

# artax

## NEWSLETTER

---

**Author:**

Circulation: 20'000  
(distributed electronically)

**Dr. iur. Bernhard Madörin**

Tax and Fiduciary Expert  
Licensed Audit Expert RAB  
Licensed Insurance Intermediary FINMA

---

### Latest about unconstitutional circular no. 40 (part 3)

Dear Sir or Madam,

Based on parliamentary actions, the Federal Council has backed down. The motion by National Councillor Daniela Schneeberger (FDP / BL) was rejected on formal grounds, nevertheless the Federal Council has commissioned a legislative change and massively amended the forfeiture of claims on reimbursements of withholding tax. The motion and the Federal Councils reply can be found [here](#) (in German). Now a constitutional practice is back in force. However, still pending is the parliamentary initiative by National Councillor Luzi Stamm (SVP) which this writer was privileged to contribute to ([link](#), text in German). This initiative aims for a constitutional practice to granting the reimbursement of withholding tax.

In view of the proposed legislative change (restriction on forfeitures of claims on reimbursement), it still needs to be decided how the Federal Tax Administration will be handling the pending legal cases that deal precisely with the issue of the as yet not legally binding assessment. In these cases, will the interim solution 16/01/2013 to 23/11/2016 (four-year-practice) be applied, or will the Federal Tax Administration revert to the old practice 1965 to 16/01/2013 (48-year-practice)? We would like to point to our newsletter covering this very issue: "[The odds in tax proceedings: 10/1 against the taxpayer](#)". This expert article shows that 90% of tax decision will not be in favour of the taxpayer; and that is the case across all instances.

Kind regards

**artax** Fide Consult AG

Member of Morison KSi

Gartenstrasse 95, Postfach, 4002 Basel  
Tel: +41 61 225 66 66, Fax: +41 61 225 66 67  
[info@artax.ch](mailto:info@artax.ch), [www.artax.ch](http://www.artax.ch)