

Tax Bulletin

Popular initiative with respect to the introduction of a Swiss federal inheritance and gift tax

SP Schweiz launched a popular initiative in order to introduce an inheritance and gift tax at the federal level. If the initiative - which will be voted on in 2013 at the earliest - is approved, gifts will be retroactively subject to 20% tax from 1 January 2012.

To date, the authority to levy inheritance and gift tax lies with the cantons. Correspondingly, there exist different regulations based on individual cantonal inheritance and gift tax laws.

The applicable tax rate is generally determined by the closeness of the family relationship to the donor of the donee. Most cantons impose also a gift tax. However, legacies and gifts to the surviving spouse as well as to direct descendants are tax exempt in most cantons. The only canton which abandoned inheritance tax is the canton of Schwyz.

The initiative in brief

If the initiative is approved, a federal inheritance and gift tax of 20% will be introduced as of 1 January 2015 at the earliest (more likely as of 1 January 2016). Irrespective of when the new law will come into force, gifts will retroactively as of 1 January 2012 be added to the taxable estate.



Exempt from tax will be:

- A one-time threshold of CHF 2 million on the sum of the estate and all taxable gifts;
- The parts of the estate and gifts bequeathed to the wife, husband or registered partner;
- The parts of the estate and gifts bequeathed to a tax exempt institution;
- Gifts up to a maximum of CHF 20'000 per year and beneficiary.

Furthermore, special reductions are envisaged in the case of transfers of businesses and agricultural operations.

With respect to the transfer of businesses, the reduction shall be based on additional threshold and a reduced tax rate on the remaining taxable amount. In addition, deferred payments will be granted until a maximum of ten years.

For agricultural operations, a factual exemption shall be granted provided that the operation continues and is neither abandoned nor sold for a period of ten years.

Substantial changes

By means of gifts and inheritances to direct descendants being subject to tax, almost all inheritances and gifts will become taxable provided that the estate exceeds the threshold of CHF 2 millions.

The introduction of the flat tax rate of 20% might however constitute a tax reduction in case of gifts and inheritances to non-related persons. Furthermore, after approval of the initiative, registered partners will also be able to benefit from a tax exemption.

Need for action

It is difficult to predict the probability of an approval of the initiative by the voting population and the cantons as well as the consequences for Switzerland as a business location. However, it should be noted only approx. 10% of all initiatives are approved in Switzerland. Furthermore, it can be assumed that the cantons will object to the abolishment of the inheritance tax in order not to lose their respective fiscal sovereignty. It is also possible that the initiative will be brought forward with a counterproposal elaborated by the parliament.

With respect to a possible gift tax which would retroactively be applicable on gift transfers from 1 January 2012, it seems appropriate to consider making gifts already in 2011 and possibly make the intended arrangements before the end of this year.

However, instead of rushing into a decision now, we recommend to analyse your personal wealth situation and possible inheritance and gift scenarios in more detail and keep an eye on the legal developments.

Should you require additional information in this context or help with the analysis, please do not hesitate to contact us.

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