



CORPORATE TAX REFORM III: AN UPDATE ON THE MOST RECENT DEVELOPMENTS

Stefan G. Widmer, Partner, stefan.widmer@primetax.ch
Kerstin D. Heidrich, Director, kerstin.heidrich@primetax.ch

Swiss legislation is working on the Corporate Tax Reform III while Switzerland and the EU initiated the respective mutual understanding. Now the concerned issues are defined, the further steps are foreseeable and there are first indications about the consequences. This newsletter goes deeper into these issues.

INTERNATIONAL PROGRESS

On June 20, 2014 the Federal Council reaffirmed its intention to abolish certain tax regimes within the framework of the Corporate Tax Reform III (the "CTR III"). On July 1, 2014 in Bern, the heads of the delegation of Switzerland and the EU initiated the respective mutual understanding and agreed on its final wording.

The tax regimes in question on a cantonal level are:

- Holding Company
- Domiciliary Company
- Mixed Company

At federal level the following tax practices are concerned:

- Principal Companies
- Finance Branches

In return, the EU member states confirmed their intention to cancel today's countermeasures as soon as the above taxation models have been abolished.

CORPORATE TAX REFORM III – NEXT STEPS

In order to abolish the cantonal tax regimes, the Federal Law on the Harmonization of the Direct Cantonal and Communal Taxes (the "Tax Harmonization Law") needs to be changed. This change shall form part of the CTR III.

The new legislation is currently in the phase of elaboration, a first draft is expected to be published this fall. Once the draft is published, a consultation process, parliamentary debates, a referendum period and possibly a referendum will follow. Given the timing requirements for the political process, we do not expect the CTR III to enter into force before January 1, 2018.

CANTONAL TAX REGIMES

Once the CTR III is in force and the Tax Harmonization Law changed, the Cantons will most likely be granted a transition period of two years to adjust their Cantonal Tax Laws accordingly.



As a result, we deem it unlikely that the cantonal tax regimes for Holding Companies, Domiciliary Companies and Mixed Companies will cease to exist prior to 2020. Until then all relevant legal provisions as well as existing tax rulings with respect to these tax regimes will remain applicable. At the time of abolishment of the privileged cantonal tax regimes the taxpayers concerned should furthermore be provided with the opportunity of a tax-free step-up in the amount of any hidden reserves that were created during the privileged taxation period. The subsequent depreciation of the underlying assets may then be utilized to reduce the taxable profit and the resulting income tax burden respectively.

POSSIBILITIES TO PREVENT TAX INCREASE

To prevent substantial increases in the effective tax rate once the mentioned tax regimes are no longer available, the Federal Council proposes alternative measures to be implemented as part of the CTR III. Measures discussed include the privileged taxation of income from intellectual property rights (the so-called "IP Box"), a general reduction of the cantonal

corporate income tax rates, a notional interest deduction on equity, as well as further measures, such as an abolishment of the stamp duty levied on the issuance of equity capital and/or the decrease or abolishment of the cantonal tax on equity.

FEDERAL TAX LAW

As regards the tax practices at federal level, there is no need for a change of the Federal Direct Tax Law, and the two taxation models concerned could in fact be withdrawn at any time.

PRINCIPAL COMPANIES

According to the information we obtained from reliable sources Circular 8/2001 outlining the current tax practice for Principal Companies shall only be withdrawn simultaneously with the entry into force of the CTR III and an additional grandfathering period shall be granted to companies benefiting from the existing Principal Company practice until also the Cantonal Tax Laws have been adjusted (or are overruled by the Tax Harmonization Law).



Moreover, we were informed that even though Circular 8/2001 will unquestionably be withdrawn, the centralized business model building the base of today's Principal Companies is not considered to be harmful per se and the taxation of Principal Companies in Switzerland shall remain attractive also in the future. What shall be waived are those aspects of the current Principal Company practice that are considered not in line with the OECD's standards of international taxation (i.e., the lump sum profit allocation between the Swiss head office and permanent establishments abroad). Depending on the particular case at hand and an analysis of the individual case, however, solutions shall be offered on the basis of the existing law to preserve at least part of the tax benefits as currently granted by Circular 8/2001.

CONCLUSION

We will continue to closely monitor the respective developments and inform you immediately about all relevant news. As soon as the CTR III is sufficiently concretized, we will provide you with our propositions for potential future tax planning possibilities.

Kontakt

PrimeTax AG	PrimeTax AG
Seestrasse 356	Bahnhofstrasse 11
CH-8038 Zürich	CH-6301 Zug

PrimeTax AG	PrimeTax AG
Hansmatt 32	Waisenhausplatz 14
CH-6370 Stans	CH-3011 Bern

Telefon: +41 58 252 22 00
 Fax: +41 58 252 22 99
 E-Mail: info@primetax.ch

Für weiterführende Informationen kontaktieren Sie bitte die Autoren, Stefan G Widmer und Kerstin D. Heidrich, oder wenden sich an die Kollegen aus dem Team von PrimeTax:

Stefan G. Widmer, Partner
 Telefon: +41 58 252 22 50

Kerstin Heidrich, Director
 Telefon: +41 58 252 22 04

Reto Arnold, Partner
 Telefon: +41 58 252 22 52