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Swiss Federal Council Rejects JUSO Estate Tax Initiative

On 13 December 2024, the Swiss Federal Council issued its statement regarding the popular initiative titled "For a Social Climate Policy – Fairly Financed Through Taxation (Initiative for a Future)" proposed by the Young Socialists (JUSO). The Federal Council has decided to reject the initiative, without providing a counterproposal, and clarifies that Switzerland will not apply the measures demanded by the initiative to prevent tax avoidance with retrospective effect.

The Juso Estate Tax Initiative calls for the introduction of a 50% estate and gift tax on the federal level, targeting estates exceeding 50 million Swiss francs. Despite supporting the overall goal of addressing climate change, the Federal Council has raised significant concerns about the economic, legal, and institutional implications of the initiative.

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Key Aspects of the JUSO Estate Tax Initiative

The initiative demands a federal estate and gift tax on estates above 50 million Swiss francs, with a 50% tax rate. The revenue thus generated would need to be used to fund climate action and economic transformation. The initiative also includes a transitional provision, stipulating that the tax would apply retroactively from the date of the vote. The Federal Council emphasised, however, that retroactive measures would not apply to actions taken before the implementation of the law.

Federal Council's Position on Retroactive Taxation

The Federal Council acknowledges that the initiative aligns with constitutional principles and hence does not contest its validity, but it strongly questions the retroactive application of the estate and gift tax. While the initiative explicitly stipulates retroactive taxation, the Federal Council raises concerns about the legal uncertainties this could create. It could prompt individuals to leave Switzerland before the vote or deter potential new residents. Furthermore, the Federal Council points out that retroactive anti-avoidance measures will not be enforced until the necessary regulations are in place.

Tax Avoidance and Emigration Concerns

A central focus of the initiative is to prevent tax avoidance, particularly through emigration. The Federal Council stresses that emigration alone does not constitute tax avoidance. To be considered as such, individuals must take specific actions with the intent of reducing their tax liability, such as gifting assets shortly after emigration. The Federal Council firmly rejects the concept of an exit tax, arguing that it would unduly limit personal freedoms and be disproportionate.

Rather, the Federal Council proposes a potential post-emigration taxation right, whereby individuals leaving Switzerland could be considered tax residents for a limited period suggested to be five years. However, the Federal Council acknowledges that international double taxation agreements may restrict Switzerland's ability to enforce such tax claims abroad, presenting challenges to the effectiveness of this measure.

Economic Impact and Expected Revenue

The Federal Council anticipates that the estate and gift tax could raise modest revenue. Despite the theoretical potential to generate over four billion Swiss francs, it warns that wealthy individuals may choose to leave Switzerland, reducing the expected revenue significantly. This outflow of capital could also result in a net loss of tax revenue for both the federal government and the cantons, undermining fiscal stability.

Impact on Swiss Tax System

While supporting the initiative's climate objectives, the Federal Council is concerned that the proposed federal tax could disrupt the Swiss tax system. Cantons, many of which already levy inheritance taxes, could see their tax autonomy limited, especially for estates exceeding 50 million Swiss francs.

Next Steps in the Political Process and Timeline

The initiative will be discussed by the Economic Affairs and Taxation Committee (WAK) of the National Council on 20 January 2025. Following that, it will be debated by the National Council in March 2025, and the Council of States will take it up during the summer session. Parliament is expected to issue a recommendation by June 2025. The earliest possible vote could be held on 30 November 2025, but, if necessary, the vote may be postponed until 8 March 2026.

Federal Council's Conclusion

The Federal Council concludes that the estate and gift tax proposed by the initiative would likely result in modest revenue, with significant losses from potential emigration and reduced income and wealth tax revenues. These losses would likely outweigh any gains, leading to a net revenue loss for both the federal government and the cantons. As a result, the Federal Council has rejected the initiative, noting that Switzerland's climate goals are already being effectively addressed through existing policies.

Comment and Outlook

As the Federal Council has made it clear in its dispatch that any measures against tax avoidance will not come into force retroactively from the date of the vote, there is no need for a precautionary emigration ahead of the voting day in November 2025 or March 2026. In the unlikely event that the initiative is accepted, affected taxpayers will, as a last resort, still be able to leave Switzerland after the date of the vote without any negative exit or other tax consequences.