

to the double taxation agreement concluded between Switzerland and Austria. Pursuant to the Austrian Income Tax Act (as amended by the Gift Notification Act) the payments are income from capital assets (Section 27 (1) No. 7 Income Tax Act), but nonetheless subject to the special tax rate of 25% (Section 34 (8) Income Tax Act).

### **9.3. Conclusion**

The legal framework under civil law for corporate foundations in Switzerland is similarly liberal as that of Austria, however the legal framework under civil law is more uncertain and only based on case-law. As long as this situation does not change, foundations in Switzerland can be established for practically any economic purpose. Such foundations do not have to be entered in the commercial register and enjoy extensive freedom as regards the appointment of executive bodies. They are, however, subject to public supervision and must comply with specific accounting rules.

Foundations are not subject to taxation of income in connection with profits and capital gains related to shareholdings in companies. It should however be noted that gift tax is levied upon establishment of the foundation, on endowments to the foundation, in the event of liquidation or on payments to beneficiaries. For persons domiciled in the canton of Zug, the overall burden is comparable to that of the Austrian private foundation. For persons residing in Austria the combination of the Zug gift tax and the Austrian income tax is prohibitive; therefore, the Zug foundation model is not really suitable for persons domiciled in Austria. As an alternative foundation location, only the canton of Schwyz can be considered as it levies no inheritance and gift tax. If a donor is successful in relocating his or her domicile to Schwyz/Schwyz, he can benefit from a perfect tax situation.