CAPITAL
Global Employment Solutions

WELCOME TO

TAXING ISSUES

THE QUARTERLY BULLETIN FROM CAPITAL GES

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TRUSTED EMPLOYMENT
SOLUTIONS PARTNER

CAPITAL

Welcome to our first issue of Taxing Issues 2017.

We take this opportunity to wish you all a healthy and prosperous New Year and we trust you will find this year's first edition informative.

Starting with an article about labour leasing and contracting in Switzerland, we also provide you with a brief update on the 2016 French Finance Bill with respect to individual taxation together with an article on the main interesting income tax law changes for Mexico in 2017.

Our country profiles in this issue cover Chile and Switzerland, with a useful summary of living, taxation and social security information for each country.

Finally, we look at the tax news from the UK following the November Autumn statement issued by the Chancellor of the Exchequer with respect to non-domiciled residents.

I hope you will find this new edition useful and would welcome your feedback at news@capital-ges.com.

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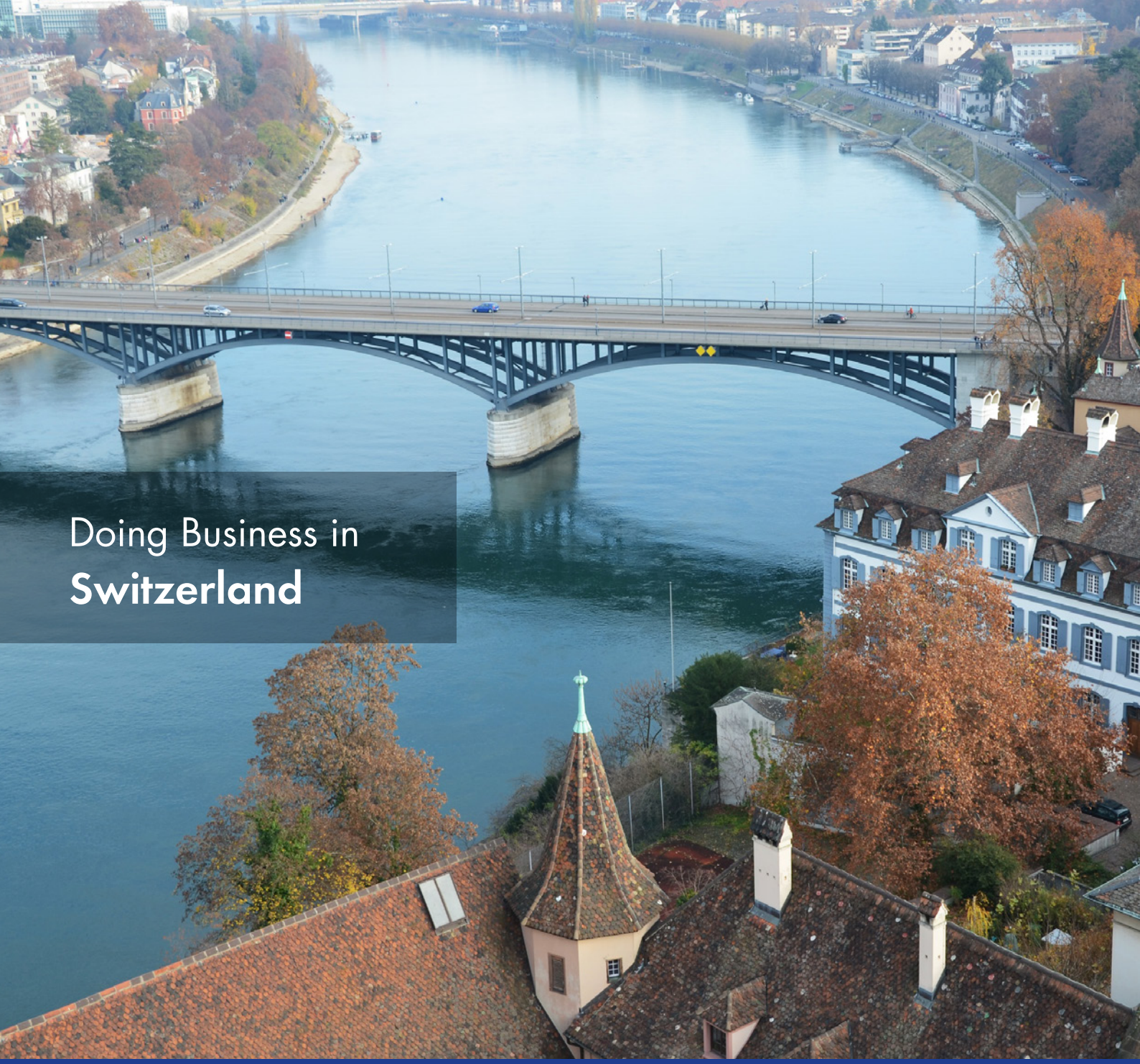


Doing Business in **Switzerland**

A recruitment company that wishes to provide services to clients in Switzerland needs to have a Swiss establishment that is registered in the Swiss register of commerce. It must also obtain the licences for the Hiring of Services and for Private Placement Services. A company that makes available their employees' services to another unconnected company is considered to be offering services for hire. A company that introduces job-seekers and hirers for the purpose of concluding a contract of employment is considered to be providing a placement service. According to the *Federal Act on Employment Services* and the *Hiring of Services (AVG) of October 6th 1989*, the licences for these activities can be obtained from the competent cantonal authorities.

Doing Business in Switzerland

In order to obtain these licences a number of conditions have to be fulfilled; the business must be registered in the Swiss Commercial Register, it must have suitable offices and it may not engage in any other activities which could be detrimental to the interests of the employees or the clients. The responsible managers must be Swiss or EU citizens or foreigners who already have a residence permit. They have to have a good reputation (no convictions, no bankruptcy, no outstanding tax liabilities etc.) and the necessary professional skills. Samples of the client contracts and the employment contracts have to be handed in with the application. In the case of labour hire, a deposit, usually in the form of a bank guarantee, has to be made to ensure that the employees' wages can be paid. Depending on the number of hours of hiring per year and which licences are applied for, the deposit can be up to CHF 250'000. The licences are valid for hiring of services and permanent placements within Switzerland.

The application for the placement and hiring of services licences has to be made to the competent cantonal authorities. The licence is not limited in time; it's in the name of the business and also stipulates the responsible person and any changes have to be announced to the authorities and require an amendment. Every branch in another canton needs a separate licence. If the licences have been obtained by the use of misleading information or the concealment of important facts, or if the company breaches the law repeatedly or seriously, the licences can be withdrawn.

The law on Employment Services and the Hiring of Services has been put in place to protect the interests of temporary workers and has therefore closed the Swiss market down to non-compliant structures.

It is absolutely forbidden for a foreign labour hire company to hire out their employees directly to companies in Switzerland.

These laws also cover one man or contractor-owned limited companies. If the sole owner and director of a limited company purports to provide independent services in Switzerland, but in fact fulfills certain criteria including but not limited to; taking direction from the Swiss client, being integrated within the Swiss company and not taking responsibility for any defects in the execution of his work, he or she is considered to be an employee of that Swiss company and therefore, has hired him or herself out illegally.

For more information on conducting business in Switzerland please feel free to contact us on +41 32 732 9700 or send an email to news@capital-ges.com.

France

Finance Bill for 2016 – individual taxation

On the 18th November 2016 the Amending Finance Bill for 2016, known as *Projet de loi de finances rectificative pour 2016 (PLFR)*, was presented by the government and submitted to the National Assembly.

The key measures of the Bill regarding individual taxation are summarised below.

Subscriptions into innovative SMEs

In order to encourage business angels to reinvest their capital gains into new companies, a specific tax regime was introduced with respect to subscriptions made into innovative small and medium-sized enterprises. Under the "SME innovation savings plan," compte PME innovation (CPI), capital gains from certain sales of shares will be exempt from individual income tax if, and as long as, they are reinvested into new innovative SMEs. All capital gains and losses made within this savings plan will be added and taxed when the plan is no longer applicable. However, social security contributions continue to apply and will be immediately levied by the bank upon the realisation of the capital gains (article 21 of the Bill).

Net wealth tax

Several provisions were introduced to specify the scope of the net wealth tax exemptions applicable to shares held by employees or executives in order to avoid abusive arrangements. In particular, the exemption of shares held by taxpayers in their own company will be limited to the value of the shares corresponding to the value of the underlying business assets, excluding private assets contributed by the taxpayers to their company (article 20 of the Bill).

Sanctions for failure to report foreign assets

Following a decision given by the Constitutional Court on 22nd July 2016, the existing proportional fines applicable to taxpayers who failed to report their foreign assets (bank accounts, life insurance contracts or trusts) were abolished. However, the existing lump-sum fines remain applicable and may, in particular, be applied where the income derived from foreign assets is reported but not the foreign assets themselves. The penalty applicable in the case of a tax reassessment is increased to 80 per cent of the additional taxes on the unreported foreign income (article 32 of the Bill).

Mexico

Income Tax reform package for 2017

On 30th November 2016, the decree containing the tax reform package for 2017 was published in the Official Gazette. The main amendments to the Income Tax Law are described below:

- The economic or cash support received by taxpayers through government programmes will not be considered taxable income, provided that certain requirements are met
- The investments made in electric cars will be deductible up to an amount of MXN 250'000 (approx. GBP 9'700)
- Payments made for the rental of electric cars will be deductible up to an amount of MXN 285, provided that other requirements are met
- Taxpayers investing in research and development of technology may credit against the annual income tax an amount equal to 30 per cent of the expenses incurred and the investments made for such purposes. The tax credit will not be taxable for income tax purposes
- Taxpayers investing in electric car charging equipment may credit 30 per cent of the amount invested in the tax year against the annual income tax. The tax credit is not taxable for income tax purposes
- In the case of personal deductions, individual taxpayers may deduct payments made for the provision of psychological and nutrition services, provided that certain conditions are met
- Remuneration in kind received by contractors referred to in article six of the *Hydrocarbons Law* will not be taxable income for income tax purposes, provided that such remuneration is not considered to be deductible cost of sales when the goods are alienated or transferred to a third party.

Country Profile: **Chile**

Capital:	Santiago
Population:	18’225’275 (July 2016 est.)
Language:	Spanish (official)
Exchange rate:	1 GBP = 817.70 CLP (15th December 2016)
Time zone:	Mainland: GMT – 4 (April to October); GMT – 3 (October to April) Easter Island: GMT – 6 (April to October); GMT-5 (October to April)
Electricity:	220V – 240V; 50 Hz
Cost of living:	Santiago ranked 108th most expensive city - ***Mercer Worldwide Survey 2016***
Tax year:	1st January to 31st December

Income Tax

Persons resident or domiciled in Chile are liable to income tax on their worldwide income. Residents are individuals present in Chile for more than six months in one calendar year or for a total of more than six months in two consecutive tax years. Domiciled persons are individuals that have the intention to stay in the country on a permanent basis. For tax purposes, a person is deemed to be a non-resident when remaining in Chile less than six months in two consecutive tax years.

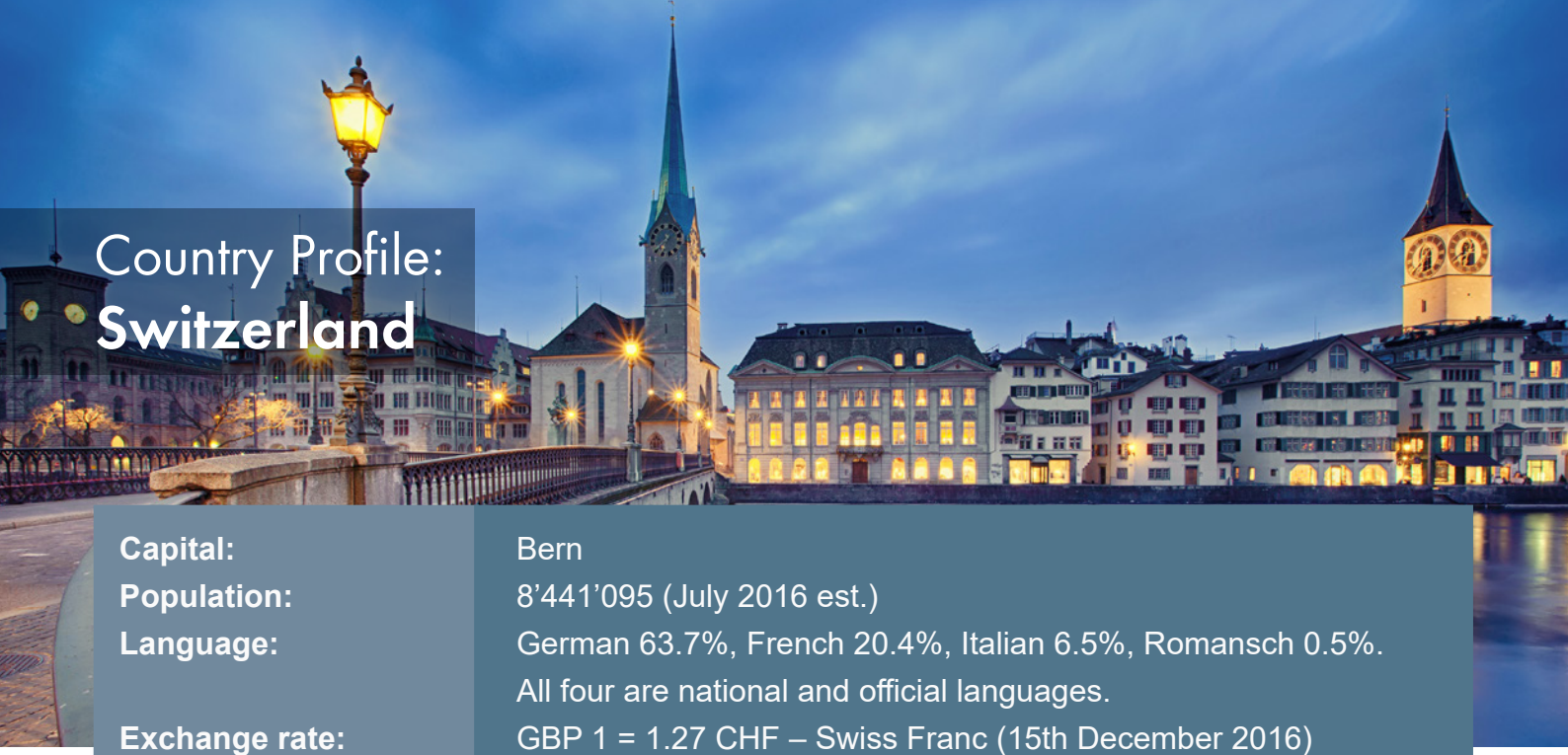
Non-residents or non-domiciled individuals are liable for income tax only on their Chilean-source income. Foreigners that establish domicile or residence in Chile are liable for income tax only on their Chilean-source income during the first three years in the country – note that this period may be extended by the tax administration in special cases.

Chilean-source income is defined as income arising out of goods or assets located within Chilean territory or from activities performed in Chilean territory. Income taxes are paid annually at the time the tax return is submitted. In some cases, estimated partial payments must be paid monthly. If there is any excess payment over the final tax liability it is normally reimbursed within the month subsequent to the filing of the income tax return. Taxable income includes earnings arising from capital or work. Income from business activities in Chile is taxed as ordinary income. Income is subject to monthly withholding income tax at the progressive rates of zero per cent, four per cent, eight per cent, 13.5 per cent, 23 per cent, 30.4 per cent, 35.5 per cent and 40 per cent (on above 150 UTMs (1 UTM = CLP 46’183), equivalent to approximately GBP 8’278). The employment income generally includes salaries, wages, bonuses and other remuneration and benefits received by an employee from an employer. The only deduction allowed is for social security contributions.

Social Security

Every resident or domiciled person must pay monthly contributions to the social security system based on individual accounts. Contributions are computed as a percentage of the employee’s total monthly remuneration.

Employee social contribution rates are; 10 per cent of salary for pension contribution, a percentage commission fee charged by the pension fund administrator for management services, disability and life insurance and seven per cent for health insurance. They may also be subject to a contribution for “heavy” work – depending on the level of accident risk relating to the company’s activity. For this, the employer and the employee must contribute two per cent of the salary. The employer's also required to contribute to unemployment insurance at a rate of 2.4 per cent of the salary.



Country Profile: **Switzerland**

Capital:	Bern
Population:	8’441’095 (July 2016 est.)
Language:	German 63.7%, French 20.4%, Italian 6.5%, Romansch 0.5%. All four are national and official languages.
Exchange rate:	GBP 1 = 1.27 CHF – Swiss Franc (15th December 2016)
Time zone:	GMT+1
Electricity:	230V/50Hz
Cost of living:	Zurich ranked 4th and Geneva ranked 8th most expensive city - ***Mercer Worldwide Survey 2016***
Tax year:	1st January to 31st December

Income Tax

Tax residency in Switzerland is based on either the domicile or habitual abode test. Domicile is based on the intention to live permanently in Switzerland but does not mean indefinitely. Intention needs to be substantiated by facts. Habitual abode is satisfied by the intention of either being resident for at least 30 days and exercising an activity or being resident for at least 90 days without exercising an activity. Intention again requires substantiation.

Individuals are subject to three types of income taxes; federal taxes, cantonal taxes and communal taxes. The Confederation has a right to tax income of private individuals according to the Constitution. The Swiss Tax Harmonisation Act, introduced in 2001, obliges cantons to define taxable income and harmonise each canton’s tax system in accordance with the federal system, but it leaves the setting of rates to the cantons. In general, taxable income includes employment income, investment income, social security payments, property revenue, dividends, etc. and benefits in kind.

The following deductions are allowable from taxable income for federal tax purposes (deductions relating to cantonal and communal taxes vary according to the different cantonal tax laws); necessary work-related expenses such as traveling from home to work, additional food expenses up to CHF 3’200 per year if the taxpayer is unable to eat at home, other work-related expenses of three per cent of net salary (the minimum deduction is CHF 2’000 and the maximum deduction CHF 4’000); health insurance premiums up to CHF 1’700 per year for a single person, up to CHF 3’500 for a married couple and up to CHF 700 per year for a dependent person or minor child; a personal allowance of CHF 6’500 for each child under 18 and any child older than 18 who is studying or doing an apprenticeship, CHF 8’100 for a married couple to be deducted from the lower spouse’s income.

The Swiss Constitution limits the tax burden on income on a federal level to 11.5 per cent. The cantonal and communal rates vary widely. The total tax burden may therefore differ from 18 per cent to 45 per cent depending on where the taxpayer lives. Married couples are taxed jointly. Tax returns usually have to be filed in February or March of the following year.

Social Security

Social Security contributions have to be paid for old age, survivor and disability insurance (employer and employee 5.125 per cent each) and unemployment insurance (1.1 per cent each up to CHF 148’200 gross salary per year and a further 0.5 per cent each on the excess above CHF 148’200).

Employers are obliged to insure their employees against professional and private accidents if they work more than eight hours per week. The employees are charged for the private accident part. Furthermore, company pension plans are obligatory (known as second pillar contributions) in addition to the state pension contributions (known as first pillar contributions) for employees over 24 years of age and who earn more than CHF 21’150 per year. Employers and employees usually share equally the cost of the company pension contributions.

Finally, all residents must take out private health insurance. They can choose any health insurance company in Switzerland. All companies are obliged to accept everyone on the obligatory basic insurance scheme. Health insurance covers sickness, maternity and accident insurance for those who are not employed.

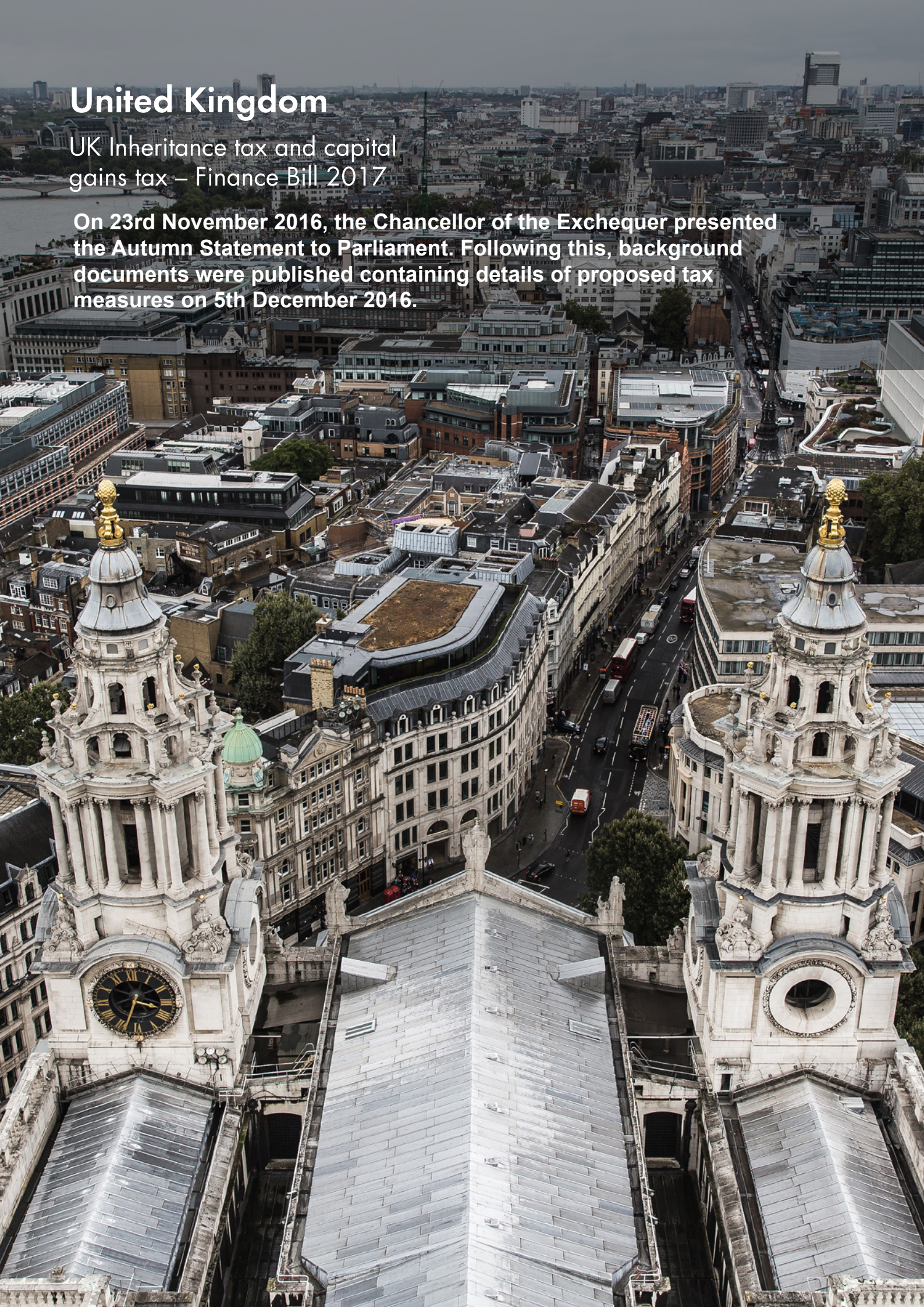
Expatriates working in Switzerland

It should be noted that there are special allowances available to expatriates working in Switzerland under certain conditions.

United Kingdom

UK Inheritance tax and capital gains tax – Finance Bill 2017

On 23rd November 2016, the Chancellor of the Exchequer presented the Autumn Statement to Parliament. Following this, background documents were published containing details of proposed tax measures on 5th December 2016.



HMRC published a policy paper entitled "*Income Tax, Inheritance Tax and Capital Gains Tax: deemed domicile rule*" on 5th December 2016. The paper specifies that legislation will be introduced into the Finance Bill 2017 deeming certain individuals to be domiciled in the United Kingdom for the purposes of income tax, capital gains tax and inheritance tax.

This will be the case for individuals meeting one of two conditions:

- The individual was born in the United Kingdom with a UK domicile of origin and is a UK resident, or returns to the United Kingdom having obtained domicile elsewhere
- An individual has been resident in the United Kingdom for at least 15 out of the previous 20 years.

The measure amends the remittance basis as a result of which anyone deemed UK domiciled, by virtue of either condition, cannot claim the application of the remittance basis. The new legislation allows a non-domiciled individual, who has been taxed on the remittance basis, to transfer amounts between overseas mixed-fund bank accounts without being subject to the offshore transfer rules.

The residency test is based on the number of tax years that an individual has been resident in the UK. The consultation document outlined the intention to count years of residence including years spent while the individual is under the age of 18. However, the individual could lose their deemed-UK domiciled status if they became non-resident and spend at least six years as a non-resident.

By way of example, an individual who has lived continuously in the UK since 1985 will become deemed-domiciled in April 2017 under the new rules as they will have been resident for 15 of the past 20 tax years. However, if they leave the UK in April 2018 and they are non-resident for six consecutive tax years (2018-19 to 2023-24), the deemed-domicile status will fall away by the tax year 2024-25. If the individual were to return to the UK in May 2024 and assuming they retained their foreign domicile status under general law, they would be able to claim non-domicile status for tax purposes until 2039-40, when 15 consecutive years of residence would again mean they became deemed-domiciled for tax purposes.

Residential property will be liable to inheritance tax even if it is owned by an offshore trust under the new guidelines from the Treasury. The decision adds to the pressure on wealthy families and individuals living in the UK, but domiciled elsewhere, to reconsider the benefits of remaining in the UK.

Under the new guidelines, non-domiciled residents who own a residential property in the UK will be subject to inheritance tax from 6th April next year. “This charge will apply both to individuals who are domiciled outside the UK and to trusts with settlors or beneficiaries who are non-domiciled,” the Treasury said in its consultation paper.

The new guidelines allow non-domiciles a grace period from April 2017 to April 2018 to separate their various assets. Individuals and families will also be able to rebase their assets as of April 2017 for capital gains tax purposes.

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Speak to one of our experts to see how Capital GES can help you.

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