



CANDEO[®]
CORPORATE SERVICES | GENEVA



Swiss commercial companies

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1. Context

Switzerland, known for its legal stability, skilled workforce and precision, offers an ideal location and an economic environment conducive to business success. It is a true nerve center for global economic activity.

Pharmaceutical, agricultural, biotech, trading companies, major watchmakers as well as IT and communications firms are all keen to locate in Switzerland.

Although Zurich, Geneva and Basel are among the most popular business centers, other destinations such as Schwyz, Lucerne, Zug and Ticino are also very attractive for other reasons such as tax domicile.

Switzerland has four national languages: German, French, Italian and Romansh. English is also widely used, particularly in the business world.

The European Union and Switzerland are subject to bilateral agreements that facilitate trade and investment. In addition, the Swiss authorities have entered into double taxation agreements with other countries.



Genève, the Jet d'eau

2. Legal forms and possible purposes

As an independent service provider, Candeco may set up and manage the following companies, incorporated either as a head office or as a subsidiary of a foreign company:

- The joint stock company (SA, AG – hereinafter SA)
- The limited liability company (Sàrl, Sagl, GmbH – hereinafter Sàrl)

These two legal forms can be used for a wide variety of purposes, including:

- Holding
- Financial and non-financial investments, private equity holding
- Trading
- Franchising (e.g., chain stores, restaurants)
- Ownership of movable and immovable property (e.g. buildings, yachts, private jets, helicopters)
- Patent holding
- Holding a family business over the long term



Zermatt, The Matterhorn

3. Legal requirements

Public or private limited companies can be formed by one or more individuals or legal entities. Incorporation requires a notarial deed, articles of association, appointment of corporate bodies and registration with the Swiss Commercial Register.

One of the fundamental distinctions between an SA and a Sàrl is the minimum paid up capital by investors. For an SA, a minimum capital of CHF 100,000 applies, of which 20%, but at least CHF 50,000, must be paid up, whereas CHF 20,000 is sufficient for a Sàrl, but must be fully paid up. Contributions can be made in cash or in kind. Contributions in kind, such as real estate, patents, shares, machinery or any other items, must be valued by an auditor.

Upon incorporation, each shareholder receives shares - with a minimum par value of CHF 0.01.- for a public limited company and CHF 100.- for a private limited company - in a proportion equivalent to his or her investment.

Example 2

Cash contribution: 2 partners wish to create a limited company; each wishes to contribute CHF 50'000.- constituting share capital of CHF 100'000.-. The partners must pay up (by depositing funds in a bank account) at least CHF 50'000.- i.e. CHF 25'000.- each. Each shareholder receives 50% of company shares.

Example 2

Contribution in kind: 2 partners wish to create a public limited company; one contributes a building valued at CHF 1'000'000.- and the other contributes furniture with a cumulative value estimated at CHF 500'000.-. The capital thus constituted represents a par value of CHF 1'500'000.- fully paid up. The partner contributing the property will receive 2/3 of the company's shares, and the second will receive the remaining third.

A recent reform for the public limited company, which came into force on January 1, 2023, introduced a new tool: the capital fluctuation margin. Set in advance, this margin allows the Board of Directors to increase or reduce share capital over a maximum period of five years. It has also become possible to establish share capital in other authorized foreign currencies.

A limited liability company may require its shareholders to make additional contributions, particularly in the event of bankruptcy.

Information concerning the shareholders of an AG is confidential and not available to the public. In a limited liability company, on the other hand, the law stipulates that the names of the partners appear in the public register. In this case, it may be advisable seek on the services of fiduciary shareholder to guarantee a higher level of confidentiality.



Lavaux, Lake Geneva and vineyards

Annual general meeting (AGM)

Shareholders of SAs and Sàrl's are required to meet at least once a year, within six months financial year end. They are entitled to exercise their voting rights in proportion to the par value of the shares they hold, unless the Articles of Association provide otherwise (e.g., the "one share, one vote" principle).

When drafting the Articles of Association, shareholders can also provide for shares conferring economic rights only (e.g. dividend entitlement) but no right to vote, known as "participations". This option is particularly attractive for investors who wish to benefit solely from financial advantages.

Board of directors

The Board of Directors is the executive body of the SA. It is composed of at least one natural person domiciled in Switzerland (who need not be a shareholder or Swiss national). Certain tasks may be delegated by the Board of Directors to the Managing Directors, particularly in relation to day-to-day management.

In a public limited company, the members of the Board are elected further to an Annual General Meeting. They are often chosen for their skills, experience and knowledge of corporate governance (e.g. lawyers, engineers, experts in various fields, etc.).

Each member of the Board of Directors may validly represent the company, unless the articles of the company or the Board of Directors itself specifically assigns this capacity to one or more different persons.

In the case of a limited liability company (Sàrl), all the partners together form the executive body, unless articles specifically designate other persons to carry out this task (known as "managers"). They must meet at least once a year.

Auditors

Upon incorporation, the company's annual accounts are examined by an auditor. Companies listed on a stock exchange are subject to very strict requirements, while companies employing no more than 10 people can waive the requirement to be audited, subject to shareholders approval (also known as "opting out").

Share Transfer

In a public limited company, shares are freely transferable, unless otherwise stated in the company's articles. In a limited liability company, on the other hand, shareholder approval is required by law. The Articles may waive this requirement.

Shareholders of a public limited company who wish to retain certain control over the company's shareholding may restrict the transferability of shares. This option is highly recommended, particularly in the case of a family-owned company.



Interlaken, lake and mountain

4. Taxation

There are three levels of taxation in Switzerland: federal, cantonal and municipal.

Income tax

Company profits are taxed at federal level at an effective rate of 8.5%. Cantonal and municipal taxes on profits, also apply giving an overall effective rate of 11.9% to 21% depending on the canton (average rate: 14.87%). Special schemes have been abolished in 2019.

Capital tax

The cantons and municipalities tax the capital of public limited companies and limited liability companies with the exception of the canton of Uri. Examples of cantonal rates: Basel-Stadt 0.525%; Vaud 0.03%; Geneva 0.18%; Nidwalden 0.01%; Ticino 0.15%, with certain adjustments introduced in 2020.

Value added tax (VAT)

All Swiss businesses with an annual turnover of at least CHF 100,000 must pay VAT (7.7%), unless otherwise stipulated by law. This is the second lowest rate in Europe.



Lucerne, Chapel bridge

Withholding tax

Withholding tax is a federal tax levied directly at source on holders of securities. A withholding tax of 35% is applied to interest and dividend payments, while royalties are not subject to this tax. Individuals resident in Switzerland may claim a refund of the withholding tax if they are Swiss tax payers. For individuals domiciled abroad, withholding tax is refundable (in whole or in part) provided that a double taxation agreement between Switzerland and the country of domicile applies. There are currently over 100 double taxation agreements in force.

Other aspects

- Tax and Legal

A stable political environment is conducive to a stable tax system, helping companies to make long-term plans. Discussions between the tax authorities and companies, conducted in a climate of trust, makes it possible to find appropriate solutions and ensure correct taxation, even in complex situations. In Switzerland, advance tax rulings are possible, such advance confirmations of the legal (tax) status of specific situations are issued by the relevant authorities. The use of advance tax rulings offer companies greater legal certainty.

- Patent box

In accordance with OECD rules, the "patent box" allows preferential taxation of income from patents and other comparable rights (for example, income from licenses derived from a patent). This system is already known and used in several European countries (Belgium, the Netherlands and Luxembourg, for example).

- Minimum taxation of large companies

Switzerland has introduced a minimum tax rate of 15% for large companies, in line with OECD and G20 global policies. The new minimum tax will apply only to large international groups with annual sales of at least €750 million. This represents a few hundred domestic groups and a few thousand foreign groups.

5. Anti-abuse legislation

In accordance with OECD guidelines, Switzerland, like most other countries, has adopted anti-abuse legislation.

In particular, "BEPS" (Base Erosion and Profit Shifting) mechanisms intended to limit tax base erosion (ex: by transferring intellectual property income to our tax jurisdiction or lending capital to a highly profitable subsidiary based in a high-tax country). Switzerland supports international efforts to increase transparency and create a leveled playing field towards taxation of multinational companies. As an OECD member, Switzerland actively contributes to enforce anti-abuse legislation.

Abuse of a double taxation agreement (DTA) occurs when tax advantages are obtained unduly or in violation of a DTA. Switzerland has taken steps to prevent such abuses by requiring a foreign holding company to demonstrate local substance (substance rule).

Through thin capitalization investors may sometimes be tempted to create a company with a very high level of debt, in order to minimize taxable profits (interest on loans being deductible). The Swiss thin capitalization rules generally only apply to related parties. The corresponding circular letter published by the Federal Tax Administration sets out debt ratios ("safe harbor" circulars). A debt/equity ratio is generally set at 6:1 for financial companies. Interest paid on loans that exceed the ratios in question is generally not deductible; moreover, such interest may be regarded as a hidden distribution subject to Swiss personal income tax. There are no limits on the financing of Swiss companies by independent third parties (e.g., banks). Interest rates paid to affiliated companies are also subject to benchmark interest rates.

Another example is the new standard, the so-called "nexus" allows companies to benefit from "the patent box". This means that a company must prove that its local entity is itself carrying out R&D activities in the country. The spontaneous and mandatory exchange of rulings also exists, particularly in the area of transfer pricing. A ruling confirmed to a Swiss company that it is authorized to pay royalties equivalent to a certain percentage of its sales to a sister company abroad.

It should be noted, however, that Switzerland has CFC (controlled foreign companies) rules. Foreign companies are therefore recognized for Swiss tax purposes if they are managed and controlled abroad and are not set up for the sole purpose of evading Swiss taxes.

6. Constitution procedure

A Swiss company can be set up quickly and easily. The incorporation process may be completed within three weeks. It is possible to be represented during this procedure.

To this end, a notarized deed of incorporation must be submitted to the trade register. The following documents should also be included:

- Articles of Association
- A declaration of consent from auditors confirming their appointment or election to opt out
- Bank confirmation that the legal minimum capital has been deposited and is freely available
- Confirmation of address from the company's registered agent



Jura, snow and fresh air

7. About Candeo

Based in Geneva and Dubai, Candeo is a financial institution offering international multi-family office services.

Historically, Candeo Corporate Services SA was founded over 45 years ago as part of BNP Bank in Basel. Under the name BNP Trust Company SA, Candeo Corporate Services SA was part of the BNP Paribas (Suisse) SA Group. The company became independent in 2010 and has been owned by its management team since 2016.

The company has thus evolved from a fiduciary services business within a large private bank to a global multi-family office business. Services focus primarily on wealth management and commercial companies. Fiduciary services are provided by Serenity Trustee SA. The subsidiary Candeo Services DMCC provides corporate and family office services in Dubai. The group is incorporated under the holding company "Accendo Family Office SA".

Services are provided to an international private clientele consisting mainly of entrepreneurs. Candeo maintains business relationships with more than 50 financial institutions, mainly in Switzerland but also worldwide.

Based on its experience and business model, Candeo has developed a very high-level internal compliance and regulatory organization and can rely on a carefully selected network of external professionals.

With two partners and dozen employees, Candeo is driven by an entrepreneurial spirit and a strong sense of client service. Its relationships are built on trust and longevity, with an emphasis on reliability, durability and efficiency.

8. More information

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