



# US Tax Implications - Novartis Pension Plans

US Citizens and Green Card Holders in  
Switzerland

June 15, 2021

# Agenda

**Welcome**

**Overview of Swiss retirement system**

**US taxation of pension contributions**

**US taxation of pension earnings/ pension fund payments**

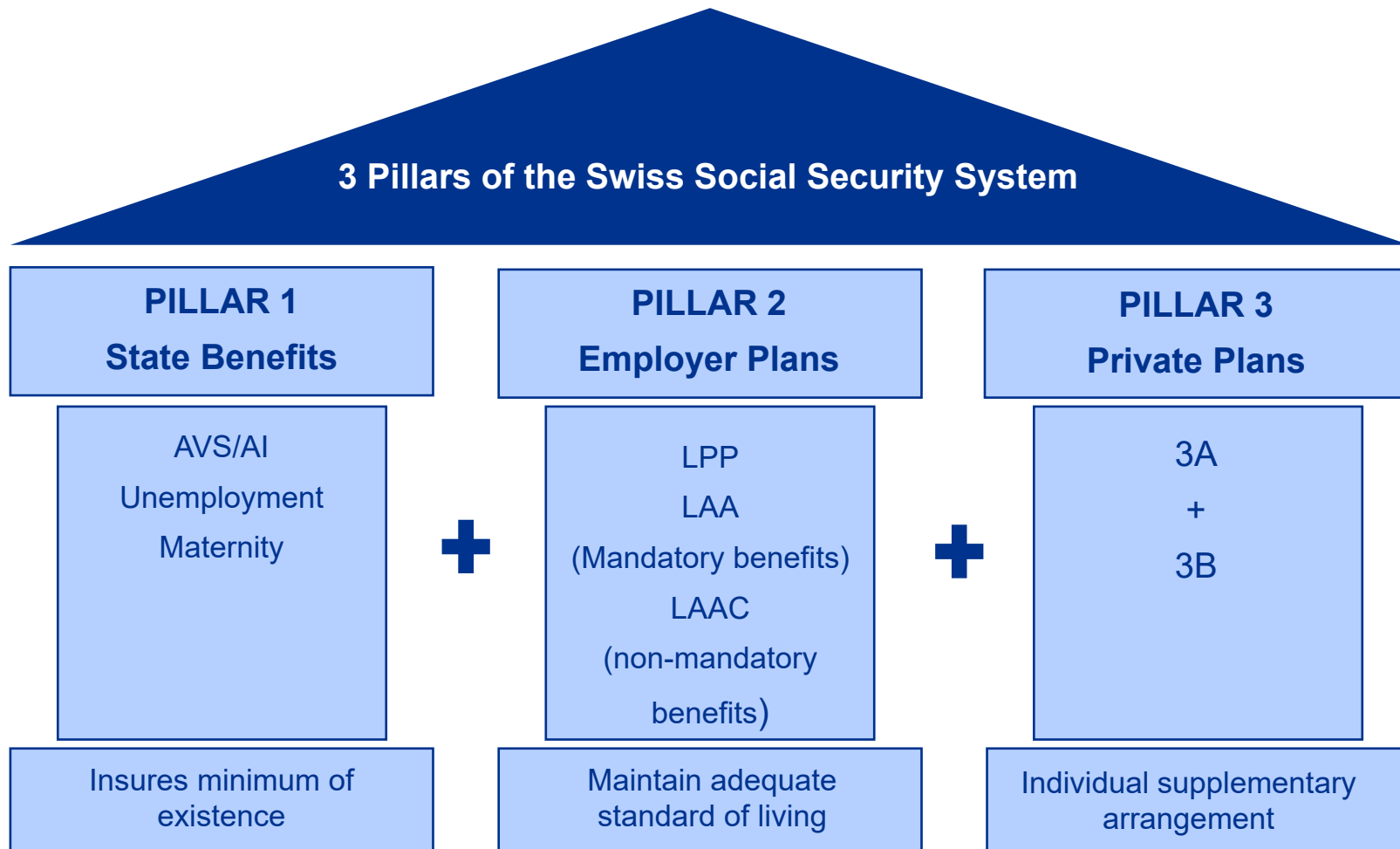
**Tracking the US pension basis**

**US taxation of pension distributions**

**Pension buy backs**

**Reporting requirements**

# Swiss social security & pension systems



# Swiss pillars' US equivalents

## **Pillar 1: Swiss Government Pension**

- Similar to US Social Security
- Mandatory for individuals employed by a Swiss entity (unless Certificate of Coverage)

## **Pillar 2: Swiss Employer Pension**

- Similar to US employer pension (401K plans)
- Mandatory for individuals employed by a Swiss entity (unless Certificate of Coverage)
- May need to be withdrawn or transferred to a 'blocked' account if an individual changes employers, retires, or leaves Switzerland

## **Pillar 3: Swiss Third Pillar Account**

- Similar to US Traditional IRA
- Voluntary participation, not employment related

# Why Swiss pensions are taxable

**Novartis Swiss pension plans do not meet the US definition of a “qualified retirement plan”**

**Taxable if both**

**Vested**

**Funded**

**Not taxable if**

**Not Vested**

**Not Funded**

# US taxation of contributions to a Swiss pension

## **In Switzerland both the employee and the employer contribute**

- Employee contributions - not deductible for resident of Switzerland
- Employer contributions – taxable
- Income earned on pension assets – may be taxable
- Employee contributions, employer contributions, and earnings on pension assets must be tracked as they represent US tax basis
- Additional amounts paid by the pension fund are also considered income for US tax purposes – 2022 FX payment is taxable each year paid
- Will need your “US tax basis” to determine how much of each pension withdrawal is taxable on your US return

# US taxation of pension earnings

## **Annual pension earnings may be taxable in the current year**

- Pension plan earnings may also be required to be included in US taxable income
- Applies to individuals who are “highly compensated”, that is your prior year total compensation exceeded \$125,000 (2019) –includes all compensation including benefits in kind
- Earnings reported on US tax return as income increase US tax basis

# US taxation of pension fund payments

## Additional payments by the pension fund are taxable in the current year

### Conversion rate adjustment PF1: comparative statement as per 01.01.2022

Personal number	██████	Age on 31.12.2021	██████
Date of joining	██████	Date of retirement	██████
<b>Basis of calculation</b>		<b>CHF / OLD</b>	<b>CHF / NEW</b>
Total annual income (base salary)		141'120.00	141'120.00
Bonus/incentive paid out in 2021		15'780.00	15'780.00
Current shift allowance (per year)		0.00	0.00
Level of employment		100.00%	100.00%

### Expected retirement benefits (Basis: scale Standard, assumed rate of interest: 2.0%)

<b>Retirement at age 65</b>		<b>CHF / OLD</b>	<b>CHF / NEW</b>
Projected retirement account at age 65		286'522.65	286'522.65
Conversion rate			
Retirement pension per year (Basis: scale Standard)			
Projected savings account at age 65			

All risk benefits remain unchanged (d)

### Contributions / month

PF1	Retirement plan	
	Risk plan	
	Savings plan	
<b>Total</b>	<b>Employee's contribution</b>	
	<b>Employer's contribution</b>	

### Other relevant calculation bases

PF1	Retirement account	31.12.2021	286'522.65
	'Rule of 60' points		60.00
	Compensation payment retirement plan PF1 over 3 year(s) booked on each 01.01.		6'687.45
	(Equivalent to a total compensation payment discounted on 01.01.2022 of CHF 19'674.55)		

<sup>1</sup> The comparison of the contributions is shown on the basis of the currently selected contribution scale.

### Other relevant calculation bases

PF1	Retirement account	31.12.2021	286'522.65
	'Rule of 60' points		60.00
	Compensation payment retirement plan PF1 over 3 year(s) booked on each 01.01.		6'687.45
	(Equivalent to a total compensation payment discounted on 01.01.2022 of CHF 19'674.55)		

Benefits in PF2 and the Management Pension Fund remain unchanged.

These calculations are provisional based on data available in March 2021. The final conversion calculations may differ due to not yet known changes in 2021.



# Swiss vs. US taxable compensation

	Swiss tax	US tax
Base salary	100,000	100,000
Social security contributions	(5,000)	-
Pension contribution		
<i>Employee</i>	(6,000)	-
<i>Employer</i>		12,000
<b>Taxable compensation</b>	<b>89,000</b>	<b>112,000</b>

# Novartis pension statement

We are pleased to confirm that, based on the pension plan regulations and pertaining to the year 2020, the following values apply (in CHF).

	<b>Employee</b>	<b>Employer</b>
Retirement contributions	20'494.85	35'974.05
Risk contributions	1'353.50	2'706.90

	<b>PF1</b>	<b>PF2</b>	<b>MPF</b>
Highest value	1'080'146.50	382'875.80	0.00
Value as per 12/31/2020	1'080'146.50	382'875.80	0.00

# US / Swiss pension taxation overview

	CH	US
Employer contributions	Nontaxable	Taxable
Employee contributions	Deductible	Nondeductible
Annual earnings	Nontaxable	Potentially taxable
Risk insurance	Nontaxable	Nontaxable, not considered for US basis
Distributions	Taxable	Taxable if distribution > US tax basis
Pension fund payments	Nontaxable	Taxable

# Calculation of US tax basis



**Employee contributions**



**Employer contributions**



**Annual earnings / Pension fund payments**



**Distributions**



**US tax basis**

# Example - basis calculation

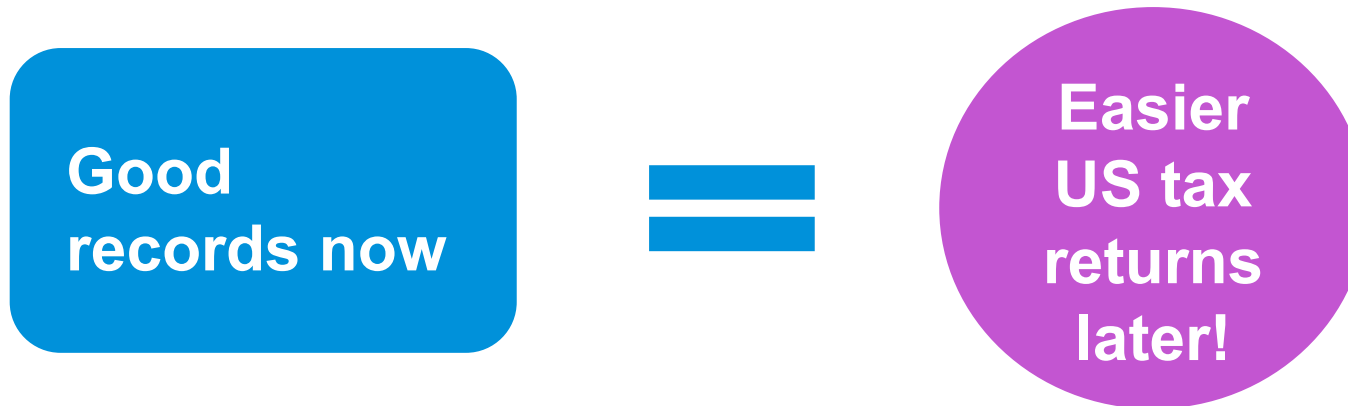
		Annual Basis			Accumulated Basis	
		CHF		USD		
2016	Employer Contributions	CHF	88'732	\$	90'053	
2016	Employee Contributions	CHF	59'083	\$	59'963	
	<b>2016 Basis Total</b>	CHF	147'815	\$	150'016	<b>A</b>
2017	Employer Contributions	CHF	91'666	\$	93'076	
2017	Employee Contributions	CHF	63'232	\$	64'205	
	<b>2017 Basis Total</b>	CHF	154'898	\$	157'281	<b>B</b>
2018	Employer Contributions	CHF	91'497	\$	93'483	
2018	Employee Contributions	CHF	68'576	\$	70'064	
	<b>2018 Basis Total</b>	CHF	160'073	\$	163'547	<b>C</b>
						<b>A+B+C</b>

# US tax basis - important to keep good records

## Very important to keep track of the following for basis purposes:

- Employer contributions included as taxable income on US returns
- Employee contributions not deducted on US tax returns
- Annual pension earnings included as taxable income on US returns
- Any distributions taken (US tax basis reduction)

**Keep good records now – can be very difficult to reconstruct US tax basis for things that happened years ago**



# US taxation of a pension distribution at retirement

## **Taxation of an annuity at retirement**

- Can recover a portion of US tax basis against each monthly pension payment received
- Taxed at ordinary US income tax rates on portion that exceeds basis

## **Taxation of a lump sum withdrawal at retirement**

- Only amount in excess of US tax basis is taxable in US
- Taxed at ordinary income tax rates (special lump-sum taxation does not exist under US law)
- **CANNOT** be rolled over tax-free into a US retirement plan or IRA!

# Swiss taxation of pension distributions

## **Taxation of annuities at retirement**

- Residents: taxed at ordinary rates
- Non residents: Switzerland only taxes an annuity if there is no income tax treaty with the country in which you are a resident when you receive payments (not an issue if you are in the US)

## **Taxation of lump sums at retirement**

- Residents: favorable taxation of lump-sum – rate depends on amount of lump-sum and location of pension/account making the distribution but rates are VERY low versus US tax rates (4-12%)
- Non residents: Swiss income taxes will be withheld using lump-sum rates



# Example - Withdraw as annuity at retirement

- Annual payment of CHF 20,000
- 30 years of payments (assumed life expectancy)
- Pension basis of CHF 300,000 when payments start

	CH	US
Annual payment	CHF 20,000	CHF 20,000
Basis applied to payment – total basis / 30 years	zero	CHF (10,000)
Amount taxed on return	CHF 20,000	CHF 10,000

# Example - Withdraw lump sum at retirement

- Lump sum payment of CHF 350,000
- Pension basis of CHF 300,000

	CH	US
Amount received	CHF 350,000	CHF 350,000
Tax basis	zero	CHF (300,000)
Taxable amount	CHF 350,000	CHF 50,000

# US taxation of a pension distribution before retirement

## **Taxation of a withdrawal before retirement**

- Amount in excess of US tax basis taxable on US return
- If tax resident in CH on date received, can claim Swiss tax as a foreign tax credit on US tax return

## **Taxation of transfer to another CH employer pension or to a blocked account in Switzerland**

- If reported correctly, all prior year amounts included in US tax basis so if continue to reside and work in CH, current year employee and employer contributions (plus earnings if applicable) will continue to be taxable income
- If pension distribution is placed in a blocked account, annual earnings will be reportable taxable income.

# Swiss taxes withheld on pension

## Swiss withholdings on pension distributions

- If you are a nonresident of Switzerland when the distribution occurs Swiss income taxes will be withheld from your pension distribution
- If you are a resident of the US (for tax purposes) when you receive a pension distribution on which Swiss tax is withheld the taxes are not eligible to be claimed as FTC since refundable

# Obtaining a refund of Swiss taxes withheld

## Swiss withholdings on pension distributions

- Each canton different – Basel-Stadt is very flexible
- Contact Novartis to start the process and obtain a summary of pension to be distributed
- File Form “Claim to refund of the withholding tax on settlements in cash by pension funds with registered office in Switzerland” with pension summary with the Basel tax authorities
- Include a copy of US driver’s license or other sufficient proof of US residency
- Refunds are usually processed within 1-3 months

# Pension buy backs

**Possibility to do pension buy backs in order to optimize for Swiss income and wealth tax purposes.**

**Attention – Not recommended for US persons!**

- Pension buy back deductible for Swiss tax purposes within limits
- Decreases Swiss taxable income and results in lower Swiss income tax
- Not deductible for US tax purposes
- Increases US tax liability since fewer foreign tax credits
- Accelerating US taxation on Swiss pension contributions
- Creates cash flow issues

# 3rd Pillar accounts - be careful how you invest

## **Investments may require onerous reporting on your US tax return**

- Foreign mutual funds are generally classified as Passive Foreign Investment Companies (PFICs) under US law!
  - Can cause acceleration of income on US return and different classification of income
  - Income may be taxed at highest US tax rates instead of at favorable qualified dividend or long-term capital gain tax rates

## **Reporting requirements**

- Form 8621 may be required to be filed
- Form 3520 may be required to be filed

# Pensions - reporting on FBAR and Form 8938

## **1st Pillar (Swiss social security)**

- Not reportable

## **2nd Pillar (employer pension)**

- Reportable on Form 8938
- Participants receive an annual statement showing the value in his/her pension
- Maximum value for Form 8938 is generally the December 31 value unless there were withdrawals during the year

## **3rd Pillar (private pension)**

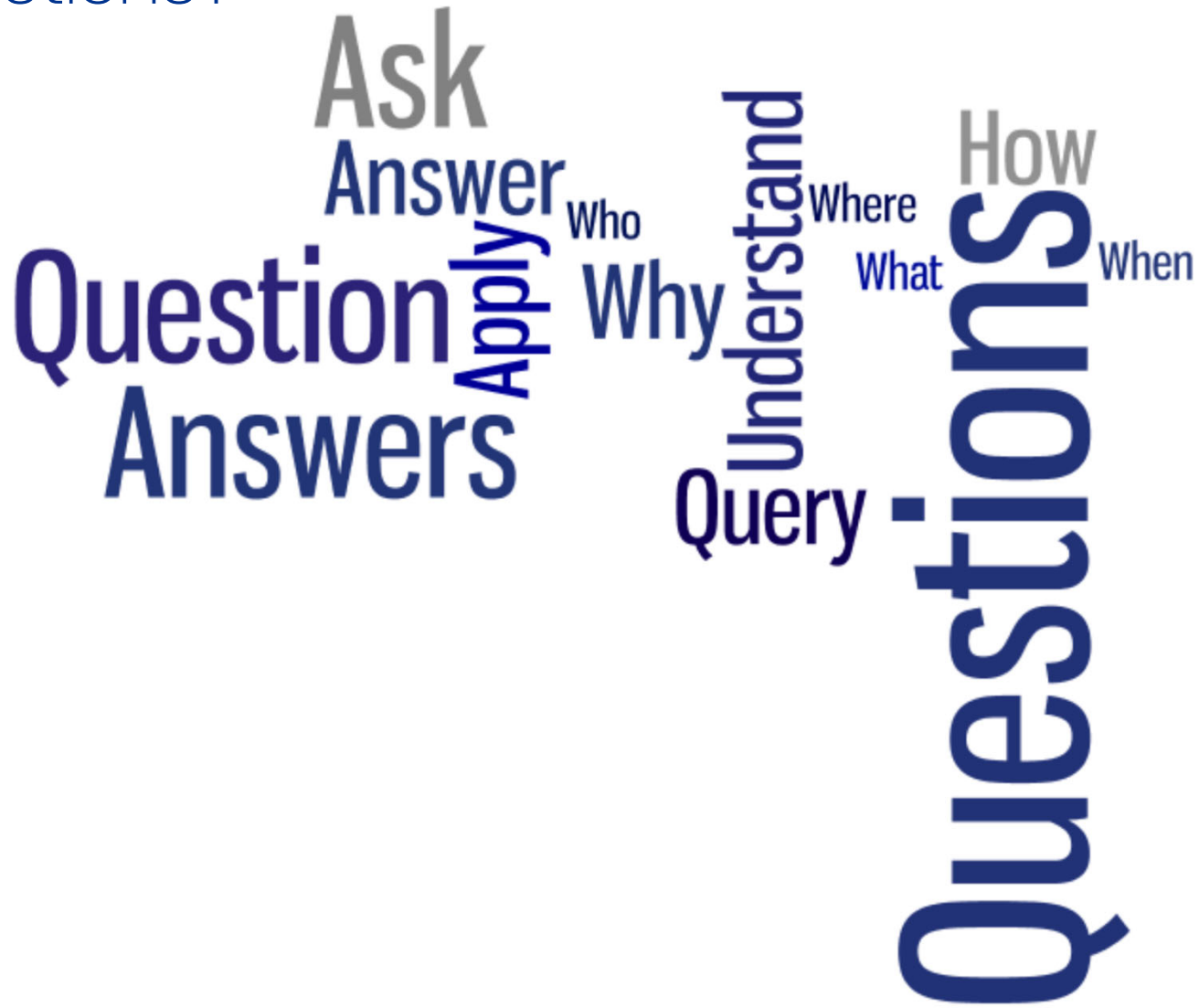
- Reportable on Form 8938, Form 8621, and FBAR

## **Blocked accounts (rollover of employer pension)**

- Reportable on Form 8938 and FBAR



Questions?





# Thank you!

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