

CURRENT REVISION OF SWISS FOUNDATION LAW

With the submission of the parliamentary initiative to strengthen Switzerland as a foundation location on 9 December 2014, Werner Luginbühl, former member of the Bernese Council of States, set the current revision of foundation law in motion. The Legal Commission of the Council of States opened a consultation procedure on the preliminary draft of a revision of foundation law, which lasted until 13 March 2020.

The central element of the proposal is tax incentives. Under current law, donations to charitable organizations can only be deducted from taxable income to a limited extent. The preliminary draft provides that in the main variant, on the one hand, the legal maximum deduction limit of 20% of the donor's income or profit is increased once by the amount of the donation received from an inheritance, bequest or gift. On the other hand, a deduction in the sense of a donation carried forward should be possible in the two subsequent tax years if the donation from an inheritance or gift cannot be deducted in full because it is higher than the taxable income. In addition to the main variant, the Commission has proposed two further variants. Variant 1 does not provide for a time limit on the carry forward of donations. Variant 2 dispenses with both the regulation on a one-time increased donation deduction and a donation carryforward. The tax incentives in the form of an increase in the permissible donation deductions or in the form of a donation carried forward are intended to contribute to an increase in the number of foundations and to make the Swiss foundation sector more attractive. In this context, the intended flexibilisation of the right to a compulsory portion in the new inheritance law should also be of importance.

The following areas are subject of the revision of the Swiss foundation law:

- Regular publication of data on those exempt from taxes due to non-profit status Organisations;
- Clearer regulation of the foundation supervision complaint;
- Optimization of the founder's rights by extending the reservation of the right to amend the in the foundation deed to organizational changes;
- Simplification of amendments to the foundation deed;
- Limitation of liability for honorary board members;
- No refusal or withdrawal of tax exemption where non-profit organisations pay appropriate remuneration to their strategic management bodies.

If you have any questions in this context, our expert in tax questions will be happy to provide you with advice and answers.



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