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Tax

Switzerland - Tax Alert

In the focus: Corporate Tax Reform - postponed

In a public vote held on February 12, 2017 a majority of voters said "no" to the introduction of the Corporate Tax Reform that was proposed by the Swiss parliament and was supported by Swiss business associations. The proposed reform was seen as too business friendly. The undisputed objective of the rejected reform was to align Swiss tax law with international standards. The reform proposed to phase out some preferential corporate tax regimes (the mixed, domiciliary and principal company regimes) that are in the focus of dispute by the EU and the OECD while introducing new measures designed to maintain the fiscal attractiveness of Switzerland.

As a consequence, the preferential tax regimes which are clearly covered by existing Swiss tax law stay in place until a revised tax improvement is introduced. A new and more modest reform should be on its way shortly and will likely focus on the following main elements of interest to foreign investors:

Patent Box

The likely introduction of a Patent Box regime on cantonal/communal level will be designed to privilege income from patented intellectual property for which the R&D spent occurred in Switzerland. Income from qualifying intellectual property will benefit from a reduction that may result in an effective combined tax rate expectantly lower than around 12% - 13% in competitive Swiss locations.

R&D super-deduction

The cantons might introduce an excess deduction for R&D activities conducted in Switzerland, which allows a corporation to deduct in excess of 100% of the actual R&D spent for cantonal/communal income tax purposes. R&D super-deductions are accepted under international taxation standards.

Reduction of corporate tax rates

Several cantons have announced to reduce their corporate tax rates as part of a tax reform. Selected examples of likely ordinary tax rates (combined federal and cantonal/communal tax): canton of Zug 12%, Schaffhausen 12.5%, Basel-Stadt 13%, Geneva 13.5%, Vaud 13.8% and Zurich 18.2%. Other cantons, such as Appenzell, Lucerne, Nidwalden, Obwalden and Schwyz already have competitive effective tax rates for companies of 12% to 14%.

Grandfathering rules for preferential cantonal tax regimes

With the changes of the existing cantonal tax regime, companies may likely release hidden reserves and self generated goodwill created under the preferential tax regime in a tax-exempt manner. The amount of the hidden reserves and goodwill will be determined upon transition and any release within a 5-year transitory period will be taxed at the historic rate of typically 9%. Companies also have the option to voluntarily withdraw from the privileged taxation before any reform becomes effective to benefit from the current practice, as confirmed by Federal Court decision that allows a tax-neutral step-up with a tax deductible amortization over 10 years.

Observations and planning

A new reform will likely not come into force before 2020. Until then, the well established tax regimes will stay in place and offer flexible planning opportunities. International corporations may continue to benefit from an effective income tax rate of 9% with broad grandfathering options applicable once a new tax law takes reign.

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