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LEAFLET

Holding and Management Companies

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1. Holding Companies

1.1 Legal Bases

Section 78 par. 1 and 2

¹ Corporations and cooperatives whose statutory purpose and effective activity lies primarily in continuous management of shareholdings, and which do not conduct business in Switzerland, pay no taxes on net profit, as long as shareholdings or proceeds from shareholdings make up at least two thirds of all assets or proceeds over the long term.

² Proceeds from Aargau real estate ownership of such companies and cooperatives are taxed at the proper rate (overall rate, at least at the rate in accordance with section 75 par. 1 subsection a). In this case, deductions corresponding to a normal mortgage charge are granted.

1.2 General

Holding companies in the terms of section 78 par. 1 of the StG are corporations (stock corporations, partnerships limited by shared and companies with limited liability) and cooperatives, whose statutory purpose lies primarily in continuous management of shareholdings and which exercise no business operations in Switzerland.

1.3 Qualitative Preconditions for Taxation as Holding Company

The holding purpose must be secured statutorily and be followed in fact. Presupposed is the existence of at least one qualifying shareholding (shareholdings of ten percent of common capital stock or of profits and reserves or at least 1 million francs in market value of another company). Taxation as a holding company is aimed at avoiding profits being charged triply or more. For that reason, all assets are essentially considered to be shareholdings whose proceeds were already charged with taxes on profit. This also applies to free-float shares, so far as a holding company and not a property managing company exists as a result. Transacting with securities with the intent of achieving capital gains from the transactions constitutes a commercial and therefore improper business operation in Switzerland, which excludes taxation as a holding company.

1.4 Shareholdings

Shareholdings include shares, participating receipts, original capital shares in companies with limited liability, shares in cooperative societies and long-term loans to subsidiaries that are qualified as hidden equity capital at the subsidiary level.

By comparison, shareholdings do not include shares in partnerships, profit-participating certificates, obligations, internal loans and advance payments within a company group, hybrid financing instruments (for example, subordinated loans) and shares in Swiss and foreign investment funds and these corporations to be treated as equals.

1.5 Banning Business Operations in Switzerland

By banning a company of doing business in Switzerland, a holding company is essentially not permitted to participate in commerce, by means of industrial, trade or commercial activity, as a producer or provider of goods, intangible assets or services to foreign countries, with the goal of achieving from the activity proceeds through the company's own net product, on top of passive investment income. However, activities that originate as an endeavor to manage one's own shareholdings effectively and successfully are permitted as secondary goals within the scope of shareholding management. The holding company is permitted one secondary business operation abroad. An activity that takes place abroad without a foreign location of operation presumably counts as being carried out from Switzerland, since the original business operation site is in Switzerland.

1.6 Permissible Secondary Goals

1.6.1 Management of Shareholdings

The holding company may dispose of and re-acquire shareholdings if the character as holding company is not affected by this. Equity financing for newly founded or young companies with equity capital (so-called private equity engagements) is also always possible for holding companies if these companies are not managed by the holding company.

1.6.2 Holding Company Management

Activities that refer to the holding company itself are permissible. These include management of the holding company, investment of internal assets, internal accounting and activities that result from the situation of the holding company under corporate law, like exercising management board functions and participation in general meetings.

1.6.3 Auxiliary Activities for the Company Group

Permissible auxiliary activities in the interests of the entire company group include among other things, provision of a central management and reporting system for the company group organization, market research in the interests of the entire company group, legal and tax consultation at the company group level, personnel consultation at the executive level, company group financing through centralized fund raising on the capital market and financing of subsidiaries.

The expenditure arising for the holding company for activities which are performed in the interests of the entire company group can be charged to subsidiaries at market conditions, usually by the cost-plus method with a surcharge of 5 percent. However, in contrast to the achievable result in the area of shareholdings, subsidiary compensation must be of a secondary nature. Otherwise, an improper business operation is assumed.

1.6.4 Subsidiary Management

Management of subsidiaries is permissible as a secondary goal only if this activity is minor in comparison to shareholding-related activities. As a result, a holding company must have only secondary management responsibilities and not be a management company with shareholdings. A further precondition is that the personnel appointed for subsidiary management are employed by the holding company in accordance with civil and social security laws, or the related holding company expenditure is taxed.

1.6.5 Management of Intangible Property Rights

Management of intangible property rights is permissible as a secondary objective only if this activity is minor in comparison to shareholding-related activities. In general, however, an improper business operation can be assumed, since the development of inventions based on research and development activities and management of patents require appropriate personnel resources. Management of trademarks requires active trademark protection, establishment of a communication strategy, technical assistance and quality controls for licensees. These activities also do not generally constitute a business operation that is compatible with taxation as holding company.

1.7 Quantitative Preconditions for Taxation as Holding Company

Shareholdings or proceeds from shareholdings must make up at least two thirds of all assets or proceeds over the long term, including real estate proceeds. Either the one or the other of these two pre-conditions must be satisfied. In order to determine the proportion of shareholdings to all assets, tax on profit values (book values plus hidden reserves taxed as profit) are basically relevant at the end of the business year. Proof that preconditions are satisfied on the basis of current market values is available to the company liable to tax, where in this case all assets must be used at current market values. The assessment is performed based on a balance sheet, which meets the minimum composition requirements under commercial law. Here, principles of balance sheet transparency and offsetting must be observed (art. 662 a par. 2 OR). With assets, depreciations are offset to amortization accounts and allowances for depreciation that refer to specific assets (for example, del credere). Active and passive loans within the company group may likewise be offset (for example, subsidiary loan to the holding company, which then grants this as a loan to another subsidiary). However, no further balancing of accounts is permitted in addition to this. On the proceeds side, it must be taken into consideration that not only actual shareholding proceeds (dividends, option premiums, etc.), but also capital gains on shareholdings must be included.

1.8 Long-Range Fulfillment of Preconditions for Taxation as Holding Company

Shareholdings or proceeds must make up at least two thirds of all assets or proceeds over the long term. That way prevents the holding company from swinging back and forth between special and proper taxation. The company falling short of the two thirds limit will be tolerated for a period of time, two years at the most.

1.9 Change in Status

In accordance with section 71 par. 5 of the StG, hidden reserves that are transferred to a company with privileged tax treatment within the scope of a restructuring or transfer of property must be charged for tax. Transition from proper taxation to taxation in accordance with section 78 par. 1 of the StG must likewise be charged, that is, with a change in status.

Excluded from this charging obligation are hidden reserves on real estate and on shareholdings, for which a reduction in taxes on profit would be possible in accordance with section 77 of the StG. Hence, shareholdings must be charged for tax through the difference between acquisition costs and book value (= retabed depreciations) at the time of the change in status.

Existing intangible asset rights must be spun off to existing values of taxes on profit of the new subsidiary. Remaining in the parent company that is effecting changes in status would result in a tax settlement at current market values.

1.10 Taxation of Real Estate Ownership

In accordance with section 78 par. 2 of the StG, possession of Swiss real estate is also possible for holding companies. However, revenue from such is taxed at the ordinary rate. Normal market rents apply as a minimum to proceeds on real estate for portions of the real estate that are used by the company itself. Taxable are real estate proceeds after deduction of all expenditures apportioned directly to the real estate.

Items that can be deducted from proceeds include

- expenditure for maintenance and depreciations;
- expenditure for management, up to a maximum of 5 percent of the rental income;
- the interest on debts apportioned to the real estate;
(The portion of all financing expenditure that is apportioned to the real estate corresponds to the percentile proportion of the values of taxes on profit of the real estate to the value of tax on profit of all assets, calculated precisely to three decimal places);
- proportionate taxes on profit and capital.

In accordance with section 78 par. 2 of the StG, the proceeds from Aargau real estate are taxed at the overall rate, at least at the rate in accordance with section 75 par. 1 sub-section a of the StG.

Net losses from possession of real estate may be offset with future profits from possession of real estate, within the bounds of section 74 of the StG. The remaining holding company profit is not offset.

2. Management Companies

2.1 Domiciliary Companies

2.1.1 Legal Bases section 79

¹ *The following provisions apply to taxes on profit of corporations, cooperatives and foundations that perform management operations, but not business operations, in Switzerland:*

- a) *Proceeds from shareholdings as well as capital and revaluation profits on shareholdings are exempt from tax.*
- b) *The remaining revenue from Switzerland is taxed at the proper rate (overall rate, at least at the rate in accordance with section 75 par. 1 sub-section a).*
- c) *The remaining revenue from abroad is taxed by the importance of management operations in Switzerland, at the proper rate (overall rate, at least at the rate in accordance with section 75 par. 1 sub-section a).*

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² *Expenditure that is justified because of business reasons and connected financially with specific revenue is deducted from the revenue at the outset. Losses on shareholdings in accordance with paragraph 1 sub-section a can only be offset with proceeds in accordance with paragraph 1 sub-section a.*

2.1.2 General

Corporations, cooperatives and foundations that perform management operations, but not business operations, in Switzerland are taxed as domiciliary companies. It is not required that domiciliary companies are controlled abroad. On the other hand, retaining a satisfactory relationship to the foreign country is required. Foreign companies with Swiss locations of operation may likewise be taxed for factors taxable in Switzerland, as long as preconditions are satisfied. On the other hand, since neither an effective nor a virtual double taxation exists, foreign trading companies and aggregates of persons without a legal personality cannot be taxed as a domiciliary company.

2.1.3 Management Operations

The domiciliary company may perform one management operation, but no business operations, in Switzerland. It may own real estate in Switzerland. Management operations are first understood to include management of goods that the company already owns, and that it acquires in the process without active commercial activity. In this respect, the difference from a holding company lies within the fact that the latter must devote itself primarily to shareholding management. The concepts of continuous management of shareholdings in accordance with section 79 par. 1 of the StG and management operations in accordance with section 79 par. 3 of the StG therefore have different meanings.

In a company group, the management, exploitation and mediation of intangible asset rights are deemed permissible as long as the domiciliary company does not develop its own operations for creation of wealth and the scope of activity exists predominantly abroad. Also, auxiliary activities like billing, collection, information transmission and financing are compatible with the domiciliary privilege if they are performed on the basis of instructions from abroad and the actual commercial creation of wealth is not achieved in Switzerland. This means that essential company decisions must be made abroad. A further result of this is that the use of personnel due to the restriction to auxiliary functions in Switzerland cannot be especially extensive.

2.1.4 Banning Business Operations in Switzerland

Business operations essentially include production, trade, provision of services, performance of trust functions, acquisition, advertising and negotiating transactions. Any type of business operation is permitted abroad. The location of operations is relevant. In particular, carrying out so-called foreign-foreign business transactions is thus permissible. A cumulative consideration of both the procurement and sales sides must essentially be made for the assessment of whether the business activity is predominantly performed abroad. Trade operations must therefore take place exclusively in foreign markets, that is, both supplier as well as buyer must be based abroad and the goods traded must never arrive in Switzerland. Intermediate storage in a duty-free warehouse is permissible. The location of acquisition is relevant for services. Among other things, this means that personnel working in Switzerland may only perform management, but no business, operations. A business operation would

then only be permissible if it were carried out by personnel stationed abroad. So, for example, the domiciliary privilege is excluded for a domestic service company with exclusively foreign clientele, if the service provided (creation of wealth) is acquired entirely, or even only partially, in Switzerland. If services (for example, from marketing specialists) are provided exclusively within a company group, a business operation likewise exists, even without participation in Swiss economic transactions.

2.1.5 Proceeds from Shareholdings

No taxes on profits are levied on domestic and foreign proceeds from shareholdings or capital or revaluation profits from such shareholdings. Shareholdings of ten percent of common capital stock or of profits and reserves or at least 1 million francs in market value of another company are considered participations (section 76 part. 1 StG) in capital stock of other companies are considered shareholdings. Capital and revaluation profits on foreign shareholdings which do not meet these requirements are likewise considered as revenue from Swiss source, like those from domestic shareholdings.

The management and financing expenditure connected with the proceeds, and also capital losses are deducted from the proceeds. The proportionate financing expenditure is established as a proportion of the book value of the shareholdings to the book value of total assets. Overall loss from shareholdings cannot be offset with profits from a Swiss or from a foreign source.

2.1.6 Other Revenue from Switzerland

Other revenue from Switzerland includes proceeds from Swiss management operations, proceeds from capital and capital gains from debtors based in Switzerland, as long as it is not apportioned to shareholdings in accordance with section 76 par. 1 StG (cf. clause 2.1.5), as well as proceeds from Swiss real estate.

Expenditure that is justified because of business reasons and that is connected financially with these proceeds is deducted from them. In the process, the financing expenditure can be distributed to total assets in the proportion of the corresponding assets. Incidentally, the net result from Switzerland is determined on the basis of segment accounting. The net profit from Switzerland is taxed at the proper rate (overall rate, at least at the rate in accordance with section 75 par. 1 sub-section a of the StG).

2.1.7 Other Revenue from Abroad

All other revenue from abroad includes proceeds from foreign business operations and proceeds from debtors based abroad. Expenditure that is justified because of business reasons and that is connected financially with these proceeds is deducted from these proceeds. In the process, the financing expenditure can be distributed to total assets in the proportion of the corresponding assets. Incidentally, the net result from abroad is determined on the basis of segment accounting. Pure profit from abroad is generally subject to the following tax liability rates:

Under 10%: Companies without infrastructure or personnel in Switzerland.

At least 10%: Companies with infrastructure and personnel in Switzerland, according to importance of management operations in Switzerland. This is proportionate to personnel intensity as compared to the proceeds obtained by these personnel.

Revenue for which exoneration from foreign withholding tax is claimed and for which the double taxation convention requires proper taxation in Switzerland is taxed at the proper rate, together with revenue from the domestic source, after deduction of the expenditure apportioned to it.

2.1.8 Change in Status

Once taxation as a domiciliary company is asserted, any existing hidden reserves are taxed (section 71 par. 5 of the StG). However, the taxation can be waived if these hidden reserves continue to be completely taxable in Switzerland (for example, real estate, Swiss securities, etc.). Domiciliary company preconditions must be fulfilled in each business year. If the preconditions are not given in a business year, privileges are dropped for this year, even if the preconditions are satisfied again in a future year (no tolerance period). Losses from business years before the change in status may be brought for settlement after the transition to proper taxation only within the bounds of the taxable rate.

2.2 Mixed Companies

2.2.1 Legal Bases

Section 79 par. 3

³ Corporations and cooperatives whose business operations are predominantly foreign-related and which only perform a secondary, domestic-related business operation in Switzerland pay tax on profits in accordance with paragraphs 1 and 2. The remaining revenue from abroad in accordance with paragraph 1 sub-section c is taxed according to the extent of business operations in Switzerland.

2.2.2 General

In contrast to domiciliary companies, mixed companies do not perform foreign-related operations exclusively, but merely predominantly. Because a secondary Swiss business operation may exist, taxation as a domiciliary company does not come under consideration.

2.2.3 Business Operations That Are Predominantly Foreign-Related

First, the term "predominantly" must be explained. In a purely grammatical sense, it could be understood to mean a rate of 51 percent and higher. However, parliamentary discussions clearly revealed that to explain the term of predominantly, foreign-related business operations must be taken into account with cumulative consideration of the procurement and sales sides, excluding transactions with nearby companies in third cantons, based on the location of operations principle. With regard to the historical evolution of the mixed company and the term "secondary business operations in Switzerland", "business operations predominantly abroad" is understood to mean a proportion of at least 80 percent. For the assessment of

whether business operations are performed predominantly abroad, both the proceeds and expenditure side of service provision must essentially be taken into account. On the proceeds side, at least 80 percent must originate from abroad. At the same time, however, 80 percent of the contribution to goods and services provided by the company itself or by a third party must have also always been rendered abroad. Gross amounts are relevant here. These quantitative preconditions must therefore be satisfied cumulatively, on both the expenditure and proceeds sides.

All activities which qualify as business operations must be taken into account as contributions to goods and services, but not expenditure for management operations. As with domiciliary companies, segment accounting in accordance with section 2.1.7 must be drawn up. The headquarters or legal residence of the invoicing party must be taken into account for third party services if a service provided abroad in an exceptional case is not certified.

2.2.4 Proceeds from Shareholdings

No taxes on profits are levied on domestic and foreign proceeds from shareholdings or capital or revaluation profits from such shareholdings. Shareholdings of ten percent of common capital stock or of profits and reserves or at least 1 million francs in market value of another company are considered participations (section 76 part. 1 StG) in capital stock of other companies are considered shareholdings. Capital and revaluation profits on foreign shareholdings which do not meet these requirements are likewise considered as revenue from Swiss source, like those from domestic shareholdings.

The management and financing expenditure connected with the proceeds, and also capital losses are deducted from the proceeds. The proportionate financing expenditure is established as a proportion of the book value of the shareholdings to the book value of total assets. Overall loss from shareholdings cannot be offset with profits from a Swiss or from a foreign source.

2.2.5 Other Revenue from Switzerland

Other revenue from Switzerland includes proceeds from Swiss management or business operations, proceeds from capital and capital gains from debtors based in Switzerland, as long as it is not apportioned to shareholdings in accordance with section 76 par. 1 (cf. clause 2.2.4), as well as proceeds from Swiss real estate.

Expenditure that is justified because of business reasons and that is connected financially with these proceeds is deducted from them. In the process, the financing expenditure can be distributed to total assets in the proportion of the corresponding assets. Incidentally, the net result from Switzerland is determined on the basis of segment accounting. The net profit from Switzerland is taxed at the proper rate (overall rate, at least at the rate in accordance with section 75 par. 1 sub-section a).

2.2.6 Other Revenue From Abroad

All other revenue from abroad includes proceeds from foreign business operations and proceeds from debtors based abroad. Expenditure that is justified because of business reasons and that is connected financially with these proceeds is deducted from these proceeds. In the process, the financing expenditure can be distributed to total assets in the proportion of the

corresponding assets. Incidentally, the net result from abroad is determined on the basis of segment accounting. The net profit from abroad is taxed according to the extent of business operations in Switzerland, generally at a rate of 10 to 20 percent. In special cases, the rate may be increased to 30 percent.

Revenue for which exoneration from foreign withholding tax is claimed and for which the double taxation convention requires proper taxation in Switzerland is taxed at the proper rate, together with revenue from the domestic source, after deduction of the expenditure apportioned to it.

2.2.7 Change in Status

Once taxation as a mixed company is asserted, any existing hidden reserves are taxed (section 71 par. 5 of the StG). However, the taxation can be waived if these hidden reserves continue to be completely taxable in Switzerland (for example, real estate, Swiss securities, etc.). Mixed company preconditions must be fulfilled in each business year. If the preconditions are not given in a business year, privileges are dropped for this year, even if the preconditions are satisfied again in a future year (no tolerance period). Losses before the change in status may be brought for settlement after the transition to proper taxation only within the bounds of the taxable rate.

3. Entry into force

This leaflet is valid as of the tax period ending in the 2011 calendar year and replaces the leaflet dated 1.1.2007.