BOITELLE TAX

GENEVA BASED TAX LAW FIRM

What’s Next for Swiss Tax?
Reforms, Votes & Global Impact

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Who are we?

Boitelle Tax is a **Geneva-based tax law firm** offering Swiss and international tax services to both corporate and private clients. We operate in a multicultural, multilingual and international context.

We assist a broad range of clients on a daily basis and distinguish ourselves by the quality of the services we provide and by our personal and direct involvement in each case.

Agenda

1. Transparency & Compliance
2. Taxation of Capital
3. Competitiveness & Attractiveness
4. International Cooperation

Transparency
&
Compliance

I.1

UBO Register

❑ UBO Register – Swiss Transparency Reform

- Introduced under the **draft Legal Entities Transparency Act (LETA)** to **strengthen anti-money-laundering / compliance.**

- Central register **managed by the Swiss Federal Office of Justice. Not public:** only accessible to competent authorities, financial intermediaries under AML obligations, tax authorities, prosecution authorities, land registry, etc.

- **Scope:**
    - Swiss legal entities (companies such as SA, SARL, foundations and associations are excluded).
    - Foreign entities with Swiss branch / real estate in Switzerland / effective management from Switzerland.

- **UBO definition:** natural persons holding ≥ 25 % of capital or voting rights or otherwise exercising control. If no such person, highest management board member.

- **Timeline: Draft law (2024) → Parliament (2025) → Entry into force (2026)**

I.1 UBO Register

❑ UBO Register – Sanctions & open questions

- **Sanctions:** Intentional breach = fine up to CHF 500,000; negligent breach = no penalty
- **Access:** Will foreign authorities have indirect access via cooperation requests?
- **Professional secrecy:** Scope of obligations for lawyers/notaries still debated
- **International context:** EU pulled back from public registers after CJEU 2022 (aff. C-37/20 & C-601/20, Luxembourg)→ Swiss model now aligned with global AML standards while preserving confidentiality

I.2

Automatic Exchange

❑ Automatic exchange of salary data (cross-border workers)

- **Agreement with Italy in force since 1 Jan 2024** – reciprocal payroll data exchange.
- **Agreement with France signed (incl. telework up to 40%)** – expected to apply from 2026 (first exchange in 2027 for 2025 data).
- **Federal Act on the International Automatic Exchange of Salary Data** (AIALG) provides the Swiss legal basis.
- **Employers must track and report:** salary, residence, tax ID, % telework, business trips, etc.

→ Open questions

- **What sanctions** will apply for non-compliance (financial, civil or criminal)?
- **How exactly will telework / remote work be documented and verified**?
- **How is privacy and data protection safeguarded** (access, retention, rights)?

I.2 Automatic Exchange

❑ Automatic Exchange of Information on Crypto-Assets

Background:

- **OECD's Crypto-Asset Reporting Framework (CARF)** adopted in 2022.
- **EU adopted DAC8 (Oct 2023) –** mandatory crypto reporting, effective 1 Jan 2026, with extraterritorial scope.
- **Switzerland:** Federal Council adopted dispatch (June 2025); entry into force 1 Jan 2026, first exchange in 2027.

Scope

- **Reporting entities:** Crypto-Asset Service Providers (CASPs) → exchanges, brokers, custodians, platforms.
- **Reportable users:** Individuals & entities resident in a partner jurisdiction.
- **Reportable data:** User ID info (name, residence, TIN, DoB) + transactional data (acquisitions, disposals, transfers, staking, airdrops, payments).

I.2

Automatic Exchange

❑ Automatic Exchange of Information on Crypto-Assets

Changes & risks

- **Determining jurisdictional link of CASPs** (e.g. Binance case – fragmented corporate presence).
- **Cold wallets & non-custodial transfers:** difficult to monitor how to capture/report?
- **Data overload:** transaction-based reporting, not just year-end balances.

Implications

- **Risk of requalification** of private capital gains into professional income.
- **Increased litigation potential** (classification of gains, valuation methods, reporting errors).
- Switzerland allows **penalty-free voluntary disclosure if made before detection** → Once crypto-AEOI applies (2026, first data in 2027), undeclared holdings will likely be detected. After detection → no penalty-free disclosure → back taxes + fines + possible criminal charges.

I.2 Automatic Exchange

❑ **What's next for automatic exchange of information?**

Emerging discussions at OECD/G20

- **Real estate assets:** OECD 2024 report "From Concept to Reality" proposes a new voluntary framework for regular automatic exchange.

- **Scope envisioned:**
  - Ownership (legal & beneficial)
  - Acquisitions and disposals
  - Recurring income (e.g. rental)

- **France:** actively pushing at OECD (2025) for real estate AEOI adoption.

- **Other domains under debate:** Cross-border pensions / retirement savings ? Insurance-based investment products ?

TAXATION OF CAPITAL

II.1

Federal inheritance / gift tax initiative

❑ What's on the ballot – 30 Nov 2025 (referendum)

- **Popular initiative** ("For the Future" – JUSO/Young Socialists).
- **50% federal tax on gifts & inheritances exceeding CHF 50 million.** Applies nationwide, in addition to existing cantonal inheritance/gift taxes. No exemption for spouses or direct descendants (unlike most current cantonal laws).
- Revenus earmarked for "socially just climate policy".

❑ Federal Council, Parliament & major parties' opposition.

- Recommend rejection: massive relocation risk (85-98% of tax base could vanish), revenus uncertain (likely far below projections), undermines cantonal autonomy, climate policy already based on "polluter pays" principle.
- PLR Geneva (Sept 2025) : rejected the initiative unanimously, calling it an "extreme proposal" with disastrous consequences for Switzerland and Geneva.
- → Initiative has low chances of passing given Federal Council, Parliament, and major parties' opposition.

II.2

Reform of Lump-Sum Taxation Capital Withdrawals

❑ **Current system:**

- **Capital withdrawals (2nd pillar, 3a)** taxed separately at 1/5 of ordinary income tax scale, capped at ~2.3% federal rate.
- Very favourable vs. Annuities, widely used for tax planning.

- **Proposed reform (Budget Relief Program 2027):**
    - Replace with progressive special scale (7 brackets, up to 11.5% > CHF 10m).

❑ **Impact:**
- **Low/medium withdrawals:** minimal increase or even tax relief for couples.
- **Large withdrawals (> CHF 500K/1m) :** significant increase (e.g. CHF 1m → tax rises from ~2,3% to 4,26%)
- **Reduce distortion vs. annuities →** lump-sum still attractive, but less privileged.
- **Maintain “back-loaded taxation” principle:** contributions deductible, savings grow tax-free, taxation only at payout.

II.3 Reform proposal of rental value

- ❑ **Current system:**
- Homeowners taxed on a “deemed rental income” for self-occupied homes.
- **In return, deductions allowed:** mortgage interest, maintenance costs, energy renovations.

- ❑ **Reform proposal (Vote 28 September 2025):**
- **Abolition of imputed rental value taxation** for primary & secondary residences
- **Abolition of most deductions**
- New special real estate tax possible for cantons on secondary residences (constitutional amendment Art. 127 para. 2bis).

- ❑ **Winners & Losers:**
- **Winners:** Wealthier / debt-free owners with low renovation needs.
- **Losers:** Young & indebted owners still paying mortgages; energy renovation efforts (retrofit incentives) at risk.

II.3 Reform proposal of rental value

❑ Policy issues

- Reform aims to remove a long-criticised “fictional income tax” but removing deductions may discourage homeownership (already low in CH vs OECD peers).
- Risk of slowing energy transition: tax breaks for renovations cut at federal level, left to cantons with limited budgets.
- Financial impact: estimated revenue loss ~CHF 2.5 bn at 1% interest; effect varies with interest rate levels.

→ Recommendations for Swiss property owners :

For those considering renovations, it's advisable to initiate work promptly and explore debt restructuring options as needed.

Competitiveness
&
Attractiveness

III.1 Loss carryforward reform

❑ **Current system (today)**

- **Standard rule:** losses can be carried forward for 7 years (LIFD & LHID).

❑ **Proposed reform (approved by the National Council in June 2025, part of the Budget Relief Program 2027, debated in autumn/winter sessions)**

- Extend **carryforward period from 7 → 10 years.**
- Planned entry into force 1 Jan 2028.
- Applies to all corporate taxpayers under the Federal Direct Tax Act and harmonised cantonal tax law.

→ Improves resilience of businesses facing cyclical downturns and supports start-ups and cyclical industries (tech, commodities).

III.2 Geneva: Attractiveness & Innovation

❑ Income Tax Reduction (2025)

- November 2024 referendum: **personal income tax cut of up to -11.4%** (effective 2025).
- **Wealth tax: –15% (effective 1 Jan 2025; LEFI reform).**
- Supported by budget surpluses; positions Geneva competitively vs other cantons.

❑ Innovation & Sectors in Focus

- **Innovation Master Plan 2025-2027** – Official roadmap with 14 actions structured around:
  - **Financing** (Cantonal Innovation Fund, expanded FONGIT support)
  - **Infrastructure** (new facilities at Campus Biotech, central innovation hub, prefential access to platforms)
  - **Promotion of Geneva as an innovation hub**, attraction of high-value actors, support for international congresses).
  - Strong emphasis on **biotech, health tech, AI/digital, fintech, asset management.**

INTERNATIONAL COOPERATION

IV.1

OECD Minimum Tax (Pillar 2)

❑ Swiss Implementation

- Qualified Domestic Minimum Top-Up Tax (QDMTT) effective 1 Jan 2024.
- Income Inclusion Rule (IIR) from 2025; UTPR not yet implemented.
- Registration for Pillar 2 via OMTax platform since Jan 2025; first filings due 30 June 2026 (FY 2024).
- “One-stop shop” filing: one Swiss entity files for all Swiss group entities.

❑ Reporting & Exchange

- Two new returns: Local Information Return (LIR) with cantons + GloBE Information Return (GIR) with SFTA.
- First GIR exchanges expected in 2026 under OECD Multilateral Competent Authority Agreement (MCAA).
- GIR filing fines up to CHF 50,000 for late/incomplete submission.

IV.1

OECD Minimum Tax (Pillar 2)

❑ International status – Fragmented Implementation

- US has not implemented full Pillar 2; political opposition continues.
- Several G20/UN members are delaying or phasing adoption.
- By mid-2025, ~55 jurisdictions have enacted Pillar 2 laws; others remain in consultation.

→ Swiss groups face clear obligations at home, but fragmented adoption abroad → high compliance burden, uncertainty, and potential double taxation.

❑ Open points & Practical impacts

- Administrative burden: determining which entity is responsible, preparing GIR, adjusting accounting to OECD norms.
- Impact on cantons with historically low rates or tax incentives: top-up tax may reduce their competitive edge.
- Interaction with international tax incentives, temporary differences, and existing subsidies or preferential tax regimes.

IV.2

Evolution of tax audits

❑ Swiss context

- Historically: audits targeted “letterbox” companies in low-tax jurisdictions.
- Today: focus on intra-group transactions (royalties, interest, management fees, service charges).
- Substance analysis and strict application of OECD Transfer Pricing Guidelines since 2024.

❑ Multilateral audits – where we are

- Switzerland has expressed its willingness to engage in joint/multilateral audits with partner jurisdictions.
- Legislative developments under consideration to provide a formal legal basis.
- Goal: avoid duplicative audits, reduce disputes, and ensure consistent outcomes.

IV.3

Transfer pricing development

❑ **Swiss Framework**

- No dedicated TP law; rules derived from general corporate tax principles.
- Since Jan 2024, Swiss Federal Tax Administration (SFTA) recommends all cantons strictly apply OECD TP Guidelines.
- New TP Division at SFTA – centralises expertise and rulings.

❑ **Recent Practice**

- All OECD methods accepted: CUP, Resale Price, Cost Plus, Profit Split, TNMM.
- No strict hierarchy: most appropriate method principle applies.
- Increasing reliance on TNMM in practice for intra-group services & distribution.
- Courts emphasise arm's length principle & substance (e.g. FSC 2C_824/2021 – royalties; Vaud Court 2023 – intra-group interest).
- Broader focus on management fees, service charges, intangibles, financing.
- Documentation increasingly scrutinised → insufficient files = higher risk of reassessment.
- Rulings available on almost all TP aspects (pricing methods, margins, financing).

THANK YOU

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