Swiss immigration step-up: Have you considered the benefits?

03.03.2020

Key takeaways

- **You can use the Swiss "immigration step-up" if you relocate a function, asset or business unit from another country to Switzerland.**
- **The Swiss “immigration step-up” provides a tax-neutral disclosure of goodwill and other hidden reserves and enables legal entities to use resulting cost of amortisation to reduce their income tax burden.**
- **The "immigration step-up" can also make it possible to reduce taxable profits in Switzerland when a transfer price adjustment occurs.**
- **With its competitive corporate income tax rates and no Controlled Foreign Corporation ("CFC") rules or the like, Switzerland is particularly well-suited to headquarter functions with high value creation.**

What is the Swiss "immigration step-up"?

The "immigration step-up" enables legal entities to disclose hidden reserves, including goodwill, in a tax-neutral way and subsequently create tax-deductible expense through amortisation of the stepped-up values.

The hidden reserves are disclosed exclusively for tax purposes (i.e., only in the tax accounts) and do not need to be booked in the statutory financial statements.

In what cases may you apply the Swiss "immigration step-up"?

The "immigration step-up" is available from 1 January 2020 and applies if a legal entity:

- relocates a function, asset or business unit

- from another country to Switzerland.

The "immigration step-up" does not require a company to relocate its statutory seat or its place of effective management to Switzerland – although the step-up also applies in these cases.

The transfer to Switzerland can be within the same legal entity (e.g., transfer permanent establishment / head office) or between different companies.

How does tax relief through the Swiss "immigration step-up" work?

The assets and functions – and also goodwill – relocated to Switzerland are itemised in the tax accounts. This step-up in basis is possible up to the full market value. The market value is determined using recognised valuation methods (e.g., the discounted cashflow method).

The revalued assets and the goodwill will be amortised in subsequent tax years at the applicable amortisation rates. The resulting cost of amortisation is fully tax-deductible. If, in a tax year, cost exceeds income, a loss carryover may be offset against profits for the following seven years.

May you apply the Swiss "immigration step-up" also in transfer price adjustments?

The "immigration step-up" makes it possible to disclose hidden reserves on essentially all transferred assets, regardless of how the hidden reserves are transferred to Switzerland. Therefore, the "immigration step-up" also allows you to reduce taxable profits in Switzerland when a transfer price adjustment occurs.

> Example: A company (or a permanent establishment) in Switzerland purchases goods from a group entity abroad at a price below the applicable arm's length price. The company in Switzerland sells the goods on at a higher price. If subsequently a transfer price adjustment occurs, the difference between the correct purchase price (arm's length price) and the actual purchase price, which was too low, can be treated as a tax-neutral "immigration step-up" item. As a result, Switzerland will tax only the difference between the selling price and the arm's length purchase price.

To be able to cover a transfer price adjustment under the immigration step-up, you might need to act within a specific timeframe. Most likely, practice will evolve to substantiate the relevant rules.

How do you claim the "immigration step-up"?

Disclosing the hidden reserves in the tax accounts is voluntary and is done in the annual corporate tax return. Usually, this will be the first corporate tax return submitted after the immigration transaction (relocation of a function, asset, or business unit).

To claim the "immigration step-up", you need not book the step-up in the statutory accounts. However, if the immigration transfer comes from a Swiss company's direct shareholder, the

Swiss company might see good sense in booking the step-up also in its statutory accounts: This option will enable the company to create so-called "capital contribution reserves", thereby optimising dividend taxation.

What should you consider regarding dividend taxation?

If a Swiss company has so-called "capital contribution reserves" and a dividend is distributed from these capital contribution reserves, then the dividend will be free of Swiss dividend withholding tax. These dividend distributions are also income tax free for individuals in Switzerland. Special regulations apply to distribution of capital contribution reserves of Swiss companies listed on a stock exchange in Switzerland (learn more in our Pestalozzi tax update of 16 September 2019).

In addition to capital contribution reserves, registered share capital can also be repaid tax-free. Repayment of registered share capital, however, is conditional upon a formal capital reduction process and, as a result, is both more costly and complicated than a distribution of capital contribution reserves.

Capital contribution reserves are the company's direct shareholders' contributions that exceed the face value of the registered share capital. An example of this is capital surplus occurring when shares are issued. Swiss company law also allows shareholders to contribute funds directly to the company's reserves without shares being issued in return. Capital contribution reserves can result not only from cash contributions but also from contributions in kind. For example, in cross-border reorganisations, capital contribution reserves may be created by contributing assets to a Swiss subsidiary.

Capital contribution reserves are recognised for tax purposes only if the Swiss company has booked the capital contribution reserves in a separate account in the company's statutory accounts.

Need for action?

Switzerland should be on your radar if you are considering relocating business functions or assets. The "immigration step-up" is a supplement to Switzerland's competitive corporate income tax rates. Unlike other countries, Switzerland has no Controlled Foreign Corporation ("CFC") rules or the like, and is therefore particularly well-suited to headquarter functions with high value creation.

Remo Keller

Partner
Swiss Certified Tax Expert

Pestalozzi Attorneys at Law Ltd
Feldeggstrasse 4
8008 Zurich
Switzerland
T +41 44 217 92 78
remo.keller@pestalozzilaw.com

Jonas Sigrist

Partner
Attorney at law, Swiss Certified Tax Expert
Head of Tax Practice Group

Pestalozzi Attorneys at Law Ltd
Feldeggstrasse 4
8008 Zurich
Switzerland
T +41 44 217 93 26
jonas.sigrist@pestalozzilaw.com

Silvia Zimmermann

Senior Counsel
Attorney at law, Dr. iur., LL.M.

Pestalozzi Attorneys at Law Ltd
Feldeggstrasse 4
8008 Zurich
Switzerland
T +41 44 217 92 48
silvia.zimmermann@pestalozzilaw.com