



Tax

Switzerland - Tax Alert

In the focus: Exchange of Tax Rulings



Dr. Stephan Baumann
Certified Tax Expert
Partner Tax
T +41 43 960 71 04

BEPS Initiative

The OECD Base Erosion and Profit Shifting/BEPS initiative obliges Switzerland for spontaneous information exchange on content of tax rulings with foreign fiscal authorities as from January 1, 2018.

Types of Swiss tax rulings

The following types of Swiss tax rulings may be affected by this OECD obligation:

- Ruling relating to preferential regime: e.g. domiciliary, mixed company, central entrepreneur
- Unilateral advance pricing arrangement/APA or other transfer pricing/TP ruling
- Excess profit ruling/ downward adjustment of taxable profit
- Permanent establishment/PE ruling
- Conduit ruling



Michael Tobler
Certified Tax Expert
Senior Manager Tax
T +41 43 960 71 50

Options available to Swiss tax payer

These are general options available to a Swiss tax payer:

- Option I: Revoke existing ruling before December 31, 2017 to avoid content of the ruling being exchanged
- Option II: Revoke existing ruling before December 31, 2017, edit and re-negotiate the ruling to change and streamline potential information to be exchanged
- Option III: Keep existing ruling to ensure foreseen tax treatment
- Option IV: Argue that existing ruling is not affected and does not fall under the spontaneous exchange of information rule

Tax payers may be approached proactively by the Swiss tax authorities with a letter or questionnaire including options available, instructions to fill in content of tax rulings on an e-platform, etc. The procedure of the Swiss federal tax authorities may be different from the one of the cantonal tax authorities.

Tax rulings are part of OECD-compliant Transfer Pricing documentations

The OECD-BEPS initiative sets out a standardized approach to Transfer Pricing documentation with Country-by Country Reporting/CbCR, Master and Local File. Tax rulings must be described in the Master File and a copy of the original ruling must be attached to a Local File.

Recommendations

It is key to analyze each and every Swiss tax ruling of a Multinational Enterprise, to evaluate pros and cons and to decide on preferred way forward.