

## SWITZERLAND\*

### *Succession Planning from a Swiss Tax Perspective – Some Insights*

#### 1.1 Civil Law on Succession

##### 1.1.1 Swiss Inheritance Law

In accordance with Swiss inheritance law the heirs are divided into classes. The first class of heirs are the children and their offspring. If there are no heirs from that class, the inheritance is divided among the parents and their successors. The third class includes the grandparents and their successors.

In case of a surviving spouse, she or he receives the following share:

- One-half of the inheritance, if shared with children
- Three-quarters of the inheritance, if shared with parents
- The whole in any other case

##### 1.1.2 Swiss Forced Heirship Rules

Furthermore, Swiss inheritance law provides for forced heirship rules. The following persons are protected by these rules:

- Children and their offspring: three-quarters of their statutory share as outlined above
- Parents: one-half of their statutory share as outlined above
- Surviving spouse: one-half of the statutory share as outlined above

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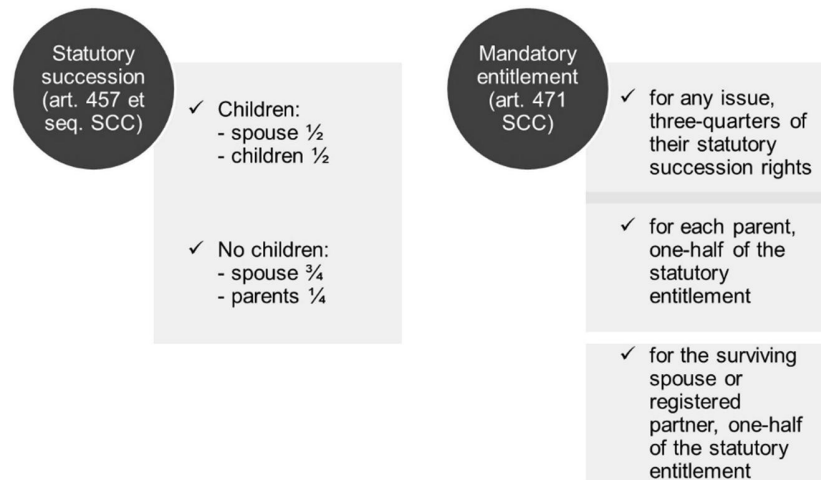
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### 1.1.3 Planning Opportunities

A non-Swiss citizen resident in Switzerland may choose to have his or her national law apply to his or her estate. Therefore, it is possible to avoid Swiss forced heirship rules by including a corresponding choice of law clause in the will. Furthermore, it is permissible that the heirs may agree to another division of the inheritance by concluding a testamentary contract.

Please note that matrimonial regimes may have an impact in determining the estate of a deceased person. Therefore, an accurate estate and succession planning starts with the analysis and optimization of the applicable property regimes.



## 2.1 Gift and Inheritance Tax

### 2.1.1 No Federal Gift or Inheritance Tax

On 14 June 2015, the Swiss voters clearly rejected (71% of the voters rejected it) a public initiative to introduce an inheritance and gift tax at the federal level. The proposal, first raised in 2011, had the intention to introduce a uniform inheritance and gift tax on the federal level which would have replaced the current cantonal inheritance and gift tax regimes. The proposal included a flat tax of 20% for transfers of property at death or by gift, with an exemption for the first CHF 2 million. Transfers among spouses and registered partners would have

been exempt, but no exemption would have applied to others, including direct descendants

### **2.1.2 Cantonal Gift or Inheritance Tax**

#### (a) General remarks

Switzerland is a confederation of 26 cantons. In all instances, the cantons have maintained autonomy and sovereignty, unless rights and duties are specifically assigned by the constitution to the confederation. For instance, the cantons have their own constitution and may, in turn, confer certain autonomy on the municipalities. In total there are 27 tax jurisdictions including the confederation and 26 cantons.

#### (b) Nature of the Inheritance and Gift Tax

The cantons have an exclusive right (to the exclusion of the confederation) to impose gift and inheritance taxes. In some cantons, the taxing power is shared with the municipalities, such as the cantons of Vaud (which includes Lausanne and Morges) and Grisons (which includes St. Moritz and Davos.)

Nearly all Swiss cantons levy inheritance and gift taxes provided the deceased or donor is or has been a resident of the respective canton (or if Swiss real estate is part of the inheritance or gift). No inheritance or gift tax will be levied if the deceased or donor has not been a resident of the respective canton. For instance, if the deceased's last residency was outside of Switzerland, no cantonal inheritance tax is imposed. The only exemption is made by the canton of Ticino. Ticino also levies inheritance or gift tax if the recipient of the funds is resident in the canton of Ticino.

The canton of Schwyz does not levy inheritance and gift tax at all and the canton of Lucerne only levies inheritance, but no gift tax.

#### (c) Tax rates

The applicable gift tax rates vary widely from canton to canton. The tax rate depends on the degree of kinship between the transferees and are progressive in most cantons. Spouses and registered same-sex partners are generally exempt from inheritance and gift tax. Most cantons, with the exception of Appenzell I.Rh, Neuchatel and Vaud, which further exempt transfers to direct descendants (children and grand-children).

## Canton

## Gift Tax

		Spouses and reg. partners <sup>21</sup>	Descendants (children, grandchildren)	Parents	Siblings	Partners <sup>22</sup>	Other persons	Repeat gifts * subject to tax progression ** entitlement to tax-free allowance (free limit)
<b>Aargau</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	6–23% 0 (2,000)	4–9% 0 (2,000)	12–32% <sup>1</sup> 0 (2,000)	yes, within 5 years —
<b>Appenzell A. Rh.</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	22% 5,000 (2,000)	12% 10,000 (2,000)	max. 32% <sup>2</sup> 5,000 (2,000)	— (linear tariff) once only
<b>Appenzell I. Rh.</b>	Tax allowance (free limit)	tax-exempt — (—)	1% <sup>3</sup> 300,000 (5,000)	4% 20,000 (5,000)	6% 5,000 (5,000)	20% 5,000 (5,000)	max. 20% <sup>3</sup> 5,000 (5,000)	— (linear tariff) once only
<b>Basel-Land</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	15% 30,000 (0)	15% 30,000 (0)	30% 10,000 (0)	— (linear tariff) once only
<b>Basel-Stadt</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	5–11% 0 (10,000)	7.5–16.5% 0 (10,000)	7.5–16.5% 0 (10,000)	22.5–49.5% <sup>4</sup> 0 (10,000)	yes — once only
<b>Berne</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	6–15% 12,000 (0)	6–15% 12,000 (0)	6–15% 12,000 (0)	max. 40% <sup>5</sup> 12,000 (0)	yes, within 5 years every 5 years
<b>Fribourg</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	5.25% <sup>6</sup> 5,000 (0)	8.25% <sup>6</sup> 5,000 (0)	max. 22% <sup>6</sup> 5,000 (0)	— (linear tariff) every 5 years
<b>Geneva</b>	Tax allowance (free limit)	tax-exempt <sup>7</sup> — (—)	tax-exempt <sup>7</sup> — (—)	tax-exempt <sup>7</sup> — (—)	9–12% <sup>7a</sup> 0 (5,000)	24–26% <sup>7a</sup> 0 (5,000)	max. 26% <sup>7a</sup> 0 (5,000)	yes, within 10 years every 10 years
<b>Glarus</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	2.88–7.19% <sup>8</sup> 50,000 (5,000)	4.6–11.5% <sup>8</sup> 10,000 (5,000)	4.6–11.5% <sup>8</sup> 10,000 (5,000)	max. 28.75% <sup>8</sup> 10,000 (5,000)	yes once only
<b>Grisons</b>	Tax <sup>9</sup> allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	10% <sup>9</sup> 100,000 (0)	10% <sup>9</sup> 7,000 (0)	tax-exempt <sup>9</sup> — (0)	10% <sup>9</sup> 7,000 (0)	— (linear tariff) every 5 years
<b>Jura</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt <sup>10</sup> — (—)	7% — (10,000)	14% — (10,000)	14% — (10,000)	max. 35% — (10,000)	— (linear tariff) — (every 5 years)
<b>Lucerne</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt <sup>11a</sup> — (—)	tax-exempt <sup>11a</sup> — (—)	tax-exempt <sup>11a</sup> — (—)	tax-exempt <sup>11a</sup> — (—)	tax-exempt <sup>11a</sup> — (—)	yes —
<b>Neuchâtel</b>	Tax allowance (free limit)	tax-exempt <sup>12</sup> — (—)	3% 0 (10,000)	3% 0 (10,000)	15% 0 (10,000)	20% 0 (10,000)	max. 45% 0 (10,000)	— (linear tariff) — (yearly)
<b>Nidwalden</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	5% 20,000 (0)	tax-exempt — (—)	max. 15% <sup>13</sup> 20,000 (0)	— (linear tariff) yearly
<b>Obwalden</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	— —
<b>St Gallen</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	10% 25,000 (5,000)	20% 10,000 (5,000)	30% 10,000 (5,000)	max. 30% <sup>14</sup> 10,000 (5,000)	— (linear tariff) once only

<b>Schaffhausen</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	2–8% 30,000	4–16% 10,000	10–40% 10,000	max. 40% <sup>15</sup> 10,000	yes once only
<b>Solothurn</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	4–10% 14,100 (0)	12–30% 14,100 (0)	12–30% 14,100 (0)	no yearly
<b>Schwyz</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	— —
<b>Thurgau</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt <sup>17</sup> — (—)	2–7% 20,000 (5,000)	4.1–14% 0 (5,000)	8.2–28% 0 (5,000)	max. 28% 0 (5,000)	yes once only
<b>Ticino</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	5.95–15.5% 0 (0)	17.85–41% 0 (0)	max. 41% 0 (0)	yes —
<b>Uri</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	8% 15,000 (0)	tax-exempt — (—)	max. 24% 15,000 (0)	— (linear tariff) yearly
<b>Vaud</b>	Tax allowance (free limit)	tax-exempt — (—)	1.2–3.5% <sup>19</sup> 0 (50,000) <sup>19a</sup>	2.64–7.5% <sup>19</sup> 0 (10,000)	5.28–12.5% <sup>19</sup> 0 (10,000)	15.84–25% <sup>19</sup> 0 (10,000)	max. 25% <sup>19</sup> 0 (10,000)	yes — (yearly)
<b>Valais</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	10% 0 (2,000)	25% 0 (2,000)	max. 25% 0 (2,000)	yes, with calendar year —
<b>Zug</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	4–8% 0 (5,000)	tax-exempt — (—)	max. 20% <sup>20</sup> 0 (5,000)	yes —
<b>Zurich</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	2–6% 200,000 (0)	6–18% 15,000 (0)	12–36% 50,000 (0)	max. 36% 0 (5,000)	yes once only

## Canton

## Inheritance Tax

		Spouses and reg. partners <sup>21</sup>	Descendants (children, grandchildren)	Parents	Siblings	Partners <sup>22</sup>	Other persons
<b>Aargau</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	6–23% 0 (0)	4–9% 0 (0)	12–32% <sup>1</sup> 0 (0)
<b>Appenzell A. Rh.</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	22% 5,000 (2,000)	12% 10,000 (2,000)	max. 32% <sup>2</sup> 5,000 (2,000)
<b>Appenzell I. Rh.</b>	Tax allowance (free limit)	tax-exempt — (—)	1% 300,000 (5,000)	4% 20,000 (5,000)	6% 5,000 (5,000)	20% 5,000 (5,000)	max. 20% 5,000 (5,000)
<b>Basel-Land</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	15% 30,000 (0)	15% 30,000 (0)	30% 10,000 (0)
<b>Basel-Stadt</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	5–11% 2,000 (0)	7.5–16.5% 2,000 (0)	7.5–16.5% 2,000 (0)	22.5–49.5% <sup>4</sup> 2,000 (0)
<b>Berne</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	6–15% 12,000 (0)	6–15% 12,000 (0)	6–15% 12,000 (0)	max. 40% <sup>5</sup> 12,000 (0)
<b>Fribourg</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	5.25% <sup>6</sup> 5,000 (0)	8.25% <sup>6</sup> 5,000 (0)	max. 22% <sup>6</sup> 5,000 (0)
<b>Geneva</b>	Tax allowance (free limit)	tax-exempt <sup>7</sup> — (—)	tax-exempt <sup>7</sup> — (—)	tax-exempt <sup>7</sup> — (—)	6–11% <sup>7a</sup> 0 (500)	20–26% <sup>7a</sup> 0 (500)	max. 26% <sup>7a</sup> 0 (500)
<b>Glarus</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	2.88–7.19% <sup>8</sup> 50,000 (5,000)	4.6–11.5% <sup>8</sup> 10,000 (5,000)	4.6–11.5% <sup>8</sup> 10,000 (5,000)	max. 28.75% <sup>8</sup> 10,000 (5,000)
<b>Grisons</b>	Tax <sup>9</sup> allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	10% <sup>9</sup> 100,000 (0)	10% <sup>9</sup> 7,000 (0)	tax-exempt <sup>9</sup> — (—)	10% <sup>9</sup> 7,000 (0)
<b>Jura</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt <sup>10</sup> — (—)	7% 0 (10,000)	14% 0 (10,000)	14% 0 (10,000)	max. 35% 0 (10,000)
<b>Lucerne</b>	Tax allowance (free limit)	tax-exempt — (—)	0–2% <sup>11</sup> 0 (100,000)	6–12% 0 (0)	6–12% 0 (0)	6–12% 2,000 (0)	max. 40% 0 (0)
<b>Neuchâtel</b>	Tax allowance (free limit)	tax-exempt <sup>12</sup> — (—)	3% <sup>12a</sup> 50,000 (0)	3% <sup>12a</sup> 50,000 (0)	15% <sup>12a</sup> 0 (10,000)	20% <sup>12a</sup> 0 (10,000)	max. 45% <sup>12a</sup> 0 (10,000)
<b>Nidwalden</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	5% 20,000 (0)	tax-exempt — (—)	max. 15% <sup>13</sup> 20,000 (0)
<b>Obwalden</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)
<b>St Gallen</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	10% 25,000 (5,000)	20% 10,000 (5,000)	30% 10,000 (5,000)	max. 30% <sup>14</sup> 10,000 (5,000)

<b>Schaffhausen</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	2–8% 30,000 (0)	4–16% 10,000 (0)	10–40% 10,000 (0)	max. 40% <sup>15</sup> 10,000 (0)
<b>Solothurn</b>	Tax allowance (free limit)	tax-exempt <sup>16</sup> — (—)	tax-exempt <sup>16</sup> — (—)	tax-exempt <sup>16</sup> — (—)	4–10% <sup>16</sup> 0 (0)	12–30% <sup>16</sup> 0 (0)	12–30% <sup>16</sup> 0 (0)
<b>Schwyz</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)
<b>Thurgau</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt <sup>17</sup> — (—)	2–7% 20,000 (0)	4.1–14% 0 (5,000)	8.2–28% 0 (5,000)	max. 28% 0 (5,000)
<b>Ticino</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	5.95–15.5% <sup>18</sup> 0 (0)	17.85–41% <sup>18</sup> 0 (0)	max. 41% <sup>18</sup> 0 (0)
<b>Uri</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	8% 15,000 (0)	tax-exempt — (—)	max. 24% 15,000 (0)
<b>Vaud</b>	Tax allowance (free limit)	tax-exempt — (—)	0.01–3.5% <sup>19</sup> 0(250,000)	2.64–7.5% <sup>19</sup> 0 (10,000)	5.28–12.5% <sup>19</sup> 0 (10,000)	15.84–25% <sup>19</sup> 0 (10,000)	max. 25% <sup>19</sup> 0 (10,000)
<b>Valais</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	10% 0 (10,000)	25% 0 (10,000)	max. 25% 0 (10,000)
<b>Zug</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	tax-exempt — (—)	4–8% 0 (5,000)	tax-exempt — (—)	max. 20% <sup>20</sup> 0 (5,000)
<b>Zurich</b>	Tax allowance (free limit)	tax-exempt — (—)	tax-exempt — (—)	2–6% 200,000 (0)	6–18% 15,000 (0)	12–36% 50,000 (0)	max. 36% 0 (5,000)

source: Credit Suisse

**Special Notes/Details**

- <sup>1</sup> **AG** Stepchildren are zero-rated, as are foster children (subject to certain conditions).
- <sup>2</sup> **AR** Stepchildren and foster children are zero-rated.
- <sup>3</sup> **AI** Stepchildren are treated the same as descendants. Foster children after two years in foster care.
- <sup>4</sup> **BS** Foster children are zero-rated.
- <sup>5</sup> **BE** Stepchildren are zero-rated, as are foster children (subject to certain conditions).
- <sup>6</sup> **FR** The listed tax rates relate solely to cantonal tax. Some municipalities additionally levy a municipal tax. This equals up to 70% of the cantonal tax.
- <sup>7</sup> **GE** Not applicable if testator or donor is subject to expenditure-based tax (so-called forfait). In such cases, the tax rate is between 2% and 12%.
- <sup>7a</sup> **GE** In addition, “centimes additionnels” are levied. 2017: 110% of the rate indicated.
- <sup>8</sup> **GL** Including construction tax which currently amounts to 15%. Adopted children are tax-free.
- <sup>9</sup> **GR** The tax rates listed relate solely to the cantonal gift tax and to the cantonal estate duty. Some municipalities additionally levy a municipal gift tax/inheritance tax. Municipal tax may be payable at a rate of up to 5% for persons receiving money from their partner or down the parental line, or of up to 25% for other beneficiaries. Stepchildren and foster children are zero-rated.
- <sup>10</sup> **JU** Not applicable if testator or donor is subject to expenditure-based tax (so-called forfait). In this case, the tax rate is 3.5%.
- <sup>11</sup> **LU** No tax at cantonal level. However, every municipality can levy a descendants’ inheritance tax which amounts to a maximum of 2%. Stepchildren and foster children are treated as descendants.
- <sup>11a</sup> **LU** Gifts made less than five years prior to death are subject to inheritance tax.
- <sup>12</sup> **NE** Also applies to partners that have been registered under cantonal law for at least two years.
- <sup>12a</sup> **NE** Gifts made less than five years prior to death are subject to inheritance tax.
- <sup>13</sup> **NW** Stepchildren, foster children, children-in-law, stepparents, foster parents, and parents-in-law are zero-rated.
- <sup>14</sup> **SG** Stepchildren and foster children are zero-rated.
- <sup>15</sup> **SH** Stepchildren are zero-rated, as are foster children (subject to certain conditions).
- <sup>16</sup> **SO** Per estate, an (additional) 8–12% estate tax is payable.
- <sup>17</sup> **TG** Stepchildren and foster children are treated the same as descendants after seven years in the family’s care.
- <sup>18</sup> **TI** Per estate, bank/savings balances up to CHF 50,000 are tax-exempt.
- <sup>19</sup> **VD** The listed tax rates relate solely to cantonal tax. Many municipalities levy a municipal tax in addition. This amounts to 100% of the cantonal tax.



- <sup>19a</sup> **VD** The free-limit amount for grandchildren is only CHF 10,000.
- <sup>20</sup> **ZG** Stepchildren and stepparents are zero-rated.
- <sup>21</sup> **Federal Act on the Registration of Partnerships for Same-Sex Couples:** In all cantons, registered partners are equated with spouses and are thus tax-exempt.  
**Note:** In many cantons, a special tax schedule applies to cohabiting mixed-sex couples. See the definition on the right.
- <sup>22</sup> **Definition of partner pursuant to the laws on inheritance taxes and gift taxes**
- AG** Persons who have shared a home with the donor (same domicile) for at least five years.
- AR** An unmarried person who has shared a home for an uninterrupted period of at least five years with his or her partner, provided the deceased person made a considerable contribution to his or her living costs or the partners pooled their resources.
- AI/GE/SG/SH/SO/TG/TI/uR/VD/VS** Partners are not mentioned and thus come under the heading of “other persons”.
- BL** Persons who have shared a home with the donor for an uninterrupted period of at least five years and have the same domicile.
- BS** Persons who have shared a home with the donor for an uninterrupted period of at least five years and have the same tax domicile.
- BE** Persons who have shared a home with the donor (same tax domicile) for at least ten years.
- FR** Persons who have shared a home with the donor (same tax domicile) for at least ten years.
- GL** Partners living together as a married couple who have shared a home for at least five years.
- GR** No legal definition of partner at the cantonal level. Subject to differences from one municipality to another.
- JU** Partners who have shared a home for at least ten years.
- LU** Comprehensive domestic partnership, whether mixed-sex or same-sex, that continued without interruption for at least two years prior to death.
- NE** Partners who have shared a home for at least five years. See also footnote 12.
- NW** Persons who have had a permanent shared home at the same place of residence for at least five years.
- UR** Persons who, at the time of the gift or on the day of decease, were living together with their joint children (minors) or who had shared a home with the testator or donor for at least five years.
- ZG** No legal definition. The Tax Administration requires a de facto domestic partnership of at least five years and further prerequisites.
- ZH** Partners who have shared a home for at least five years.

(d) Endowments

The establishment of a foundation or a similar transaction upon death may be subject to inheritance or gift tax. However, Switzerland does not have a separate endowment tax.

(e) Assets outside Switzerland

Movable assets which are part of the inheritance or gift are subject to inheritance or gift tax irrespectively where they are located provided that the other requirements for taxation are met. No inheritance or gift tax may be imposed, if the movable assets are part of the assets belonging to a permanent establishment located outside Switzerland. Immovable assets like a real estate are subject to inheritance or gift tax if it is located in a Swiss canton. This also applies if the last residency of the deceased or donor was outside Switzerland.

### **2.1.3 Who Is Liable for Gift and Inheritance Tax?**

Tax liability rests with the donee or legatee, and with each heir for his or her share of the inheritance. In general, the donor and all the heirs are jointly and severally liable for the gift tax. The inheritance tax is generally billed to the heir's representative as a single amount.

In most cantons the donor or the other heirs may assume a joint liability for inheritance and gift taxes.

### **2.1.4 Filing Procedures**

Since inheritance and gift taxes are cantonal taxes, the filing procedures may vary from canton to canton.

Most cantons require that transfers by way of gift have to be declared with the tax authorities by filing a gift tax declaration by the donee (in a few cantons, the declaration has to be filed by the donor). Often a filing deadline for such declaration may apply (e.g. the filing deadline of the canton of Zurich is three months).

To assess the inheritance taxes the heirs or the competent authorities are generally obliged to prepare an estate inventory upon an individual's death. Depending on the canton, such inventory usually has to be prepared within a short time after the death.

### 2.1.5 Trusts and Foundations

Switzerland has ratified the Hague Convention of 1 July 1985 on the Law Applicable to Trusts and on their Recognition. However, Swiss law does not provide for a specific Swiss trust law and Swiss (formal) tax laws are silent on the treatment of trusts and the like, in particular whether or not they are transparent for Swiss tax purposes. The Swiss Tax Conference issued a circular letter which offers some basic guidelines on the qualification of trusts mainly for income and net wealth tax purposes. The circular letter is not binding on the tax authorities even if, in practice, nearly all cantons and the Swiss Federal Tax Administration have adopted the outlined rules. Please note that the circular letter only has a limited scope with regard to cantonal inheritance and gift taxes.

Following the trust circular, revocable trusts are generally regarded as transparent entities since there is no irrevocable divestment of the trust assets. In the case of an irrevocable discretionary trust the qualification depends on whether the settlor has any direct or indirect influence on the trust or the trustees. If so, it is likely that the trust would nevertheless qualify as transparent.

In the case of a transparent trust structure, the trust assets would be allocated to the settlor or, as the case may be, to the beneficiaries. Following this look-through approach a trust distribution might be qualified as a direct transfer by way of gift or inheritance from such person to the corresponding donee or heir and could potentially trigger inheritance and gift taxes. On the other hand, a transfer from a Swiss resident settlor to a trust, which is qualified as opaque for Swiss tax purposes, might trigger inheritance and gift taxes provided the settlor was tax resident in Switzerland at the time of transfer.

In setting up an opaque pre-immigration trust, a foreign resident settlor may not only be able to shelter (part) of his wealth from Swiss net wealth taxes but achieve that the assets irrevocably transferred into trust no longer form part of his or her estate which are potentially subject to Swiss inheritance and gift taxes. Since the treatment of trusts for Swiss tax purposes is uncertain it is current practice to obtain a binding tax ruling from the competent Swiss tax authorities before setting up a trust structure or before immigrating to Switzerland.

Similar rules may also apply to (non-Swiss) foundations which are commonly used for estate planning purposes.

### **3.1 Estate Tax Treaties**

The Swiss Confederation has concluded estate tax treaties with the following countries:

Denmark (incl. Faroe Islands), Germany, Finland, Great Britain, The Netherlands, Norway, Austria, Sweden, USA. France canceled the inheritance tax treaty with effect as of December 31, 2014.

All agreements exclusively apply to inheritance taxes. There are no tax treaties with regard to gift taxes.

Certain cantons have concluded specific international agreements in connection with inheritance and gift taxes (e.g. reciprocal agreement of the canton of Zurich with the US providing for tax-free transfers to public, welfare, and charitable entities).