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STAF referendum – Switzerland votes yes for an attractive business location

On 19 May 2019 the vote regarding the tax reform and AHV financing (STAF) was accepted with a 66.4 % majority. After years of wrangling, a tax reform has finally been adopted. This article considers the measures passed and their implementation in selected cantons. It also shows what STAF will mean for companies and private individuals.

Aims of the reform

The main point of STAF is that the tax privileges which are no longer accepted internationally – holding, domicile and mixed companies at cantonal level, and taxation as principal and the finance branch regime at federal level – will be abolished as at 1 January 2020.
The law which will come into force on 1 January 2020 provides for various measures which are intended to ensure that Switzerland continues to be an attractive business location, with competitive fiscal conditions.

Implications of the tax reform for companies in Switzerland

After the abolition of the above-mentioned tax regimes, the companies affected will basically be subject to a higher tax burden in Switzerland. In order to protect their competitive position in an international context, a number of cantons have announced reductions of cantonal corporate tax and partly also of capital tax. To help offset the resulting loss of tax revenue by cantons and communities, the latter will receive 21.2% of the tax revenue from direct federal tax in future, instead of the 17% they currently receive. Further, from 2020 onwards the Tax Harmonization Law also envisages various internationally accepted measures which may lead to a reduced tax burden for companies at cantonal level and thus to some extent cushion the abolition of the tax regimes. These measures are explained briefly below.

1. Disclosure of hidden reserves

During a five-year transitional period, it will now be possible for hidden reserves created under a special status of the company to be disclosed and taxed at a special rate to be determined by the canton. Alternatively, there is the possibility of disclosing hidden reserves without corporate tax consequences and making tax-deductible depreciations on these reserves within five or ten years (depending on the canton), the so-called step-up.

2. Patent box

Under the patent box to be introduced at cantonal level, income from patents and comparable rights will be included in the taxable profits at a reduced amount. Such income must be related to qualifying research and development costs (R&D). Software will only be included in this calculation as part of a patented product.

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3. Deduction for research and development

The cantons can, if they wish, allow additional deductions for R&D expenditure. The amount of these additional deductions can be up to a maximum of 50% of the commercially justified R&D costs. Only domestic expenditure is taken into consideration.

4. Deduction for equity-financing

Companies with a high degree of equity will be able to benefit from a notional interest deduction on the "excess" equity. There was much debate about this relief during the entire reform process and its use will therefore only be permitted in high-tax cantons, so that this rule can currently only be implemented in the canton of Zurich.
Even where the deductions explained above are all applicable, at least 30% of the taxable profits must be taxed. Thus the total tax relief arising from depreciation on hidden reserves, the patent box, R&D deductions as well as the notional interest deduction, may not exceed 70% of the taxable profits before set-off against losses. This limitation does not apply to any savings resulting from the special tax rate on disclosed hidden reserves. When implementing the reform, the cantons can provide for a lower percentage for the limitation of the tax relief.

Implications of the tax reform for individuals

Several STAF provisions also relate directly to the taxation of individuals in Switzerland. One point of particular importance relates to the partial taxation of dividends from qualifying participations (at least 10% on the share capital). The partial taxation at federal level will be increased from 50% (business assets) and 60% (private assets) today, to 70%. At cantonal level, at least 50% of the dividends will have to be taxed in future.
A further change is that the capital contribution principle will be restricted in the case of companies which are listed on Swiss stock exchanges. The tax reform further tightens up the current rules regarding the so-called transposition, in a way that the threshold of 5%, up to which individuals can transfer shareholdings to self-controlled companies without tax consequences, will be removed.

Implementation in the cantons

The Tax Harmonization Law allows the cantons considerable discretion with regard to the form of the above-mentioned measures in their cantonal laws. While certain cantons have already passed or promised substantial reductions in the corporate tax rate, others prefer only a moderate reduction while at the same time making maximum use of the possible measures (see overview below).

What needs to be done before the reform comes into force?

Since STAF will come into force as at 1 January 2020, the companies affected only have a short period to make any strategic adjustments. Should no analysis have been made up to now, the following points in particular should be checked:

- whether there will be a possibility in the future to benefit from measures such as the patent box or deduction of R&D costs;
- whether a tax regime will be discontinued and whether a detailed analysis of the possible disclosure of hidden reserves should be made, in order to make the best use of the special rate of tax or the step-up under the transitional provisions.

We recommend individuals with a controlling participation to consider whether a larger dividend should be distributed in 2019. In addition, minor participations of under 5% can only be transferred to a self-controlled company without income tax consequences until the end of 2019.

Overview showing the implementation of STAF (selected cantons)

Measures	Stipulation in Tax Harmonization Law	BS	SG	SZ	ZG	ZH
Disclosure of hidden reserves	Step-up	Cant. practice	10 years	5 years	5 years	10 years
	Special tax rate	3 %	0,5 %	0,4 %	0,8–1,6 %	0,5 %
Patent box	Max. 90 % relief	90 %	50 %	90 %	90 %	90 %
Add. deduction for R&D expenditure	Optional; deduction of max. 150 % of the costs	No	Yes, 140 %	Yes, 150 %	Yes, 150 %	Yes, 150 %
Notional interest deduction (NID)	Permitted if effective tax burden more than 18,03 %	No	No	No	No	Yes
Limitation of relief	Max. 70 %	40 %	40 %	70 %	70 %	70 %
Capital tax rate (planned as from 1.1.2020)	Tax rate	0,1 %	0,02 %	0,003 %	0,05 %	0,075 %
	Relief for participations and partly for loans	Yes	Yes	No (minimum tax rate)	Yes	Yes
Effective corporate tax rate (planned as from 1.1.2020)		13,04 %	14,50 %	14,27 %	11,91 %	19,70 % (from 2021) 18,19 % (from 2023)
Taxation of dividends	Taxation of at least 50 %	80 %	70 %	50 %	50 %	50 % 60 % (from 2023)

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