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Social Insurance
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Switzerland has a long history of headquartering UN and non-UN international organisations, and the number of foreigners working or contracting with them is substantial. These expatriates are highly geographically mobile. They may relocate, but they may also return to Switzerland after leaving. Transfer rates between the international organisations are not negligible.

The Swiss Confederation either adopts the standard international tax rulings (United Nations Vienna Convention adopted by Switzerland in 1964) or offers IOHQs (International Organisation Headquarters) agreements where variable tax rulings can apply. Very often the organisation benefits from tax exemption privileges for itself as well as for its employees, but more widespread are agreements which stipulate that the IOHQ is not to generate favours for its employees. In these cases, the employee's income may either be normally taxable or count only under the tax rates applying to other sources of income and wealth (spouse's income, real estate income etc). Experience shows that the above causes a great deal of confusion regarding the tax obligations of employees and contractors.

Commonly, at the end of long careers, former IOHQ employees leave their employer and choose to continue working for them as a "consultant" or "service contractor". Sometimes, due to budget limitations, a potential employee may be "hired" on a consultancy basis. Moreover, their spouses might intend to work and may overlook the legal aspects. These contractors are very often misled by their previous tax situation and continue working, assuming that their privileges still apply. That assumption is most likely wrong, and creates serious problems not only with the tax authorities but also with the residence permit administration and Swiss social security.

Some IOHQs can grant an extension of tax privileges to these former employees or newly-hired consultants, but most cannot.

It is advisable to check meticulously that the items below are compliant before contracting. First and foremost, a check has to be done to ensure that the IOHQ extends, in its contract with the consultant, its tax privileges. Very often the contracts include a critical sentence "the contractor is responsible for his taxes and social security obligations". If this is the case, the contractor will most likely have to fulfil his obligations as follows:

Residence Permit

Inform the residence permit administration of the change in situation (that you are no longer an employee of an IOHQ) and fulfil the necessary steps to change or adapt the permit to allow paid employment. It's important to inform the authority of your self-employed status.

Self-employment Status

In Switzerland, a person's self-employed status is not granted by the tax authorities, but by the first-pillar pension fund (*Assurance-vieillesse et survivants*, AVS) according to certain conditions such as being the owner of work tools, organising their work freely, being independent of their clients, supporting their own commercial risk, etc.

When these conditions are not fulfilled, it is likely that the primary pension fund will grant status according to Article 6 of LAVS, which is appropriate for employees with an employer not subject to AVS affiliation. The employee pays the joint premiums (employer/employee) and invoices his employer.

Taxes

Announcing incoming activity to the tax authorities should be done to ensure that no tax privileges are extended, which would incur a DMA (*Demande de modification des acomptes*, or "Application to Modify Tax Prepayment") by the time the normal tax return is done. This is in order to avoid ending up with a sudden and unpleasant tax catch-up.

Insurance Coverage


When working as an employee, one benefits from risk coverage for disability in the event of accident or sickness, pension contributions for retirement etc. All of that drops when quitting the IOHQ employer, and it becomes the self-employed contractor's task to insure that he is subscribed to new coverage. The Swiss tax system is quite complex and relies on 3 basic levels (federal, cantonal and municipal), but also on tax law in four national languages, tax practice, trial court cases, internal directives in administrations etc.


Based on our experience, people behave in good faith when they move out of an IOHQ and begin to work as a self-employed contractor, and think that they will continue to benefit from their former privileges. However, when they are traced and caught for their non-compliance, their troubles are numerous, unpleasant and fall like hail from primary pension funds, tax authorities and other administrative entities.

The consultant's first victory is to be compliant with the Swiss administration, because only as such can he avoid the administrative troubles that might impede the application of his expertise.

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Wishing you plain sailing and good luck.

Jamal Reddani (*economist and director of Expatax Fiduciaire Reddani SA*)

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