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Information leaflet

Expatriates deductions

Summary

Expatriates may assert certain additional tax deductions according to the Expatriate Ordinance by the Federal Department of Finances.

The Expatriate Ordinance has been revised effective 1 January 2016. As from that date, qualifying as an expatriate requires temporary secondment of senior staff as well as specialists with particular professional qualifications from a foreign employer to Switzerland. Specialists or executives with a timely limited local contract do only qualify as an expatriate if their employment is a transfer within the group and the foreign employer guarantees a re-employment after the stay in Switzerland.

Examples of specific deductions are costs for housing in Switzerland, moving, travelling and school of minor children.

This special treatment ends as soon as the temporary assignment is changed into a timely unlimited contract or after 5 years of staying in Switzerland, whichever is earlier.

Personal scope

Subject to these guidelines are Senior staff as well as specialists with particular professional qualifications (expatriates) who have been sent to Switzerland on a temporary basis by a foreign employer (generally to a subsidiary or affiliated company) and for whom additional professional costs arise due to this temporary stay in Switzerland.

Assignment requires employee's intention to return to prior place of residence in the foreseeable future (typical indication: maintenance of employment contract with foreign employer, i.e., secondment to Switzerland; reserved: specific intra-group circumstances).

In terms of these guidelines, **senior staff** are generally defined as members of the management board as well as the board of directors or functionaries in similar positions respectively. The person on assignment must be holding an executive position within the Swiss company also. Otherwise the conditions must be fulfilled according to the terms set out in the following paragraph.

Within the meaning of these guidelines, **specialists** are employees who are typically placed on international assignment due to their particular professional qualifications (above all, specialists in computer science, information technology and telecommunications).

An employment amounting to a maximum period of five years is regarded as temporary. These guidelines are not applicable if temporary employment is replaced by permanent employment. A maximum period of five years is regarded as a limited time or temporary. The regulations are not applicable if temporary residence becomes permanent residence before five years have elapsed. No deduction is possible if the employee is on a permanent, timely not limited, contract.

Normal professional expenses

All individuals are essentially entitled to deduction of normal professional expenses in accordance with the legal provisions. The following may be deducted:

- costs incurred while carrying out a profession (e.g. travel between home and work as well as the extra cost of eating away from home, under certain restrictions) ;
- other costs incurred necessarily while carrying out a profession generally as a lump-sum allowance (e.g. expenses for working clothes, tools and specialist literature).
- Payment of an official representation allowance on the basis of an approved "expense payment regulation"

A general amount for these normal professional expenses is already taken into account in the withholding tax tariffs that are applied to the salary of the employee.

Special professional expenses for expatriates

The federal as well as most cantonal tax laws provide rules for the deductibility of special professional expenses arising expatriates as defined above. In addition to the normal professional expenses, the following special expenses incurred in direct relation with the temporary employment in Switzerland may be claimed:

■ **For expatriates resident abroad, the following expenses are deductible**

- a) The necessary costs incurred for travelling between the residence abroad and Switzerland;
- b) The adequate housing costs incurred in Switzerland while maintaining an apartment abroad reserved for permanent personal use only.

■ **For expatriates resident in Switzerland, the following expenses are deductible**

- a) The necessary relocation costs to Switzerland and back to the previous foreign state of residence as well as the required outward and return trip costs of the expatriate and his family at the start and at the end of the employment contract;
- b) The adequate housing costs incurred in Switzerland while maintaining an apartment abroad reserved for permanent personal use only;
- c) Costs of lessons for underage foreign language children in foreign language private schools as long as the local state school system does not provide lessons in their language.

■ **Considered as not deductible professional expenses are in particular**

- a) Costs incurred regarding the permanent apartment abroad;
- b) Expenses for home furnishings and for the utility costs in Switzerland;
- c) Increased expenses due to higher price level or higher tax burden in Switzerland;
- d) Legal and tax consultancy fees.

Confirmation in writing

With regard to the remunerations for the, it should be noted that any actual remuneration or lump sum compensation paid as well as any contribution in kind (e.g. the provision of housing or school fees paid by the employer) must be confirmed in the corresponding salary certificates.

For the confirmation in writing, the instructions should be followed as set out in the guidelines on how to complete the salary certificate or the guidelines regarding the pension statement (form 11) issued by the Swiss Tax Conference (SSK) and the Federal Tax Authorities (ESTV).

Claiming special professional expenses

A) Ordinary taxation

The special professional expenses are taken into account irrespective of whether the taxable person paid the professional expenses himself or whether they were borne by the employer and the expatriate thus receives remuneration in kind.

The special professional expenses can be claimed for deduction only when the expatriate bears the incurred costs himself provided that either these costs will not be reimbursed by the employer or a possible lump sum compensation or actual remuneration for these costs is included in the expatriate's income (in the salary certificate or the tax return).

If the deduction of housing costs is permissible, then a monthly lump sum amounting to CHF 1'500 can be claimed instead of the costs incurred. Such a deduction is however only possible if the expatriate can prove that he kept a home abroad (either owned or rented house or apartment), which he retained for his own use, and which is not rented out.

B) Taxation at source

It is necessary in the case of taxation at source to distinguish whether the employer pays the employee the special professional expenses or whether they are paid as a lump sum or as actual expenses on the basis of receipts.

If an expatriate is refunded the actual special professional expenses on the basis of receipts, no tax at source is charged on these payments (see the instructions given by the competent cantonal tax authority on the procedure for taxation at source for foreign employees). The employer is obliged to retain the original receipts.

If the expatriate is refunded the special professional expenses on the basis of a lump sum compensation, the special professional expenses, – regardless of the civil status of the taxable person - are to be considered on the basis of a lump sum amounting to CHF 1'500 per month as long as a deduction of housing costs is permissible. The employer has to deduct the amount of CHF 1'500 from the total monthly salary paid out (including the lump sum compensation) and raise taxes at source on the remaining amount only.

The monthly lump sum amounting to CHF 1'500 as specified in the preceding paragraphs may only be deducted from the gross salary if the person subject to source tax can prove to the employer, based on corresponding documents (rental contract, confirmation of residence etc.), the maintaining of the foreign home which is reserved for permanent personal use. These documents have to be retained by the employer in case an audit of taxation at source is carried out.

Higher costs can be claimed by the expatriate by filing a claim for the correction of the tax at source.

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If you have any questions, please do not hesitate to contact us

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Swiss tax services for foreign citizens in Switzerland