BUCHER TAX

TRAF –

what SMEs can and cannot benefit from

(Federal Act on Tax Reform and AHV Financing)

September 2019/Februar 2020

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Overview

Old regulation – until the end of 2019

Ordinary taxation (legal entities)

The effective tax burden at federal, cantonal and municipal level currently varies **between 12% and 24%,** depending on the canton.

Taxation of status companies

- Status companies are holding companies, management companies and mixed companies (principal companies and the finance branch play a special role). These are taxed at a privileged rate.
- The tax status concerns only cantonal taxes.
- Holding companies do not pay any profit tax at cantonal level, except on income from Swiss real estate.
- Management companies (mixed companies) pay a reduced profit tax at cantonal level.
- Effective tax burden between 7.8% and 11% depending on the configuration.

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TRAF – An overview

TRAF goals

- Strengthen the attractiveness of Switzerland as a business location.
- Restoring international acceptance.
- Ensuring the financial yield of the profit tax for the confederation, cantons and municipalities.
- New special tax regulations shall be designed restrictively.
- Greater weight shall be given to the interests of cities and municipalities.
- Strengthen the AHV.

Consequences of the TRAF

- **Tax status no longer applies:** holding-, management- and mixed companies will be taxed at ordinary rates in future.
- Status companies must disclose hidden reserves.
- Taxes on profits and capital will decrease to varying degrees in different cantons.
- New tax rules/instruments will be introduced.

Key points of the reform

Maintaining the attractiveness

- Introduction of a patent box (cantons)
- Favourable procedure for the disclosure of hidden reserves (cantons)
- Deductions for research & development costs (cantons)
- Deduction for self-financing (NID) (cantons)

Financial compensation measures

- Increase in dividend taxation (cantons and confederation)
- Relief limit (Kantone)
- Increase in the cantons' share of direct federal tax

Special regulations without direct relation to the core objective

- AHV financing as social compensation
- Capital contribution principle (changes for listed companies) (cantons and confederation)

The topics for SMEs in detail

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Profit tax reduction vs. increase in dividend taxation

Profit tax reduction

Taxes on profits decrease cantonally

to varying degrees

–

also for the benefit of SMEs.

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Increase in dividend taxation

At the same time, the dividend taxation is being increased at the federal level and in many cantons.

- Taxation of dividends on holdings of at least 10% of the share capital or nominal capital of a corporation or cooperative society **will be increased to 70% at federal level (from 50% and 60% respectively) and to at least 50% at cantonal level.**

How does the patent box work?

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The implementation and management of the patent box

Step 1

Recording of revenue/patents qualifying for the patent box.

Step 2

Clarification of the cantonal provisions for entry into the patent box. Calculation of the entry costs.

The implementation and management of the patent box

Step 3

Management of the patent box / calculation of the residual profit / determination of the Nexus factor.

Step 4

Determination/costs of exit from the patent box.

Which intellectual property rights are concerned?

Art. 24a Tax Harmonisation Act (StHG):

[1] The following are considered **patents**:

a. Patents under the European Patent Convention of 5 October 1973 in its revised version of 29 November 2000 with designation Switzerland;

b. Patents under the Patent Act of 25 June 1954;

c. Foreign patents corresponding to the patents under letters a or b.

[2] The following are considered **similar rights**:

a. Supplementary protection certificates under the Patent Act of 25 June 1954 and their renewal;

b. Topographies protected under the Topographies Act of 9 October 1992;

c. Plant varieties protected under the Varieties Protection Act of March 20, 1975;

d. Documents protected under the Therapeutic Products Act of December 15, 2000;

e. Reports protected under the implementing provisions of the Agriculture Law of 29 April 1998;

a) Foreign rights corresponding to the rights referred to in letters a-e.

Which intellectual property rights are concerned?

- Art. 24a Tax Harmonisation Act (StHG): → **The list is exhaustive.**
- Patent protected **inventions of SMEs** and copyrighted **software** do therefore **not** qualify for the patent box! Exceptions to the regulations:
  - Software for which a patent has been granted abroad.
  - Software which is part of an invention(so-called computer-implemented invention).
- **Inventions by SMEs must be patented in order to be covered by the patent box.**
- This is not very expensive in Switzerland, but the disadvantage here is the disclosure of business secrets.

Calculation of the special deductions for R & D

Calculation of the special deductions for R & D

Art. 25a Tax Harmonization Act (StHG):

- Optional for the cantons.
- R & D in Switzerland.
- No more than 50% above business-related research and development expenditure.
- Definition of "R & D" in Art. 2 of the Federal Act of 14 December 2012 on the Promotion of Research and Innovation (FIFG).

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Calculation of the special deductions for R & D

Art. 2 FIFG :

Definitions in this act:

a. Scientific research (research): the method-guided search for new knowledge; it includes by name:

    1. Basic research: research whose primary objective is to gain knowledge,
    2. application-oriented research: research whose primary aim is to make contributions to practice-oriented problem solutions;

b. Science-based innovation (innovation): the development of new products, methods, processes and services for the economy and society through research, in particular application-oriented research, and the exploitation of its results.

Calculation of the special deductions for R & D

Art. 25a Tax Harmonisation Act (StHG):

- An increased deduction is permissible on:
  a. the directly attributable personnel expenses for R & D, plus a surcharge of 35 % of these personnel expenses, but not exceeding the total expenses of the taxable person
  b. 80 % of the cost of R & D invoiced by third parties
- If the customer of R & D is entitled to deduction, the contractor is not entitled to any deduction.

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Relief limit

Relief limit

Canton	Maximum Relief Limit
ZH	70%
BE	70%
LU	20% / 70%
UR	50%
SZ	70%
OW	70%
NW	70%
GL	10%
ZG	70%
FR	20%
SO	70%
BS	See patent box
BL	50%
SH	70% during 5 years, then 50%
AR	50%
AI	50%
SG	40%
GR	55%
AG	70%
TG	50%
TI	70%
VD	Still open
VS	50%
NE	40%
GE	9%
JU	70%

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Capital tax reduction

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Capital tax reduction

Canton	Applicable capital tax	Planned capital tax
ZH	0.15/0.75 ‰	0.75 ‰
BE	0.3 ‰	0.05 ‰
LU	0.5 ‰	0.5 ‰ or 0.01 ‰
UR	0.01-2.40 ‰	0.01-4 ‰
SZ	0.4 ‰	0.03 ‰ -0.07 ‰
OW	2 ‰	0.01 ‰
NW	0.1 ‰	same
GL	0.05/2 ‰	2 ‰
ZG	0.5 ‰	Reduction on participations, patents
FR	1.6 ‰	1.0 ‰
SO	0.8/0.2/0.1 ‰	0.1 ‰
BS	1/0.5 ‰	1.0 ‰
BL	1.25 ‰	1.55 ‰, min. 165 CHF.
SH	0.1 ‰	0.025 ‰
AR	0.1 ‰, min. 900 CHF.	same
AI	0.1 – 0.6 ‰	same
SG	0.2 ‰	Exemption of participations, patents
GR	2.3 ‰	Reduction on participations, patents
AG	1.25 ‰	same
TG	0.3 ‰, min. 100 CHF.	0.15 ‰
TI	1.5 ‰	Still open
VD	0,6 ‰	Adjustment follow
VS	1 ‰ for 1. 500’000 CHF./2.5 ‰ afterwards	Adjustment follow
NE	2.5 ‰	2.5 ‰ or 0.005 ‰
GE	1.8 ‰	4 ‰ or 0.01 ‰
JU	0.75 ‰	0.375 or 0.05 ‰

List of favourites for SMEs

Priority 1

- Change in dividend taxation

Priority 2

- Adjustment of the profit tax rate

Priority 3

- Special deduction for research and development costs

Priority 4

- Introduction of the patent box

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