

BRIEFING JANUARY 2025

TAX-APPROVED INTEREST RATES 2025 FOR ADVANCES AND LOANS

On 27 and 28 January 2025, the Swiss Federal Tax Administration (SFTA) published two updated circulars relating to interest rates recognised for tax purposes for advance payments and loans in Swiss francs and in foreign currencies (so-called safe haven interest rates) for the tax year 2025. Compared to last year, the interest rates for the tax year 2025 have slightly changed.

The minimum interest rate for loans to shareholders or related parties (loan receivables) was reduced to 1% (insofar as financed from equity). Accordingly, the maximum interest rates for loans from shareholders or related parties to Swiss companies (loan payables) have also fallen; for operating loans in Swiss francs exceeding CHF 1 million a maximum interest rate of 1.75% (2024: 2%) applies in respect of loans to trading and manufacturing companies and a maximum interest rate of 1.50% (2024: 1.75%) for loans to holding and asset management companies. Companies based in Switzerland should review the applied interest rates on the relevant loans and adjust them if necessary.

The interest rates are considered safe haven rules, meaning that, when applied, the SFTA assumes that such interest rates are at arm's length without further justification. The charging of higher or lower interest rates remains possible, subject to the taxpayer justifying that the terms are in line with the arm's length principle.¹

LOANS IN SWISS FRANCS FROM SWISS COMPANIES (LOAN RECEIVABLES)

For loans in Swiss francs granted by a Swiss company to its shareholders or related parties and financed with equity, a minimum interest rate of 1% is required. The minimum rate for loan receivables therefore decreases in 2025 by 0.50% compared to 2024.

If such loan receivables are financed by debt, a minimum interest rate consisting of the initial financing costs plus a margin: of (i) 0.50% for loans up to CHF 10 million and (ii) 0.25% for the amount exceeding CHF 10 million. In any case, a minimum interest rate of 1% now applies.

If such loan receivables of a Swiss company bear insufficient interest, then the difference between the interest rate required according to the SFTA's circular and the actual interest will be considered as a deemed dividend subject to withholding tax, which will also be recorded for corporate income tax purposes.

¹ However, according to a recent decision by the Federal Supreme Court, a taxpayer who deviates from the safe haven interest rates cannot claim that a tax adjustment is only made up to these interest rates as the minimum (or maximum) interest

rate. In the case of deviating interest rates, the tax authorities can set the appropriate interest rate for tax purposes, which can therefore also be below the maximum or above the minimum interest rate (FSC 9C_690/2022 of 17 July 2024).

LOANS IN SWISS FRANCS TO SWISS COMPANIES (LOAN PAYABLES)

According to the SFTA, the following maximum interest rates are required for loans in Swiss francs granted to Swiss companies by their shareholders or related parties (loan payables):

- > Up to CHF 1 million, a maximum of 3.50% for operating loans to a trading and manufacturing company and of 1.75% for the loan amount exceeding CHF 1 million (2024: 3.75% and 2% respectively).
- > Up to CHF 1 million, a maximum of 3% for loans to holding and asset management companies and of 1.50% for the loan amount exceeding CHF 1 million (2024: 3.25% and 1.75% respectively).

Separate requirements apply to real estate loans.

If the SFTA considers the interest rate on loan payables to be excessive, the amount of excess interest will be considered as a deemed dividend for withholding tax purposes, which will also be recorded as a deemed distribution of profits for corporate income tax purposes.

LOANS IN FOREIGN CURRENCIES FROM SWISS COMPANIES (LOAN RECEIVABLES)

For the most common foreign currencies, the SFTA publishes the relevant safe haven interest rates in a separate circular. The most relevant of the foreign currency interest rates listed in the circular have not seen any changes between 2024 and 2025: the minimum interest rate for both EUR and USD loans in 2025 remains unchanged from the previous year at 2.50% and 4.25% respectively.

LOANS IN FOREIGN CURRENCIES TO SWISS COMPANIES (LOAN PAYABLES)

The interest rates for loans in foreign currencies published by the SFTA also apply to loan payables of Swiss companies. In addition to the foreign currency interest rates (e.g. 2.50% for EUR in 2025), the spread corresponding to the difference between: (i) the maximum interest rate (loan payables) and (ii) minimum interest rate (loan receivables) applicable for advance payments or loans in Swiss francs, must be added when determining the maximum interest rate for loans in foreign currencies. Example: For operating loans of up to CHF 1 million to trading and manufacturing companies, the difference between the maximum interest rate (3.50%) and the

minimum interest rate (1%) results in a spread of 2.50%. A loan payable of EUR 1 million may therefore be subject to a maximum interest rate of 5% (foreign currency interest rate for EUR of 2.50% plus the spread of 2.50%; assuming EUR:CHF 1:1). For loans to trading and manufacturing companies exceeding an equivalent of CHF 1 million, the required spread in 2025 is 0.75% (2024: 0.50%).

In the case of loan payables in foreign currencies, in order to justify the interest expense, the taxpayer must provide proof as to why no advance payment or loan could have been made in (lower interest-bearing) Swiss francs. In any case, the proof of higher interest rates in line with the arm's length principle remains reserved.

CAPITALIZATION INTEREST RATES

The two circulars contain a reference to the capitalization interest rates for the valuation of companies and refer for this purpose to circular no. 28 of the Swiss Tax Conference SSK „Wegleitung zur Bewertung von Wertpapieren ohne Kurswert für die Vermögenssteuer“ („Guidelines for the valuation of securities without market value for wealth tax“) and its current commentary. The capitalization rate for valuations in Swiss francs is currently 8.75% (valuation year 2024), compared to 7.75% (valuation year 2023).

IMPORTANCE IN PRACTICE

- > Loan agreements between companies and their shareholders or other related parties often contain dynamic interest clauses, i.e. interest clauses with reference to the relevant circulars of the SFTA. As the safe haven interest rates must be observed in order to avoid tax consequences (arm's-length terms reserved), we recommend reviewing the compliance of intercompany loan agreements with the tax requirements on a regular basis.
- > The higher capitalization rate results in lower enterprise values and therefore lower wealth tax when applying the so-called practitioner method for the valuation of companies.

In individual cases, the adjustments of the interest rates for intercompany loans and capitalization rates may offer opportunities when it comes to tax planning. Our tax team at Bär & Karrer AG will be happy to assist you with any questions and is available to discuss your individual circumstances.



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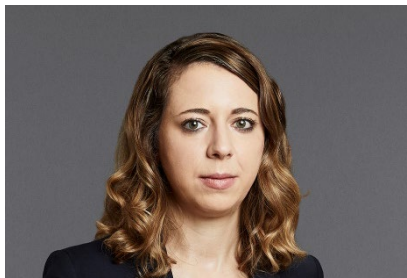


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