

# Federal Corporate Tax Reform III (CTR III)

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## Introduction

After in February 2016 the Economic Committee of the National Council (WAK-N) had set the parameters for Corporate Tax Reform III, yesterday and today on 16/17 March 2016 the National Council (NC) discussed the bill. The matters resolved by the NC are predominantly identical with the positions taken by the National Council Committee (refer to our News Alert with the results of the WAK-N [here](#)).

## Resolutions of the National Council

In its discussion of the Federal Law on the Fiscal Measures to Strengthen the Competitive Position of Switzerland as a Business Location („Corporate Tax Reform III“) the National Council passed the following resolutions:

### a) Revisions to the Direct Federal Tax Law

- **Rejection** of a request to introduce **taxation of private capital gains**. As the Council of States has also rejected the introduction of a private capital gains tax, the present rule remains. Hence, private capital gains in principle stay tax-free.
- **Rejection of the increase in partial taxation on qualifying investments** for private income tax purposes as proposed by the Federal Council to 70% on investments of at least 10%. This in agreement with the Council of States. Therefore, the present rule of partial taxation of 50% on investments of at least 10% in business assets and 60% in private assets remains unchanged.
- **Agreement** with the introduction of a **tonnage tax** for shipping companies. The Council of States had rejected a similar motion. If the tonnage tax is also approved by the Council of States in the further proceedings, for shipping companies, the corporate income tax would optionally be replaced by a tonnage tax. Such tonnage tax is calculated on a rate per net tonnage on operating profits from transporting freight and passengers,

chartering ships, servicing ships including ship and crew management, on towage services on the high seas, and on the sale of ships associated with these activities.

- **Agreement** with the introduction of **interest adjusted corporate income tax**, i.e. a notional interest on excess equity capital. The Council of States had rejected a similar motion. This difference between the two councils has still to be reconciled.
- **Agreement** with the **step up of hidden reserves** on commencement of tax liability, e.g. on migration or relocation of assets or functions from abroad to Switzerland. The hidden reserves so stepped up in the tax balance sheet can in subsequent years be amortised tax effectively in accordance with generally applicable tax amortisation rates. Goodwill is to be amortised within ten years. Conversely, an exit tax liability is also triggered on hidden reserves and goodwill when the liability to tax in Switzerland ceases.
- **Retention of the capital contribution principle.**
- **Agreement to increase the cantonal share** in the Direct Federal Tax from 17% to 20.5% as proposed by the Federal Council, and not to 21.2% as foreseen by the Council of States.

### b) Revisions to the Tax Harmonisation Law

- **Rejection** of a request for the introduction **taxation of private capital gains** in line with the resolution regarding the Direct Federal Tax.

- **Retention of the capital contribution principle.**
- **Rejection of the harmonisation of partial taxation on qualifying investments** for private income tax purposes as proposed by the Federal Council to 70% on investments of at least 10%. This in agreement with the Council of States. The current more generous rule for the cantons therefore remains unchanged.
- **Agreement** with the introduction of a **tonnage tax** for shipping companies in line with the Direct Federal Tax.
- **Agreement** with the introduction of a **cantonal patent box**, i.e. the cantons can exempt in full or partially from corporate income tax the profit to the extent it derives from patents and comparable rights. The Council of States had foreseen a maximum exemption of 90%. The cantons may also refrain from the taxation foreseen on entry into the patent box of research and development costs claimed in the past, provided they ensure this taxation within five years in another way.
- **Agreement** with the **step up of hidden reserves** at the commencement and end of tax liability in conformity with the new rules for Direct Federal Tax.
- **Agreement** with the introduction, **optional** for the cantons, of an **interest adjusted corporate income tax**, i.e. a notional interest deduction on excess equity capital in line with the new rules for Direct Federal Tax.
- **Agreement** with the introduction, **optional** for the cantons, of a **special deduction for research and development costs**, whereby the cantons can define the amount of this special deduction at their own discretion (the Council of States had demanded a maximum limit of 150% of R&D expenses). Also the proposal that the cantons could, equally or at a reduced level, extend the super deduction to foreign research and development costs sub-contracted by a Swiss company to foreign party was accepted.
- **Agreement to adjustments of the capital tax.** In addition to the equity relating to participations, patents and comparable rights, the cantons may, in deviation from the resolution

of the Council of States, also foresee a relief of the capital tax on inter-company loans. This constitutes a complementary measure to the introduction of interest adjusted corporate income tax.

- **Agreement** to the introduction of an **overall limitation of benefits.** The benefits from the patent box, the special deduction for research and development costs, the interest adjusted corporate income tax, including amortisation of stepped up hidden reserves are in aggregation result to be limited to 80%, whereby the cantons may set a different percentage limitation. The purpose of this measure is to ensure a minimum tax base also for companies, which qualify for one or more of the newly foreseen privileges.

### c) Equalisation of Financial Resources Law (FiLaG)

- **Agreement** on the consideration of the effects of the early, voluntary surrender of the current preferential holding, mixed and auxiliary company status in calculating the **resource potential** applicable for the inter-cantonal equalisation of financial resources. The purpose is to avoid discriminating against cantons with a large number of status companies.

### d) Stamp Duties Law

- The **abolition of issuance duty** foreseen by the WAK-N in the context of a **separate bill** was referred back by the National Council to the WAK-N for further assessment. This measure has therefore been separated from the original CTR III bill and must be discussed in a further separate parliamentary procedure.

### The next steps

The reform package now goes back to the Council of States, which will deliberate on the remaining differences in the summer session. If significant differences were to remain between the two councils, the reform would again be passed to the National Council for further reconciliation in the autumn session. Otherwise the final vote could be held already in summer. Provided that a referendum were not called against it, the CTR III could in that case come into force as early as 2017 and the required implementation in the cantons as early as 2019.

### ***PwC's assessment***

We welcome the great majority of the resolutions put forward by the WAK-N and passed by the National Council. The introduction of interest adjusted corporate income tax is a key factor, which we consider to be a crucial measure for some cantons. We also welcome the fact that in connection with the patent box and the input promotion rules the cantons are to be allowed more room for manoeuvre, and in order to limit an excessive losses of tax revenues for the cantons an overall maximum benefit limitation of 80 % is foreseen. Furthermore the inclusion of foreign research costs in the input promotion at the discretion of the cantons is a very important step into the right direction.

As is well known, the starting points of the individual cantons are very different. We therefore consider the modular approach of the CTR III bill now foreseen by the National Council is well suited to provide the cantons with the fiscal tools and the necessary flexibility, which they need for implementing CTR III individually tailored and customised to the special circumstances in the respective canton. Furthermore, the proposed revision of the legal basis in connection with the voluntary surrender of the cantonal tax status is of key importance. Companies, which today benefit from a cantonal tax status, should be able to change to ordinary taxation before the legally compelled abolition of today's tax status, without as a result the cantons having to suffer disadvantages in the context of the National Equalisation of Resources.

With a view to a slimmer and more cost effective package and in order to ensure a solution enjoying majority support, it is right to refrain for the time being from the abolition of issuance duty and to make it the subject of a later reform. The tonnage tax is an internationally accepted tax privilege, which costs Switzerland hardly anything – but offers potential for new tax revenues and new jobs. To this extent the measure is to be welcomed, provided it does not slow down the political reconciliation process of CTR III.

CTR III is intended to consolidate for the long term the attractiveness of Switzerland as a tax location. The reform is therefore of key importance for the medium- and long-term future of our country. PwC will continue to actively pursue the developments in connection with CTR III. If you have any questions, please contact your usual contact person at PwC or one of PwC Switzerland's experts in CTR III named below.