SwissHoldings

TAX DEPARTMENT

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International Tax Law

OECD/G20 Project on the Taxation of the Digitalized Economy

Executive Summary

Switzerland implemented the OECD Minimum Tax in the form of a Swiss Supplementary Tax at the beginning of 2024. This places Switzerland at a significant and unwarranted disadvantage as a business location when compared to numerous non-implementing countries, including the USA, China, and India. Switzerland must vigilantly monitor international developments and strive to establish an internationally level playing field, placing increased emphasis on new instruments to enhance Switzerland's attractiveness as a business location.

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The OECD project on the Taxation of the Digitalized Economy is structured around two pillars and aims to enhance the acceptance of International Corporate Taxation. The OECD Secretariat is conducting the work on behalf of the G7 and G20, with administrative representatives of the involved countries participating in the formulation of new rules. The formal adoption of the new tax rules is carried out by the "OECD/G20 Inclusive Framework on BEPS" (hereinafter: IF), which presently encompasses 143 countries.

Stance

Internationally, the larger EU member states have committed to implementing the OECD minimum taxation by the beginning of 2024. It currently appears that most of the larger EU member states will fulfil their obligations. Individual countries will introduce the rules retroactively (e.g. Spain) in the course of 2024. Outside of Europe, the enthusiasm surrounding the introduction of the minimum tax seems to have largely evaporated. Except for Canada, Japan, Korea and Australia, many countries are largely holding back on announcements or consultation procedures.

In Switzerland, the Federal Assembly approved the implementation proposed by the Federal Council in December 2022. In May 2023, the Federal Council presented the second part of the draft ordinance (Draft Ordinance 2). The mandatory referendum was held in Switzerland on 18 June 2023. More than ¾ of Swiss voters approved the implementation decided by the Federal Council and Parliament. At its meeting on 22 December 2023, the Federal Council decided that the minimum taxation would be introduced on 1 January 2024 and that Switzerland would focus on the Swiss supplementary tax QDMTT. At the same time, the Federal Council published the definitive ordinance.

Outlook

The trajectory of the OECD Minimum Tax at the international level remains uncertain at present. The global prevalence and adoption of the tax by major economic powers (USA, China, India, EU, Brazil, etc.) hinge significantly on the outcome of the US elections in November 2024 and the subsequent adjustments to the Minimum Taxation rules by the "OECD/G20 Inclusive Framework on BEPS" (hereinafter: IF). The existing rules confer economic advantages to headquarters states abstaining from introducing Minimum Taxation. Consequently, three-quarters of the IF states, including China, India, the USA, Brazil, and others, have refrained from implementing the Minimum Tax. The international proliferation of the Minimum Tax appears highly uncertain without an effective Undertaking to Provide Reports (UTPR) or substantial amendments to the Minimum Tax level calculation.

The current rules place Switzerland at a disadvantage that lacks objective justification. Notably, these rules allow the USA or China to offer their corporations effective tax rates significantly below 15 percent, with other countries unable to offset this difference. Switzerland does not have the latitude to extend similar tax advantages to its corporations. The IF should eliminate these objectively unjustifiable disadvantages for Switzerland and rectify protectionist advantages accorded to other countries to establish a level playing field.

Position

SwissHoldings acknowledges that to prevent financial losses, particularly diminished tax revenues, in the medium to long term, Switzerland must prioritize the establishment of an internationally recognized Minimum Taxation regime that ensures a level playing field. Additionally, both the Confederation and cantons should address locational disadvantages arising from increased tax burdens on Swiss companies through appropriate compensation mechanisms. The following considerations should guide this effort:

- International Implementation of the OECD Minimum Taxation
- Effects on the Attractiveness of Various Industries
- Financial and Economic Consequences (short, medium and long term) without Countermeasures
- Possibility of Creating Internationally Accepted and Targeted Location Measures
- Effects Under Transfer Pricing Law
- Domestic Policy Aspects

Mehr Informationen zum OECD/G20-Projekt zur Besteuerung der digitalisierten Wirtschaft gibt es auf unserer Webseite.

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