

## Pestalozzi Tax Update 17 June 2016

# Swiss Corporate Tax Reform

## How can you benefit?

### 1. Background

Switzerland offers a very attractive tax landscape. One reason for this is because the standard tax rates are generally low. Also, Swiss tax regimes such as the Holding Company regime and the Mixed Company regime allow for additional tax benefits.

In the context of international developments, these and other Swiss tax regimes have recently been criticized. Switzerland is currently introducing replacement measures and will continue to offer a very attractive tax landscape.

The forthcoming Swiss tax landscape may be described as follows.

### 2. Reduction of Corporate Income Tax Rates

It is expected that the corporate income tax rates will – further – decline in many places of Switzerland. As per today, the following tax rates are likely to be introduced (overall effective / pre-tax rates; combined rates incl. federal income tax):<sup>1</sup>

- Reduced Tax Rates
- New Deductions

Canton	Tax Rate 2016	Tax Rate Future
Lucerne	12.32 %	12.32 %
Nidwalden	12.66 %	12.66 %
Zug	14.60 %	12%
Neuchâtel	15.61 %	15.60 %
Schaffhausen	16.04 %	12-12.5 %
Fribourg	19.86 %	13.72 %
Ticino	20.67 %	17.47 %
Basel Country	20.70 %	15 %
Bern	21.64 %	16.4-17.7 %
Vaud	22.09 %	13.8 %
Basel City	22.18 %	13-16 %
Geneva	24.16 %	13 %

Tax rate reductions are also planned in Aargau, Jura, Solothurn, Thurgau and Valais. It is likely that additional Cantons will follow.

<sup>1</sup> Cf. Neue Zürcher Zeitung, issue 16 May 2016.

### 3. Swiss Corporate Tax Reform Law III

On 17 June 2016, the Swiss parliament passed the Swiss Corporate Tax Reform Law III. The main features of the new tax law are the following:

Measure	Comment
<b>Patent Box Output Incentive</b>	<ul style="list-style-type: none"> <li>• Cantonal level, mandatory for all Cantons</li> <li>• Reduction of taxable income from patents, similar rights and software of up to 90%. Cantons may introduce lower reduction caps</li> <li>• &lt;9% corporate income tax (effective / pre-tax rate, incl. federal tax) depending on Canton</li> <li>• OECD-compliant definition of qualifying IP; "modified nexus approach", i.e. tax privileged income pro-rated acc. to Swiss R&amp;D cost vs. total R&amp;D cost</li> </ul>
<b>R&amp;D Super-Deduction Input Incentive</b>	<ul style="list-style-type: none"> <li>• For Cantonal income tax, depending on Cantonal law</li> <li>• Super-deduction of up to 150% of actual R&amp;D costs</li> <li>• Deduction outside Patent Box</li> <li>• Scope broader than Patent Box</li> </ul>
<b>Step-up Tax-Neutral Disclosure of Hidden Reserves</b>	<ul style="list-style-type: none"> <li>• Allows for tax-neutral revaluation of assets (incl. goodwill) up to fair market value, and subsequent tax-deductible depreciation in Switzerland in case of migration to Switzerland (incl. creation of a permanent establishment) or in case of loss/waiver of a Cantonal tax privilege</li> </ul>
<b>NID Notional Interest Deduction</b>	<ul style="list-style-type: none"> <li>• Deduction of notional interest expense on above-average equity</li> <li>• Depending on Cantonal law</li> </ul>
<b>Reduction of Capital Tax</b>	<ul style="list-style-type: none"> <li>• For equity falling upon participations, intra-group loans and patents, Cantons may apply reduced capital tax rates</li> </ul>

The total tax benefit resulting from a combination of the deductions under the Patent Box, R&D Super-Deduction and Notional Interest Deduction must not exceed 80% of the taxable profit, before an off-set with tax losses carried forward, exclusive of participation income subject to participation relief, and calculated before the mentioned deductions.

The Swiss Corporate Tax Reform Law III might become subject to a popular vote. Depending on when the law finally enters into force, it should become applicable as from 1 January 2019 or in the year 2020.

### 4. Tonnage Tax

The Tonnage Tax is a kind of lump sum tax for shipping companies. The tax is levied on the basis of shipping capacity rather than actual income. The Tonnage Tax is an internationally accepted tax regime. For example, Greece and Germany have a Tonnage Tax.

The Swiss Corporate Tax Reform Law III originally aimed for introducing a Tonnage Tax for Switzerland. In the course of the legislative procedure, these plans were made part of a separate legislative project which is work in progress.

### 5. How can you benefit?

Tax Optimization Opportunities	
<b>1</b>	<b>Corporate Income / Capital Tax Rates</b> Adjust group structure / value chain, relocations
<b>2</b>	<b>Maximize Deductions</b> Adjust group structure with a view to the 80%-cap ("per entity view optimization")
<b>3</b>	<b>Patent Box / R&amp;D</b> Identify IP, scenario calculations
<b>4</b>	<b>Step-up</b> Bring substance to Switzerland; voluntary Cantonal tax privilege waiver vs. use of transitional rules
<b>5</b>	<b>NID-Optimization</b> Adjust equity ratio, maximize benefits using intra-group loans



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