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Tax Newsletter

Swiss electorate votes in favour of global minimum tax

On 18 June 2023, the Swiss electorate and the cantons approved the requisite constitutional amendment for the implementation of the OECD minimum tax of 15% for large multinational enterprises in Switzerland. The margins of the vote's approval were clear, with 78.45 percent of voters and all cantons in favour and 21.55 percent of voters against the proposal. Based on this constitutional amendment, the Federal Council may temporarily introduce a supplementary tax by means of an ordinance which is expected to enter into force at the same time as in the EU on 1 January 2024. The introduction of the OECD minimum tax will safeguard Switzerland's tax receipts and uphold its internationally stable framework conditions as a business location.

walderwyss attorneys at law

By Fabienne Limacher
MLaw, LL.M., Certified Tax Expert,
Attorney at Law
Partner
Telephone +41 58 658 52 81
fabienne.limacher@walderwyss.com

and Maurus Winzap
lic. iur., LL.M., Attorney at Law /
Certified Tax Expert
Partner
Telephone +41 58 658 56 05
maurus.winzap@walderwyss.com

What was the vote about?

The OECD and G20 countries have developed a global minimum tax aiming at introducing a uniform minimum tax rate worldwide. As a consequence, internationally active companies with a global annual turnover of more than 750 million euros should be taxed at an income tax rate of at least 15% in each country they operate in.

Many countries, especially the EU, are planning to introduce the OECD minimum tax on 1 January 2024. In Switzerland, 21 of the 26 cantons levy tax rates that are lower than the required 15%. If the minimum tax rate is not reached, the shortfall will be levied by means of a supplementary tax. If Switzerland did not introduce such supplementary tax, other jurisdictions could collect the difference between the lower tax burden in Switzerland and the minimum tax of 15%. Thus, the introduction of the minimum tax will secure that tax receipts remain in Switzerland and are not shifted to other countries.

By amending the constitution, the groundwork for allowing unequal treatment of smaller and larger businesses is laid on the one hand and, on the other hand, it is ensured that the OECD minimum tax can enter into force in a timely manner as the Federal Council is given the authority to temporarily introduce a supplementary tax by means of an ordinance. However, within six years, the Federal Council must present a federal law to Parliament that replaces the ordinance. Hence, there will be a subsequent amendment of the legal basis through an ordinary legislative process.

What companies are affected?

The OECD minimum tax will only affect large, multinational groups with an annual turnover of at least 750 million Euro, whereas there will be no change for small and medium-sized enterprises.

In Switzerland, this concerns around 200 internationally active groups headquartered in Switzerland and 2,000 Swiss subsidiaries of foreign groups. Therefore, roughly 99% of companies in Switzerland are not directly affected by the constitutional amendment and will continue to be taxed as before.

Comment

The constitutional amendment for the introduction of the OECD minimum tax is in Switzerland's best interest. If the respective rules were not introduced, jurisdictions in which internationally active Swiss groups operate as well would be allowed to levy a subsequent tax to make up for the shortfall and get to 15%. Introducing the minimum tax rate thus safeguards tax revenues for Switzerland and creates legal certainty and a stable framework for companies affected by the new international rules.

On the other hand, tax competition within Switzerland may be constrained as high-tax cantons are likely to become more attractive compared to cantons which have to offset their geographical disadvantages by lower taxes.