

Specialist information factsheet

Collective investment schemes and taxes

December 2009

I Introduction

Tax legislation plays a crucial part in the fund management industry and is of considerable importance to individual investors and fund providers alike. Some of the key provisions are complex and are based on a range of different laws. **1**

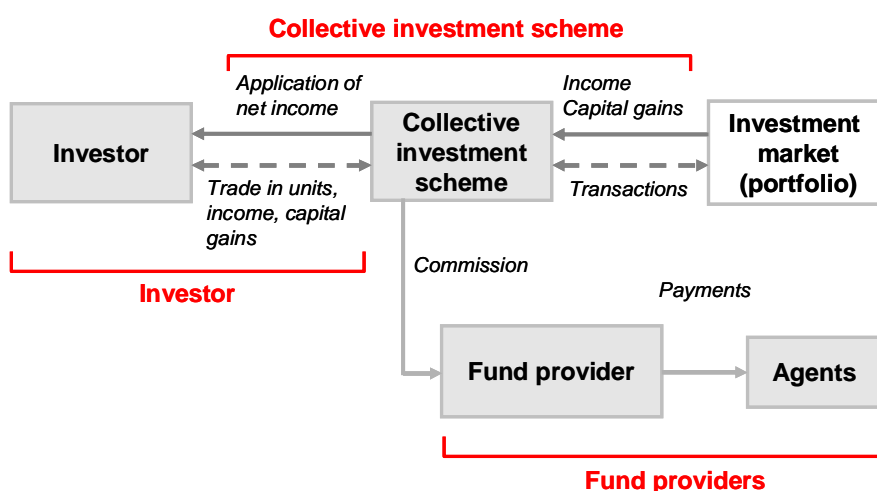
This publication is intended to provide an overview of the laws, ordinances, guidelines and circulars on the subject and provides a brief summary of the main provisions for **2**

1. investors (acquisition and sale of units; investment in and income from collective investment schemes) **3**

2. collective investment schemes (portfolio and use of income) **4**

3. fund providers (fund management companies, custodian banks, investment companies with variable capital (SICAVs), Swiss limited partnerships and their agents. **5**

Collective investment schemes and taxes (Switzerland) **6** **Three levels: investors/collective investment schemes/fund providers**



The present publication deals only with general provisions. It does not go into detailed rules, diverging provisions for special types of collective investment schemes or other exceptions. It will therefore not provide any conclusive assessment of your specific tax situation. **7**

II Laws, ordinances and circulars

The following table provides an overview of the main applicable regulations affecting the fund management industry. It is limited to laws, ordinances, and circulars issued by the Swiss Federal Tax Administration (FTA). **8**

The tax treatment of investors is also impacted by Swiss cantonal tax laws and therefore this will not be discussed hereinafter. **9**

Laws and ordinances	Circulars, etc.	
Federal Law on Stamp Duty (StG) StG Ordinance (StV)	Circular no. 12 Stamp Duty [Circ. 12] Circular no. 24 Collective Investment Schemes as Subjects of Withholding Tax and Stamp Duty [Circ. 24]	10
Federal Law on Federal Direct Tax (DBG) Federal Law on Withholding Tax (VStG) VStG Ordinance (VStV)	Circular no. 24 Collective Investment Schemes as Subjects of Withholding Tax and Stamp Duty [Circ. 24] Circular no. 25 Taxation of collective investment schemes and their investors [Circ. 25]	11
Federal Law on Value Added Tax (MWSTG) Ordinance on Value Added Tax (MWSTV)	Sector brochure no. 14 Financial segment (banks fund companies, etc.) [BB-14]	12

The laws, ordinances, and circulars, etc. listed in the above table are available on the Internet (only official Swiss languages). The relevant links can be found at www.sfa.ch under "Regulation & Taxes" (Taxes "national"). **13**

III Summary of the main rules on Swiss collective investment schemes

Collective investment schemes without property ownership

A Principle

Contractual investment funds, investment companies with variable capital (SICAVs) and Swiss limited partnerships for collective investment are regarded as transparent for tax purposes and (with the exception of collective investment schemes with direct property holdings) do not constitute entities taxable in their own right. Taxation of net wealth and income is applied exclusively and directly to investors pursuant to the tax provisions in force at their tax domicile. In Switzerland, investments in units of collective investment schemes are governed largely by the same rules as direct investments in the markets covered by a collective investment scheme. **14**

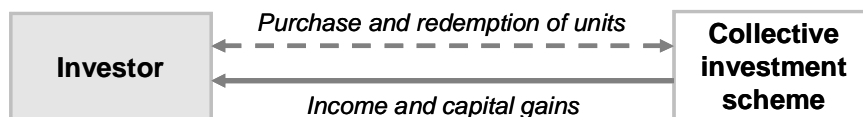
B Main rules

(The arrow $\bar{\circ}$ refers to the relevant legal source)

15

1. Investors

16



Area	Basis for taxation	Type of tax	General remarks	
Purchase/redemption of units from/to the collective investment scheme (primary market)	Transaction amount	Stamp duty	Purchases and redemptions of units from/to the collective investment scheme (issuing/redemption) are not subject to stamp duty [$\bar{\circ}$ Circ. 12].	17
Purchase/sale of units via Swiss securities dealers (secondary market)	Transaction amount	Stamp duty	Transactions (purchases/sales) in units of a collective investment scheme via Swiss securities dealers are subject to stamp duty [$\bar{\circ}$ Circ. 12].	18
Investment in collective investment scheme units	Market value of the investment	Wealth tax	Investments in collective investment scheme units are classed as taxable assets for Swiss taxpayers.	19
	Income from collective investment scheme units	Income tax	Earnings from collective investment scheme units are deemed as taxable income in Switzerland. In the case of <u>accumulating/reinvesting funds</u> , the annual taxable income can be ascertained from the fund's annual report and the FTA's HB price list .	20
		Withholding tax	Investors in Switzerland can claim back the withholding tax that may be deducted from the distribution when they file their tax return. For investors domiciled outside Switzerland, the procedure for claiming a refund is determined by the double taxation agreement between Switzerland and their country of domicile (if applicable).	21

	Capital gains (distributed with a separate coupon)	Capital gains taxes	Capital gains from private assets are tax exempt in Switzerland [O KS 25] .	22
Redemption of collective investment scheme units	Accrued income contained in the redemption price	Income tax Withholding tax	In Switzerland, income contained in the redemption price is not deemed as taxable income, and is not subject to withholding tax.	23

2. Collective investment schemes

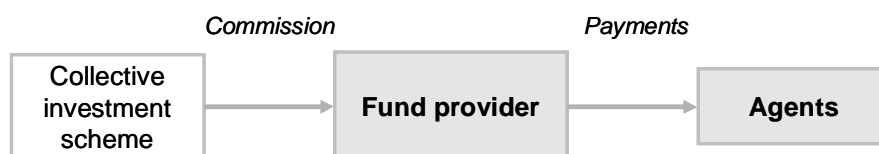


24

Area	Basis for taxation	Type of tax	General remarks	
Conditions for the issue and redemption of units	Transactions	Federal stamp duty	The issuing and redemption of units is not subject to stamp duty [O Circ. 12] .	25
Purchase and sale of investments	Transactions	Federal stamp duty	Purchases and sales of securities for the account of the collective investment scheme are not subject to stamp duty [O Circ. 12] .	26
Holding of investments	Earnings from investments	Swiss withholding tax	Swiss withholding tax can be reclaimed for the account of the collective investment scheme.	27
		Foreign withholding tax	In some countries, application may be submitted for tax relief for the account of the collective investment scheme, either by way of refund or directly at source, proportional to the units held by Swiss investors [O Circ. 24] .	28
Fund provider's fees and other management costs	Payments to the fund provider, other costs	Federal direct tax, withholding tax	Depending on their type, costs can be deducted from income (i.e. earnings qualifying as investor income) or have to be offset against realized capital gains/losses [O Circ. 24] .	29

<p>Use of net income</p> <p>(Swiss collective investment schemes must distinguish income from capital gains primarily on the basis of the DBG and VStG)</p>	<p>Distribution/ Accumulation of income</p>	<p>Withholding tax</p>	<p>Income is subject to 35% withholding tax (for refund options see "Investors" section). In the case of accumulating/reinvesting funds, the withholding tax is charged on the accumulated income when it is credited (i.e. when the transaction is concluded) [Ö Circ. 24].</p> <p>Collective investment schemes which derive at least 80% of their income from foreign sources can distribute/accumulate income to/for investors domiciled abroad without deducting withholding tax, provided that all conditions for the application of the "affidavit procedure" are met [Ö Circ. 24].</p> <p>If the investors in a collective investment scheme are exclusively tax-exempt Swiss institutions for occupational pensions, restricted pension cover, vested benefits institutions, or social security institutions and compensation funds, as well as life insurers or Swiss public-sector life insurers subject to federal supervision, the FTA may on application permit the fund provider to fulfill its tax obligation by reporting the taxable distribution.</p>	<p>30</p>
	<p>Distribution of capital gains</p>	<p>Withholding tax</p>	<p>Capital gains distributed with a separate coupon are not subject to withholding tax [Ö Circ. 24].</p>	<p>31</p>
	<p>Accumulation of capital gains</p>	<p>Withholding tax</p>	<p>Accumulated capital gains are not subject to withholding [Ö Circ. 24].</p>	<p>32</p>

3. Fund providers (fund management companies, custodian banks, investment companies with variable capital (SICAVs), Swiss limited partnerships and their agents



33

Area	Basis for taxation	Type of tax	General remarks
Fund providers and their agents (asset managers, distributors)	Management fee to fund providers, payments to agents	Value added tax	The fund provider's management fee and payments made by the fund provider to its agents are excluded from value added tax [ÖBB-14].
Custodian bank and its agents	Custodian bank's fee, payments to agents	Value added tax	The custodian bank's fee and payments made by its agents are excluded from value added tax [ÖBB-14].
Other parties acting on behalf of the collective investment scheme (audit companies, printers)	Other costs (fees, expenditure on publications)	Value added tax	Third-party charges are ordinarily subject to value added tax [ÖBB-14].

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Collective investment schemes with property ownership

Collective investment schemes may own property directly or indirectly (in particular real estate funds). Indirect property ownership includes holdings in real estate companies, provided that at least two thirds of the company's capital and voting rights are held by the collective investment scheme.

37

Collective investment schemes with indirect property ownership

The same tax rules apply as for collective investment schemes without property ownership. Collective investment schemes with indirect property ownership publish consolidated accounts, that do not disclose clearly its specific situation. Real estate companies held by collective investment schemes are subject to tax in their own right. For tax purposes, capital gains realized in the real estate companies are treated as income (real estate gains and recapture of depreciation from property ownership flow from the real estate company to the collective investment scheme via dividend distributions, and are reported there in the consolidated accounts as capital gains). However, gains on the sale of the holdings in a real estate company constitute capital gains from a tax perspective. Hence, in case of collective investment schemes with indirect property ownership, a distinction is drawn between effective capital gains (on direct investments) and deemed capital gains (on investments of the real estate companies). As with regard to taxation, deemed capital gains are treated as income from assets. This latter income is in principle subject to withholding tax on distribution.

38

Collective investment schemes with direct property ownership

In case of collective investment schemes with direct property ownership, the collective investment scheme is recorded in the land register as the owner (in case of contractual funds, the fund management company is entered with reference to the connection with the real estate fund). From a tax perspective, collective investment schemes with direct property ownership are deemed to be non-transparent and are subject to tax in their own right. Being likened to “other legal entities”, collective investment schemes with direct property ownership are taxed as legal entities. **39**

Given that collective investment schemes with direct property ownership are already taxed, there is no taxation at the level of the investor. From a tax point of view, neither income nor assets from collective investment schemes with direct property ownership are assigned to the individual investors. For this reason, no withholding tax is charged on the distribution of income from direct property holdings. **40**

Provided the total income exceeds the income from direct property ownership, the income from units in collective investment schemes is taxable. The difference in value between the total net assets of a collective investment scheme and that of its direct property holdings is also assessed for tax. In this regard, the same tax rules apply as for collective investment schemes without property ownership. The same applies for wealth tax. **41**

If its investors are exclusively tax-exempt occupational pension institutions or tax-exempt domestic social security institutions and compensation funds, a collective investment scheme with direct property ownership is also tax exempt. **42**

Investment company with fixed capital (SICAF)

Investment companies with fixed capital (SICAFs) have a different tax status. Although SICAFs come under collective investment schemes pursuant to the CISA, from a tax perspective they are deemed to be non-transparent and are subject to tax in their own right. **43**

The rules on the taxation of the company and investors essentially correspond to those for a public limited company (Aktiengesellschaft). **44**

A SICAF is also registered as a Swiss securities dealer provided it meets the requirements of the Federal Law on Stamp Duty (Art. 13.3d StG). In the case of transactions in taxable securities, however, it qualifies as an exempt investor (Art. 17a.1b StG). This qualification is the only idiosyncrasy of SICAFs compared with an *Aktiengesellschaft*. **45**

IV Summary of the main rules in force in Switzerland in relation to foreign collective investment schemes

1. Investors

Purchase and sale of units or shares of foreign collective investment schemes (issue/redemption)

In Switzerland, acquisition by issue of units and or shares of foreign collective investment schemes are subject to 1.5‰ stamp duty [[Ö Circ. 12](#)]; however, redemptions to the **46**

collective investment scheme for cancellation are not subject to stamp duty. The same provisions apply when switching from one subfund to another subfund within an umbrella fund.

Investments in foreign collective investment schemes

In principle, as far as wealth and income taxes are concerned, Swiss legislation does not distinguish between investments in a Swiss or a foreign collective investment scheme. In both cases, investments are subject to wealth tax; distributed or accumulated income of the collective investment scheme is subject to income tax, while capital gains are tax-free provided they are reported separately or distributed on a separate coupon. Taxable values and taxable income can be found in the FTA's [HB price list](#).

47

2. Collective investment schemes

Not applicable; the provisions governing collective investment schemes are increasingly being determined by the laws prevailing in their country of domicile.

48

Luxemburg collective investment schemes

Most foreign collective investment schemes approved in Switzerland are domiciled in Luxembourg. The following therefore gives a brief summary of the Luxembourg provisions in force:

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Luxemburg tax legislation regards open-ended collective investment schemes set up in contractual or corporate form (SICAV) as transparent. The collective investment scheme does not constitute a taxable entity in its own right, but is subject to a tax on its assets ("taxe d'abonnement") amounting to 0.5‰ or 0.1‰ in the case of money market funds. No tax at source is levied on distributed or reinvested earnings or capital gains.

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3. Swiss asset managers, fund promoters, representatives and distributors of foreign collective investment schemes

Area	Basis for taxation	Type of tax	General remarks (subject to differing provisions for special types of collective investment schemes or other exceptions)
Asset management	Transactions	Federal stamp duty	Portfolio transactions initiated by asset managers in Switzerland for the account of a foreign collective investment scheme are not subject to stamp duty in Switzerland [Circ. 12].
Management and marketing support, asset management	Charges for services (e.g. by fund promoters in Switzerland)	Value added tax	Services provided by Swiss promoters, asset managers etc. for foreign fund managers or management companies are not subject to value added tax (so-called true exemption, i.e. there is no entitlement to deduction of input tax) unless the services in

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52

			question relate to the public offering of collective investment scheme units in or from Switzerland [ÖBB-14] (see below).	
Representatives of foreign collective investment schemes in Switzerland	Representative's commission	Value added tax	Services provided by representatives for foreign fund managers or management companies or companies are excluded from value added tax [ÖBB-14].	53
Distributors in Switzerland	Sales remuneration	Value added tax	Remuneration for the public offering of collective investment scheme units is exempt from value added tax regardless of whether paid by the fund provider abroad or by the representative in Switzerland [ÖBB-14].	54

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CONTENTS

- I Introduction1
- II Laws, ordinances and circulars.....2
- III Summary of the main rules on Swiss collective investment schemes2
 - Collective investment schemes without property ownership2
 - A Principle2
 - B Main rules3
 - 1. Investors3
 - 2. Collective investment schemes4
 - 3. Fund providers (fund management companies, custodian banks, investment companies with variable capital (SICAVs), Swiss limited partnerships and their agents6
 - Collective investment schemes with property ownership6
 - Collective investment schemes with indirect property ownership.....6
 - Collective investment schemes with direct property ownership.....7
 - Investment company with fixed capital (SICAF).....7
- IV Summary of the main rules in force in Switzerland in relation to foreign collective investment schemes7
 - 1. Investors7
 - 2. Collective investment schemes8
 - 3. Swiss asset managers, fund promoters, representatives and distributors of foreign collective investment schemes8