



SUMMARY

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NEXT SEMINAR

On 1 November 2017, Nelly Iglesias will be giving a conference at the Lausanne Palace on the topic: ***Latest developments in the field of Exchange of Information on Request in Tax Matters***. The presentation will focus on the most recent practice and case law in Switzerland in the field of Exchange of Information on Request, whenever a State requests information relevant for tax purposes from another State where the entity or person keeping the information is a resident.

1. Current version of the Swiss Corporate Tax Reform

Following the refusal of the former Corporate Tax Reform III by the Swiss population on 12 February 2017, the Swiss Federal Council has issued a new draft legislation on the topic, the so-called **Tax Proposal 17** (hereinafter: **TP17**).

This proposal takes over the main principles encompassed in the former Corporate Tax Reform III. The central element is the replacement of privileged tax regimes by new tax incentive policies. This renewed version contains amendments which are expected to receive a wider acceptance amongst all stakeholders, such as political parties, business associations, cantons, etc.

TP17 ensures that Switzerland stays an attractive location for multinational and domestic companies and, at the same time, provides a defined tax framework in conformity with internationally accepted standards.

Outlines of TP17

The main characteristics of TP17 are depicted as follows:

- **Abolition of privileged tax regimes:** the domiciliary, mixed and holding tax regimes at the cantonal level as well as the special tax status for principal companies and Swiss finance branches at the federal level shall no longer be available.
- **For companies transitioning out of a privileged tax regime into ordinary taxation:** hidden reserves will be taxed at a reduced rate during a five-year transitional period. Hidden reserves correspond to the difference between the market value of the assets and their book value. The applicable special tax rate will depend on each Swiss canton. Another option would be to step-up hidden reserves followed by amortizations prior to entry into force of TP17.

- **Patent box:** in order to foster innovation and progress, tax reliefs on qualifying patent income will reach up to 90% at the cantonal level.
- **Increased deductions of expenses related to Research & Development (R&D super deduction):** qualifying R&D expenses shall benefit from a cantonal tax deduction reaching up to 150% of the effective related costs (mainly staff costs).
- The **combined tax relief** for the Patent Box, the R&D super deduction and amortizations further to the step-up of hidden reserves shall be limited to a **maximum of 70%** of the company's taxable income (previously 80%), at the cantonal and communal level.
- **Reduction of the effective corporate income tax rate to 12 % - 14 % (federal, cantonal and communal taxes included):** this tax rate reduction depends on each canton and is not directly part of TP17. However, most cantons plan to reduce their corporate income tax rate as a result of the abolition of privileged tax regimes.
- **Additional capital tax reductions:** cantons will be able to reduce the capital tax on the portion of equity related to participations, patents and similar intellectual property rights.
- **Full tax relief upon disclosure of hidden reserves in case of relocation of an enterprise, assets or functions to Switzerland:** this tax incentive may enable additional amortizations on declared hidden reserves for companies newly relocated in Switzerland.
- **Partial taxation of dividends for individual shareholders holding at least 10% equity:** the portion of dividend income subject to personal income taxation would be increased from 60% to **70%** at the federal level, and **at least 70%** at the cantonal level. Thanks to the corporate income tax rate reduction, this measure shall have a limited impact or be neutral for shareholders.
- **Increased family allowances:** the monthly minimum amount for child and educational costs shall be increased by CHF 30 to reach CHF 230, respectively CHF 280.
- **Notional Interest Deduction (NID)** set out under the former Corporate Tax Reform III at the federal level, respectively at the cantonal level upon canton's choice, is no longer part of the tax reform.

Timeline

At this stage, the draft legislation on TP17 is not final but it is reasonable to expect that the final legislation should follow the outlines aforementioned.

A consultation procedure has been launched on 6 September 2017 on the new version of the tax reform. The consultation procedure will last until 6 December 2017 and will enable all stakeholders to provide their comments on the draft legislation.

Once this step is over, the Swiss Parliament should vote on the draft legislation during its Spring session 2018. A new referendum (public vote) is unlikely to take place, so that some provisions of TP17 could enter into force on 1 January 2019 already, and those applicable at the cantonal level as from 1 January 2020 at the earliest, but in principle no later than 1 January 2021.

2. Deadline imposed on Voluntary Disclosures

Background

The Automatic Exchange of Information on Bank Data (hereinafter: **AEOI**) will take effect in Switzerland **as from 1 January 2018**. It means that as from that date, the Swiss Federal Tax Administration (hereinafter: **SFTA**) will be transmitting information on Swiss bank accounts – collected by Swiss financial institutions as from 1 January 2017 already - to other countries where foreign taxpayers are resident. Swiss resident

taxpayers shall be affected as well by the AEOI since Swiss tax authorities will be receiving from other countries information on bank accounts opened with foreign banks. The new legislation shall however not affect Swiss resident taxpayers on their Swiss bank accounts, since purely domestic situations are not covered by the AEOI.

Since 1 January 2010, Swiss taxpayers are eligible once in their lifetime for the **non-punishable voluntary disclosure program**. Under this program, taxpayers are able to reveal spontaneously to the competent tax authorities income and assets not previously declared, without incurring fines nor criminal prosecution. Under tax evasion rules, the fine can be ranged between one-third up to a maximum of three times the total taxes due.

If the taxpayer makes use of the possibility of self-denunciation, the consequences would be limited to the payment of additional taxes for the last 10 tax periods, including interest for late payment but no additional fine.

In order to benefit from the aforementioned favourable tax treatment, the taxpayer has to meet the following requirements:

- No tax administration knows about the non-declared items, and
- The taxpayer unconditionally cooperates with the tax administration in order to determine the taxes due, and
- The taxpayer must strive to pay all taxes due.

SFTA's position

On 15 September 2017, the SFTA has published its position on the impact of AEOI on voluntary

disclosures made after 31 December 2017. It can be assumed that cantonal tax authorities will follow these principles.

According to SFTA's position, it will no longer be possible for Swiss resident taxpayers to make non-punishable voluntary disclosures in relation to foreign bank accounts from the moment when information about a taxpayer has reached the SFTA by way of AEOI. In any case, the deadline for filing voluntary disclosures runs until **30 September 2018** regarding bank data held in jurisdictions with which Switzerland has agreed a starting date as of 1 January 2017, respectively until **30 September 2019** when the starting date is 1 January 2018.

It follows that the benefits from a voluntary disclosure will no longer be available for taxpayers revealing unreported income and assets after 30 September 2018, respectively after 30 September 2019.

Recommendations

The date and precise details on the communication to Swiss tax authorities of foreign financial accounts held by Swiss resident taxpayers are not known. Therefore, the communication may occur at any time since 1 January 2018, without the concerned taxpayer knowing it. It is thus not recommended to rely only on the date of 30 September 2018 respectively 30 September 2019 for the filing of a voluntary disclosure. Affected Swiss resident taxpayers should therefore regularize their tax situation with the Swiss tax authorities **before 31 December 2017**.



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