Swiss Taxes Newsletter – July 2021

Swiss Government conditionally supports global tax reform deal

On 1st July 2021, the Swiss Federal Department of Finance (FDF) issued a press release referring to the same day's publication by the OECD Inclusive Framework, of which Switzerland is a member, of key parameters for the taxation of internationally operating large companies (generally referred to as "Pillar 1" and "Pillar 2" measures; see https://www.admin.ch/content/gov/en/start/documentation/media-releases.msg-id-84315.html). According to the press release, Switzerland principally supports the key parameters of Pillar 1 (providing for a "moderate shift" of international taxing rights away from residence jurisdictions to market jurisdictions) and Pillar 2 (providing for a global minimum corporate income tax rate of at least 15%), however, subject to some conditions and with some major reservations. In that sense, the Swiss Government committed to its ongoing participation in the project.

At the OECD 's Inclusive Framework meeting in held in Paris on 1 July 2021, the Swiss delegation explicitly called for the particular interests of small, innovative countries to be properly taken into account in the final design of the rules; in particular, in terms of concrete legal implementation at the national level, national legislative processes should be respects. This call should be understood against the background of the Swiss direct democracy, which generally tends to slow down legislative processes to some degree.

The Swiss Government further suggests that the new rules – once finalised – should be applied in a consistent, "uniform" fashion by all member states and "a balanced solution should be found between tax rate and tax base in the case of minimum taxation". We understand this to mean that countries or regions affected by the minimum tax rate pursuant to Pillar 2 (currently in 18 of the 26 Swiss cantons, the overall effective combined federal, cantonal and municipal corporate income tax rate is lower than the proposed minimum of 15%) should be granted some flexibility in the definition of the corporate taxable income base.

Moreover, the Swiss Government has expressed its view that a "proliferation of national solutions" should be prevented by means of a new, multilateral agreement, in order to create legal certainty. The Swiss Government is concerned that a number of member states, especially large ones, have apparently threatened that they would "go it alone if an (agreed-upon) OECD solution failed". The importance of a multilateral agreement has also been stressed by a number of likely affected MNEs operating in Switzerland.

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The FDF estimates that the Pillar 1 measures, which will would be applicable to internationally operating companies with annual turnover in excess of EUR 20 billion and a profit margin in excess of 10%, would only affect very few large, Swiss-based MNEs (such as Nestlé, Roche, and Novartis, potentially also ABB, Holcim (formerly Lafarge-Holcim), Kühne & Nagel and MSC). On the other hand, the Pillar 2 measure (minimum corporate income tax rate of at least 15%, proposed to apply to internationally operating companies with an annual turnover exceeding EUR 750 million) would likely affect about 200 Swiss-based groups, as well as a much larger number of Swiss subsidiaries of foreign multinationals (overall estimates are in the region of 4,000 potentially affected corporate taxpayers). There are estimates that potentially affected companies might suffer an increase in income tax burden by some 10-30%. Currently the largest 200 Swiss companies account for approximately 50% of all federal corporate income taxes.

The FDF has announced that in addition to continuing with its participation in the works at the OECD level, it will closely collaborate with other Swiss federal and cantonal government branches and municipalities, as well as with businesses and the “scientific community” towards the formulation of “internationally accepted proposals” for the Federal Council with a view of securing the “appeal of Switzerland as a business location”. Potential mitigating measures under consideration might include additional research grants, social security deductions, tax credits and new forms of subsidies, as well as increased individual tax relief for expatriated working for MNEs in Switzerland – even though some of the potential measures might be difficult to implement politically, both domestically and internationally. More clarity may be expected over the coming months.