Rejection of Swiss Corporate Tax Reform III by the Swiss People

Schroders Wealth Management

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The rejection of the recent corporate tax reform by the Swiss people could have consequences. We have asked Christoph Niederer and Nadia Tarolli Schmidt of the renowned law firm VISCHER Ltd in Zürich and Basel to provide their view from a legal perspective.

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On 12 February 2017, the Swiss People rejected the Corporate Tax Reform III (CTR III) with a clear majority of 59.1%. Only four cantons (Zug, Vaud, Nidwalden and Ticino), out of 26, approved the proposal.

No doubt this is not the result multi-national companies and many other stakeholders in Switzerland were hoping for. Nevertheless, there is no reason to see only dark, negative scenarios with regard to the future of Switzerland as a business hub.

The fact is that Switzerland has committed to the OECD and EU that it will abolish any ring fencing schemes like Holding or Mixed Company privileges. This is important to avoid Switzerland from appearing on any type of black lists. The abolishment of these and other tax privileges is not controversial for the public.

It is further not controversial that an increase of the tax burden for the affected companies must be avoided in the course of abolishing the existing tax privileges.

One of the reasons, or maybe the main reason, for the rejection of the proposed law, however, was that many voters did not understand how the reduction of the ordinary tax rates and the other tools to reduce the tax burden (e.g. R&D super deduction or Notional Interest Deduction) would be financed, or, in other words: who would pay the bill.

Therefore, the following will most probably happen:

- The Federal Council will propose a new law within 12 months; this timing is ambitious and a faster process would not be realistic
- The new proposal might consist of two parts, with part 1 including the abolishment of the current tax privileges and the introduction of the Patent Box (which was also not controversial); and with part 2 possibly coming a bit later and containing a number of other tools (e.g. R&D super deduction, compensation of cantons for reduced tax rates etc.)
- Many cantons will reduce their ordinary tax rate as soon as the new proposal passes the political process, some of the cantons will even introduce a reduction event beforehand
- However, any new Federal law will not enter into force prior to 2021

In the meantime, the situation remains as follows:

- The existing law (including tax privileges) is still applicable
- No OECD or EU sanctions are expected, as long as the government is seriously working on the abolishment of the old ring fencing schemes
- The inter-cantonal tax competition works, which guarantees that corporate tax rates remain low or will be reduced even further
- One of the internationally lowest debt levels by GDP (35%) means these low tax rates can be afforded also in the long-term
- The existing law in many cantons allows for a tax neutral step-up in the asset base (including

goodwill) when a company decides to renounce a current tax privilege

- Switzerland keeps its investor friendly legal framework (e.g. liberal employment law) as well as countless initiatives to attract and support start-ups and also larger and established companies. We recommend our clients to carefully evaluate their own tax position not only from a purely Swiss perspective but also in light of BEPS. This might mean renouncing existing tax rulings, strengthening the substance or aligning their business models. In light of the recent developments around CTR III, it might also mean deferring the taxation of profits, evaluating a tax neutral step-up or other possibilities, but it definitely does not mean having to be concerned about the future competitiveness of Swiss tax law.

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