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B&K Tax News Briefing

Federal Council Releases Draft Bill on Tax Proposal 17

After the rejection of the IIIrd Corporate Tax Reform package through a popular referendum held in February 2017, the Federal Council finally released a revised legislative bill for a tax reform (the "Tax Proposal 17") on 21 March 2018, after a public consultation process was held.

Overall, the Tax Proposal 17 includes measures that are fairly similar to the previous version of the reform package that was rejected, with some modifications designed to achieve the buy-in from the majority of the Swiss populace. As the previous package, the Tax Proposal 17 would repeal the current privileged corporate tax regimes (holding, mixed and domiciliary or auxiliary companies, the finance branch regime and the principal company regime) and introduce some new measures designed to maintain Switzerland's competitiveness in the international tax arena (in particular, an OECD-conform patent box regime and a super-deduction for R&D expenses). However, the highly controversial notional interest deduction is no longer included in the current proposal.

The key measures of the proposal are set out below:

Measure	Mandatory implementation	
	Federal level	Cantons / communes
Abolition of the arrangements for cantonal status companies At cantonal level, status companies pay only a reduced profit tax or none at all. This preferential treatment will be abolished with TP17.	No	Yes
Patent box Profits from patents and similar rights will be separated from other profits and taxed at a lower level. The relief may not exceed 90%. The arrangement is based on the current international standards (nexus approach).	No	Yes

Measure	Mandatory implementation	
	Federal level	Cantons / communes
Additional deductions for research and development Deductions for R&D costs incurred in Switzerland may be granted for up to 150% of the actual cost incurred. This is based on R&D personnel expenses incurred by the taxpayer, plus a 35% mark-up for other R&D costs, and 80% of the R&D costs charged by third party providers in Switzerland.	No	Voluntary implementation
Relief restriction The aggregate tax relief based on the patent box and additional R&D deductions may not exceed 70% of the taxable profit (down from 80% in the CTR III package). The calculation also includes amortization based on earlier taxation under a cantonal tax privilege.	No	Yes
Increased dividend taxation Dividend inclusion for individuals owning corporate equity stakes of at least 10% raise to taxation for natural persons will raise to 70% at federal and cantonal levels; cantons may raise the inclusion ratio even further.	Yes	Yes
Increase in the cantons' share in direct federal tax revenue The cantons' share in the federal direct tax revenue will be raised from 17% to 21.2%.	Yes	
Consideration of the cities and communes The cantons have to take adequate consideration of the needs of cities and communes in connection with the increase in the cantons' share.		Yes
Increase in the minimum federal requirements for family and children allowances The minimum family allowance entitlement will be raised by CHF 30. The allowance per child will be at least CHF 230 and the education allowance will be at least CHF 280.	Yes	Yes
Capital tax adjustments The cantons may allow for a reduced capital tax rate relating pertaining to equity capital invested in corporate equity interests and patents, and similar rights.	N/a	Voluntary

Measure	Mandatory implementation	
	Federal level	Cantons / communes
Step-up of hidden reserves Companies relocating their head offices from abroad to Switzerland may benefit from additional amortization of stepped-up asset values during the first few years. If such companies migrate from Switzerland to a foreign jurisdiction, an exit tax on hidden reserves will be due, as is already the case at present.	Yes	Yes
Tightening of tax rules pertaining to private restructurings The scope of future tax-free capital gains or repayments of contributed reserves in connection with transfers of shares to individually controlled holding companies will be narrowed down.	Yes	Yes
Extension of the lump-sum foreign tax credit The lump-sum foreign tax credit prevents international double taxation. Swiss permanent establishments of foreign companies will in future be entitled to it as well.	Yes	Yes
Fiscal equalization adjustments To prevent upheaval among the cantons, fiscal equalization will be adjusted in line with the new reality in terms of tax policy.		

Although not formally a measure of the proposal, in particular the increase of the cantons' share in federal tax revenues is meant to allow for general corporate tax rate cuts at the cantonal level, which the cantons are expected to make use of at varying degrees.

The debate in the two chambers of the Federal Parliament on the Tax Proposal 17 bill is planned to be completed in September 2018. Provided that no referendum will be called, the first measures of the reform are scheduled to enter into force by 1 January 2019, while the main part of the reform would be implemented by the cantons and become effective as of 1 January 2020.

Authors

Peter Reinarz
Partner
T: +41 58 261 53 30
peter.reinarz@baerkarrer.ch

Susanne Schreiber
Partner
T: +41 58 261 52 12
susanne.schreiber@baerkarrer.ch

Christoph Suter
Partner
T: +41 58 261 57 25
christoph.suter@baerkarrer.ch

Bär & Karrer Ltd.
Brandschenkestrasse 90
CH-8027 Zurich

Telephone: +41 58 261 50 00
Fax: +41 58 261 50 01
zurich@baerkarrer.ch

baerkarrer.ch
Zurich, Geneva, Lugano, Zug