TRANSFER PRICING RULES
IN SWITZERLAND

LEGAL BACKGROUND
- The Swiss tax law and Federal Court:
  - provide that the transactions should respect the arm’s length principle;
  - define the arm’s length price as the price applicable between third party in the same circumstances;
  - refer to the double tax treaty in order to avoid/resolve double taxation related to TP within an international context.
- Certain circular letters of the Federal tax authorities and case law provide guidance (e.g. circular letter on safe harbor interest rates).

TRANSFER PRICING PRINCIPLES / METHODS
- Switzerland follows and applies the transfer pricing principles and methods presented in the OECD Guidelines.

DOCUMENTATION REQUIREMENT
- Swiss tax law does not have specific requirement in terms of documentation with the exception of the Country-by-country reporting obligation (please refer hereafter).
COUNTRY-BY-COUNTRY REPORTING OBLIGATION

- Switzerland signed the Multilateral Competent Authority Agreement on the Exchange of Country-by-Country Reports (MCCA) and adopted the CbC reporting standards in its domestic legislation.
- The obligation to prepare and file a CbC report is mandatory since tax year 2018. The first exchange between Switzerland and its partner states that have signed the MCAA will occur in 2020.

ADVANCE PRICING ARRANGEMENT (“APA”)

- It is possible to obtain APA (unilateral, bilateral and multilateral) in Switzerland. No formal procedure exists for APA. However, the obtention of tax ruling is a common practice in Switzerland.
- Bilateral APA are conducted under the corresponding agreement provision provided in the double tax treaty.

MUTUAL AGREEMENTS PROCEDURE (“MAP”)

- Swiss double taxation treaties usually contain a provision for MAP. If a double taxation occurs or if there is a risk of double taxation occurring, taxpayer resident of Switzerland may request to the Federal Department of Finance in Berne to initiate a MAP.
- Most of Switzerland’s double tax treaty provides that the request must be submitted within 3 years from the first notification of the action resulting in a double taxation.

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CONTACT

Nathalie Pellanda Gaud
Senior Manager
Mobile: +41 79 311 70 64
nathalie.pellandagaud@mazars.ch

Marie-Hélène Revaz
Executive Director
Tel. +41 79 777 68 32
marie-helene.revaz@mazars.ch

Markus Hertel
Executive Director
Tel. +41 79 773 24 72
markus.hertel@mazars.ch

www.mazars.ch