Deferring and reducing taxes in Switzerland to manage COVID-19

April 7 2020

Jonas Sigrist and Pascale Schwizer of Pestalozzi discuss how the Swiss government has moved to support businesses and how taxpayers affected by the coronavirus outbreak may defer and reduce their taxes.

Deferring tax payments

Taxpayers in Switzerland may request a tax deferral (of an entire payment or installments). Swiss tax authorities usually grant a tax deferral for a limited period of time if the requesting taxpayer suffers a liquidity bottleneck, which renders the timely settlement of the tax to be particularly onerous.

The Swiss federal government has announced that companies should benefit from tax deferrals in an unbureaucratic way during the COVID-19 crisis. Nevertheless, taxpayers must still file a formal and well-reasoned request. The Swiss federal tax administration has recommended decision makers to treat tax deferral requests more generously during these times. Thus, companies facing liquidity issues due to COVID-19 should be in a position to arrange a tax deferral.

Switzerland has suspended all debt enforcement proceedings until April 19 2020. That is, there are no immediate adverse effects for taxpayers not settling taxes due by that time and only requesting a tax deferral by the end of this term (depending on future developments, this term could still be extended).

Default interest usually continues to apply during a tax deferral period. Only in rare hardship cases may the tax authorities waive default interest. The Swiss federal government, however, introduced a general relief from default interest for federal income taxes becoming due for the period between March 1 and December 31 2020 as well as for any VAT, federal excise duties, and customs for the period between March 20 and December 31 2020. Some cantons also provide default interest relief on cantonal and municipal taxes. Therefore, by arranging a tax deferral, taxpayers may benefit from interest-free debt financing for the remainder of 2020.

Reducing the tax burden

Accruals and write-downs in financial statements 2019

Swiss corporate income tax law allows carrying forward tax losses, but it does not allow carrying losses back to previous years. That is, if a company achieved a profit in 2019, but faces a loss in 2020, it should aim at shifting expenses from 2020 to 2019 and thereby reducing the taxable profit in 2019 to the extent possible. A Swiss company's taxable income is generally based on its statutory financial statements.

Therefore, by booking an accrual for threatening expenses in the financial statements, a Swiss company may reduce its taxable income in the relevant year. Such accruals are generally admissible and deductible for tax purposes if these accruals are not only justified by business reasons but also relate to circumstances that previously existed at the end of the financial year.

Due to the COVID-19 outbreak, the Swiss federal government proclaimed an 'extraordinary situation' on February 28 2020. The first outbreak, however, in Wuhan, China, occurred in December 2019. Some cantonal tax authorities stated that they consider the COVID-19 crisis as an event that emerged only after the end of 2019, which would therefore prohibit booking a tax-deductible accrual in 2019. Also to consider: that the first outbreak, back in December 2019, started the current crisis may justify 2019 accruals.

Therefore, companies incurring additional expenses or loss of income in connection with the COVID-19 crisis should consider booking corresponding accruals in their 2019 financials. In addition, companies should also analyse whether the crisis justifies additional write-downs. Potential items include production materials, inventories, and accounts receivable.

Efficient tax loss allocation

Companies may carry forward tax losses and set-off these losses against taxable income during the following seven financial years. If a company's losses result in its net equity falling below the par value of its statutory capital, it may set-off losses even older than seven years against taxable income resulting from measures curing the financial distress. Therefore, if a company suffered tax losses that it could not set-off against profits within the following seven years, it should consider using these losses for a financial restructuring at a time of financial distress.

Swiss corporate tax law does not provide any tax consolidation between separate legal entities. That is, a legal entity of a group may not set-off losses against profits of another group entity. A legal entity, however, may transfer its tax losses to another (profit-making) legal entity if it transfers the business operations that indeed caused the losses to that other legal entity (e.g., by way of a merger or asset transfer); this loss transfer may occur as long as the transferee entity continues the transferred entity's business operations. Swiss companies and branches can generally transfer business operations (including the tax losses pertaining to those operations) within the group tax neutrally. Therefore, Swiss companies and branches with tax losses, which may otherwise expire, should consider this tax neutral restructuring of their business operations to consolidate their losses with profitable business operations. For Swiss tax and accounting purposes for up to six months, restructurings may provide retroactive effect.

Tax waiver

Taxpayers may apply for a final waiver of income taxes provided that the tax authorities have not yet initiated debt enforcement proceedings. So far, rarely have the Swiss tax authorities waived income taxes, and if doing so, only to the extent that the waiver allowed a company to continue its business and keep its employees. Because the requesting company, rather than its creditors, benefits from a tax waiver, the tax authorities generally only waive income taxes at a maximum percentage of the amount of claims waived by other creditors. Unlike some other countries, Switzerland has not yet provided for any general tax waiver in 2020 due to the COVID-19 crisis. Nevertheless, we expect tax authorities to relax their practice for tax waivers during this crisis.

Switzerland generally levies a 1% issuance stamp duty on equity funding. As opposed to other taxes, the Swiss tax authorities generally waive this issuance stamp duty in case of financial restructurings if certain formal criteria are met. If a Swiss company requires additional equity funding, it should always seek an exemption from or a waiver of this issuance stamp duty.

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