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07.2019

Switzerland remains one of the most attractive tax locations

The Swiss people voted “yes” at a referendum held on 19 May 2019, regarding the Swiss tax reform and AHV financing (“TRAP”). Based on this positive vote, Switzerland continues to offer a stable and reliable tax environment and remains one of the most attractive business and tax locations. With the introduction of new tax measures and the abolition of the current preferential regimes (holdings, domiciliary companies, etc.), Switzerland’s tax law will become fully compliant with the existing international standards. The new legislation will enter into force on 01 January 2020.



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The current tax privileges for holdings, domiciliary and mixed companies, as well as for Swiss finance branches and principal companies, will be abolished in the light of international pressure. The federal taxes paid by these companies in recent years amount to some CHF 4 billion a year. This corresponds to more than half of the total federal tax revenue from corporate entities. When counting in cantonal and municipal taxes, the overall volume is more than CHF 5 billion per year. If these companies were to relocate to other countries following the abolition of their current tax privileges, this would leave a tremendous gap in the federal budget. The Swiss tax reform measures package has been designed to avoid such an exodus.

In the following, the most important measures of the Swiss tax reform are specified. Some measures will only affect cantonal taxes while others will affect both federal and cantonal taxation. Certain measures the cantons will be obliged to introduce, other measures they are free to implement.

Patent box

A core element of the reform is the introduction of the patent-box regime. With the patent box, the profits derived from domestic and foreign patents, as well as comparable rights, are subject to a privileged taxation scheme with a maximum reduction of 90%. The introduction of the patent box is mandatory at cantonal level.

Super deduction for research and development

Actual costs incurred for research and development may already be deducted from profits under the current tax law. With the reform, the cantons can introduce an additional deduction for domestic research and development costs. The additional deduction may not exceed 50% of the effective costs for domestic research and development.

Deduction on excess equity (Notional Interest Deduction)

High-tax cantons with an income-tax rate exceeding 18.03% have the option to introduce a notional interest deduction on surplus equity. This is a tax deduction of an arm’s-length interest rate on equity exceeding the equity required for the business activity. Based on the announced intentions of the cantonal governments to reduce the cantonal tax rates, so far, only the canton of Zurich meets the requirements and plans to introduce a notional interest deduction.

Transitional rules upon change of status of preferential regime companies (step-up)

Companies that are going to lose their preferential tax status will benefit from grandfathering rules and have the following two options:

- Step-up in basis before the new rules become effective and amortise the disclosed hidden reserves tax effectively in the following years; or
- Request a binding decision on the hidden reserves upon the introduction of the new rules and claim a reduced tax rate on hidden reserves realised within five years.

In case of a migration to Switzerland, all assets newly becoming subject to taxation in Switzerland will be re-evaluated at fair value (income-tax neutral asset step-up). In the years following such income-tax neutral asset step-up, the assets can be amortised tax effectively, thereby reducing the taxable income.

Participation relief continues to exist; dividends and capital gains derived from qualifying participations will still be exempt from corporate income tax!

Upper limit of total relief

The reduction of taxable profits resulting from the patent box, research and development super-deduction, notional interest deduction and amortisations on disclosed hidden reserves upon a status change under current law may not exceed 70% in total (i.e., minimum tax burden at cantonal level of 30% of the ordinary tax burden). The cantons may define a more restrictive threshold.

Reduction of cantonal profit tax rates

The reduction of cantonal profit tax rates is not directly covered by the reform but is necessary to remain attractive for companies that benefit from a preferential tax regime. Most cantons will reduce their ordinary tax rates. The reduction of the cantonal income tax rates lies exclusively in the competence of the cantons. Most of the Swiss cantons will offer attractive tax rates between 12% and 14% (applicable to the pre-tax profit, including federal profit tax).

Outlook

The reform brings an extraordinary change to the Swiss corporate-tax landscape. Almost all companies are affected by the most significant modification of the Swiss tax system in decades. Taxpayers should therefore analyse their situation immediately to avoid competitive disadvantages and to preserve opportunities.

Text published in GGI INSIDER 102 / July 2019

Tags: Steuerberatung, Patentbox, Schweiz, Equity, Tax, Steuern