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Withholding tax working group
Groupe de travail impôt à la source

FAQ 2022
Circular no. 45 FTA

Frequently asked questions about circular no. 45 of the Federal Tax Administration on withholding tax on earned income of employees (KS 45) are answered below.

No.	KS 45	Topic
1	**Section 3.2.2** **Section 6.7** **Section 7.5.1**	**How is the withholding tax due to be calculated when working days abroad are deducted?** Under national law, the employer can reduce the 20 working days per month or the 240 working days per year by the foreign working days. Withholding tax must be calculated on the portion that is taxable in Switzerland. However, the entire income must be used to determine the rate. *Example calculation monthly model:* *Total working days* — *20 days* *Working days Switzerland* — *20 days - 8 days= 12 days* *Income 20 working days* — *CHF 10'000* *Elimination of foreign working days* — *CHF 10,000 / 20 x 8= CHF 4,000* *Taxable in Switzerland:* — *CHF 10,000 - CHF 4,000= CHF 6,000* *Rate-determining income* — *CHF 10,000* *Tax rate for CHF 10,000 (tariff code A0N, tax year 2021, canton of BS)* — *16.53%* *Calculation of withholding tax* — *CHF 6,000 * 16.53%= CHF 991.80*
2	**Section 3.2.5**	**Is the deduction for catering costs already included as a lump sum in the withholding tax rates to be added back to the gross salary when expenses for lunch or dinner are paid?** Withholding tax is a flat-rate tax. The deductions taken into account in the withholding tax rates are generally final and cannot be changed either in favour or against the taxpayer - except in the case of a subsequent ordinary assessment. Consequently, offsetting the flat-rate deductions contained in the withholding tax rates is not permitted (see judgement of the Administrative Court of the Canton of Bern of 7 December 2009, VGE 100.2008.23255/23226U, in BVR 2010 p. 169 E. 3.1). Compensation for meals that meet the requirements of margin no. 18 of the instructions for completing the salary statement, as well as expenses authorised in an expense expenses regulations or an expenses agreement are not to be added to the salary subject to withholding tax.
3	**Section 4.9**	**Can a taxable person domiciled abroad submit an application to mitigate economic hardship as a result of alimony payments?** No. For taxpayers domiciled abroad, no child deductions can be taken into account in the applicable rate.

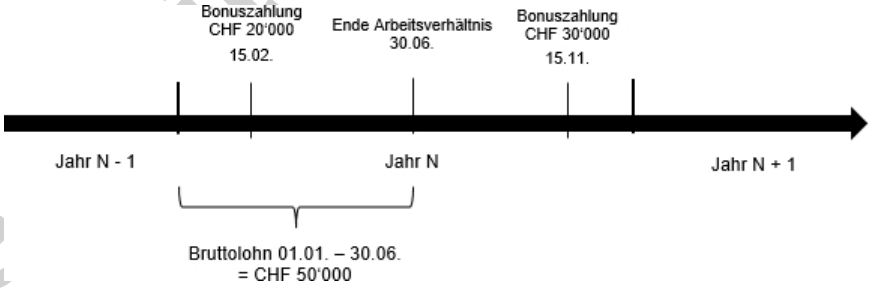
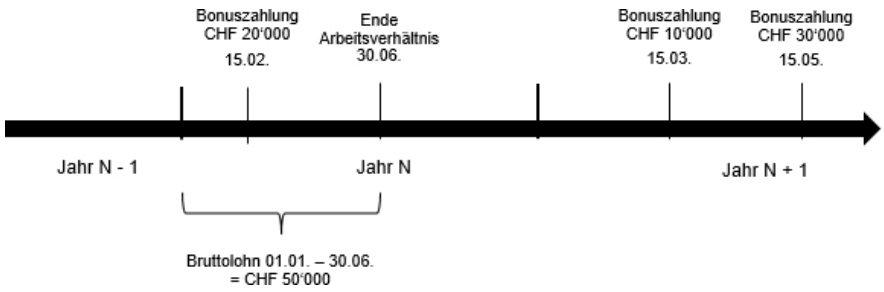
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4	**Section 6.2** **Section 7.2**	**Is the rate-determining income to be rounded up or down to determine the rate bracket?** In principle, the next higher rate bracket only applies when the amount is actually reached. If the rate-determining income falls between two rate brackets, the amount must always be rounded down to the lower rate bracket. *Example: With a rate-determining income of CHF 4,000.99, the rate level up to CHF 4,000 applies.*
5	**Section 6.2** **Section 7.2**	**Is the withholding tax amount to be rounded?** Yes, the withholding tax owed must be rounded up or down at the end of the calculation. *Examples:* - *Gross salary CHF 6,157.80 x tax rate 12.78%= Withholding tax CHF 786.95* - *Gross salary CHF 5,250.00 x tax rate 8.89%= Withholding tax CHF 466.70* - *Gross salary CHF 8,350.50 x tax rate 15.53%= Withholding tax CHF 1,296.85*
6	**Item 6.3** **Section 7.3.1**	**How is the rate-determining income for the 13th month's salary to be calculated?** In both the monthly and the annual model, the 13th monthly salary is taxed at source as a periodic benefit at the time of payment. In the annual model, the 13th monthly salary must be extrapolated to 360 days together with the other periodic benefits to determine the rate-determining income. In the monthly model, the 13th monthly salary in the month of payment is to be added to the other benefits of the same month. If the 13th month's salary is only paid on a pro rata basis due to an employee joining or leaving the company, it can be taken into account as follows when determining the income that determines the rate: 1. Either extrapolation according to the employee's entitlement depending on the duration of the employment relationship (see section 6.3 KS 45) 2. or extrapolation to a possible total workload (in the case of several jobs) or to 30 days (in the case of an entry or exit of less than one month).
7	**Section 6.4** **Clause 7.3.2**	**Is it possible to calculate the rate on the total gross income in the case of several part-time jobs with different employers (not within a group)?** No. Conversion to the total gross income to determine the rate-determining income is only possible if the employer is aware of the employee's income, i.e. only if the employee performs several jobs within a group or has concluded several employment contracts with the same employer. The employee can apply to the competent tax authority for a recalculation of the withholding tax by 31 March of the tax year following the due date of the benefit.
8	**Section 6.4** **Section 7.3.2**	**What is the procedure if the total degree of employment is greater than 100% for several part-time gainful activities?** The total degree of employment must be used to calculate the rate-determining income. This can also be greater than 100%.
9	**Section 6.4** **Section 7.3.2**	**Are family allowances to be grossed up if I have several jobs?** Yes, family allowances are regarded as periodic benefits and must be grossed up in each case.

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10	**Section 6.4 Section 7.3.2**	**How is the rate-determining income for IV pensions to be calculated (see example 8)?** The rate-determining salary for IV pensions is based on the circular of the Federal Social Insurance Office (FSIO) on withholding tax (KSQST, valid from 1 January 2021). The FSIO circular was revised after the publication of KS45 and, as a more recent circular, takes precedence over KS 45.
11	**Section 6.4 Section 7.3.2**	**In which cases does the median value apply as the rate-determining income?** The median value is always to be used as the rate-determining salary if no workload can be determined for an employment relationship and the employee is in at least one other gainful employment or earns replacement income. Typically affected are employment relationships in which the salary payment or compensation is calculated independently of the duration of the work performed (e.g. insurance brokers, non-permanent teaching staff, etc.).
12	**Section 6.4 Section 7.3.2**	**How is the rate-determining salary to be determined when applying the median value?** The median value (currently CHF 5,675 per month / CHF 68,100 per year [as at 01.01.2021]) corresponds to an average salary for a full-time position. The amount therefore applies directly as the rate-determining salary and is not to be added to the gross salary (see example 9, KS 45 para. 6.4). Only if the effective gross salary in a month is above the median value is the effective gross salary decisive for determining the tax rate.
13	**Section 6.5 Section 7.3.3**	**Can the hourly or daily rate always be converted to 180 or 2160 hours or 21.667 or 260 days in the case of employment on an hourly or daily wage?** No. An extrapolation to 180 or 2,160 hours or 21.667 or 260 days is only permissible if the salary is not paid monthly. If the salary is paid monthly, the conversion must be carried out in accordance with the principles set out in sections 6.4 and 7.3.2. If the hourly or daily rate is extrapolated to 180 or 2,160 hours or 21.667 or 260 days, the employee is taxed at the tax rate that applies to a 100% workload. For this reason, no extrapolation may be made for employees with monthly salary payments who have no other gainful employment and receive no replacement income.
14	**Clause 6.6 Section 7.3.2**	**Which benefits are periodic and which are non-periodic?** For the distinction, please refer to the instructions for completing the salary statement. Accordingly, benefits that are paid to the person on an irregular basis are deemed to be non-periodic. The following principles can be applied: - Benefits that are to be listed in sections 1, 2 or 7 of the salary statement are generally deemed to be periodic - Benefits that are listed in sections 3, 4 or 5 of the salary statement are generally considered to be aperiodic - Benefits to be listed in item 6 of the salary statement are deemed to be aperiodic or periodic, depending on the nature of the benefit. In case of doubt, a benefit is to be regarded as periodic. In case of uncertainty, the competent tax authority can be consulted.

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15	**Section 6.6** **Section 7.3.2**	**Are family allowances also to be recalculated if I join or leave the company during the month?** Yes, family allowances are always regarded as periodic benefits and must therefore be converted to 30 or 360 calendar days in the case of entries and exits during the month.
15.1 (09/22)	**Section 6.9** **Section 7.5.3**	**How is the rate-determining salary to be calculated for benefits that fall due after leaving the company?** <u>Monthly model</u> In the case of subsequent payments due after termination of the employment relationship (e.g. bonus payments agreed in the following year), all income earned by the employee in the same month (in Switzerland and abroad) must be used to determine the rate. If this income is not known, the periodic benefits of the month of departure must be added to the back payment to determine the rate. If the departure took place during the month, the benefits of the month of departure must be converted to 30 days. <u>Annual model</u> - Back payments due after termination of the employment relationship in the year of departure. All periodic benefits in the year of departure, converted to an annual salary if necessary, must be taken into account to determine the rate, plus all non-periodic benefits and the benefit in question. *Example: Bonus payment in November (year N):*  Calculation of rate-determining benefit: CHF 100,000 (50,000 / 180 x 360)+ CHF 20,000+ CHF 30,000= CHF 150,000 - Additional payments due after termination of the employment relationship in the following year (e.g. bonus payments decided in the following year) All periodic benefits in the year of departure, converted to an annual salary if necessary, must be taken into account to determine the rate, plus all non-periodic benefits paid out in the following year and the relevant benefit. *Example: Bonus payment in May (year N +1):*  Calculation of rate-determining benefit: CHF 100,000 (50,000 / 180 x 360)+ CHF 10,000+ CHF 30,000= CHF 140,000

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16	**Section 6.11** **Section 7.5.5**	**How is the rate-determining salary to be calculated if the family allowances are not paid via the employer but directly by the compensation fund?** The employer does not have to take the family allowances into account to determine the rate. The compensation office calculates the withholding tax on the family allowances using tariff code G at the rate of the median value.
17	**Section 6.12** **Section 7.5.6**	**How are back payments of family allowances taxed at source?** Monthly model If family allowances are paid in arrears, the total amount is taxed as a lump-sum settlement for recurring benefits in the month of payment. The subsequent payment for previous months is considered an aperiodic benefit, while the portion of the family allowance for the current month is considered a periodic benefit. Annual model If family allowances are paid out retrospectively, the total amount is taxed as a lump-sum settlement for recurring benefits in the month of payment. The tax rate is calculated from the sum of the lump-sum payment for recurring benefits, the annual gross salary and the other periodic annual gross benefits for the current year.
18	**Section 9.5**	**Which canton is deemed to be entitled to benefits if an employee resident abroad spends the night in different cantons?** The justification of a weekly stay in Switzerland presupposes that a person spends the night in the vicinity of the place of work due to the great distance between the foreign place of residence and the place of work. If an employee does not have a "fixed" weekly stay in one place (e.g. a room or a small apartment), but spends the night in several cantons in one month, the canton in which the registered office or permanent establishment of the debtor of the taxable benefit is located is deemed to be entitled to claim.
19	**Section 11.4**	**Can special professional expenses of expatriates within the meaning of the Expat Ordinance be claimed as part of a subsequent ordinary assessment?** If an expatriate maintains a flat abroad that is permanently available for his or her own use, the taxpayer can continue to deduct a flat rate of CHF 1,500 from the gross monthly salary. Higher actual costs can be claimed by means of a subsequent ordinary assessment, whereby the requirements for quasi-residency must be met for expats resident abroad and the expat must submit a corresponding application by 31 March of the year following the tax year (see Art. 4 para. 2 Expatriates Ordinance; SR 642.118.3).

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