



## SwissHoldings session preview Winter session 2022

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**SwissHoldings** is the association of industrial and service companies throughout Switzerland. Accounting for approximately 66 percent of the total market capitalization within the SIX Swiss Exchange. SwissHoldings is comprised of 61 of the largest groups in Switzerland, employing roughly 1.8 million globally, of which 202,000 work in Switzerland. Through the numerous services and supply contracts provided to SMEs by SwissHoldings, Switzerland's multinational companies employ - directly and indirectly - more than half of all employees in Switzerland.

### Dear readers

At the beginning of the winter session 2022, SwissHoldings will provide you with its latest session ticker. This provides you with an overview of the important business that falls within our area of activity and which will be dealt with in the upcoming session in the National Council and the Council of States. With the session sticker, we show what the business is about and what SwissHoldings' position is on it.

We hope to pass on useful information to you with this issue as well. We would be happy to receive your feedback on the ticker.

SwissHoldings

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## National Council:

[20.036](#) **Federal decree on a special taxation of large corporate groups (implementation of the OECD/G20 project on the taxation of the digital economy)**

Treatment on Monday, December 5

### That's what it's about

The two-pillar project on the taxation of the digitalized economy (OECD Digital Taxation Project) is adapting international corporate taxation. This is decided by the "OECD/G20 Inclusive Framework on BEPS" (IF), which comprises around 140 countries.

In pillar 2, large companies are to be subject to a minimum taxation of 15 percent in all their countries of operation. The minimum taxation rules are to be introduced globally in parts as early as 2023. The EU Commission has already presented an implementation proposal for this.

The bill will first be discussed by the Council of States in this fall session. The reading in the second council as well as the possible revision of differences is planned for the winter session (Nov. 28 - Dec. 26). The parliamentary deliberations will therefore already be completed this year and SwissHoldings will closely monitor the content. The mandatory referendum on the amendment of the Federal Constitution will take place in June 2023.

### Status of the procedure

Council of States Fall Session 2022: Adoption (44:0:1)

WAK-NR 25.10.22: Resolution of 50/50 model with upper limit of CHF 400 (13:12)

WAK-NR 15.11.22: Adoption in the overall vote

### Position SwissHoldings

**SwissHoldings recommends supporting the 75/25 model on the issue of the distribution of supplementary tax revenues (=Minority III Wälti)**

The new minimum tax of 15 percent is specifically directed against one of Switzerland's most important location factors - the attractive cantonal profit tax rates. These are largely responsible for the fact that international companies carry out profitable activities in Switzerland and that most cantons, but also the federal government, have achieved strong growth in tax revenues in recent decades. The elimination of this location factor and the change in international location competition associated with the OECD project pose new challenges for the cantons.

SwissHoldings is convinced that the cantons can master these and adapt to the new framework conditions if they are given the necessary tools to do so. A 75/25 distribution of the supplementary taxes would fulfill this criterion.

## National Council:

### [22.026](#) Code of civil procedure. Amendment

Treatment on Monday, December 12, 2022

#### That's what it's about

The Federal Council wants to improve the practicability of the Swiss Code of Civil Procedure (CCP) with selective amendments. In particular, it wants to make it easier for private individuals and companies to access the courts and thus improve legal certainty.

The important introduction of professional secrecy protection for in-house counsel should be emphasized. In its draft, the Federal Council provides for a sensible compromise provision (Art. 160a E-ZPO; cf. also parl. lv. Markwalder [15.409](#) "Professional secrecy protection for in-house counsel").

Although Parliament would like to tighten up the Federal Council's technically more convincing draft, the National Council deleted the problematic requirement of reciprocity introduced by the Council of States. The version decided by the National Council essentially provides that, in the case of commercial companies, with respect to the activities of their in-house legal service, a party may refuse to cooperate and does not have to hand over documents if the legal service is headed by a person who is admitted to the bar and the activity in question would be considered profession-specific in the case of a lawyer.

After the Council of States made an initial difference resolution in the fall session, the Committee for Legal Affairs of the National Council RK-NR decided to join the Council of States on the issue of professional secrecy protection for in-house lawyers.

#### Status of the procedure

Council of States Summer Session 2021: Adoption (39:0)

National Council Special Session 2022: Adoption (183:1:2)

Council of States fall session 2022: Advocates introduction of professional secrecy protection (24:20)

RK-NR 11.11.22: Also advocates professional secrecy protection for in-house counsel

#### Position SwissHoldings

According to the deliberations to date, in addition to the technical modernization, Parliament is particularly in favor of the important introduction of professional secrecy protection for in-house lawyers. SwissHoldings welcomes this decision, which is intended to ensure that Swiss companies operating abroad have the same procedural guarantees as local companies, for example in the USA.

The differences in the revision of the Code of Civil Procedure have been further resolved. In particular, the Council of States again refrains from the problematic requirement of reciprocity that it had introduced. The introduction of professional secrecy protection for in-house counsel into the Swiss legal system is thus within reach.



## National Council:

### [22.035](#) Tonnage tax on ocean-going vessels. Federal law

Treatment on Tuesday, December 13, 2022

#### That's what it's about

The bill provides that profits from the operation of seagoing vessels may in future be taxed at a flat rate based on the net tonnage (cargo capacity). In the European Union (EU), 21 countries have such a regulation. The determination of profits according to cargo capacity leads to a comparatively low tax burden for profitable companies. The introduction of the tonnage tax is a means of making Switzerland an attractive location for maritime shipping companies. In key areas, the proposal is based on the existing tonnage tax regulations in the EU. The tonnage tax is voluntary.

#### Status of the procedure

WAK-NR 15.11.22: Adoption (15:10)

#### Position SwissHoldings

**SwissHoldings supports the measure recommended by the WAK-NR for the introduction of a tonnage tax, which is closely based on the existing EU regulation.**

Today, practically all shipping nations have a tonnage tax. This is internationally accepted and also complies with the specifications of the OECD regarding the future minimum taxation.

The introduction of a voluntary tonnage tax will put Swiss suppliers on an equal footing with their foreign counterparts and eliminate the competitive tax disadvantages that exist today.

In principle, SwissHoldings does not see why shipping companies should be subject to different taxation rules than the rest of the economy. Since the separate tonnage tax has even been approved by the OECD and enjoys broad international support, it is not clear why Switzerland should put its shipping companies at a tax disadvantage compared to competitor locations. Switzerland should not abandon such taxation until all the other countries do the same. If a major nation such as the U.S. ever calls for the abolition of the tax at the international level, Switzerland should not oppose such efforts.

## Council of States:

[20.036](#) Federal decree on a special taxation of large corporate groups (implementation of the OECD/G20 project on the taxation of the digital economy)

Treatment on Monday, December 5

See National Council p. 2.

## Council of States:

[22.028](#) Double Taxation. Agreement with Ethiopia

[22.033](#) Double taxation. Agreement with Armenia

Treatment on Monday, December 5, 2022

### That's what it's about

Switzerland and **Ethiopia** signed a double taxation agreement in the field of income taxes in Addis Ababa on July 29, 2021. With this agreement, Switzerland's network of agreements in East Africa can be expanded for the first time.

The DTA Amendment Protocol with **Armenia** was signed on November 12, 2021. The DTA dates back to 2006 and has never been updated in the meantime. In the meantime, Switzerland signed the BEPS agreement, to which the DTA is now being adapted.

### Status of the procedure

National Council Fall Session 2022: Acceptance of DTA Ethiopia (130:31:17), Acceptance of DTA Armenia (136:30:17)

WAK-SR 07.11.22: Acceptance of DTA Ethiopia and DTA Armenia (each unanimously)

### Position SwissHoldings

SwissHoldings supports the conclusion of a **DTA with Ethiopia**. The agreement guarantees legal certainty and a framework that will have a beneficial effect on economic relations. It grants the Swiss economy competitive conditions compared to other industrialized countries (e.g. residual rate for group dividends, for interest and for royalties of 5% each, arbitration clause as soon as Ethiopia agrees such a clause with another state).

SwissHoldings also supports the adaptation of the current **DTA with Armenia to the BEPS** minimum standard of the OECD and G20 and to the international standard on the exchange of information on request. Furthermore, we welcome the introduction of the zero rate for group dividends (participation 50% of the capital, holding period 1 year, minimum investment in distributing company of CHF 2 million) and the relief on the dividend residual rate of 5% (participation 10% of the capital, minimum investment in distributing company of CHF 100,000).

## Council of States:

[22.048](#) Automatic exchange of information on financial accounts with additional partner states from 2023/2024. Introduction

Treatment on Thursday, December 8, 2022

### That's what it's about

The legal basis for AEOI entered into force on January 1, 2017, and as of today, Switzerland exchanges data with 108 partner countries.

On May 18, 2022, the Federal Council adopted the dispatch on the introduction of the automatic exchange of information on financial accounts (AEOI) with the following 12 additional countries:

Ecuador, Georgia, Jamaica, Jordan, Kenya, Moldova, Montenegro, Morocco, New Caledonia, Thailand, Uganda and Ukraine.

The Federal Council is asking Parliament to approve this expansion of the network so that the AEOI can enter into force with the 12 states mentioned above from 2023.

### Status of the procedure

National Council Fall Session 2022: Adoption (138:51)

WAK-SR 07.11.22: Consent (unanimous)

### Position SwissHoldings

SwissHoldings supports the introduction of the automatic exchange of information on financial accounts with the 12 countries mentioned. Switzerland has a great interest in ensuring that the AEOI can be agreed with as many countries as possible and that they also participate in the implementation of the standard. Our member companies in the industrial sector are only affected by the exchange to a very limited extent.

## Council of States:

[22.050](#) **Financial Market Infrastructure Act (FMIA). Amendment (Recognition of foreign trading venues for trading in equity securities of companies domiciled in Switzerland).**

Treatment on Monday, December 5, 2022

### That's what it's about

On 30 November 2018, the Federal Council, acting directly on the basis of Article 184 of the Federal Constitution, issued the measure to protect the Swiss stock exchange infrastructure (safeguard measure) after the European Commission had not extended the stock exchange equivalence for Switzerland provided for in European Union (EU) law by that date. The safeguard measure ensures that EU securities firms can continue to trade Swiss equities on Swiss trading venues even without EU stock exchange equivalence.

In order to ensure that the protective measure does not expire without replacement, the Federal Council submitted the transfer of the protective measure to the Financial Market Infrastructure Act (FMIA) to Parliament for approval in the summer of 2022.

### Status of the procedure

WAK-SR 10.10.22: Consent (unanimous)

### Position SwissHoldings

SwissHoldings welcomes the planned transfer of the stock exchange protection measure into ordinary law. The protective measure is sensible, purposeful and should be implemented as soon as possible. It helps to ensure that EU securities firms can continue to trade Swiss shares on Swiss trading venues, thereby preserving the functioning of the Swiss capital market.