Dear Reader

Domestic and international developments in the area of corporate taxation are becoming increasingly important and are a key issue for Swiss fiscal policy. The first article provides an overview of the current situation in this regard and looks at the various approaches being discussed in connection with the Corporate Tax Reform III. In addition to a reduction of the cantonal corporate tax rates and general actions to strengthen Switzerland as business location, new and internationally accepted regulations are being proposed for the taxation of mobile income; this article focuses largely on these aspects. The existing approaches show that it will still be possible to locate mobile and high value-creating operations to Switzerland at attractive conditions.

The next matter we address is the «yes» vote in the «Referendum against mass immigration». The adoption of the referendum will result in a change of system to Swiss immigration policy: the new constitutional requirements stipulate that annual maximum quotas and caps be placed on the number of residency permits issued to foreigners in Switzerland. It is not yet possible to assess the exact impact this change of system will have.

We also discuss the new regulations on the treatment of imported and exported employee stock options published by the Federal Social Insurance Office (FSIO) in November 2013. These regulations will provide companies operating internationally and their employees with legal certainty. The companies concerned should examine their stock option plans and internal processes to ensure that the new regulations are being applied.

The VAT implications for inventories held abroad as consignment and call-off stock are another issue addressed by this issue. Many Swiss companies use such structures, often without being aware of the VAT registration obligations these entail.

Finally, we take a look at the private use of Swiss company vehicles by employees resident in the EU. Following a ruling by the Court of Justice of the European Union, the applicable provisions governing such cases must be applied more strictly. Aside from customs and excise considerations, this may give rise to a VAT obligation on the part of Swiss companies in the EU.

Last but not least, this issue contains the second part of our overview of the key developments in cantonal tax legislation.

We hope you find this an informative and entertaining read!

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Corporate tax reform III: measures for achieving a competitive tax system in a lively international environment

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The future rules for the taxation of mobile income are increasingly taking shape not only in Swiss corporate tax law, but also at international level. While the OECD is rapidly driving forward the BEPS Project, the EU is reviewing the existing license box solutions of the member states for compatibility with the Code of Conduct for business taxation.

International developments
International developments in company taxation are being dominated by the ambitious work of the OECD in the subject area of Base Erosion & Profit Shifting (“BEPS”). The OECD (and the G20 group) is working under high pressure on implementing its action plan announced on 19 July 2013. The plan is to use targeted measures to prevent the erosion of the corporate tax base and profit shifting into low-tax countries, in order to avoid cases of double-, low- or non-taxation. In this context, it is important to determine that “BEPS” cannot get in the way of a substance-oriented functional tax planning. In addition “BEPS” is intended to sets limits firstly on escalating territorial taxation and secondly on the denial of deductions in the source country provided that there is respective substance in the beneficiary country.

The EU is meanwhile pushing for a prompt implementation of the planned corporate tax reform in Switzerland. If the adjustment of the taxation rules to international prevailing standards not take place within a reasonable period of time, the EU reserves the right to take countermeasures. The British patent box has also come under criticism, as in the view of the European Commission it infringes the EU Code of Conduct (CoC) for business taxation in certain respects. The competent EU institutions have as a result announced that all the member states’ license boxes – i.e. also the rules of Belgium, France, Ireland, Luxembourg, Malta, the Netherlands, Spain, Hungary and Cyprus – will be reviewed in respect of their compatibility with the CoC.

Developments at national level
On 19 December 2013 the Swiss Federal Department of Finance presented the final report of the Steering Committee (dated 11 December 2013). The Steering Committee consisting of representatives from the Swiss Federal Department of Finance and the Conference of Cantonal Finance Directors. Besides the cantonal tax privileges for holdings, domicile and mixed companies, which have for a long time been under international pressure, according to the view taken by foreign countries the practice of international profit allocation of principal companies and the treatment of Swiss finance branches for tax purposes are also not thought to be compliant with international taxation standards. Switzerland has declared to the EU its willingness to examine the possibility of making adjustments in these areas. The final report of the Steering Committee favors reforms, marked by three main elements:

• The introduction of new and internationally accepted rules for mobile income (especially dividends, interest and royalties) as a replacement for the existing tax regimes.
• A general reduction of the cantonal corporate tax rates.
• A general strengthening of Switzerland’s attractiveness as business location by means of reduction of specific tax burdens such as the abolition of the issuance stamp duty on equity as well as adjustments to the withholding tax, the capital tax and with regard to the participation exemption method.

Strengthening of international competitiveness
In order to remain internationally competitive for mobile income the Swiss corporate tax law should ideally be formulated such that the intragroup tax burden for dividends is 0%, for interest 2-3% and for royalties 5-8%. The tax burden for international trading income should not exceed 12%.

To achieve an attractive taxation of mobile income the Steering Committee proposes the introduction of a license box at cantonal and communal level as well as a more detailed analysis whether or not an interest-adjusted corporate tax should be implemented by means of a notional interest deduction on the safety equity.

A license box can differ widely in terms of its concrete formulation, whereby the adjusting-screws can be set at several levels. First of all, by means of selection of the qualifying intellectual property (IP) it can be specified which income should benefit from a privileged taxation. In a second stage it can be determined which (substance) requirements must be observed by a company in order to be able to benefit from a license box at all (entry test). The method to calculate the income from qualifying IP can also have a decisive influence on the extend of effects of the license box (see box).

Companies based in Switzerland exploiting intellectual property rights can currently benefit from the domiciliary or mixed company status. A license box would be suitable for offering such companies a competitive tax rate on royalties even if the existing tax regimes should be abolished. Whether in case of an abolishment of the existing regimes (mixed company and tax allocation of principal companies) the license box can also offer a competitive tax rate for international trading income mainly depends on the concrete formulation of the license box (narrow or broad variant) and on the interaction with the cantonal corporate tax relief.

• The interest-adjusted corporate tax is intended to eliminate the privileged fiscal treatment of debt capital. Currently interest on debt capital are tax-deductible, whereas a high equity
ratio does not offer any tax advantages. By means of a notional interest deduction on equity this is to be given equal tax treatment with debt capital (financing neutrality). According to the proposal of the Steering Committee the notional interest deduction should only be allowed on that part of equity that exceeds the core equity (so-called safety equity). For the determination of the core equity a core equity ratio must be specified for each asset. The respective equity ratio could be (partially) based on circular letter no. 6 of the Swiss Federal Tax Administration (SFTA) on hidden equity.

Depending on the applicable interest rate existing Swiss finance branches, which currently benefit from a low effective tax burden (based on the practice of the SFTA and on (slightly) differing directives of the cantonal tax administrations), could also be offered an internationally attractive tax burden if the applicable taxation practice should be abolished.

In connection with the tax burden for dividends it should be taken into account that even given the abolishment of the cantonal holding privilege for participation or holding companies Switzerland will remain fiscally attractive. Besides the corporate tax relief through participation exemption, a privileged tax treatment of specific assets in the context of the capital tax – including participations, but even intragroup loans and intellectual property – should also be scrutinized.

**Outlook**

In order to secure the international competitiveness of Switzerland on a sustainable basis, it requires – alongside additional measures – an internationally approved and attractive taxation of mobile income. While the interest-adjusted corporate tax is hardly likely to contravene the international taxation standards and also meets the international postulate of a strong equity base, in respect of the concrete formulation of the license box it is considered to await the results of the ongoing investigations within the EU and the further work of the OECD.

In any case the existing stages of the corporate tax reform III reveal that it will continue to be possible to locate mobile and high-value-added functions in Switzerland under attractive conditions.

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**License box: calculation methods**

- The bottom-up approach (direct calculation method) determines the amount of total profit originating from qualifying IP based on a transfer pricing study. The respective income is subject to a privileged taxation.
- With the top-down approach (indirect calculation method) non-IP-related profits (financial income, trading income that is not IP-related, income from routine functions, etc.) are deducted from net profit and are taxed ordinary. The remaining amount of profits attributable to the use of IP is subject to privileged taxation. The EU is currently reviewing a similar calculation method that applies to the British patent box system for its compatibility with the CoC.
On February 9, 2014, the initiative “Stop mass immigration” was accepted by Swiss citizens with 50.3% “yes”-votes to 49.7% “no”-votes. This is an extremely close result which hasn’t been seen for a long time. The initiative calls for a change in immigration policy.

The acceptance of said initiative brings with it a change of system in Switzerland’s immigration policy. The new constitutional provisions require that immigration be restricted by means of quantitative limits and quotas.

New constitutional provisions to be set up by the government in the next 3 years
The new constitutional provisions require that residence permits for foreign nationals be restricted using quantitative limits and quotas. These limits and quotas will apply to all permits covered by legislation on foreign nationals, including EU/EFTA nationals, cross-border commuters and asylum seekers, and must be geared towards Switzerland’s overall economic interests. Businesses must give Swiss nationals priority when hiring staff.

The new constitutional text does not specify how high these quotas should be, nor does it specify who should set and allocate them and according to what criteria. These details now need to be defined at the legislative level. The new constitutional provisions stipulate that the Federal Council and parliament have three years to implement the new system.

The President of the Swiss Confederation, Didier Burkhalter, explained on Sunday, February 9, 2014, that the Federal Council will explore ways in which Switzerland’s relations with the EU can be put on a new footing. At the same time, however, the president stressed that the agreement on the free movement of persons and the other bilateral agreements will remain in place until a new legal status has been established. The Federal Council will now analyze what consequences the change of direction resulting from the recent decision will have on Switzerland’s European policy.

Next steps
What does this mean for the future immigration of your employees (EU/EFTA/ non-EU nationals)?
At the moment, it is hard to say how the acceptance of the initiative will impact the immigration to Switzerland. However, in general it is likely, that the immigration authorities in Switzerland will become even stricter in allowing foreigners and their dependents to work and reside in Switzerland.
Federal Social Insurance Office publishes new guidelines on how imported/exported employee stock options are to be treated for social insurance purposes

An overview

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Introduction

On 12 November 2013 the Federal Social Insurance Office (FSIO) published an updated version of its guidelines (WML) on the salary applicable for the purpose of federal old-age and survivors’ insurance (AHV), federal disability insurance (IV) and income replacement insurance (EO).

In this document the FSIO describes how the stock options of employees working in an international context are to be treated. This relates mainly to imported and exported employee stock options with a vesting period that are consequently subject to social security contributions. The rules for individuals working in different countries are analogous to those for taxation in that they provide for a pro-rata deduction on the basis of the vesting period, albeit with one key difference. Whereas, in the case of taxation, an individual’s tax domicile or place of residence during the vesting period is what counts, in the case of the AHV, it is the place where they are subject to social security contributions during the vesting period that is relevant. This does not always necessarily correspond to their tax domicile or place of residence in Switzerland (particularly in the case of foreign assignments, where an individual can continue to be subject to social security contributions in their home country on the basis of assignment certificates [A1/certificate of coverage (CoC)], while their tax domicile is Switzerland).

Information on the new ruling

In its guidelines (WML), the FSIO stipulates that social security contributions on income from stock options are to be treated according to the same principles as those adopted for taxation purposes (pro-rata taxation).

The guidelines specify that a differentiation is to be made between restricted and unrestricted stock options, similar to their treatment for taxation purposes. The point in time at which social security contributions are deducted is to follow the provisions governing direct federal tax, whereby the social security contributions due in the case of unrestricted stock options are to be deducted on the grant date and in the case of restricted stock options on the exercise date.

The rules for individuals working in more than one country.

Entry into force and transitional provisions

The guidelines (WML) published in November are valid in principle from 1 January 2014. However, the changes described above are already applicable in the following cases:

• Stock options issued before 1 January 2013 for which social insurance contributions do not have to be paid until the options are exercised (after 1 January 2013).

The new ruling can thus be applied with retrospective effect both for stock options granted as of 1 January 2013 and those granted in previous years, on which social security contributions have to be paid, however, after 31 December 2012 (the exercise date).

In the case of stock options that have already been settled with the compensation funds using other approaches, it should be clarified whether an adjustment can be made to bring them into line with the new guidelines.

Consequences of the changes

a) In the case of countries with which Switzerland has concluded a social security totalization agreement

As mentioned above, the allocation of income from stock options on a pro-rata basis for the purposes of Swiss social security deductions depends on the country requirement.

Footnotes

2 RZ 2014.5 Wegleitung zum massgebenden Lohn (WML) in der AHV, IV und EO
3 See also Kunschick and Kaufmann, Neues Bundesgesetz über die Besteuerung von Mitarbeiterbeteiligungen, in: Der Schweizer Treuhänder 6 - 7 2011, page 516
4 RZ 2014.4 Wegleitung zum massgebenden Lohn (WML) in der AHV, IV und EO
5 Art. 17d DBG (Law on Direct Federal Taxes)
6 RZ 2019 Wegleitung zum massgebenden Lohn (WML) in der AHV, IV und EO
where the individual is insured during the vesting period. In the case of countries with which Switzerland has concluded a social security totalization agreement, an individual’s insurance obligation is generally based on assignment certificates (A1 or CoC). If such a certificate expires during the vesting period and no new certificate is issued, or if the insurance obligation switches from one country to another, for example, because an individual finds employment locally, the individual concerned may be required to pay insurance contributions in both countries. This mainly happens in cases where the other country has a different method of calculating the contributions collected.

b) In the case of countries with which Switzerland has not concluded a social security totalization agreement

There are no specific rules in the guidelines covering cases involving countries with which a social security totalization agreement has not been concluded. However, it is advisable here to apply the changes in an analogous manner. It should be noted that the way in which income from stock options is treated in Switzerland will generally not have an influence on its treatment abroad. It is therefore likely in cases involving a country with which Switzerland does not have a social security totalization agreement that an individual will be required to pay social security contributions in both countries.

It must also be taken into account that employees from Switzerland who are sent abroad on assignment have the option to continue to pay mandatory Swiss AHV insurance contributions provided certain requirements are met. If they do so, they pay contributions on their total earned income, which includes any income from stock options. As such, where social security is also payable in the host country, then this could lead to a double liability not only on the regular employment income but also on the equity income.

Example 1

**Background**

Ms. Ast was sent on assignment to France from Switzerland. She was issued with an A1 form and thus continued to be subject to social security in Switzerland. On 1 February 2010, she received 300 stock options with a three-year vesting period. With effect from 1 May 2011, she took up local employment in France and has since been subject to French social security deductions. The options vested on 1 February 2013, at which point she exercised them. This resulted in a (taxable) profit of CHF 500,000.

**Possible solutions**

**Method 1** Pro-rata allocation during the vesting period (under the new WML guidelines):

- 01.02.2010-31.12.2010: 11 months in Switzerland (A1 form issued)
- 01.01.2011-30.04.2011: 4 months in Switzerland (A1 form issued)
- 01.05.2011-31.12.2011: 8 months in France (following switch to local employment)
- 01.01.2012-31.12.2012: 12 months in France
- 01.01.2013-30.01.2013: 1 month in France

Thus, 15/36 (CHF 208,333) of the income earned from the vesting of the options is subject to Swiss social security contributions.

**Method 2** “All or nothing” method (under the old practice):

- 100% subject to social security contributions in France, since the French social security obligation was applicable at the time of vesting.
- No social security obligation in Switzerland (0%)

**Conclusion**

Under national law, France would be expected to calculate the social security contributions on the entire profit from exercising the stock options, since the individual was subject to French social security at the time of vesting. Given a pro-rata approach in Switzerland (method 1 above), the individual is thus to some extent obliged to pay social security in both countries. This case could be resolved by means of method 2 in order to prevent the individual being subject to social security contributions in both countries. However, the solution with method 2 is only possible up to 31 December 2013, after which only pro-rata allocation is possible. Any resolution of this dual social insurance obligation would have to be agreed with the authorities in the countries in question.

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7 Art. 1a, para. 3 lit. a AHVG
Conclusions

The changes with regard to imported/exported stock options are to be welcomed, since they provide companies operating internationally and their employees with legal certainty. Companies should examine their internal payroll and HR processes to ensure that they take the new ruling into account. Stock option plans should also be examined with the new ruling in mind. For vestings settled in 2013 using a different method, the responsible authorities can be asked to consider pro-rata contribution collection. Initial experience indicates that the compensation funds in German-speaking Switzerland acknowledge the retrospective applicability of the ruling for the 2013 year of contributions.
Supplies abroad using consignment and call-off stocks and VAT implications

Consignment and call-off stocks are special types of warehouses, usually located close to the customer’s premises, which allow the supplier to serve his clients without any delays. Special VAT schemes for such types of stocks may be applicable especially in Member States of the European Union (EU).

a) Consignment and call-off stocks
A consignment stock is a stock in another country than the country of establishment of the supplier that is generally operated by the supplier. The supplier serves one or several customers out of the stock.

There is no transfer of ownership to the customer at the time the goods are physically transferred to the stock. The title transfer to the customer usually takes place upon withdrawal of the goods from the stock.

Also in case of a call-off stock the legal title of the goods remains with the supplier until the goods are withdrawn from the stock. However, unlike a consignment stock a call-off stock is generally operated by a customer and is usually located at the premises of this customer. No other customers of the supplier are served out of this stock. Many countries subject call-off stocks to fewer formal requirements compared to consignment stocks.

b) General VAT implications
Direct cross-border supplies, without an intermediate storage of own goods, are normally VAT exempt (either as intra-community or export supplies).

If the goods are stored in consignment or call-off stocks, the actual supply only takes place after the goods have been dispatched and the title to the goods is transferred locally, i.e. usually upon withdrawal of the goods from the stock. The supply therefore qualifies as a local supply in the country of destination. Subsequently, this means that the supplier has to register for VAT in the country in question and deal with the administrative burden of filing foreign VAT returns. For goods dispatched within the EU, the supplier moreover has to declare deemed intra-Community supplies and acquisitions in the countries of dispatch and arrival.

c) VAT simplifications
Many EU Member States have introduced simplification schemes, in order to prevent from the burdensome VAT registration liability of the foreign supplier with the subsequent obligation to invoice and report local VAT on the supplies. For a cross-border dispatch within the EU, there is no deemed supply (transfer of own goods between two EU Member States) and the supplier can generally treat the transaction as a VAT-exempt intra-community supply. For other cross-border dispatches (e.g. from Switzerland to an EU Member State), the supplier can usually declare an export in the country of dispatch and the customer accounts for import VAT in the country of arrival. Accordingly, the simplification allows to treat the supply as if an intermediate storage in a consignment or call-off stock in the customer’s country did not exist.

The requirements however differ significantly from country to country. Details such as the duration of storage, contractual agreements or whether the supplier is registered for VAT in the country of arrival are relevant criteria that can determine whether a simplification can be applied.

Please note that some EU Member States (e.g. Germany, Portugal, Sweden, Spain, Estonia) have not introduced simplification rules and thus require suppliers, who operate consignment or call-off stocks to register for VAT purposes in any case.

Finally, simplification schemes may or may not be applied in non-EU countries. Hence, it must be carefully analysed whether the requirements to make use of a simplification are met.

Relevance and potential risks
Many Swiss businesses use consignment and call-off stocks in the EU and elsewhere without being aware of the possible VAT registration liability, which can result in a substantial VAT risk, risk of late payment interests and fines. We strongly recommend to clarify possible VAT consequences before establishing such a structure.
Swiss company cars: private use by employees residing in the EU

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A judgment handed down in spring 2013 by the European Court of Justice (ECJ) has resulted in the rules governing the use of Swiss company cars by persons resident in the EU being more strictly applied. It has particular ramifications for company cars that may be used by employees and individuals working for a Swiss company also for private purposes.

Background
Swiss businesses operating near the border often employ staff resident in a neighboring EU member state who work predominantly in Switzerland as cross-border commuters or weekday residents. Swiss companies providing their employees with company cars for their use on company business often permit them to be used also for private purposes. This means that employees resident in the EU regularly cross the border into EU customs territory with Swiss company cars without paying any import duty on the vehicles in question. The applicable exception that made it possible for such employees to use their company car for private purposes free of import duty by persons who no longer fall under the traditional definition of “employee” will no longer be tolerated in future. Depending on how a country interprets the rule, board members, executive officers and persons acting in other management capacities as well as persons with an interest in the business are particularly likely to attract increased attention from the authorities. If such persons work for Swiss companies, they will in future be able to travel on business on condition that they can prove that they are authorized to use the car in question for business purposes (e.g. by means of a written confirmation from the company).

Who is affected by the new rule?
The new rule particularly affects employees resident in an EU state who are employed by a company domiciled in Switzerland as well as the companies in question.

The temporary use of company cars for private purposes free of import duty by persons who no longer fall under the traditional definition of “employee” will no longer be tolerated in future. Depending on how a country interprets the rule, board members, executive officers and persons acting in other management capacities as well as persons with an interest in the business are particularly likely to attract increased attention from the authorities. If such persons work for Swiss companies, they will in future be able to travel on business on condition that they can prove that they are authorized to use the car in question for business purposes (e.g. by means of a written confirmation from the company).

In future, the entitlement of employees resident in the EU to make temporary subordinate private use of company cars without being required to pay import duty will have to be proven by means of an explicit agreement to that effect in their employment contract.

Need for action
Swiss companies that place company cars at the disposal of employees resident in the EU are recommended to review whether they fulfill the applicable conditions. The use, for private purposes, of company cars on which no import duty has been paid by persons resident in the EU in contravention of the more stringent rule can otherwise lead to the confiscation of the company car by the EU customs authority in question and its release only upon payment of the customs duties and any fines.

Apart from customs considerations, it must be noted that the private use of Swiss company cars by employees resident in the EU can trigger an obligation on the Swiss company to register for VAT purposes in the EU member state in question.

Tightening of the rules governing the payment of customs duty on company cars used for private purposes
In its judgment of 7 March 2013, the ECJ clarified that full exemption from import duty on a company car belonging to a “person” domiciled outside the EU customs area and used temporarily for private purposes by an employee resident in the EU is available only if the subordinate nature of the private use is specified in this employee’s contract. The ECJ thereby focuses predominantly on the conditions permitting the duty-free private use of company cars in the EU, namely that (a) the employee in question is an employee in the “traditional” sense of the word and that (b) the subordinate private use must be explicitly provided for in the employee’s employment contract. In contrast, the ECJ opts not to define in more detail the legal relationships that are to apply to the employment contract conditions within the context of EU legislation, thereby leaving the interpretation of these criteria up to the individual EU member states themselves.
Overview of amendments to selected cantons’ tax laws

Canton Aargau

New rules on interest from fiscal year 2014 onwards
The canton of Aargau has brought in new rules on interest applicable to cantonal and municipal taxes with effect from fiscal year 2014. In order to improve the spread of payments over the year, it has introduced a system with compensatory interest. If taxes are paid before 31 October in a given year, compensatory interest of 0.5% is credited to the taxpayer. If taxes are charged to the taxpayer from 1 November onwards until the date on which the final tax invoice is issued. It is underpaid, negative compensatory interest, also at 0.5%, are charged to the taxpayer from 1 November until the date of the final tax invoice. Default interest is not charged until the final assessment is due.

Canton of Lucerne

Abolition of the real estate tax
A popular initiative in favor of the abolition of the real estate tax, promoted by the Canton of Lucerne Homeowners' Association, was approved by a clear majority in the referendum on 9 February 2013. From 2015 onwards, individuals and legal entities owning or benefiting from a plot of land will no longer have to pay real estate tax, currently set at 0.5‰ of the property's taxable value.

Canton of Nidwalden

Partial revision of the tax law from 1 January 2014
The canton's parliament approved a further partial revision of its tax law by a resolution passed on 26 June 2013. The primary object of the revision was to align the canton's tax law with federal law (in force since 1 January 2014). The partial revision did not alter the rates for income and wealth tax, nor for corporate income and capital tax.

A document providing an overview of the content of the partial revision can be downloaded from the following link (only in German language):

Canton of Obwalden

No major changes or new developments

Canton of Schwyz

Partial revision of the tax law
The government of the Canton of Schwyz presented a draft partial revision of its tax law in January 2014. Its main objectives are to eliminate the canton's deficit and to bring its cantonal tax law into line with changes of the federal law. The following measures are proposed:

► New cantonal income tax rate of 7% for incomes between CHF 230,400 and 378,700;
► An increase in the wealth tax rate from 0.5‰ to 0.6‰;
► Heavier taxation of dividends;
► Minimum amount of tax of CHF 300 for limited companies and cooperatives enjoying from an ordinary or privileged tax status;
► A minimum taxable basis of CHF 600,000 for lump-sum taxpayers;
► An increase of the tax on profit from real estate for sales within four years after the purchase date.

Canton of Uri

Measurement of business expenses for employed persons from 2014 fiscal year onwards
By a resolution on 12 November 2013, the government of the Canton of Uri adjusted the deductible travel-to-work costs. From the 2014 fiscal year onwards, it will be possible to deduct 70 cents per kilometer for the first 10,000 kilometers (20,000 kilometers until the 2013 fiscal year) and 40 cents per kilometer for every kilometer thereafter. As before, no distinction will be drawn between public and private means of transport.

Canton of Zug

No major changes or new developments

Canton of Zurich

Offsetting of real estate gains against operating losses within the canton
According to the case law of the Swiss Federal Supreme Court, companies selling real estate within the Canton of Zurich, whilst themselves being based outside it, may offset their gains from the sale against operating losses. However, the canton's tax law states that companies based in it are currently denied the option of doing so within the canton.

This has prompted the canton's government to mandate the Finance Department to set in motion a consultation process. Its stated objective is to rectify this locational handicap and amend the tax law so that companies with their registered office in the canton will also be able, under the monistic system, to offset gains from the disposal of real estate against operating losses.

As real estate gains taxes in the Canton of Zurich are levied by the political municipalities, such an amendment would result in the latter suffering tax shortfalls. Among others, the City of Zurich Tax Office has, during the consultation, expressed its opposition to the amendment.

Determination of the cantonal tax multiplier for 2014 and 2015
The Cantonal Council, when debating its budget in December 2013, decided to leave the cantonal tax multiplier at 100 percent of the statutory tax rate for the next two years.

Taxation of equity based compensation schemes
On 30 September 2013, the Zurich Tax Authorities published a revised “Information Sheet on the Taxation of equity based compensation schemes”,...
reflecting the practice adopted in the canton since fiscal year 2013 in taxing equity based compensation schemes of recipients resident in it and in the certification of equity based compensation schemes by employers. The document is based on the Federal Act of 17 December 2010 with respect to the taxation of equity based compensation schemes, the related Ordinance of 27 June 2012 and Circular No. 37 of the Swiss Federal Tax Administration dated 22 July 2013 on the Taxation of equity based compensation schemes.

No compensation for cold progression as of 1 January 2014
The Swiss consumer price index, which is used for calculating compensation for cold progression, shows that prices have fallen since the last compensation in 2012. Income and wealth tax rates and deductions will therefore not be adjusted for price increases for the next two years.

International tax allocation of contributions to pension pillars
The Canton of Zurich Tax Office published on 27 August 2013 its Practice Note on the international tax allocation of contributions to the various pension pillars (Old Age and Survivors Insurance / Disability Insurance / Unemployment Insurance, occupational pensions and Pillar 3a) the object of which is the easier understanding of § 5 of the cantonal tax law.

Implementation of the Second Corporate Tax Reform Act
On 7 March 2013, the canton’s government submitted to the Cantonal Council a new proposal for the implementation of the Federal Second Corporate Tax Reform Act, the voters of Zurich having narrowly rejected a first proposal in the referendum on 17 June 2012. The new proposal dispenses with the crediting of corporate income tax towards capital tax, which legislation at national level allows the cantons to introduce. It also includes an amendment to the provisions on the taxation of liquidation gains, which the canton’s government had included in the transitional ordinance in response to a ruling by the Federal Supreme Court. The modification to the law results in no changes in practice, as the Federal law has had to be directly applied since early 2011.

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