ADVISE TREUHAND INPUT

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Vast know-how, applied concisely, conscientiously and pragmatically for entrepreneurs, SMEs and private individuals!

What's of importance to you, in a nutshell:

Official reference interest rate for rental relationships: unchanged at **1.5%** (latest determination of 2 March 2018)

Safe haven interest rates as of 2019 for advances/loans: unchanged (FTA Circular 31 January 2019); here, an overview of the key rates for CHF-based arrangements:
- to participants / related parties (financed out of shareholders' equity) **0.25%**
- from participants / related parties (working capital loans to operating companies) **3.00%**

The entire Circular can be accessed (in German) at www.estv.admin.ch

- ### Yes, corporate tax reform is at hand!

  On 19 May, voters and the Council of States approved the "Multipack" TRAF (Tax Reform and AHV Financing Act) by a 2/3 majority. The Federal Council has decreed that the Act will enter into force at the beginning of 2020.

  As to corporate tax reform, the ball is now in the court of the cantons, which will also need to align their own tax laws with the provisions of the Tax Harmonization Act. AGs/GmbHs taxed at normal rates can expect a lower tax burden going forward. For private individuals, there will be no noticeable change since the Act centres on legal entities (e.g. holding companies), where pressure from the OECD and EU has necessitated the elimination of the unilateral tax privileges they enjoyed until now on their foreign earned income. Cantons ZH, ZG and SZ (plus others) will also enact their amended tax laws by 2020.
  Recommendation: Have the tax dossier of your own company (AG or GmbH) reviewed and, if necessary, take immediate action in 2019. For example, previously taxed profits – provided there are no liquidity constraints – can still be distributed as long as the privileged taxation has not yet been rolled back.

- ### Pitfalls of share purchases

  Entrepreneurs are sure to encounter occasionally shares sell and buy transactions. It goes practically without saying that a written share purchase agreement is advisable, although a sale by handshake would also be possible. However, mistakes and omissions often occur during the transfer process, with the result being that the buyer – totally unbeknownst to him/her – does not even become legal owner of the shares they paid for. The sales contract is the only binding obligation! Registered shares must be transferred by endorsement or by separate declaration of assignment (especially when no shares or share certificates have been issued!) and the new shareholder needs to be recorded in the share register. In the case of bearer shares (which probably will soon be abolished), a simple handover is sufficient.
  Share certificates or shares issued before the entry of the new company or the raised capital in the commercial register are null and void! There are also analogous formalities to be observed for GmbH shares, whereby these particulars cannot be forgotten thanks to the obligation to record the shares in the commercial register.

- ### Self-contracting / self-dealing

  If, when concluding a contract, the company is represented by the same person who is counterparty to the contract, this is referred to as "self-dealing". Arrangements of this nature are particularly common in the SME sector, where the company owner, as the representative of the company, concludes legal transactions in his/her favour (e.g. spontaneous wage payments, loans, purchase agreements). Self-dealing is insofar

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unproblematic as long as the legal rules of the game are observed (e.g. in written form for amounts in excess of CHF 1,000) and the company owner holds all share rights. However, as soon as other persons are involved in the company (e.g. minority shareholders), any self-dealing transaction requires the approval of a "conflict-free" general manager or board member with signatory power. If such approval is not granted or the requirement for written form is not complied with, the concluded legal transaction is null and void. This means that it is treated as if it had never been concluded and therefore must be reversed. In this regard, the entire board of directors – i.e. even passive board members – are held jointly and severally liable for any damage caused to the company or its shareholders as a result of self-dealing.

Also from a tax standpoint, it is always very important to formally agree in an impeccable manner all business transactions you conduct with your own company, and this at terms and conditions that could be expected of an independent third party.

- **Energy-related building renovations and dismantling costs**

  As of 2020, private individuals will not only be able to deduct these frequently high costs in the tax year the related work is carried out, but also, if necessary, carry them forward to two subsequent years – namely, if the taxpayer's net income is reduced to zero in one year. This applies equally to Direct Federal Tax as well as in all cantons.

- **AHV contributions to increase for the first time in more than 40 years**

  Starting in 2020, AHV contributions will rise by 0.3%. Employers and employees will each bear 0.15% of that increase, whilst self-employed individuals will pay the full 0.3% themselves. The higher employer-side AHV contribution should amount to roughly CHF 600 million per year. On top of that, the Confederation will shunt an annual CHF 800 million to the AHV. Both are part of the social compensation envisioned in the "TRAF" package (see page one).

YES, WE CAN!
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