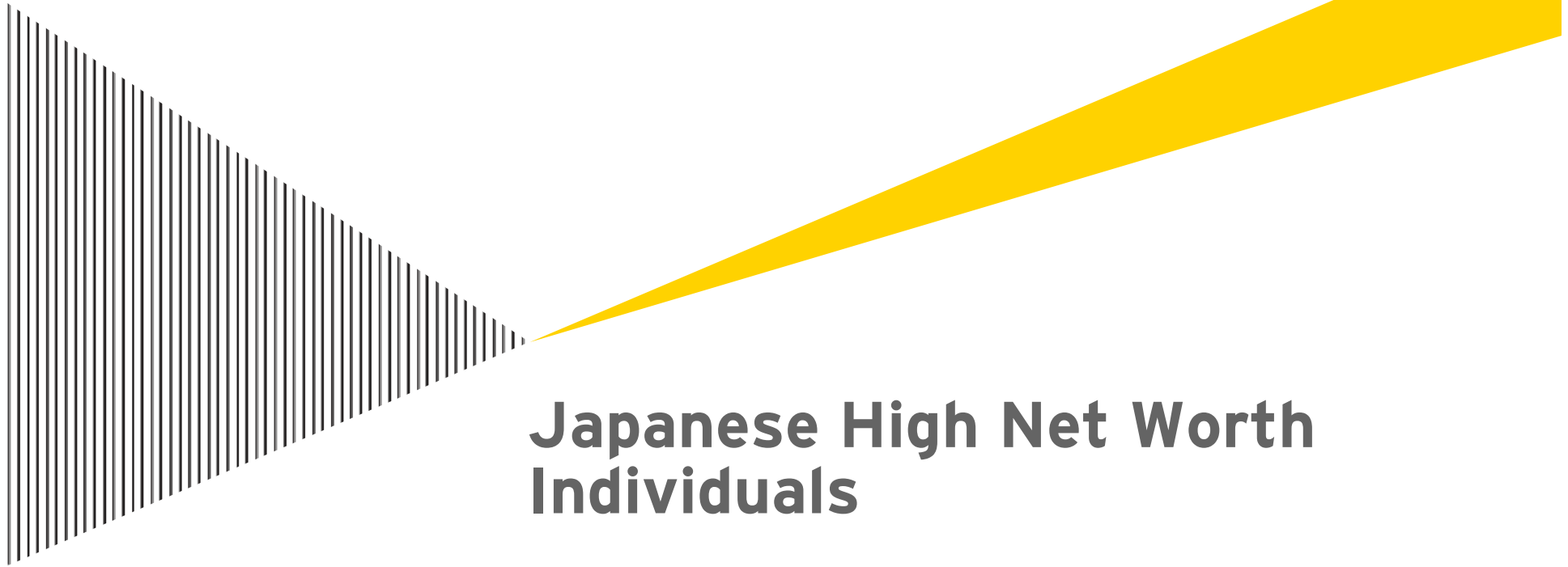


Japan Business Services
JHNWIs 2



Japanese High Net Worth Individuals

March 2009

 **ERNST & YOUNG**
Quality in Everything We Do

Case study

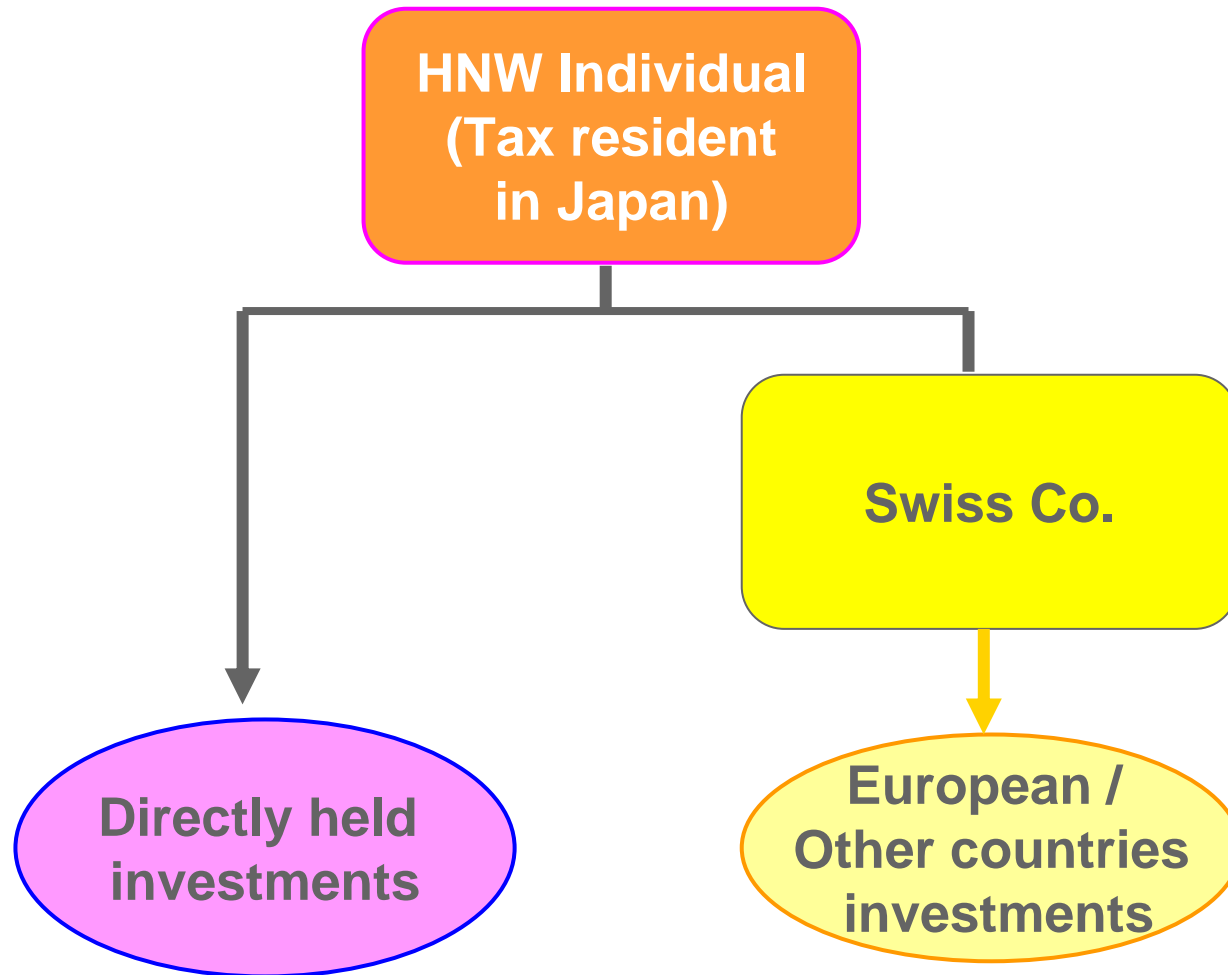
- ▶ Japan HNW individuals with investments in Europe.
- ▶ PB clients are J-HNWIs who owns a lot of shares of Japanese listed companies. When Switzerland comes into the picture, either they immigrate or create an asset management company in CH, or make direct investments from Japan. So concretely, when they create an asset management company in CH, 3 scenarios can be considered:
 - 1) Having Japanese shares of the listed companies,
 - 2) Investing real estate in Europe,
 - 3) Make a loan using the owning share as the guarantee.The questions are for the above 3 transactions, how would the taxation and actual problems in practice.

Case study - 2 scenarios

HNW individual is:

- 1. Japan tax resident**
- 2. Swiss tax resident**

1.1 Japan tax resident



1.2 Japan tax resident Swiss Tax Implications

Interest income from:	Japan resident individual	Swiss resident holding company
Bonds in EU		Tax exempt
Bonds in EU	No EU withholding tax (EU-CH savings tax treaty not applicable)	
Bonds in CH		Tax exempt
Bonds in CH	35% withholding tax, reduced under DTT	
Interests on bank deposits in CH		Tax exempt
Interests on bank deposits in CH	35% withholding tax reduced under DTT	

1.2 Japan tax resident Swiss Tax Implications

Rental Income from:	Japan resident individual	Swiss resident holding company
Swiss property		<ul style="list-style-type: none"> ▶ Taxable at 25-30% profit tax ▶ cantonal municipal real estate tax
Swiss property	<ul style="list-style-type: none"> ▶ Taxable @ 40% net of rental expenses ▶ Taxable @ 1% of fiscal value (wealth tax) ▶ cantonal/municipal real estate tax ▶ cantonal capital gains tax ▶ inheritance tax (no DTT) 	
French property		<ul style="list-style-type: none"> ▶ Rental income taxable in France ▶ Local real estate tax ▶ 3% company's tax
French property	<ul style="list-style-type: none"> ▶ rental income taxable in France ▶ local real estate tax ▶ wealth tax as far as property over Euros 770'000 ▶ capital gains tax ▶ inheritance tax 	

1.2 Japan tax resident Swiss Tax Implications

Dividends from companies in:	Japan resident individual	Swiss resident holding company
Japan	If shareholding less than 5% → Withholding 7% income tax, 3% local tax (15% income tax, 5% local tax after 1.Jan.2011)	If shareholding less than 5% → Withholding 7% income tax, (15% income tax after 1. Apr. 2009)
Japan	If shareholding more than 5% → Withholding 20% income tax (no withholding local tax)	If shareholding more than 5% → Withholding 20% income tax
Switzerland		Tax exempt
Switzerland	35% withholding tax, reduced to 15% under DTT	
EU		If shareholding > 5% → zero rate
EU	Tax at source reduced under applicable DTT	

1.2 Japan tax resident Swiss Tax Implications

Company tax level - summary

- ▶ Holding Company defined as joint-stock company or cooperative whose main purpose is the long-term management of participations and who does not have any commercial activity in Switzerland
- ▶ No corporate income tax as long as the participations (or income thereof) represent more than 2/3 of the total assets (income)
- ▶ Interesting tax reliefs at cantonal levels (→ zero taxes / participation exemption at federal level)
- ▶ Income generated from Swiss real estate is taxable at ordinary rates
- ▶ EU Savings Tax Directive* → Parent - Subsidiary Directive**
- ▶ 35% withholding tax on dividend payment from Swiss Holding Company to Japanese individual, reduction to 15% under DTT CH-Japan

*: EU savings tax directive allows the paying agent to retain tax at source in Switzerland on certain type of investments generating interests which are paid to residents of EU (it is a tool against tax evasion). The tax at source is then redistributed in EU.

** : EU parent-subsidiary directive allows a distribution of dividends free of tax at source when certain criterias are fulfilled, this measure valid among EU States has been extended to Switzerland.

1.2 Japan tax resident Swiss Tax Implications

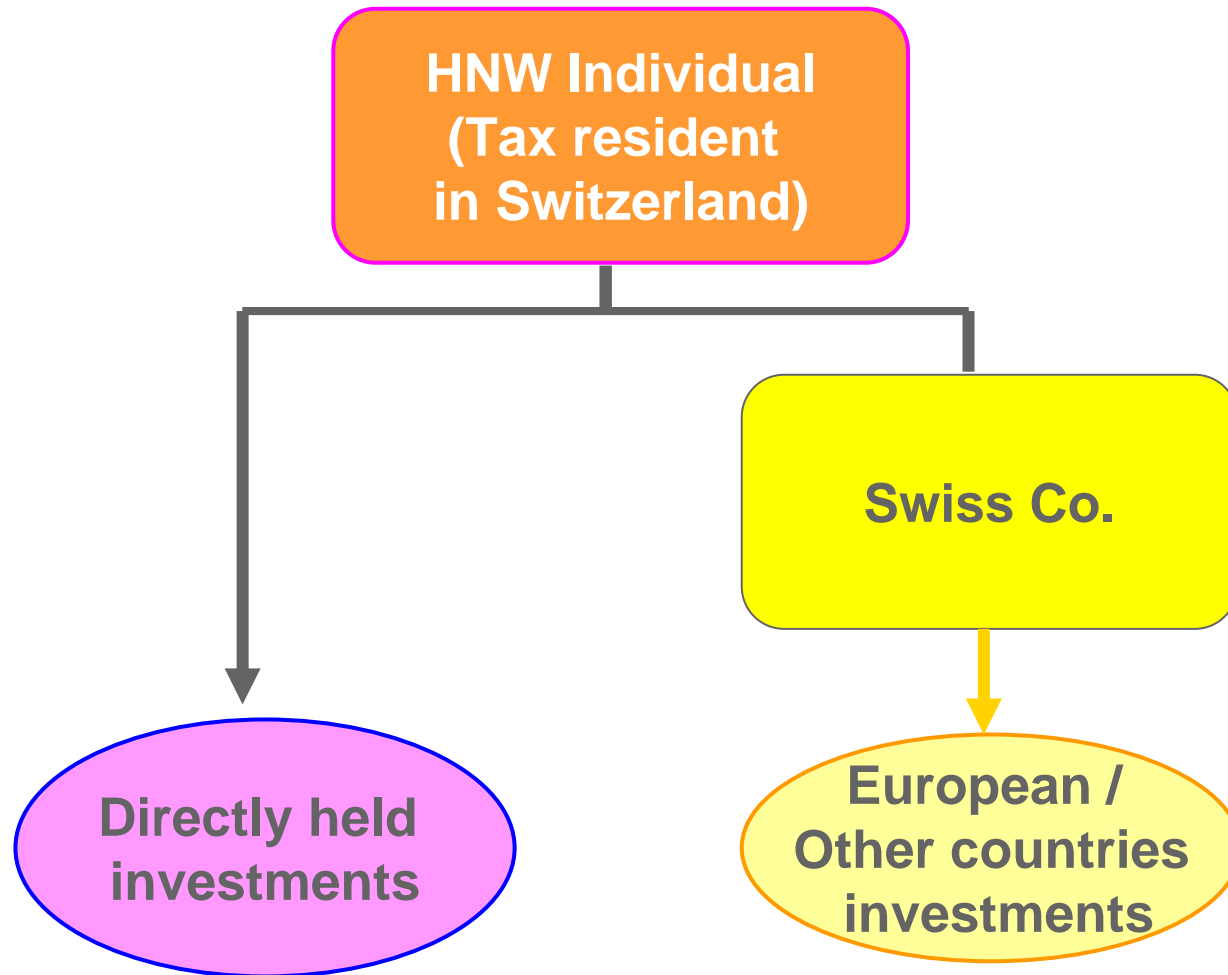
Individual tax level - summary

- ▶ 35% Swiss withholding tax on Swiss dividend and Swiss interests and Swiss Francs bank account interests
- ▶ Reduction under DTT CH - Japan to 15%
- ▶ EU Savings Tax Directive not applicable on EU source interests
- ▶ Swiss rental income subject to Swiss income tax (limited tax liability, up to 40%)
- ▶ Swiss official (tax) value of real estate subject to Swiss cantonal net wealth tax (limited tax liability, up to 1%); same principle in France for French real estate (if value above Euros 770'000)
- ▶ Local real estate tax in Switzerland and in France
- ▶ Capital gains tax (up to 30 - 40%) on net gain realized on sale of real estate in Switzerland
- ▶ Inheritance tax in case real estate transferred to heirs or legatees (in Switzerland: from zero to 60% depending on value and beneficiary)

1.3 Japanese Tax Resident Japan Tax Implications

- ▶ A Japanese resident is subject to income tax on worldwide income. Therefore, income tax is levied on income derived from overseas direct investments, as well as on dividends derived from a Swiss company.
- ▶ The amount which is calculated as income includes not only the amount received, but also the amount outstanding (e.g. dividends accrued). Latent income is not subject to income tax.
- ▶ If a Japanese resident owns more than 50% of shares in a Swiss company, and if that company does not satisfy certain conditions, the Japanese resident is subject to tax on their pro rata share of the company's income (Japanese Tax Haven Rule).
- ▶ If a Japanese resident invests in a Swiss company after selling and capitalizing on their properties, capital gain is accrued and they are subject to income tax and residence tax (separate taxation).
- ▶ Overseas tax amount levied on overseas direct investments can be deducted from Japanese income tax. However, overseas tax amount levied on a Swiss company is excluded from deductions.

2.1 Swiss tax resident



2.2 Swiss Tax resident Swiss Tax Implications

- ▶ As far as company tax level is concerned see page 8
- ▶ Individual tax level:

Ordinary taxation

- ▶ Assessment on worldwide assets and income (subject to DTT provisions), wealth tax on intrinsic value of holding shares!
- ▶ 35% withholding tax on Swiss dividend income, creditable against Swiss income taxes
- ▶ 35% withholding tax on Swiss bonds interest income and Swiss francs bank accounts/deposits, creditable against Swiss income taxes
- ▶ no capital gains tax on gain realized on sale of movable private (not business) assets
- ▶ capital gains tax on gain realized on sale of real estate

Lump sum taxation

- ▶ Assessment on deemed income. Swiss source income in control tax and foreign source income as far as DTT benefits claimed
- ▶ 35% withholding tax on Swiss dividend income, creditable against Swiss income taxes
- ▶ 35% withholding tax on Swiss bonds interest income and Swiss francs bank accounts/deposits, creditable against Swiss income taxes
- ▶ **Recommendation:** Use Lux Co instead of Swiss Co as investment vehicle
- ▶ no capital gains tax on gain realized on sale of movable private (not business) assets
- ▶ capital gains tax on gain realized on sale of real estate

2.2 Swiss Tax resident Swiss Tax Implications

▶ Individual tax level (continue):

Ordinary taxation

- ▶ Rental income and value of property (if > Euros 770'000) subject to French income and wealth tax
- ▶ French inheritance tax (40% to 80%)
- ▶ **Recommendation:** For investment in real estate in France, use French SCI to mitigate French inheritance

Lump sum taxation

- ▶ Rental income and value of property (if > Euros 770'000) subject to French income and wealth tax
- ▶ French inheritance tax (40% to 80%)
- ▶ **Recommendation:** For investment in real estate in France, use French SCI to mitigate French inheritance

2.3 Swiss Tax resident Japan Tax Implications

- ▶ To determine whether a Japanese individual qualifies as a Japanese resident or non-Japanese resident, the following criteria should be taken into account:
① housing, ② profession, ③ domicile of their spouse and family, and ④ existence of Japanese assets.
- ▶ If a Japanese individual qualifies both as a Japanese resident and a Swiss resident, the place of residence will be decided according to the mutual agreement stated in the Japan-Swiss Tax Treaty, Article 4.
- ▶ The withholding taxation method is either comprehensive taxation or separate taxation, according to the kind of income.
- ▶ If separate taxation is applied for the income taxation, 10%-20% withholding tax is levied in principle.
- ▶ A non-Japanese resident is subject to Japanese withholding tax if they have income from appropriate financial instruments.

2.3 Swiss Tax resident Japan Tax Implications

- ▶ The dividend a Swiss resident receives from a Japanese company:
 - 1) 「Notification concerning the Tax Treaty」 is submitted to the appropriate Japanese company
 - Holding more than 6 months, more than 25% of shares: 10% withholding tax
 - Others : 15% withholding tax
 - 2) 「Notification concerning the Tax Treaty」 is not submitted to the appropriate Japanese company
 - Listed company : 7% withholding tax
 - Non-listed company : 20% withholding tax

Conclusion: For the shares of affiliated companies, it is more advantageous to submit 「Notification concerning the Tax Treaty」 and thus benefit from the treaty. For the shares of listed companies, it is more profitable to accept income tax principle.

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