

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: **1,25%** (3 March 2020)
→ **Increases of 0,25% each are expected as per mid-2023 and later in 2025 (Source: ZKB.ch)**

Safe haven interest rates for advances/loans remain unchanged; 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 FTA Circulars (in German) are available at www.estv.admin.ch for CHF and for FX.

- **Contractual or statutory overtime?**

Contractual overtime arises when an employee works more hours in a given week than agreed in the employment contract. The employer has the right to demand that employees work overtime if such is necessary and reasonable. In principle, overtime hours must be compensated by time off of the same duration or in the form of a 25% supplement to the worker's normal hourly rate of pay. However, subject to a written agreement between the two parties, this 25% bonus can be waived or the stipulation made that overtime hours always be compensated by paid leave of equal duration.

Statutory overtime, on the other hand, is considered to be always the case when the maximum number of working hours as prescribed under Labour Law are exceeded. For most companies, this cap is 45 hours per week. Here again, the surplus hours can be compensated by time off to the same extent, whereas an hourly wage bonus of at least 25% is mandatory if the employee's cumulative statutory overtime exceeds 60 hours in a calendar year.

- **Revision of Swiss Inheritance Law: Is there a need to adapt wills and testamentary contracts?**

A number of changes to Inheritance Law will enter into force on 1 January 2023. It is therefore advisable to have your last will and testament examined thoroughly. The compulsory portion of the inheritance allocable to descendants will be reduced from $\frac{3}{4}$ to $\frac{1}{2}$ of the statutory estate, so it is worthwhile to check the precise wording of your existing will. Especially if you want to bequeath as much as possible to your surviving spouse or other persons, it may be advisable to draw up a new will or a testamentary contract. The statutory entitlement of parents will no longer apply. So generally speaking, testators in many instances will have free disposition over a larger portion of their estate. Especially in the case of cohabitation, a will is advisable if one's registered partner is to be a beneficiary. The aforementioned reduction of the compulsory portions applies to all deaths after 01.01.2023, hence the original formulations of existing wills should be checked for possible contradictions.

And by all means, if you are married but in the process of separation, you should draw up a will so your (still) spouse does not inadvertently inherit before the divorce is finalised.

- **Company succession: 80% tax relief on inheritance and gift tax in Canton Zurich!**

The succession of immediate descendants within a family-owned enterprise is possible without incurring taxes. However, if persons outside the family are to take over the business – be it via endowment or heirship – the related gift tax or, as it were, inheritance tax can be reduced by up to 80% in the Canton of Zurich (§ 25a and 25b IGTA ZH). Mixed bestowals should also be considered, e.g. one part of the business is endowed to a third party and the

other sold. Thus, not only sole proprietorships or partnerships, but also corporations can be conveyed in a tax-advantaged manner, provided that the conveyed business assets serve the purposes of the recipient's self-employment or, as the case may be, an ownership share of at least 51% goes to the beneficiaries/heirs who are active in the business in a managerial capacity. However, the business must remain a "going concern"; in particular, no hidden reserves may be realised either directly or indirectly in the following 10 years, as otherwise retroactive tax will be incurred.

Other cantons as well provide for significant inheritance and gift tax relief in the case of business successions.

- **Cantons Schwyz and Obwalden: neither inheritance nor gift taxes!**
Canton Lucerne: no gift tax if bestowal made at least 5 years prior to death of the grantor!

Good to know: Canton Schwyz and (since 1.1.2017) also Canton Obwalden levy no inheritance or gift tax.

Also: There is no gift tax in Canton Lucerne. However gifts, as well as grants made in contemplation of death, are subject to inheritance tax if they are bestowed within the five years prior to the grantor's death.

So if you officially reside in one of these cantons, or merely own properties there in the form of individual transferable objects, there are tax advantages not only if the relevant assets go to descendants, but also if they are intended to pass to unrelated parties.

- **What are "hidden reserves"?**

The principle of prudence within the context of the Swiss Code of Obligations requires that, in the event any uncertainties arise as to the valuation of assets and liabilities in a company's annual financial statements, the more conservative route should be taken. This can result, for example, in assets being recorded at a lower value (e.g. due to excessive depreciation), or a given liability being somewhat inflated. These valuation differences give rise to what are known as "hidden reserves", which effectively represent the surplus value stemming from the difference between the book value and actual value (market value) of a company's substance. These hidden reserves are equivalent to a monetary nest egg which, in contrast to the disclosed retained earnings, is not reflected in the balance sheet. The creation or release of hidden reserves influences the reported profit and thus makes it possible to smooth the company's annual result. For all legal entities that are required to keep books and records, any significant release of hidden reserves must be disclosed in the notes to their annual financial statements.

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