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Notaries

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CORPORATE TAX REFORM APPROVED; ENTERING INTO FORCE AS OF JANUARY 1, 2020

Following the referendum, the voters in Switzerland approved in a public vote held on May 19, 2019, the changes of the law for the corporate taxation and the financing of the old age pension fund (STAF). It is expected that the new law will enter into force on January 1, 2020.

Abolishment of the special taxation regimes on cantonal and communal level

The corporate tax reform will abolish the special taxation regimes on cantonal and communal level. This applies (for example) to holding companies as well as to administrative companies such as domicile companies and mixed companies.

The additional tax burden due to the transition from a privileged taxation regime to ordinary taxation can be reduced during a transition period. There are different methods provided by the current and future law that should be analyzed depending on the specific circumstances. The respective companies should decide and initiate the necessary steps regarding their preferred method as soon as possible.

However, the income from qualifying participations of at least 10% (dividends and capital gains) will remain subject to the participation exemption after the tax reform. Therefore, we would not expect significant changes in connection with the income tax burden of "ordinary" holding companies after the tax reform.

Reduction of the income tax rates and other tax reliefs

Several tax relief measures should be introduced to compensate for the abolishment of the special taxation regimes. First of all, most cantons will (or have already) reduced their income tax rates significantly due to an increased share in the income from the direct federal tax. The canton of Zug, for instance, is aiming for at an effective income tax rate of approx. 12% (including federal, cantonal, and communal level).

Also, the following tax relief measures may be introduced on cantonal and communal level:

- Lower taxation of qualifying income from patents and similar rights following the nexus approach (patent box) (mandatory for all cantons);
- Additional deduction of 50% for qualifying expenses in connection with research and development;
- High tax cantons such as Zurich may introduce a notional interest deduction.

However, the overall tax relief combining these measures should not exceed 70%. This includes a potential depreciation of disclosed hidden reserves during the transition period to ordinary taxation.

Besides, companies moving to Switzerland may disclose and write off hidden reserves (including goodwill) during a maximum period of ten years.

For companies listed at a stock exchange in Switzerland a proportionality rule for dividend distributions from capital contribution reserves will be introduced. As of January 1, 2020, such dividend distributions should only be permitted if a dividend from other reserves is distributed in the same amount (there are several exemptions to be considered).

Regarding capital taxes, the cantons may introduce tax reliefs in connection with equity that is attributable to qualified participations or intellectual property rights.

The reduction of the income tax rates and the introduction of the additional tax relief measures require changes of the cantonal law. In a few cantons, such implementation has already taken place. However, in many other cantons the implementation process is still ongoing, and additional public votes may have to be held (regarding the status in the Canton of Zug please see below).

Relevant changes for the taxation of individuals

The tax relief for dividend income of individuals from qualifying participations (quota of at least 10%) should be reduced on federal level from 40% to 30%. On cantonal and communal level, the tax relief should no longer exceed 50%.

The minimum threshold of 5% for the application of the rules of the so-called "transposition" will be abolished on federal, cantonal and communal level. Going forward, the rules for the assumption of a transposition should, therefore, be observed in all cases where shareholders transfer shares/participations into holding companies of which they own at least 50%.

Besides, the regulations regarding patent box and additional deductions for qualifying expenses in connection with research and development may also be introduced for self-employed individuals on cantonal and communal level.

Status of the implementation in the canton of Zug

The parliament of the canton of Zug has held on April 11, 2019, the first round of debates regarding the planned changes in the cantonal tax law. Amendments to the proposal of the government as requested by certain parties were rejected. Therefore, it is likely that the parliament will adopt the motion of the government without any changes at the final vote in a few weeks. The following points in the contemplated cantonal tax law are particularly noteworthy:

- The canton of Zug will likely implement all available tax relief measures provided by the federal law (see above). The income tax rate should be reduced so it will not exceed 12% combining federal, cantonal and communal level. This is significantly lower than, for instance, the expected effective income tax rate of 19.7% in the canton of Zurich.
- Hidden reserves realized within five years after the change to ordinary taxation may be subject to the following reduced income tax rates (basis cantonal tax rate): 0.8% for 2020, 1.0% for 2021, 1.2% for 2022, 1.4% for 2023 and 1.6% for 2024.
- The maximum tax relief in connection with the patent box regime, additional R&D expenses, and depreciation of disclosed hidden reserves should be limited to 70%. In case of excess deductions, the deductions should be reduced in the following order: additional R&D expenses, depreciations of disclosed hidden reserves, and (finally) deductions in connection with a patent box regime.
- The capital tax rate should remain 0.05% (basis cantonal tax rate). Equity attributable to qualifying participations, intellectual property rights and disclosed hidden reserves should only be considered in the amount of 2%.

The second round of debates regarding the corporate tax reform of the parliament of the canton of Zug is scheduled for 27 June 2019. A potential public vote would be held on 24 November 2019.

With the implementation of all planned measures, the canton of Zug will remain one of the most tax-favorable places for companies in Switzerland and internationally. It is expected that the canton of Zug will become even more attractive in the future due to the differences in the income tax rates between the cantons.

Our tax advisors would be happy to support with any further questions you may have regarding this topic.

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