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International Tax Alert

News from the Global Tax Desk Network

Swiss Federal Council sets parameters for preparing final bill for Corporate Tax Reform III

Executive summary

The Swiss Federal Council recently took note of the results of the consultation on Corporate Tax Reform III.[1] The general objective of the bill to boost Switzerland as a business location has been broadly approved. However, the Swiss Federal Council has now made various adjustments based on the findings from the consultation. It has instructed the Swiss Federal Department of Finance to prepare a dispatch for the Parliament by June 2015.

Detailed discussion

Introduction

The Swiss Federal Council noted that Switzerland's attractive tax environment for companies has made a significant contribution to the country's prosperity in recent years. Companies based in Switzerland create jobs, make investments and provide an important source of tax revenue.

However, based on the changing international tax environment, namely the developments within the base erosion and profit shifting (BEPS) project of the Organisation for Economic Co-operation and Development (OECD), it appears that certain current tax regimes are no longer in line with international standards.

The aim of the Corporate Tax Reform III is to ensure that Switzerland will have a sustainable, internationally accepted and competitive tax system for multinational companies. Further measures are designed to improve the system of corporate tax legislation and its balance.

Proposed measures

The Swiss Federal Council is proposing to abolish certain tax regimes that are no longer in line with international standards. These primarily include the cantonal tax status for holding, domiciliary and mixed companies.

It is further proposed to introduce a license box at the cantonal level which is competitive and compatible with international standards. With regard to the dispatch, the license box will still undergo modifications that take the latest international developments into consideration, in particular the OECD developments in relation to the substantial activity requirement and the modified nexus approach.[2] Because of corresponding proposals made during the consultation, the cantons should also be given the possibility of applying increased tax deductions for research and development (R&D) expenditure (super deduction).

The consultation participants considered the introduction of a notional interest deduction on equity to be controversial; in particular, it was opposed by a majority of the cantons. As a consequence, the Swiss Federal Council decided that this measure shall be removed from the bill. In contrast, the possibility for the cantons to introduce targeted capital tax reductions was widely undisputed. In addition, it is generally expected that the cantons will reduce their statutory income tax rates upon the abolishment of the preferential cantonal tax status in order to enhance their attractiveness.

The Swiss Federal Council wants to continue to strengthen the tax legislation system too as part of the reform. This includes the abolition of the one-time capital duty on capital contributions as well as the legislation of comprehensive rules for the step-up of built-in gains (including goodwill) upon migration to Switzerland or upon change of the tax status. In contrast, the Swiss Federal Council no longer intends to pursue the proposed changes to the participation exemption and the offsetting of losses.

A further aim of the reform is to ensure a more balanced taxation of private shareholders. In order to achieve this, the relief associated with the partial taxation of dividends should be harmonized on the federal and cantonal levels and should be limited to 30%. The minimum participation of 10% will be maintained. In contrast, the Swiss Federal Council will refrain from proposing the taxation of private capital gains of Swiss resident individuals in view of the clear results of the consultation.

Timing

The Swiss Federal Department of Finance will prepare a dispatch by June 2015. Once that has been adopted by the Swiss Federal Council, the bill will be ready for parliamentary discussion. Developments on the international level will also be taken into consideration as work continues.

Current law

Given the fact that the new law will not enter into force until 2018-2020, the current tax regimes will remain valid for the next three to five years.

Endnotes

1. See EY Global Tax Alert, *Swiss Federal Council initiates the consultation phase for Corporate Tax Reform III*, dated 23 September 2014. Further information on the Swiss Corporate Tax Reform III is also available under www.ey.com/ch/CTR-III.
2. See EY Global Tax Alert, *OECD explains agreed approach on intangible property regimes under BEPS Action 5*, dated 9 February 2015.

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