Tax proposal 17

On 12 February 2017, the Corporate Tax Reform III (CTR III) was rejected by the Swiss voting population. Subsequently, the tax proposal 17 (TP 17) was launched. The consultation proposal for the TP17 was published on 6 September 2017.

Background

The process to reform the Swiss corporate tax system was initiated several years ago. The CTR III was launched against the background of a tax dispute with the EU as well as the OECD and G20 member states. In this context, the preferential tax regimes were reviewed which led to the conclusion that these regimes were no longer in line with international best practice. As a consequence, it was the purpose of the CTR III to abolish the preferential tax regimes and to introduce countermeasures to preserve the international competitiveness of Switzerland (cf. Taxlink – September 2016: Issue 112).

The overall direction and objective of the tax reform was and is still undisputed. As a result, the TP 17 has the same objectives as the CTR III but should be more balanced to ensure a broad(er) acceptance. At the same time, since the CTR III was rejected, the current tax legislation remains in force until a new law is implemented, i.e. preferential tax regimes for holding companies, mixed companies and domiciliary companies are available until then.

Content of the TP 17

The starting point and the conditions for the new reform were unchanged. One measure, the notional interest deduction was removed from the proposal. However, it remains to be seen whether it will find its way into the proposal again during parliamentary consultation. The TP 17 includes the following measures (incl. changes to the CTR III):

- **Tax privileges:** Cantonal tax privileges for status companies as well as federal tax privileges for principal companies and Swiss finance branches will be abolished (no changes to CTR III). The realization of hidden reserves generated under a tax privilege will be taxed separately after the privileges have been abolished.
- **Patent box:** Income from patents and comparable rights are excluded from the taxable base to the extent of 90 percent on cantonal level (non-patented inventions of small and medium sized enterprises and copyrighted software are not covered by the patent box anymore).
- **R&D incentives:** Cantons can introduce R&D incentives in the form of excess R&D deductions of up to 150 percent. Qualifying expenses are basically limited to personnel expenses incl. a premium (the limitation on R&D personnel expenses, incl. a premium is new).
- **Limitation:** The maximum tax relief on profits from the measures patent box and R&D incentives is limited to 70 percent (CTR III: 80 percent). Amortizations of hidden reserves from a step-up under previous law are also part of the limitation.
- **Taxation of dividends:** Taxation of dividends from qualifying shareholdings of individuals is increased to at least 70 percent (CTR III: 60 percent for cantons provided that the notional interest deduction was introduced).
- **Reduction of cantonal income tax rates:** The cantons should have the option to reduce their corporate income tax rates. Certain cantons have already communicated reduced combined effective income tax rates of 12-14 percent in the context of the CTR III. It can be assumed that the cantons stick to those reductions.
- **Family allowances:** The minimum family allowance amounts will - as a sociopolitical measure - be increased by CHF 30 per month (new measure of the TP 17).
- **Capital tax:** Cantons can allow a reduction in the calculation of capital taxes on equity relating to participations as well as patents and similar rights (no changes to CTR III).
- **Hidden reserves:** A tax-neutral step-up of hidden reserves upon migration to Switzerland will be allowed (no changes to CTR III).
- **Transposition:** All transfers of shares held as private assets to a self-controlled company shall be taxable, provided that the consideration exceeds the sum of share capital and capital contribution reserves (new measure of the TP 17). According to current law, only participations of at least five percent were concerned.
- **Extension of the lump sum tax credit:** Swiss permanent establishments of foreign companies shall be entitled to the lump sum tax credit (new measure of the TP 17).

Timetable

The consultation ended on 6 December 2017. The Federal Council plans to submit the legislative proposal to parliament in spring 2018. The reform is - after the expiry of the referendum period or after the proposal has been accepted by the Swiss voters - expected to enter into force by 2019 at the earliest.

Outlook

The new version of the reform of the Swiss corporate tax system is provided by the TP 17. The proposal contains several adaptations which take into account the results of the popular vote from February 2017 and make the proposal more balanced overall. Still, it can be assumed that the proposal will become subject to a controversial debate in parliament.

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