

THE LAWYER

BRIEFING:
Switzerland

Property

A key to buying a holiday home in Switzerland

New rules aim to clamp down on the number of second homes in Switzerland's tourist towns, but options are still available for those in the market to buy



The Swiss Federal Act on second homes (Lex Weber) entered into force in January 2016, implementing the 11 March 2012 popular vote approving restrictions on second homes building in Switzerland. Some possibilities remain available to foreigners and Swiss nationals to acquire a second home in Switzerland. This briefing focuses on these possibilities and the practical implementation of this legislation.

Second home possibilities

Today, the construction of new second homes in municipalities having more than 20 per cent of second homes is no longer possible, except for serviced apartments whose use by the owner, friends and family is limited (a maximum of three weeks during the winter season). This implies that foreigners and Swiss nationals willing to acquire a second home in tourist areas must buy an existing property, which may be reallocated and/or transformed under certain specific conditions set out in the Lex Weber. Properties falling within the scope of the Lex Weber must indeed be used as main residences for an indefinite period of time.

The following premises can, taking into account the Lex Weber restrictions, be used, transformed or reallocated into second homes:

- protected or typical local buildings located in a building zone (e.g. alpin mayens, rustici, barn or grain store) whether currently used or not as homes, if their architectural aspect remains protected and it can be proven that this is the only way to preserve such buildings;
- under certain conditions, no longer operational and non-profitable hotels can be partially transformed into second homes;
- residential buildings approved and/or built before the acceptance of the Lex Weber. If used as a second home, the premises may only be extended up to 30 per cent of the main floor area.

The acquisition of such transformed buildings by 'persons abroad' (individuals domiciled abroad, non-EU 'B permit holders') remain subject to the Federal Law on the acquisition of real estate by person abroad restrictions (Lex Koller). Buying a holiday home requires issuance of a so-called 'Lex Koller quota' and authorities now tend to issue such quotas only upon completion of a verification that, under a Lex Weber perspective, the targeted building qualifies as a holiday home and not as a main residence, based on the construction date.

Practical steps to take before buying

In practice, the following analysis shall be conducted prior to any second home acquisition:

1. Municipalities at stake

Lex Weber applies to municipalities exceeding 20 per cent of second homes on their territory. The major tourist municipalities such as (to name only a few) Montreux, Verbier and Zermatt exceed this threshold.

A list of all municipalities exceeding the threshold is issued annually based on a federal register (the REglBl). The register, updated with data collected from municipal authorities, may not be consulted by the public.

Some municipalities have successfully challenged their insertion in that list and have been removed from it (e.g. Loèche (VS)). Others are merging with municipalities that are less tourist-based to fall under the 20 per cent threshold.

2. Date of authorisation or construction of a building

Should the targeted building be located in a municipality exceeding the threshold, the date of construction or authorisation of the building is of utmost importance.

If the building was built or authorised in 2012 or afterwards, a thorough analysis shall be conducted to understand whether the building must be used as a main residence or can be acquired as a holiday home.

3. Renovation/extension possibilities

Once the construction year is validated and assuming that the targeted property falls under possible holiday home use, the potential to renovate or extend the premises can be assessed. Practical questions such as how to calculate the 'main floor area' for purposes of the 30 per cent threshold referred to previously should be discussed with the competent authorities.

To help the municipal authorities and co-ordinate the Lex Weber implementation with other public law regulations, in particular the Lex Koller, the Canton of Valais created a competence centre (the SAJEET).

Conclusion

Second homes remain available in Switzerland despite the Lex Weber. However, the Lex Weber triggers the need for both Swiss and foreign nationals to conduct a detailed Lex Weber analysis to confirm whether the property may be used as a holiday home or not. For foreigners, a Lex Koller assessment must also be conducted.

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