Bloomberg Tax

International Tax News®

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Switzerland

INSIGHT: Swiss Tax Reform Update

BY ELGA REANA TOZZI

The key point of the tax reform (as outlined in my Insight of March 20, 2019), will be the abolishment by the cantons of the preferential tax regimes for holding, domicile and mixed companies by the end of 2019.

Further, on the federal level, the principal company status and the privileged finance branch taxation are no longer available. This will ensure that the Swiss tax system is in line with international minimum standards and that Switzerland will remain an attractive location for multinational enterprises (MNEs).

The approved tax reform will enact new tax provisions in the Federal Direct Tax Act (DBG) and the cantonal Tax Harmonization Act (StHG) as well as in other federal tax laws (e.g. withholding tax) as of January 1, 2020. Based on the new tax provisions in the Tax Harmonization Act, the cantons need to implement the new provisions in their cantonal tax law. Notwithstanding, the cantonal implementation remains subject to referendum and—if raised—subject to public vote in the relevant canton.

Abolishment of Preferential Tax Regimes by the Cantons as of January 1, 2020

As a result of the abolishment of the preferential tax regimes, MNEs are subject to taxation at ordinary corporate tax rates for cantonal and communal tax purposes (currently effective tax rates vary between 12% and 24%).

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Given that this would result in a substantially higher tax burden, the cantons have announced a reduction of corporate tax rates for all companies (proposed effective tax rates between 11.27% (Canton of Lucerne) and 14%, and the three big cantons of Zurich (16.16%–18.19%), Berne (20.03%) and Aargau (18.61%).

The reduction of the cantonal corporate tax rates will be an important part of the tax package proposed and envisaged by the cantons.

Tax Measures to be Implemented at Cantonal Level

The following mandatory tax provisions (in addition to the abolishment of the preferential tax regimes) need to be implemented by the cantons as of January 1, 2020:

- the implementation of a reduced special tax rate for a step-up in tax basis as a transitional measure for companies losing their preferential tax status (please note that some cantons already allow a tax neutral step-up under the current cantonal tax law—for more details see my earlier article);
- the introduction of a patent box;
- a tax neutral step-up of hidden reserves upon migration to Switzerland.

The cantons can also introduce the following voluntary tax measures:

■ a super deduction for research and development (R&D) costs;

■ a notional interest deduction for cantons having an effective tax rate higher than 18%, e.g. in the case of the canton of Zurich;

■ a reduced annual capital tax on the net equity attributable to investments, patents and comparable rights as well as intragroup loans.

Furthermore, the cantons need to implement a tax relief limitation of 70% of the taxable basis (as a mandatory tax measure). Subject to this limitation are the tax measures for patent box, super R&D and notional interest deductions and any depreciations resulting from a tax neutral step-up of the hidden reserves following the abolishment of the preferential tax regimes under the current tax law (not for a step-up under the new rules, whereas the hidden reserves would be subject to taxation at special lower tax rates (for more details see my article of March 20).

For MNEs, it might also be of interest that the Swiss permanent establishment of a non-Swiss company could now apply for a tax credit of the residual non-Swiss withholding taxes.

Finally, there are additional changes in tax legislation which will have an impact for Swiss tax resident individuals (higher taxation of qualifying dividends, no shareholding quota available in case of contribution of privately held portfolio shares to a controlled company) or for Swiss listed companies (limitation regarding the repayment of capital contribution reserves—50/50 rules).

Implementation Status in the Cantons

Currently, only six cantons have already finished the implementation process of the new tax provisions (e.g. Geneva). The majority of the cantons will have a public vote this year (e.g. Zurich and Zug) and a few next year if a referendum is held. In any event, the new mandatory tax provisions will be applicable at cantonal level as of January 1, 2020.

The voluntary tax measures and the reduction of the cantonal corporate tax rates are subject to public vote or need to be approved by the relevant cantonal council.

Key Takeaways

■ Based on the official announcements of the cantonal governments, it is anticipated that most Swiss cantons will provide for attractive tax rates of 12%–14% applicable to the pre-tax income (including federal income tax) for all companies.

■ Companies benefiting from the preferential tax regimes and from a lower annual capital tax rate on the net equity could still benefit from a lower taxation of the net equity through exemptions for determining the taxable basis. Also, such companies could benefit from a reduction of the taxable basis (depreciations of the hidden reserves) during five (new step-up rules) or 10 years (current step-up rules under existing rules).

■ Companies transferring their business activities to Switzerland can benefit from a tax neutral step-up of the hidden reserves created abroad. Contributions into the capital contribution reserves can still be repaid without withholding tax (special rules apply only for Swiss listed companies).

■ Switzerland will be an attractive location for R&D activities given the introduction of patent box regimes in line with international standards as well as a super R&D costs deduction.

■ The cantons plan to implement the new tax provisions as of January 1, 2020. However, the implementation process of the new tax provisions differs in the cantons, e.g. only six cantons have already approved the tax reform, the canton of Zurich will have a public vote on September 1, 2019, and in the canton of Zug it is still open whether a referendum will be held and a public vote would be necessary.

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