject to unlimited tax liability in Austria, with the result that, in principle, all the individual's income becomes taxable there. In the event that the individual already owns capital assets in Austria at the date of immigration, there is a step-up in the value of those assets, in that for Austrian tax purposes, the market value of the assets at that date is deemed to be their acquisition cost, in order to avoid potential double counting of gains or double taxation.

Individuals whose transfer to Austria furthers the advancement of science, research, art or sport and whose presence is therefore considered to be in the public interest, may on application to the Ministry of Finance be granted relief from the additional tax liabilities that they would otherwise incur on foreign income by reason of becoming resident in Austria for tax purposes. The reliefs remain available as long as their stay in Austria continues to be regarded as in the public interest.

Individuals the centre of whose vital interests is located abroad for more than five calendar years only become subject to unlimited tax liability in Austria by virtue of having a place of residence there in those years in which the residence is used for more than 70 days.

1.2.2 Tax consequences of changing residence

Where another state continues to have taxing rights under a double tax treaty in respect of certain income, such as on the rental income from land situated there, Austria grants either exemption with progression or a foreign tax credit on that income, according to the tax treaty in question.

Austrian income tax is progressive. The starting rate is 25%, which applies to income after the first EUR 11 000. The top rate of 50% applies to that part of income exceeding EUR 60 000, but it should be noted that until 2020, a special top rate of 55% applies to that part of income above EUR 1 000 000.

Austrian law provides for a special tax at source on domestic dividends from joint-stock companies and limited-liability companies (*Kapitalertragsteuer*). This capital gains tax must be withheld by the company at the rate of 27.5% when the distribution is made. The tax withheld is regarded as full and final settlement of the liability to income tax in respect of the dividend (so-called final taxation). However, if the taxpayer opts for normal assessment, this income is instead subject to 50% of the individual's average rate of tax. This type of final taxation applies also to income from debt securities where the payer of the coupon is situated in Austria. A final tax of 25% applies to income from savings deposits with domestic banks.

Gains from the disposal of private participations are taxable at a flat rate of 27.5%. Special rules apply to participations acquired before 1 January 2011.

Since 1 April 2012, a property gains tax (*Immobilienertragsteuer*) has been imposed at a flat rate of 30% on capital gains from the disposal of private plots of land. Exemptions from this tax include property occupied by the taxpayer (principal private-residence exemption) and self-build buildings (constructor exemption). Immovable property acquired before 31 March 2002 benefits in principle from reliefs that reduce the effective rate of tax to 4.2% of the disposal proceeds.

Other gains from the disposal of private assets are in principle free of tax, provided that the disposal is not considered to be speculative. Transactions are considered to be speculative if the period of time between acquisition and disposal is no longer than one year. In Austria, there are no wealth taxes other than the property tax (*Grundsteuer*).

The acquisition of land in Austria is subject to an immovable property transfer tax (*Grunderwerbsteuer*) payable by the transferee at a rate of 3.5% of the sale price. If the purchaser and vendor are related to certain degrees of kinship, a progressive scale of rates from 0.5%to 3.5% applies. The owner of land must also pay an annual property tax, but since this is based on the low so-called unit value (*Einheitswert*) of the land, the resulting tax burden is of limited significance.

1.2.3 Other remarks

Since 1993, it has been possible to establish foundations (*Stiftungen*) in Austria, which also or predominantly serve private purposes. This created an incentive to transfer foreign property into an Austrian foundation. A private foundation can serve as a form of family holding company for shares and can often better ensure the maintenance of shareholdings even across generations than any articles of association or syndication agreement.

1.3 Inheritance and gift tax consequences

Following the abolition of inheritance and gift tax, private persons are free of any tax on inheritances or gifts of Austrian property from the point at which they take up residence in Austria.

There is, however, an obligation to report gifts of property. Transfers into foundations are subject to an entry tax (*Eingangsbesteuerung*) of 2.5%. Where the property being transferred consists of land, the tax rate is increased by 3.5 percentage points, amounting to a rate of 6% in total of the relevant value of the land acquired by the foundation.

Austria has inheritance tax treaties, including one with Switzerland. The treaty with Germany was terminated at the end of 2007. However, on 6 November 2008, a temporary prolongation agreement was concluded, under which the former treaty was deemed to continue to apply to cases where the deceased transferor died after 31 December 2007 and before 1 August 2008.

2. France

2.1 Leaving France

2.1.1 Preliminary remarks

Emigration from France can be associated with numerous tax complications, which essentially depend on whether physical emigration also connotes loss of tax residence in France.

2.1.2 Terminating residence in France

Under French tax law, an individual is considered to be resident in France for tax purposes when at least one of the following conditions is met:

- The individual is living in France on a permanent basis with his or her family (the centre of familial interests)
- The individual does not have his or her centre of familial interests in France but is predominantly physically present (for more than six months in the year) there
- The individual carries out his or her main job or professional activity in France; or
- The individual's centre of economic interests is in France

The terms of a tax treaty are invoked in questions of tax residence only where an individual is dually resident under the domestic laws of the two states concerned or the individual's residence status is disputed. The treaties with Austria, Germany, Italy and Switzerland determine residence in these cases by the application of the following criteria in succession: permanent place of abode, centre of vital interests, habitual place of abode and nationality.

Tax residence in France is regarded as terminated either where the individual no longer meets any of the conditions listed above or France is not the individual's residence state upon application of the relevant double tax treaty.

2.1.3 Tax consequences of terminating residence

Once emigration and termination of residence has taken place, unlimited tax liability in France ceases and the individual must pay tax in France on income derived up to the date of emigration. From that date on, only the individual's income derived, and assets located, in France are subject to tax in France (limited tax liability), unless a tax treaty provides otherwise. A minimum rate of tax of 20% applies to the French-source income of a non-resident subject to limited tax liability, unless the taxpayer can satisfy the tax authorities that he or she would have paid less tax if his or her income, both domestic and foreign, were taxable in France.

Terminating residence in France gives rise to an exit tax. This means that all increases in value of assets that have not been subject to tax up to the date of departure become immediately taxable. Emigration can also have the result that certain types of income receivable by the individual become subject to withholding tax in France. These are principally as follows.

2.1.3.1 Salaries and similar payments (private pensions)

Where such income is derived in France by an individual subject to limited tax liability, it is paid under deduction of a progressive tax at source withheld by the employer or the paying agent. The applicable rates in 2018 are as shown in Table 1.

Table 1

Net income*	Rate of withholding tax
First EUR 14 605	0%
Next EUR 27 765	12%
Balance over EUR 42 370	20%

*Tax is applied to the gross salary or pension net of any social security contributions and a 10% tax-free allowance.

The individual's family and personal circumstances are not taken into account for the purposes of the withholding tax. Tax paid at the rate of 12% is considered final and that part of the income is not subject to further taxation. However, where the 20% rate is applicable to any part of the individual's income, the tax withheld is a payment on account and must be declared in the individual's tax return and is taxed at a minimum rate of 20%, with the withholding tax treated as a tax credit.

2.1.3.2 Dividends, interest and capital gains

Dividend distributions to private individuals in Austria, Germany, Italy or Switzerland are subject to withholding tax at a rate of 21%, reducible to 15% under the relevant tax treaty. The French withholding tax qualifies as a tax credit in the residence state.

Payments of interest are in principle free of withholding tax under the relevant tax treaty.

Capital gains from the disposal of shareholdings in French companies by non-resident individuals are free of tax in France under the terms of the treaties with Germany and Switzerland. However, the treaties with Austria and Italy contain a special provision, under which gains from the disposal of a 'substantial shareholding' (one of more than 25%) are subject to income tax in France at progressive rates (maximum 45%).

2.1.3.3 Income and gains from land

Rental and letting income from land and capital gains from the disposal of immovable property in France are always taxable in France under the situs principle. As regards rental income, it should be borne in mind that in determining net taxable income, there is no allowance for depreciation of the property. Losses of up to EUR 10 700 may be deducted from other income, and the balance may be carried forward for setting off against future rental income for a maximum 10 years. The tax payable may not be less than 20% of the taxpayer's net income.

The rate of income tax on capital gains from disposals of land is 19% for EU and Swiss residents, but there is another 17.2% social security charge on the capital gain. If the land has remained in the taxpayer's ownership for 22 years, the gain is free of income tax but ownership has to extend to 30 years before exemption from social security contributions is secured. Under certain circumstances, capital gains from the disposal by an EU resident of a French second residence may be exempt.

Termination of residence in France does not absolve the emigrant from the obligation to file an annual tax return.

2.1.4 Social insurance on terminating residence

In the area of social security, there are several bilateral and multilateral agreements that govern reciprocity between the contracting parties and ensure that their nationals receive equal treatment. Amongst other things, this means that insurance periods for compliance with a minimum number of contribution periods on which entitlement to certain benefits (above all for old-age pensions) depends are cumulated and reciprocal entitlement to benefits-in-kind such as health services in the event of illness or accident is ensured.

Accumulated pension rights are in principle not lost on emigration, and emigrants should be able to draw their French pensions in Austria, Germany, Italy or Switzerland.

2.2 Coming to France

2.2.1 Preliminary remarks

Austrian, German, Italian or Swiss nationals who wish to emigrate to France should inform themselves in advance of the tax consequences. France is numbered among those European countries that still levy a wealth tax, for example. Moreover, the rates of inheritance and gift tax in France are relatively high in comparison to those in Austria, Germany, Italy and Switzerland.

There is no reporting or registration requirement for individuals coming to live in France; the individual's registration with the tax authorities will occur on the filing of the first tax return in the year following the year of arrival.

2.2.2 The tax consequences of becoming resident

Individuals resident in France for tax purposes are subject to unlimited tax liability, which begins on the date of arrival for those becoming so resident. They must therefore declare their total income from French and foreign sources in their French tax return. Any double taxation will be avoided either by a credit for foreign tax (as for dividends) or by exemption with progression (as for salaries).

The double tax treaty with Switzerland contains an unusual provision in connection with the avoidance of double taxation by means of exemption with progression. Income that is taxable in Switzerland under the treaty is only recognised in France for the purposes of progression (applying progressive tax rates). Exemption for the income in France is, however, given only once it has been proven that the income has actually been taxed in Switzerland. Income that is taxable in Switzerland under the treaty but is actually not taxed, for whatever reason, does not thereby qualify for exemption in France.

Income tax is assessed on a previous-year basis and the actual amount of income tax payable varies according to the taxpayer's family circumstances; the highest rate of tax is 45% which, in 2018, is reached on net taxable 2017 income of EUR 153 783 for a single person.

The taxation of certain types of income is briefly described below.

2.2.2.1 Salaries and similar income

This type of income is in principle taxable in France if the employment or other activity is or was exercised in France. Currently, as has traditionally been the case, for individuals who are subject to unlimited tax liability, tax is not withheld at source by the employer or other payer of the income; instead, the individual must declare the income in his or her tax return and is then taxed by assessment. This system will be changing from 1 January 2019, however, when a system of withholding at source by the employer etc will be introduced, although taxpayers will still be required to declare the income. This system will thus apply equally to those taxpayers subject to limited tax liability (as at present) and to those subject to unlimited tax liability. The system will apply to all monthly salaries exceeding a certain threshold. Expenses of employment are recognised by a lump-sum deduction of 10% of net salary, subject to a cap of EUR 12 305 with respect to 2017 income (taxable in 2018). Actual employment expenses exceeding the lump-sum amount may be deducted instead, if properly substantiated.

2.2.2.2 Interest income

From 1 January 2018, interest is subject to a single, flat-rate charge of 30% (*prélèvement forfataire unique* – PFU) by withholding, consisting of income tax at 12.8% and social security contributions of 17.2%. Taxpayers may, however, opt to have interest income taxable at progressive rates of income tax of up to 45%. If their final liability on the income is below 30%, the balance will be repaid.

The option for progressive taxation applies, however, to all investment income and capital gains from shareholdings. It is not possible to choose it for one form of income or gains but not the other(s).

Before 1 January 2018, interest was in principle subject to income tax at progressive rates and to social security contributions of 15.5%.

Taxpayers were entitled, however, to opt instead for a final withholding tax (*prélèvement forfaitaire libératoire*) of 24%, deductible by the debtor, in lieu of income tax. It must be noted that 15.5% social security contributions had still to be paid, so that the total rate of tax under this option was 41.2%.

2.2.2.3 Dividends

As from 1 January 2018, like interest, the full amount of dividends is subject to the PFU at 30%, with the option for progressive rates of income tax on dividends, interest and capital gains from shareholdings (see also under 2.2.2.2). Where this option is chosen, the 40% deduction previously available for all dividends (see below) is applicable.

Before 1 January 2018, dividend income was subject to progressive rates of income tax, but only after a deduction of 40% (so that only 60% of the dividend received was liable to tax). In addition to income tax, social security contributions of 15.5% were chargeable. Taxpayers received dividends after deduction of a non-final withholding (*prélèvement forfaitaire non-libératoire*) of 21%.

2.2.2.4 Capital gains

As from 1 January 2018, capital gains from the disposal of shareholdings are also subject to the 30% PFU, with no reduction for longer periods of ownership. Taxpayers have the option to choose that progressive rates of income tax apply to their gains, in which event, 50% of the gain is exempt if the period of ownership exceeded two years and 65% of the gain is exempt if the period of ownership exceeds eight years, provided that the shares were acquired before 1 January 2018. No reduction for longer periods of ownership will be available for shares acquired on or after 1 January 2018, even if the option for the progressive rates of income tax to apply is chosen. The option applies to income tax only. The 17.2% charge to social security contributions will still apply.

Before 1 January 2018, capital gains from the disposal of shareholdings were subject to progressive rates of income tax and social security contributions of 15.5%. However, for the purposes of income tax (but not social security contributions), 50% of the gain was exempt if the period of ownership exceeded two years and 65% of the gain was exempt if the period of ownership exceeded eight years.

Capital gains from share options and bonus (free) shares are subject to special tax treatment, giving rise to specific problems in a cross-border context, which need to be addressed when becoming resident in France.

Capital gains from the sale of immovable property and shares in property companies (companies more than 50% of whose assets consist of immovable property not used for the purposes of the company's business) are taxed at the rate of 19%, plus social security contributions of 17.2%. For the purposes of income tax, from the sixth year of ownership thereafter, the taxable gain is reduced by 6% for each year of ownership, so that after 22 years, the gain is fully exempt. Exemption from the social security charge applies only after the 30th year of ownership.

2.2.2.5 Property rents

Income from the renting and letting of property is subject to income tax at progressive rates, after deduction of expenses (such as interest, repair costs, insurance, tax etc) actually incurred. Depreciation may only be deducted if special provisions apply. Income from foreign property is in principle exempt in France but must be declared in a tax return for the application of progressive rates (exemption with progression). The amount of taxable income must be calculated under French tax rules. According to current practice, losses from the renting of foreign property are not recognised for the purposes of reducing the applicable rate of French tax.

2.2.2.6 Wealth tax

Private individuals in France are liable to an annual wealth tax if the net market value of their taxable assets after deduction of all outstanding liabilities exceeds a certain threshold (EUR 1.3 million in 2018). Applicable tax rates are progressive and range from 0.5% to 1.5% (the band of net wealth exceeding EUR 10 million). From 1 January 2018, only directly or indirectly held immovable property and rights over immovable property are subject to the wealth tax. Previously, all assets, except those specifically exempt, were taxable.

Individuals resident in France for tax purposes are subject to unlimited wealth-tax liability (i.e. their worldwide immovable property assets, both in France and abroad, are liable to the tax), whereas non-residents are taxable on their French immovable property assets only.

These rules are subject to any contrary provisions in double tax treaties to the extent those treaties cover wealth taxes, which is the case for the treaties with Austria, Germany, Italy and Switzerland. In principle, individuals moving to France from these countries become liable to French wealth tax on the basis of their worldwide assets. However, their foreign assets remain exempt from wealth tax for the first five years.

2.2.3 Other remarks

In order to make France a more attractive location for leading executives, certain tax reliefs have been introduced. Thus, for example, employees and executives who are posted to France or recruited directly by a French company, and thereby acquire residence in France for tax purposes, benefit for the first eight years of their stay from certain income tax and wealth tax reliefs. Certain benefits connected with relocation (expatriation allowances, accommodation costs, flights home etc.) may under certain circumstances be exempt from income tax. Employees directly recruited from abroad may claim a 30% exemption from their basic salary.

2.3 Inheritance and gift tax consequences

The application of French inheritance and gift tax depends on the residence status of the parties at the time of the transfer.

Where the transferor is resident in France, unlimited liability to tax applies, so that both domestic and foreign assets are taxable. Where the transferor is non-resident, the following rules apply, depending on the residence status of the transferee:

- Only assets situated in France (French immovable property, debt-claims against French-resident debtors, shares in a French company etc) are taxable if the transferee is also resident abroad. However, if the transferee is resident in France at the time of the transfer and has been resident in France for at least six of the preceding ten years, the tax applies to worldwide assets
- Allowances are available depending on the degree of relationship (consanguinity) between the parties. For example, transfers to individuals in the direct line currently qualify for an allowance of EUR 100 000
- Lifetime gifts between spouses qualify for an allowance of EUR 80 724. Transfers *mortis causa* between spouses are exempt. Allowances are available once only within any 15-year period

Tax rates are progressive and range from 5% to 45% (which applies to that part of the taxable transfer exceeding approximately EUR 1.8 million but only to (a) lifetime gifts to spouses; (b) lifetime gifts to individuals in the direct line; or (c) transfers on death to individuals in the direct line). Different allowances (if any) and rates apply to transfers to other persons. Gift tax rates may be reduced by up to one half, depending on the age of the donor. Liability for the tax lies with the transferee, but may be assumed by the transferor, in which case the tax is added to the value of the transfer or treated as an additional gift.

These rules are subject to any contrary provisions of a tax treaty. France currently has very few estate and gift tax treaties.

The former estate tax treaty with Switzerland has been revoked by France. Gifts and inheritances received after 31 December 2014 are subject to French tax under the above rules. Under the treaties with Austria and Italy, gifts and inheritances are in principle taxable in France if the transferor is resident in France at the time of the transfer. n addition, French-situated immovable and business property of a foreign transferor are always taxable in France.

3. Germany

3.1 Leaving Germany

3.1.1 Preliminary remarks

Emigration from Germany can be variously motivated. Grounds for leaving could include affinity to a different culture, climatic reasons, personal relationships or tax reasons. The tax consequences that arise, however are the same, whatever the actual reason for leaving. The key to those consequences is the so-called *Außensteuerrecht* (which may be translated as 'the Taxation of Foreign Relationships Act'). Moore Stephens can help you deal with the changes in your personal circumstances once you are abroad. What follows is an overview of what needs to be done before you leave and what happens afterwards, to provide you with your first points of reference. From its point of view, the State has a justified interest to secure its tax revenues and it therefore submits emigration to detailed scrutiny, to see whether significant tax revenues may accrue. In many cases, emigration can be achieved without incurring any noteworthy tax liabilities. We are on hand to advise you whether this will be so in your case or whether you will be faced with a considerable tax bill on emigration and support you in forward planning for your departure.

3.1.2 Terminating residence in Germany

When unlimited tax liability in Germany ceases by virtue of giving up your residence or habitual abode there, different consequences can arise with regard to continuing tax liability in Germany.

These can be:

- No further liability to German tax
- Extended limited tax liability (see Section 3.1.3)
- Limited tax liability (see below)

Assumptions:

- [*You* are] an individual (a 'natural person')
- [*You* have] no place of residence and no habitual abode in Germany
- [*You* have] income arising in Germany

Consequences:

Only your domestic income will be subject to German tax, i.e. income with its source in Germany (the source principle). Limited liability also applies to the solidarity surcharge (*Solidaritätszuschlag*). Germany's taxing rights may, however, be limited by a double tax treaty.

Review:

We should welcome working with you to explain what 'domestic income' means in the context of limited tax liability and whether Germany's taxing rights will be restricted.

3.1.3 Tax consequences of changing residence

A disposal of shares in a company is liable to income tax in Germany. Since as a rule, emigrating from Germany causes taxing rights on a subsequent disposal to be lost, at the point of emigration you are deemed to have disposed of the shares and the 'silent reserves' (the unrealised appreciation in value of the shareholding) that have accrued to date are brought into tax by this means.

Conditions:

- The individual was subject to unlimited tax liability in Germany for at least ten years
- Unlimited tax liability in Germany ceases due to the individual's giving up his or her residence or habitual place of abode (or other alternative evidence)
- At the point when unlimited tax liability ceases, the individual holds shares in a domestic or foreign company
- The shares meet the requirements of section 17 of the Income Tax Act (*Einkommensteuergesetz*) (significant shareholding > 1%)

Consequences:

- A capital gain is deemed to arise from a notional disposal, equal to the difference between the market value of the shares at the time of emigration and their acquisition cost
- The gain is subject to the partial-income procedure (60% tax liability)
- The tax due may be postponed for up to five years by providing security or paying in instalments, but the gain will be crystallised if the shares are realised abroad (e.g. by a sale or by a hidden contribution)
- When an EU/EEA national emigrates to another EU/EEA state, the tax is automatically defered. This does not, however, apply, where there is no possibility of enforcement (as there is not in Liechtenstein). Deferment is interest-free and subject to the proviso that crystallisation will be triggered by a disposal in, or emigration to, a third country. Failure to notify the relevant German tax office by 31 December of each year of residence status and ownership status in relation to the shareholding will revoke the deferment. The same holds true as regards alternative evidence (gifts, in particular)
- Should there exist at the date of emigration the intention to return to Germany within five years, a provisional assessment is issued, payment on which is deferred against the provision of security. Tax liability lapses retroactively if the individual again becomes subject to unlimited liability to tax within those five years. The tax authorities may extend this period to a maximum of ten years if the taxpayer satisfies them that there were professional reasons for the extended absence

Review:

We should welcome working with you to clarify whether the circumstances in your case point to a tax liability on emigration and which mitigation possibilities may exist.

Where extended limited liability to tax exists, tax consequences may arise irrespective of whether there is a significant participation. Extended limited liability to tax is a special case of limited tax liability in respect of domestic income when a German national ceases to be subject to unlimited tax liability. It applies where such an individual, on ceasing to be subject to unlimited tax liability, transfers his or her residence or habitual place of abode to a low-tax jurisdiction but maintains material business interests in Germany. This is intended to prevent individuals from moving to low-tax jurisdictions purely for tax-motivated reasons.

Conditions:

- German nationality
- The individual gives up his or her residence or habitual place of abode in Germany
- The individual must have been subject to unlimited tax liability in Germany for at least five years within the preceding ten
- The individual must retain significant business interests in Germany
- Emigration must be to a low-tax jurisdiction

Consequences:
Certain assets remain taxable in Germany for the following ten years.

Review:
We should welcome working with you to clarify whether a low-tax jurisdiction is involved and whether significant business interests have been retained and what income falls within these rules.

3.1.4 Social insurance on termination of residence

Tax is merely one element when considering emigration. There are numerous and serious other considerations. They begin with residence permits, visas and work permits, extend to language issues, health issues, insurance considerations (social insurance, health insurance, pensions, civil-liability insurance etc) and finish with care issues in the case of old age or illness, not to mention other legal questions from A to Z. Please bear these in mind and seek advice on all these and many other questions that concern you (e.g. what will happen to pension rights you have already earned?). Be well informed!

3.2 Coming to Germany

3.2.1 Preliminary remarks

Successful immigration to Germany essentially depends on meeting the legal entry and residence regulations. The necessary registration and authorisation requirements must be complied with. If you are a national of a European Union (EU) or European Economic Area (EEA) member state, you benefit from free movement and are entitled to enter and reside in the Federal Republic of Germany.

3.2.2 Tax consequences of changing residence

Individuals become subject to unlimited tax liability in Germany at the moment when they establish residence or a habitual place of abode in Germany. Liability to income tax extends not only to German income but also to all income from the previous residence state and from third countries, such as income from securities, interest income and pensions (worldwide-income principle). Depending on the relevant double tax treaty, certain foreign income may be exempt from tax in Germany or at least offset against domestic tax.

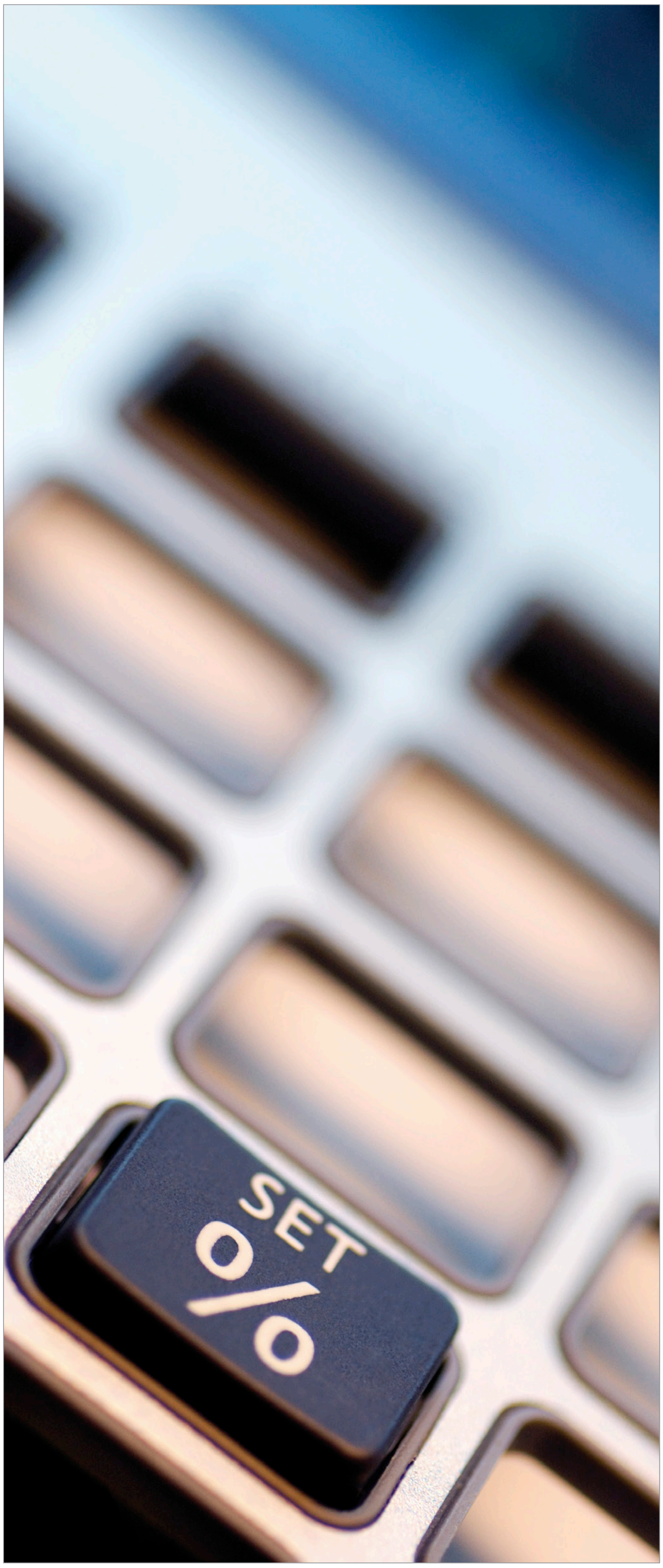
Income tax rates are progressive, with a starting rate of 14% once income exceeds the tax-free allowance (*Grundfreibetrag*) and a top rate of 45%. In addition, the solidarity surcharge (*Solidaritätszuschlag*) is payable at the rate of 5.5% of the liability to tax and for those individuals who are confessing members of recognised churches there is a church tax (*Kirchensteuer*) at a rate of between 8% - 9%.

There are numerous deductions and allowances available in computing taxable income (e.g. the deduction of special expenses and extraordinary charges). Married couples benefit from further tax reliefs, such as joint assessment and child allowances.

Where a business is carried on, trade tax (*Gewerbesteuer*) will be payable. The amount of trade tax depends on the tax rate set by the local authority in which the business is carried on. A person liable to trade tax may claim a deduction from income tax in his or her income tax return.

Income from private capital assets is liable to withholding tax. This income includes dividends, jouissance rights, income from life insurance and interest income from loans. The single rate of tax on income from private capital is 25%, plus solidarity surcharge and any church tax.

On an acquisition of German immovable property, a property transfer tax (*Grunderwerbsteuer*) is payable, the rate of which is set by the federal *Land* (state) in which the property is situated and ranges between 3.5% and 6.5%.



3.2.3 Other remarks

The tax aspects of immigration to Germany are complex and wide-ranging. As this brochure can only provide a brief overview, we strongly recommend that you contact us for a detailed examination of the tax consequences that would arise in your personal circumstances.

3.3 Inheritance and gift tax aspects

Germany has a personal inheritance and gift tax, which applies whenever either the transferor (the deceased in the case of a disposition on death (*mortis causa*) or the donor in the case of a lifetime (*inter vivos*) gift) or the transferee (the legatee or beneficiary or the donee, as the case may be) is resident or has a habitual place of abode in Germany. This also applies to emigrants who are German nationals who, at the date of death or of the gift *inter vivos*, have been resident abroad for no longer than five years (an example of extended unlimited tax liability).

Even after the expiry of this five-year period, there remains limited tax liability, such that German-situs assets (e.g. a business or immovable property in Germany) passing *mortis causa* or by *inter vivos* gift are liable to the tax. This applies even when all parties are resident abroad, no matter for how long.

Double taxation may arise as a result of various or multiple nexuses between national inheritance and gift tax laws, which charge tax by reference to the situs of assets or the residence status of transferors and/or transferees. In this way, both subjective and objective tax liabilities may arise in two or more countries. If there is no double tax agreement (and these are fewer in number than income and capital tax treaties), reliance has to be placed on the domestic tax rules of the countries involved to reduce or avoid double taxation. In Germany, these take the form of a credit for the foreign tax paid against the German tax liability.

The amount of inheritance and gift tax payable in Germany in any case is based on the market value of the asset being transferred. The rates of tax are progressive and also depend on the degree of consanguinity between the transferor and transferee, and range between 7% and 50%. Personal allowances of between EUR 2000 and EUR 500 000 may be available. These also depend, inter alia, on the degree of consanguinity. The transfer of business assets qualifies for additional tax reliefs.

4. Italy

4.1 Leaving Italy

4.1.1 Preliminary remarks

Hardly any detailed regulations on the taxation of income and wealth exist in relation to the emigration of an Italian national to Switzerland, Austria, France or Germany (which is to say, there is no so-called exit tax). Nevertheless, the potential tax consequences should be planned for in advance. In particular, the double tax treaties concluded with Austria, France, Germany and Switzerland, as well as with other countries, should be borne in mind, as they provide for the allocation of taxing rights with respect to income and wealth. The rest of this chapter looks in greater detail at the most significant tax aspects of the emigration decision.

4.1.2 Terminating residence in Italy

The decisive factor in a change of residence for tax purposes is that the individual's 'domicile' (the centre of his or her vital and economic interests) or 'residence' (the individual's habitual place of abode) should be located abroad for more than 183 days. Only if that is the case will the individual be no longer resident in Italy for tax purposes. The tax authorities may, however, refuse to recognise the individual's emigration to another residence state if the individual concerned demonstrably maintains particular economic and social ties with Italy. It then falls on the taxpayer to substantiate or prove the facts underlying the change of residence.

All Italian nationals who have been living abroad for more than one year must report their absence in the commune where they were formerly resident at the local residents' registration office (*anagrafe*) and register with the A.I.R.E. (*Anagrafe italiani residenti all'estero*) – the registration office for Italians resident abroad. There are exceptions for temporary emigration for periods no longer than a year and for government employees working abroad.

Special regulations exist where individuals emigrate to jurisdictions with favourable tax regimes. An individual who emigrates to a jurisdiction considered to be a 'tax haven', which description applies also to Switzerland, continue to be regarded in principle as resident in Italy. Exceptions to this rule exist where the individual can demonstrate that he or she has actually transferred his or her residence to the tax haven concerned.

In the event of dual residence, i.e. where the individual is considered to be resident both in Italy and in one of Austria, France, Germany or Switzerland by virtue of a domicile or residence in both countries, the relevant double tax treaty is applied to determine in which state the emigrant is considered to be resident for the purposes of the treaty, and in this connection it is the so-called centre of vital interests that is decisive. There follows an example.

Take a person who spends weekdays in Italy for work reasons but weekends in Germany with his family. Such an individual will be considered to be tax-resident in that state in which his centre of economic and personal interests lies (i.e. Germany). In this situation, only his income from e.g. dependent services (employment) will be taxable in Italy, while his worldwide income from all sources will be taxable in Germany, with a credit for the Italian tax against the German tax on his salary.

4.1.3 Tax consequences of changing residence

After emigration, tax liability in Italy is limited to Italian-source income. There is no provision for an exit tax on natural persons who are not carrying on a business (within the meaning of Article 55 of the TUIR (*Testo unico delle imposte sui reditti* – the Italian Consolidated Income Tax Code). Income that is regarded as having its source in Italy principally consists of:

4.1.3.1 Income from the ownership of immovable property

Income from immovable property and property assets situated in Italy and appurtenances; income is also derived when the relevant property is owner-occupied, in which case a notional rent is posited.

4.1.3.2 Income from invested capital

Income paid from Italy, whether by persons resident in Italy or by non-residents with a permanent establishment in Italy (e.g. interest from securities issued by an Italian issuer), is in principle taxable in Italy, unless there is a contrary provision in the relevant double tax treaty.

4.1.3.3 Income from business

Income from enterprises founded in Italy or from an Italian branch of the enterprise (Italian permanent establishments, interest in an Italian partnership).

4.1.3.4 Miscellaneous income

Capital gains arising in connection with a disposal of immovable property ('speculative' if within five years of acquisition) and building land (no time limit to qualify as 'speculative', always taxable) and capital gains in connection with the sale of shares and other participations, unless there is a contrary provision in the relevant double tax treaty.

4.1.3.5 Income from dependent and independent services:

Income from dependent services performed in Italy and equivalent revenues from independent services performed in Italy (including occasional services), unless there is a contrary provision in the relevant double tax treaty.

The tax obligations due to the Italian state after emigration are principally the duty to declare taxable income in the individual's annual tax return and pay the income tax arising (and any payments in advance); where immovable property is owned, there is also the local property tax (IMU – *imposta municipale propria*) and the local services and refuse-collection taxes TASI (*tassa sui servizi indivisibili*) and TARI (*tassa sui rifiuti*), the rates of which are set by the relevant local authority.

4.1.4 Social insurance on terminating residence

In the area of social security, there are several bilateral and multilateral agreements that govern reciprocity between the contracting parties and ensure that their nationals receive equal treatment. Amongst other things, this means that insurance periods for compliance with a minimum number of contribution periods on which entitlement to certain benefits (above all for old-age pensions) depends are cumulated and reciprocal entitlement to benefits-in-kind such as health services in the event of illness or accident is ensured.

Entitlement to pensions is in principle maintained and pensions can be received in Austria, France, Germany or Switzerland.

4.2 Coming to Italy

4.2.1 Preliminary remarks

Immigration to Italy depends in principle on compliance with the statutory immigration regulations by the would-be immigrant. The relevant reporting requirements and permits must be observed.

EU nationals are able to move freely within the European Union. If an EU national transfers residence to Italy, he or she must register at the local commune within 60 days of arrival. After successful registration, the individual receives an identity card and access to communal social services (social security benefits, crèches etc).

Residence in Italy is regarded as having been established when an individual has been registered in the Population Register (*anagrafe*) for the majority of the taxable period (at least 183 days ina calendar year) and has his or her domicile or place of residence in Italy.

4.2.2 Tax consequences of changing residence

4.2.2.1 Regular taxation

On becoming resident in Italy for tax purposes, nationals of Austria, France, Germany or Switzerland become subject to unlimited tax liability in Italy on their worldwide income, i.e. their aggregate worldwide income is taxable in Italy, subject to an entitlement in the relevant tax treaty to a tax credit for taxes paid abroad.

Income tax is charged on the basis of total income as declared in the individual's tax return, as reduced by any applicable deductions and allowances, at progressive rates ranging from 23% to 43%, as shown in Table 2:

Table 2

Band of taxable income	Tax rate
EUR 0 - EUR 15 000	23%
EUR 15 001 - EUR 28 000	27%
EUR 28 001 - EUR 55 000	38%
EUR 55 001 – EUR 75 000	41%
over EUR 75 000	43%

In addition, there are regional and communal surcharges on income tax. The rates of these surcharges range from zero to a maximum 1%. There is no wealth tax.

Total income comprises the following types of income:

- Income from land
- Income from capital
- Income from dependent services
- Income from independent services, the free professions and from business
- Other income

Significant deductions may be claimed for dependants, medical expenses, loan interest for first-time home buyers, on loans for restoration work on property and for social security contributions.

The filing dates for different tax returns vary, but June of the following year can be regarded as a guideline. It should be noted that salary tax is deductible by the employer from income from dependent services (employment). If the taxpayer receives income from employment exclusively, simplified tax-return forms (Model 730) are available and under certain conditions, no return need be filed at all.

With regard to specific types of income, immovable property is taxable even where no associated income (rents) is received directly; according to the nature of the property, a notional rent is deemed to be derived for tax purposes. Speculative capital gains from the disposal of immovable property are tax-free after five years of ownership, with the exception of gains from building land.

4.2.2.1.1 Income from capital and other income

Important issues to note in connection with the assessment and taxation of income from capital and other income are discussed below.

Shareholdings are classified into non-qualifying and qualifying. Non-qualifying shareholdings are those carrying a voting power of no more than 20% (unquoted companies) or 2% (quoted companies) and comprising no more than 25% of share capital (unquoted companies) or 5% (quoted companies). Qualifying shareholdings are shareholdings other than non-qualifying shareholdings.

Since 1 July 2014, disposals of non-qualifying shareholdings have been subject to a final withholding tax of 26%.

As regards capital gains from disposals of qualifying shareholdings, on the other hand, these are included in total income and subject to tax at progressive rates on 58.14% of the amount. Before 1 January 2018, the taxable proportion was 49.72%. This rule applies both to domestic shareholdings and to foreign shareholdings. As a rule, under Italy's double tax treaties, this type of capital gain is exclusively taxable in the residence state (i.e. Italy). It should be noted that in certain circumstances, the value to be used in determining the book value of the shareholding is that used for the purposes of exit tax in the former residence state (as in e.g. the treaty with Germany). Moreover, there are also special rules applicable in certain circumstances to the disposal of shareholdings in property companies (as in e.g. the treaty with France). Special rules apply to capital gains from the disposal of an interest in a partnership, since these are in principle taxable in the country in which the registered office of the partnership is located and the transactions concerns income classified for treaty purposes as income from business, which is taxable where the business is 'established'.

The taxation of domestic and foreign dividends from non-qualifying shareholdings paid to a private person is effected by means of a final withholding tax of 26%. By contrast, dividends from qualifying shareholdings are subject to progressive rates of tax on 49.72% of the amount of the dividend where the distribution is made out of earnings accrued before 1 January 2017 and on 58.14% of the amount of the dividend where the distribution is made out of earnings accrued after 31 December 2016. As regards foreign dividends, a credit for any foreign tax paid is available in respect of qualifying shareholdings but only in so far as the tax withheld abroad is in compliance with the rules of the relevant tax treaty and only to the extent of the Italian tax on the dividend. Where the tax withheld abroad is greater than provided in the treaty, the excess must be reclaimed from the foreign tax authorities.

Bank interest, income from debt-claims, securities and property-investment funds are subject to a final tax at source of 26%. Italian nationals with assets abroad (including immovable property) must declare these assets in a special section of their tax return (Form RW). This requirement is enforced for the purposes of monitoring foreign exchange holdings and checking on the subjection of the corresponding income to the IVIE and IVAFE taxes. IVIE (*imposta sul valore degli immobili situati all'estero*) is a tax of 0.76% on the value of the taxpayer's foreign immovable property. IVAFE (*imposta sul valore delle attività finanziarie detenute all'estero*) is a tax on financial assets held abroad, including bank deposits and insurance policies, applied at a rate of 0.2% or at a fixed rate of EUR 34.20 on current accounts and savings accounts. However, no income is to be declared in the corresponding section of the tax return, which requires only an inventory of foreign assets and any relevant movements.

As is generally known, EU Directives provide for automatic exchange of information in respect, inter alia, of interest income between the tax authorities of EU Member States. In Italy, this means that the Italian tax authorities not only receive information from taxpayers themselves on Form RW but also additionally from the relevant foreign tax authorities. This ensures both that the actual taxation of interest and other income from capital can be checked and that any omissions from the Form RW can in every case be detected. Individuals resident in Italy are therefore obliged to disclose detailed information on movements in their financial and property assets situated abroad. Failure to do so may result in a penalty of between 3% to 15% of net assets; where the assets are situated in blacklisted jurisdictions, these penalties are doubled. The only exceptions relate to bank accounts the interest from which is immediately credited to an account in Italy, on the account holder's instructions, from which the relevant Italian financial institution withholds tax at the rate of 26%.

Acquisition of immovable property in Italy incurs liabilities to indirect taxes such as the registration tax, the mortgage tax and the cadastral tax. These can together amount to approximately 9% of the purchase price. In the case of agricultural property, the total can rise to 15%. Special reliefs are available in respect of first homes and heritage property.

There is also the property tax (IMU – see above) payable to the local commune. Tax rates vary between 0.046% and 0.106% of the so-called cadastral value (a notional annual rental value). In addition, householders must pay the local services tax (TASI – see above) and the local refuse-collection tax (TARI – see above), for which tax rates can reach 0.25% (depending on the individual commune).

4.2.2.2 Tax incentives and reliefs
Individuals who have spent a minimum period of residence abroad and then wish to return to Italy may be eligible for various tax reliefs.

4.2.2.2.1 Neo Residenti (New resident's relief)
Since 1 January 2017, individuals coming to Italy may claim this relief for a period of 15 years, provided that they meet the following conditions:
- They become resident in Italy
- For nine out the last ten years, they have not been resident in Italy for tax purposes

Taxpayers who have previously been resident in Italy should ensure that they were registered in the A.I.R.E. (the registration office for Italians resident abroad – see above) after emigrating.

The tax relief in question is a flat tax, intended specifically to attract high net-worth individuals (HNWIs). A flat lump-sum tax of EUR 100 000 per year is charged on all income derived abroad by the taxpayer and not remitted to Italy, regardless of the actual amount of such income. Income derived in Italy, however, remains taxable at the normal progressive rates of 23%-43%.

Moreover, it is possible to extend the regime to family members, for each of whom the tax is reduced to EUR 25 000, under the same conditions. This applies even if the family members become resident in Italy at a later date, although the currency of the special regime is in every case limited to the 15 years applicable to the main taxpayer.

As already mentioned, it is only foreign-source income that is taxable at the special flat rate. This income includes interest from a current account abroad and capital gains from the disposal of foreign non-qualifying shareholdings.

The proceeds of disposal of qualifying shareholdings realised in the first five years of the regime are included in total income and taxed at the progressive rates of 23%-43% on an amount of 49.72% of the total proceeds (100% for shareholdings in tax-haven companies).

Dividends and capital gains (the latter after the expiry of the five-year period) from shareholdings in countries in respect of which the inclusion option was exercised remain subject to the flat tax, regardless of their country of origin (this includes countries classed as tax havens).

It is possible to exclude specific countries from the special regime and subject the income from them to ordinary taxation, for example where there is a large tax credit in the taxpayer's favour in a certain country.

Taxpayers under the regime are not required to complete the inventory of their foreign assets on Form RW and nor is there a liability to IVIE or IVAFE (see above). This applies subject to the exceptions mentioned in the previous paragraph where, for example, a country is excluded from the application of the regime or where qualifying shareholdings are concerned, which must be declared in the first five tax years of the application of the regime, so that any taxable capital gains may be monitored.

The regime also extends to gifts and inheritances, so that inheritance and gift tax is charged only on assets situated in Italy at the moment of the transfer, whereas assets situated abroad are exempt. It should be remembered that where certain countries have been excluded from the application of the regime, assets situated in those countries will be fully liable to inheritance and gift tax under the normal rules.

Taxpayers may freely elect whether or not to opt for the regime, and the first occasion for doing so is in the 2018 return in respect of the 2017 tax year. If the election is made, the lump-sum tax of EUR 100 000 must be paid in full no later than 30 June of the year following that to which it relates. It is possible to revoke the election and return to ordinary taxation at any time in the 15-year period. A revocation applies also in respect of any family members who have likewise opted for the regime.

4.2.2.2.2 Regime for lecturers and researchers

This tax relief is available to lecturers and researchers who:

- Who are in possession of an academic qualification
- Were resident abroad, where they worked for a continuous period of at least two years as researchers or lecturers in public or private institutions or at a university
- Become resident for tax purposes in Italy; and
- Continue with their lecturing or academic career in Italy

Under the regime, only 10% of the lecturer's or researcher's income from employment or self-employment is subject to income tax (IRPEF) and they are exempt from IRAP (*imposta regionale sulle attività produttive* – the regional tax on productive activities).

This relief is granted for three years from the date the individual becomes resident in Italy for tax purposes or as long as the individual is so resident.

4.2.2.2.3 So-called lavoratori contro-esodati (reinpatriated workers)

The following conditions must be met for this relief to be applicable:

- The individual must at some time have lived in Italy for a continuous period of at least two years
- The individual is an EU national with an academic qualification
- In the previous two years, the individual has worked as an employee, exercised a liberal profession or carried on a business or studied for and obtained an academic qualification or followed a postgraduate specialisation outside Italy and the individual's country of origin (if not Italy);
- The individual has, at any date after 20 January 2009, worked as an employee, exercised a liberal profession or carried on a business in Italy
- Within three months from commencing such an employment, profession or business, the individual became tax-resident in Italy; and
- In the course of the following five years, the individual retains tax residence in Italy – otherwise, all the reliefs are invalidated and must be repaid with interest and penalties

Should all these conditions be met, 80% of the individual's income (in the case of women) or 70% (in the case of men) from dependent or independent services is exempted from income tax.

4.2.2.2.4 So-called lavoratori impatriati (impatriate workers)

From 1 January 2017, all the natural persons listed below who become tax-resident in Italy and meet the necessary conditions are entitled to an exemption from income tax of 50% of their income from dependent or independent services for a period of five years.

- Any individual with an academic qualification who has been resident outside Italy for a continuous period of at least the two previous years and who has been in continuous employment or has undertaken a continuous period of academic study there
- Managers or employees with an appropriate higher qualification who have been resident outside Italy in the previous five years and are now working primarily in Italy for an enterprise with its registered office in Italy
- An individual exercising a liberal profession, who has not been resident in Italy in the previous five years and remains tax-resident in Italy for at least two years, failing which the relief is invalidated

4.2.3 Other remarks

A particular feature of the Italian tax system is the personal tax identification number (*codice fiscale*), which uniquely identifies an individual. Every natural person resident in Italy for tax purposes must apply to the tax authorities for a tax identification number, without which the individual would not be able to obtain a passport (or a visa or a residence permit).

Failure to file a tax return on time incurs penalties and may in some cases lead to an estimated tax assessment.

4.3 Inheritance and gift tax consequences

Where the transferor (the donor or the deceased, as the case may be) is not resident in Italy for tax purposes, Italian inheritance and gift tax is restricted to assets and rights situated in Italy, unless, in the case of a lifetime gift, the donee is tax-resident in Italy, in which case assets situated abroad also come within the scope of the tax, with a tax credit for any foreign tax paid on the transfer. The amount of tax is as set out in Table 3 below, after deduction of the allowances in Column 2.

Table 3

1 Transferee	2 Allowance	3 Tax rate
Spouse, relative in direct line	EUR 1 000 000	4%
Sibling	EUR 100 000	6%
Relative to the 4th degree	0	6%
All others	0	8%

Special rules apply to minors and the disabled and in the event that the *neo residenti* lump-sum option is exercised (see above).

Where, however, the transferor in the case of a transfer *mortis causa* is tax-resident in Italy, the territoriality principle applies, so that all the assets and rights (immovable property, securities etc) passing to a transferee who is a private individual and tax-resident in Italy are subject to the tax, whether they are located in Italy or abroad. However, in the case of lifetime gifts, it is the residence status of the donee (e.g. immovable property in Germany transferred to a person resident in Italy) or the situs of the asset (e.g. Italian immovable property transferred to a person resident in Germany) that is decisive. Since there is no double estate tax treaty with Austria, Germany or Switzerland (although there is one with France), double taxation may sometimes arise as a result of different nexuses in Italy and the other country.

5. Switzerland

5.1 Leaving Switzerland

5.1.1 Preliminary remarks

A high net-worth individual who is not economically active and is contemplating leaving Switzerland has to deal with various potential problematic issues. Thus, for example, depending on whether the individual has reached pension age or not, or whether he or she wishes to retain a home in Switzerland or not, different measures are required. Whatever may be the case, we strongly recommend long-term planning involving an analysis of the legal and tax consequences of emigration in advance of departure.

5.1.2 Terminating residence in Switzerland

An individual who is emigrating from Switzerland must deregister at the Residents' Registration Office (*Einwohnerkontrolle*). On that occasion, the communal tax office (*Gemeindesteueramt*) will check whether the individual has settled all his or her tax liabilities or whether payment of any outstanding debts can be secured. Tax is thereby levied on a *pro rata temporis* basis. Proof of taking up residence in another country does not need to be provided. Only then will the individual be handed his nationality certificate (*Heimatschein*), which he can then use to register in his country of destination.

Unlimited tax liability in Switzerland depends on residence. This is in turn defined by the 'intention to remain permanently'. For this purpose, the place where personal documents are located is considered to be only an indication of residence, i.e. of the individual's presence in Switzerland. In effect, the decision hinges on factual circumstances, principally on the centre of vital interests. Specifically, this means that the individual's family (if there be one) as well as his or her place of residence must be situated abroad, and the individual's house or apartment must be surrendered (sold or let) before the tax authorities will be satisfied that the individual is now resident abroad for tax purposes.

In the event that an individual wishes to transfer his or her tax residence abroad, but rents a second home in Switzerland for occasional visits, the tax authorities may question whether the individual is truly resident abroad. If the actual number of days spent abroad does not tip the scales, it is the centre of vital interests that must be brought into consideration. That this can be particularly difficult for people who are no longer economically active is clear. However, if it can be definitively established that the 'emigrant' not only has a place to live abroad but is also fully integrated there, there will be no further obstacle to recognition that he or she is now resident for tax purposes abroad and no longer in Switzerland.

Should the emigrant be subject to unlimited tax liability both in the country of destination and in Switzerland under the laws of those countries, the respective double tax treaty is applied to resolve these cases of what is referred to as 'dual residence' and determine in which of the treaty-partner countries the individual is to be regarded as exclusively resident for tax purposes under the treaty and to which taxing rights are thus allocated.

The key test in determining this question is the location of the individual's centre of vital interests. In this connection, the place of residence with which the individual's strongest personal and economic relations exist is decisive. If the individual actually has transferred his or her centre of vital interests abroad, the individual is regarded as resident there and it is there, and there only, that he or she will be subject to unlimited tax liability. The source state will often have limited tax liability. Where the centre of vital interests cannot be determined, the decision will hinge on the habitual place of abode, failing which on the nationality of the emigrant.

5.1.3 Tax consequences of changing residence

Switzerland does not charge an exit tax on emigrating individuals. Tax liability in Switzerland ends in principle on the day of deregistration.

Any continuing liability to tax exists solely where the individual retains an interest in a Swiss partnership, an independent economic activity with a permanent establishment in Switzerland or Swiss immovable property, and that liability is limited to this income and those assets. In these cases, tax returns still need to be filed so that Switzerland can tax the Swiss-source or Swiss-situs income or assets. The rate of Swiss tax depends on the worldwide tax position, which must therefore be included in the return. In the individual's state of residence, the tax treaty will provide for either exemption or a credit for the Swiss tax paid.

As regards dividends from Swiss companies or interest from bank deposits and securities, Switzerland levies a withholding tax of 35%. Part (or in some exceptional cases, all) of this tax may be reimbursed if the state of residence has a double tax treaty with Switzerland.

5.1.4 Social insurance on terminating residence

In the area of social security, there are several bilateral and multilateral agreements that govern reciprocity between the contracting parties and ensure that their nationals receive equal treatment. Amongst other things, this means that insurance periods for compliance with a minimum number of contribution periods on which entitlement to certain benefits (above all for old-age pensions) depends are cumulated and reciprocal entitlement to benefits-in-kind such as health services in the event of illness or accident is ensured.

In principle, when an individual leaves Switzerland, liability to Swiss social security contributions ceases. However, if the individual has not yet reached pension age, he or she, as an expatriate Swiss, may voluntarily pay social security contributions in Switzerland, in order to ensure that any entitlement to the old-age pension is not lost.

5.2 Coming to Switzerland

5.2.1 Preliminary remarks

Successful immigration to Switzerland depends fundamentally on complying with the immigration regulations and the relevant registration and authorisation requirements.

Switzerland as a destination country offers many opportunities. Thanks to the cantonal system, with its 26 different provincial and fiscal jurisdictions, its multilingual character and diverse landscapes all concentrated into a small area, emigration to Switzerland requires prior careful consideration.

5.2.2 Tax consequences of changing residence

Individuals coming to Switzerland from Austria, France, Germany or Italy become subject to unlimited tax liability in Switzerland from the moment they become resident.

Liability to income tax extends over not only Swiss-source income but also over income from the previous state of residence and from third countries, such as income from securities, interest income or pension income (the worldwide income principle). However, depending on the particular double tax treaty, certain foreign income is exempted from tax in Switzerland or at least eligible for a tax credit.

In Switzerland, tax is levied at three levels: the Federation levies so-called direct federal taxes and the cantons levy and assess cantonal and communal taxes. In principle, under unlimited tax liability, the individual's worldwide income and worldwide assets are taxable in Switzerland. For the purposes of income tax, the various types of income are aggregated. For a family with two children, the tax burden is approximately as shown in Table 4:

Table 4

Level of income	Canton of Schwyz	Canton of Neuchâtel
EUR 80 000	7.0%	16.8%
EUR 130 000	10.2%	23.0%
EUR 300 000	16.7%	33.6%

Private capital gains are free of tax.

Dividends from significant shareholdings (generally 10% and more) are favourably taxed. Income of a providential nature in the form of capital payments is separately assessed and taxed at a favourable rate.

The Federation levies a withholding tax of 35% on revenues from domestic movable capital, such as interest from Swiss bank accounts, bond coupons etc. This is an example of a so-called precautionary tax. This means that a part of the income earned on the asset is directly remitted by the bank to the tax authorities. When the Swiss-resident taxpayer declares the gross income in his or her tax return as required, the amount withheld is reimbursed in full on application.

Wealth taxes are levied at the cantonal and communal levels only. The Federation does not levy a wealth tax. By way of example, tax rates on taxable assets of EUR 3.4 million range from 0.13% in Nidwalden to 0.87% in Geneva.

A pensioner who takes up residence in Switzerland and does not wish to be economically active may in principle benefit from so-called lump-sum taxation (*Pauschalbesteuerung*). This form of taxation is based on expenditure. The individual agrees an amount of taxable income (actually, wealth) based on the living costs of the individual and his or her family with the tax authorities. The actual factors (income and wealth) do not have to be declared. This privileged form of tax treatment is offered by many, but not all, cantons. As the precise form of taxation based on expenditure is left to the individual cantons to determine, it is advisable in every case to reach an agreement with the relevant authorities as the first step. This regime is of greatest interest to people of considerable wealth, as personal wealth taxes are levied in Switzerland, by contrast with most European countries. This is a factor that should not be overlooked when considering whether to emigrate to Switzerland.

A sale of land in Switzerland gives rise to a property transfer tax (*Handänderungssteuer*), which is usually payable in equal parts by the vendor and the purchaser. The tax rate is determined under tax legislation of the canton in which the land is situated and is based on the acquisition cost or fair value of the land. It ranges between 0% (in Zürich) and approximately 3.3% (in Neuchâtel).

The capital gain (the increase in value since the date of acquisition) from the disposal of a plot of land in Switzerland is liable to income tax in some cantons and to a separate capital gains tax on land (*Grundstückgewinnsteuer*) in others.

5.2.3 Other remarks

By acquiring residence status in Switzerland, an individual becomes liable in principle to pay social security contributions, unless the individual has reached normal pensionable age (currently 65 for men and 64 for women). A person who is not economically active must still pay non-economically active person's contributions until reaching pensionable age. These are based on the aggregate of the person's net worth and capitalised income. A person with aggregate worth of EUR 3.4 million will pay maximum contributions of approximately EUR 8800 per year.

Every person who is resident in Switzerland is additionally obliged to obtain health insurance from a sickness fund. Existing membership of a foreign insurance system will be accepted for no longer than one year at most.

5.3 Inheritance and gift tax consequences

With the exception of land or permanent establishments situated in Switzerland, the nexus for Swiss inheritance and gift taxes is the residence of the transferor (the deceased or donor).

Inheritance and gift taxes are levied at the cantonal level only. Tax rates are therefore dependent on the canton of residence, from the value of the property transferred and from the degree of consanguinity between the transferor and the transferee. Certain cantons (Schwyz and Lucerne) do not levy a gift tax. Gifts and bequests to spouses or direct descendants are exempt in most cantons, so that property can normally pass to a spouse or children tax-free.

Tax rates in respect of transfers to children are thus generally 0%, whereas rates on a bequest (transfer *mortis causa*) to a non-related transferee range from 0% (Schwyz) to 54% (Geneva). It is therefore advisable to consult the applicable rates of inheritance and gift tax before finally choosing one's canton of residence.

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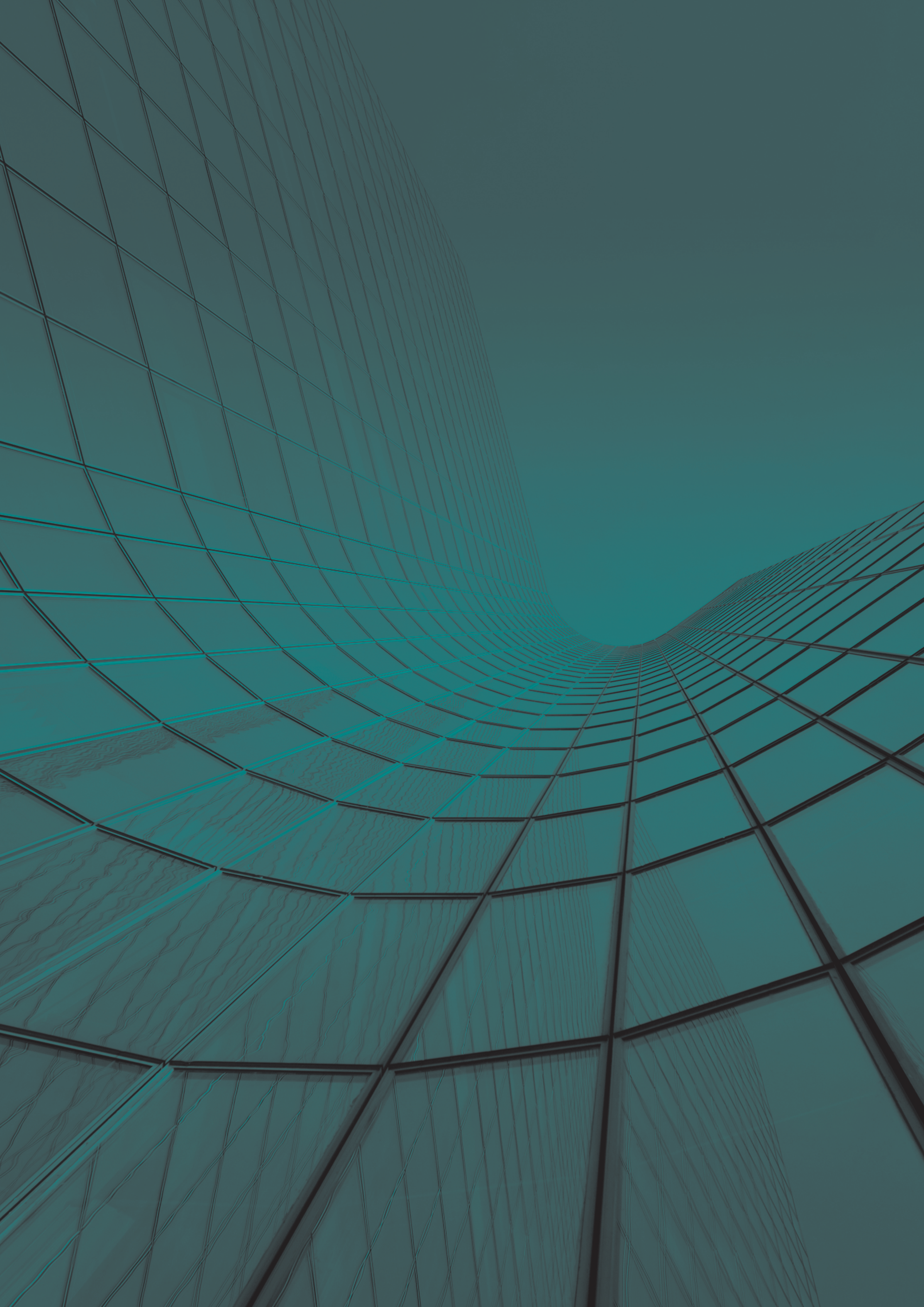

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