Tax Alert Switzerland

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Switzerland: An attractive location to onshore corporate mobile income functions

International hybrid tax structures are being challenged. Preferred mobile income jurisdictions including Switzerland are in the spotlight of discussion. Switzerland welcomes changes and has taken actions to further develop its corporate tax law framework to maintain and improve its attractiveness for international business. A modified Swiss corporate tax reform, after the February 2017 rejection of what has been seen to be a too business friendly tax reform, is being addressed. In particular, the tax treatment of corporate mobile income functions will be streamlined. The coming rules are expected to become effective around 2020-2022, until when the existing tax incentives will be in force including transition clauses.

International Developments

Economic difficulties in many countries have increased cross-border tax regulations to limit base erosion and profit shifting. The OECD BEPS actions and the EU Anti Tax Avoidance Directive have gained significant momentum over the last months. These and similar initiatives will gradually erase tax schemes construed on the concept of double dips, double non-taxation, tax mismatches and ring fencing. As a consequence, jurisdictions with hybrid structures and a comparatively high ordinary corporate tax rate will become less attractive. The competition for international business will persist, but the number of attractive jurisdictions will likely diminish. Countries with a competitive tax environment, controlled government spending, low public debt, high quality of living and a maximum degree of financial and personal security will be winners in the international competition to attract mobile income tax payers.

Impact on Switzerland

Switzerland is actively contributing to the changes in the field of international taxation, actively supports and has taken actions to implement the OECD standards. International initiatives like the fight against hybrid instruments and double non-taxation structures should not materially affect Switzerland as these concepts were not in the focus of historic Swiss tax planning techniques. With the current corporate headline tax rates of 9%-16% Switzerland offers a competitive advantage.

Postponed Tax Reform

A new and more modest corporate tax reform should be on its way shortly with modifications of existing and introduction of new corporate tax concepts. The holding company status will be changed and the mixed company status, that is covered by tax law and that provides for a 9% tax rate on any foreign sourced income, will disappear. However, those changes will unlikely enter into force before 2020-2022 and are accompanied with protection for a period of transition. Once effective, the tax payer may opt for a

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tax-free step-up in basis of assets, also on self-developed intellectual property or goodwill, with subsequent tax deductible depreciations on such assets. In addition, the combined federal/cantonal headline ordinary income tax rate in decisive Swiss locations/ cantons will be around 12%-13%. For mobile types of income, the expected adjusted effective tax rates will likely be on the following levels: dividends 0%, license income 6%-12% and trading income 12%. These low tax rates for mobile income can be achieved through the modification of existing and the introduction of new tax concepts, such as the patent box. Other provisions historically applied based on Swiss domestic law will remain unaffected under the new law; e.g. the unilateral foreign branch exemption and the flexible debt financing possibilities. Moreover, Switzerland does not have a controlled foreign company legislation and generally applies the OECD transfer pricing guidelines without having an own formal transfer pricing law. The concepts of the future tax framework will stay in line with the guidelines of the OECD and the EU. By that providing for robustness and stability to possible future developments and further changes of the international consensus on the taxation of multinational companies.

Outlook

International tax planning becomes more complex. Still, tax planning of mobile income streams is a must for any multinational company. It ensures a low effective corporate tax rate for the benefit of the stakeholders. BEPS and similar international initiatives will result in a boost of onshoring significant people functions connected to mobile income streams in attractive tax and business locations. The competitively low tax rates, the beneficial existing and new tax concepts and the advantageous provision for a transition from privileged to ordinary taxation enhances Switzerland's position as an attractive mobile income location. Together with an excellent standard of living it is ensured that Switzerland constantly attracts international business and is a winner of this international tax transformation.

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