

SPOTLIGHT ON... THE SWISS CORPORATE TAX AND ITS APPEAL TO CEOS



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The Swiss Tax treatment of holding and mixed companies has often come under criticism from the European Commission, which considers it to violate their free trade agreement. Switzerland has refuted these claims on the grounds that it is not an EU member state, yet it is a subject that remains in debate. With this, Finance Monthly asked tax expert, David Broenimann, if the country's tax system is still appealing to business leaders; he told us, "The Swiss Corporate Tax system is characterized by predictability, steadiness and adequacy. It is comparatively easy to understand and compliance efforts are minimal".

David Broenimann is a certified tax expert in Meyerlustenberger Lachenal's Zurich office. He focuses on both domestic and international corporate tax with an emphasis on corporate migrations, mergers and acquisitions as well as finance and intellectual property structures. David is a frequent lecturer on corporate tax issues both in Switzerland and abroad.

Meyerlustenberger Lachenal provides enterprising, innovative and solution-focused services to its clients with a high degree of partner involvement. Meyerlustenberger Lachenal offers its clients the comprehensive range of services associated with a large law firm while still providing a high degree of individual attention and flexibility. Meyerlustenberger Lachenal has 85 lawyers and ranks as one of the largest firms in Switzerland. With offices in Zurich, Geneva, Zug and Lausanne, Meyerlustenberger Lachenal is present in the most important economic centers in Switzerland. Meyerlustenberger Lachenal is also one of the few Swiss law firms with an office in Brussels to assist its clients with their needs as related to EU regulations. Thanks to their years of experience with international clients,

they have access to a broad-based network of first-class foreign law firms.

Q What does Switzerland's Corporate Tax landscape look like at present?

The Swiss Corporate Tax system reflects the country's federal structure in that Cantons enjoy a considerable degree of independence from the federal government regarding taxation. Corporate income tax rates range from 11.6% to approx. 25%. Income from qualifying participations is virtually tax exempt. Switzerland has proven to be an excellent location for holding companies, intellectual property management, finance companies and branches as well as companies engaged in international trade.

The Cantons also levy a capital tax (net wealth tax) on equity as per statutory books. The applicable tax rates depend on the Canton and range from 0.001% to 0.525%.

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Q How does the Swiss Corporate Tax system fare against those of competing jurisdictions?

Even for companies without any special tax status, Switzerland is a very attractive location and its tax rates are amongst the lowest in the world without being an offshore location. Compared to other jurisdictions in Europe that are considered to be of high importance in international corporate structures, such as the Netherlands, Belgium and Luxembourg, the Swiss statutory income tax rates are more competitive. In addition, the relationship between generally business-minded governmental bodies and taxpayers and their advisors is unique in Switzerland. In particular, the possibility to obtain binding advance tax rulings for any particular tax question is of high importance in times when risk assessment and risk management becomes increasingly vital to corporate bodies.

In view of the current pressure on companies operating from offshore jurisdictions, Switzerland will certainly be one of the most attractive jurisdictions such companies would migrate to in case they relinquish their offshore structure for reasons of good corporate citizenship.

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Q Do you believe Switzerland's Corporate Tax system is appealing to CEO's or those looking to start up a business in the country?

Besides the attractiveness of Switzerland's Corporate Tax landscape, we see many companies migrating to Switzerland for other than tax reasons. The quality of living in Switzerland, its competitiveness and the political and social stability are unique in the world. The country is continuously ranked number one in the World Economic Forum's report on competitiveness due to its infrastructure, the flexible labour law and availability of qualified workforce as well as its low taxes. Other surveys concede maximum quality of life to Switzerland.

The Swiss government is committed to defend these strategic success factors. Businesses migrating to Switzerland or start-ups benefit from an attractive tax environment, and full tax holidays for up to ten years might be granted to new businesses in Switzerland.

A number of tax privileges are available in Switzerland. Holding companies are taxed at an effective tax rate of 7.83% with dividend income being virtually tax exempt. The mixed company status is granted to internationally active companies engaged in trading, financing or intellectual property exploitation. Mixed companies are taxed at an effective tax rate of 8-11%. Tailored tax rulings are negotiable and may lead to an even lower tax rate by reducing a specific company's taxable basis.

From an international viewpoint, Switzerland has always had one of the broadest networks of favorable double tax treaties and has access to a number of EU Directives that equate Swiss companies with companies based in the European Union.

There are numerous planning opportunities available that allow for a tax neutral migration

into Switzerland. As long-term planning has become more challenging in view of changing legal, political and economic environments, it is important to say that existing businesses migrating to Switzerland may benefit from structuring opportunities that allow for a tax neutral exit out of Switzerland in the future, should changing environments require so.

In addition to the very competitive Corporate Tax environment, many companies migrating to or starting up in Switzerland also shift corporate officers and other key personnel to Switzerland. These individuals can sometimes enhance their personal tax situation significantly given the maximum individual income tax rates that may be as low as 18%.

Q Are there any recent, upcoming or potential changes to the corporate tax system that our readers should be aware of?

Switzerland monitors its attractiveness and competitiveness continuously. Recently, the country abolished capital duties on debt instruments. A proposal to abolish capital duty on equity is in discussion. Also, the recent introduction of the capital contribution principle allows companies migrating to Switzerland to step-up their basis in their assets and to generate equity reserves that may be repatriated to its investors or parent company without incurring any Swiss tax.

The Swiss government recently announced the third Corporate Tax reform. It is expected that new regimes with regard to interest income, intellectual property and participation income will be introduced that will be very attractive as compared to most other jurisdictions.

The recent criticisms voiced by other jurisdictions and international organizations primarily concerned Switzerland's position with regard to the automatic exchange of information

with other jurisdictions' tax authorities as well as the lump-sum taxation available to foreign citizens resident in Switzerland. Whilst many other, even European countries, maintain similar positions, Switzerland is working on various projects to respond to these criticisms. Although these projects clearly deserve attention, they will likely not affect the Swiss Corporate Tax landscape and I do not expect major changes to the Swiss Corporate Tax system over the next few years. Even if certain changes will be implemented in the middle to far future, Switzerland will certainly avoid reducing its attractiveness to both foreign and domestic investors and CEOs.

Q What changes would you like to see?

As you are aware, Switzerland levies a 35% withholding tax on dividends and on certain interest payments. The tax is refundable based on an applicable double tax treaty with the country of residence of the recipient of the dividend or interest payment, provided that the investor properly declared the respective income in his country of residence. Whilst many jurisdictions levy such taxes, the Swiss tax rate of 35% is rather high. Historically, this level of tax was, however, required in order to make investment of undeclared assets into Swiss securities unattractive. With the increasing fiscal transparency that is to be expected based on the re-negotiated double tax treaties that contain a clause relating to exchange of information between tax authorities, Switzerland will likely have to revisit the withholding tax rate and a decrease would be desirable. Such measure would further increase Switzerland's attractiveness as an investment location.

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