

# Tax News



Dear Reader

The Federal Council recently approved the Message and the draft of the amendments to the company and accounting law. After several years this finally means specific information on the planned changes to the law. Although the Federal parliament is expected to start discussing the new company and accounting law this year, the process could take a long time in view of the complexity of the draft amendments.

The Message and the draft amendments contain several issues that are interesting from a tax point of view:

Under Corporate Tax Reform II, which was approved by the Swiss people and the Council of States on February 24, 2008, it is envisaged that “contributions, premiums and advances made by owners of equity participation rights after December 31, 1996” may be repaid free of tax. This is positive to the extent that the previous nominal value principle is replaced by the contribution of capital principle. However, the draft amendments to the accounting law now propose that contributions and advances by owners of equity participation rights should be allocated to a separate capital reserve fund. The problem here is that it is almost impossible to repay capital reserves to shareholders. The statutory capital reserve may only be used to cover losses, to implement measures to ensure the continuation of the company when business is bad, and to combat unemployment and alleviate its effects. The draft law rejects the hitherto controversial issue of the payment of premiums to shareholders. It must therefore be said that the procedure envisioned by the draft will render the flexible capital repayment options required by tax law more or less impossible. A tax-free repayment of capital to shareholders will not be possible, except when a company is liquidated. It is to be hoped that the Federal parliament will rethink this unwelcome effect during discussions on the draft.

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The preliminary draft also proposed that tax adjustments should be recognized in the commercial accounts. Under commercial law, excessive write-downs, value adjustments and provisions would consequently also have to be reduced to the limit permitted for tax purposes. This “reversal of the principle of authoritativeness” has been severely criticized by many parties and was unmistakably rejected during the approval process. Therefore the draft law now proposes that the disclosure of the total amount in the notes to the financial statements would be sufficient and that it does not have to be likewise disclosed in the commercial balance sheet.

In future, companies that prepare their financial statements in accordance with a recognized accounting standard (e.g. IFRS or US GAAP) will no longer have to prepare separate financial statements in accordance with the Swiss Code of Obligations (SCO). These IFRS or US GAAP financial statements will then also be the basis for the calculation of taxable profit and capital. This edition of Tax News contains more information on the company and accounting law revision.

Philip Robinson  
Country Managing Partner Tax and  
Member of the Management Committee  
[philip.robinson@ch.ey.com](mailto:philip.robinson@ch.ey.com)

## US Tax Desk: recent developments

Michael Nadler, Principal, Ernst & Young US Tax Desk, Zurich; michael.nadler@ch.ey.com

### The US eases requirements for use of losses by foreign partners involved in a partnership with income effectively connected with a US trade or business. Additionally, the IRS announced the expansion of scope of the Advance Pricing Agreement (APA) program.

The US Government issued regulations on April 28, 2008, allowing for foreign partners to reduce the amount of US withholding tax if the foreign partner can certify that it has losses and deductions at the partner level that will reduce tax on US business income. This is a beneficial change. Under US IRC section 1446, the general rule is that a partnership that has income effectively connected with a US trade or business must withhold 35% US income tax (lower in cases where a foreign individual can show that the capital gains rate is available for partnership capital gains) on a foreign partner's allocable share of partnership US business income.

In the past, when a partner had other US deductions and losses available, the partnership had to withhold on partnership level US business profits. The foreign partner would then have to file a US income tax return, claim the US withholding tax withheld as a credit and also claim the partner level deductions and losses, and thus receive a refund of any overpaid US taxes.

Note that the partnership is free to accept or reject the foreign partner's certification of US tax losses and deductions. As with most US withholding taxes, the US payor has secondary liability for failure to withhold taxes, thus the new certification procedures may be used sparingly.

### IRS expands the scope of the APA program

The IRS announced in Revenue Procedure 2008-31, effective June 9, 2008, that it has expanded the scope of its Advance Pricing Agreement (APA) program to include

issues such as attribution of profits to a permanent establishment, determining the amount of income effectively connected with a US trade or business, and determining the amounts of income derived partly from sources within and partly without the US.

The APA program is designed to be a voluntary alternative process for resolving cross-border transfer pricing disputes. The APA is a binding agreement between the IRS and a

taxpayer (and possibly between other treaty party countries, where a bilateral APA is sought) where the IRS agrees not to seek a transfer pricing adjustment if the taxpayer complies with the terms and conditions of an APA.

Expanding the APA process to the issues noted above will allow taxpayers to avoid uncertainty with US tax return compliance matters and disputes with the IRS concerning these issues.

## Germany: current trends

Heiko Kubaile, Tax Advisor, Senior Manager, Head German Tax Desk, Zurich; heiko.kubaile@ch.ey.com

### Taxation of foreign family foundations is not EU-compliant

As in other countries, it is possible in Germany under certain circumstances to breach the protection from taxation which can be offered by a foreign family foundation. The income and assets of such a foundation are then attributable to the founder, who as such is fully liable to tax in Germany. It suffices that the founder, the members of his or her family and their offspring are more than 50% beneficiaries of the foundation and fully liable to tax in Germany. In the opinion of the EU Commission, the relevant provisions of § 15 of the German Foreign Tax Law (FTL) (*Aussensteuergesetz*, AStG) contravene the EU principle of free movement of capital as well as the general EU principle of freedom of movement and, in the case of Iceland and Norway, the EEA Treaty. As a result, the German federal government plans to respond to the criticisms of the EU Commission regarding the contravention of the EU treaty by amending § 15 FTL. The German Ministry of Finance has given instruc-

tions in its letter of 14 May 2008 (ref. IV B4 - S 1361/07/0001) on how the internal revenue authorities are to proceed in all cases in which there is no definitive ruling until the amended version of § 15 FTL comes into force.

If a family foundation has its business headquarters and registered office in an EU or EEA state, the letter of the German Ministry of Finance stipulates that it is not permitted to assign a proportion of the foundation's income to the founder, beneficiaries or (ultimate) recipients who are subject to unlimited tax liability, however, only provided it can be proven that the foundation's assets are assigned irrevocably to the foundation and have been withdrawn legally and substantially from the power of disposal of the persons named in § 15 paras. 2 and 3 FTL. A further requirement is the disclosure of information which is necessary in order to enable taxation of the income in any given case between Germany and the member state concerned. This mutual disclosure is based on the ad-

## New or ratified double taxation agreements

Fabian Duss, Senior Tax Services; fabian.duss@ch.ey.com

ministrative assistance directive or a comparable bilateral or multilateral agreement. Since the Principality of Liechtenstein does not provide adequate administrative assistance, Liechtenstein family foundations currently are not able to benefit from the ruling defined in the letter of the German Ministry of Finance and from the forthcoming amendments to the law. As things stand at present, Switzerland as a non-EU country does not benefit either from these legal developments and the only option open to it would be to take legal action. In this context, also the so-called "standstill clause" has to be taken into account, which states that any restriction on the free movement of capital via norms that already existed on 31 December 1993 does not constitute a contravention of EU law in the case of certain capital investments.

### Letter of the German Ministry of Finance on domestic matches in European club competitions

Income or corporation tax on revenues earned by foreign clubs and players with limited tax liability in Germany participating in European team sport club competition matches taking place in Germany will be exempted from tax under § 50 para. 7 of the German Income Tax Law (ITL) if the respective country of domicile reciprocally waives taxation of the income of participants domiciled in Germany for matches played on its sovereign territory. The tax exemption (ref. IV C 8 - S 2303/07/0009) also applies to income of European supra-associations with limited tax liability in Germany that is directly connected with the staging of domestic matches played as part of European club competitions. The income is not liable to withholding tax under § 50 para. 4 ITL. The tax exemption applies to income from European club matches in basketball, football, handball, volleyball and similar team sports.

### A number of double taxation agreements have recently been revised or ratified. The following is an overview of the most important changes and new rules introduced to Switzerland's network of agreements.

#### Armenia

(In force since November 7, 2007)

The National Council ratified the Federal Council's decision regarding a DTA with the Republic of Armenia on March 7, 2007. The agreement was signed on June 12, 2006 and ratified by the Federal parliament on November 7, 2007. It follows the OECD model convention for the most part except for special regulations regarding qualifying investments: an investment of 25% in a company must be held before the reduced base tax rate of 5% can be applied, and the amount invested in such a company must amount to at least CHF 200,000. The provisions of the DTA on withholding tax apply to dividends that fall due from January 1, 2008. For other taxes covered by the DTA, the DTA applies to the tax years that start on or after January 1, 2008.

#### Bangladesh

(New agreement signed)

Switzerland and Bangladesh signed an agreement to avoid the double taxation of income in Dhaka on December 10, 2007. The agreement mostly follows the OECD model convention and is in line with Switzerland's agreement policy. It contains favorable solutions designed to further economic relationships between the two countries. The text of the agreement and the related Message will soon be submitted to the Federal Parliament. The relevant authorities of both countries must ratify the DTA before it can enter into force.

#### Chile

(New agreement signed)

Representatives of Switzerland and Chile signed an agreement to avoid the double taxation of income and assets on April 4, 2008. The DTA follows the OECD model convention and is in line with Switzerland's DTA policy, but was adapted to take account of specific changes to their policies introduced by the two countries. The agreement and a Message by the Federal Council will be submitted to the Federal Parliament, and the DTA must be ratified by the relevant authorities of both countries before it can enter into force.

#### France

(Revision well advanced)

The amending protocol to the double taxation agreement between Switzerland and France is due to be signed soon. New regulations on dividends paid by Swiss companies (partial income procedure) and the limitation on benefits clause (replaced by a real anti-abuse clause with a forwarding test and provision regarding business legitimate reasons) are expected. This will allow the application of Art. 15 of the agreement on the taxation of savings income to the relationship with France, which is legally speaking on thin ice with the current solution based on mutual agreement. It can also be expected that the protocol will meet Switzerland's obligation under the taxation of savings income agreement with the EU and the related memorandum of understanding, i.e. that it will contain an expanded exchange-of-information provision applying to cases of tax fraud and similar offences and cases involving holding companies.

#### Italy

(Revision ground to a halt)

The "black list" practice of the Italian tax authorities under the current DTA between Switzerland and Italy according to which

tax-privileged Swiss companies in particular (holding, domicile and other mixed-purpose companies) are not allowed to claim DTA benefits for the purposes of Italian taxes has for many years been causing problems for Italy with outbound cash flows. The preliminary decision no. 93/E of May 10, 2007, expanded this practice to cover the applicability of Art. 15 of the agreement on the taxation of savings income. During the negotiations concluded in summer 2007, the Swiss proposed the inclusion of an expanded exchange-of-information clause in line with its agreements with the other EU countries. However, the position taken was that Switzerland will only initial and sign the revised agreement if companies that are tax-privileged under cantonal law are removed from the "black list" and if a solution for the problem of the restricted applicability of Art. 15 of the

agreement on the taxation of savings income to outbound Italian payments could be found. This controversy has not yet been settled and politicians are being challenged to find a solution.

#### **Turkey**

(New agreement signed)

Federal Councilor Hans-Rudolf Merz and his Turkish counterpart signed a new agreement to avoid the double taxation of income in Berne on May 22, 2008. First negotiations in this regard took place as far back as 1986 and the different policies regarding such agreements followed by the two countries stretched these negotiations over many years. The fact that an agreement has now finally been signed underlines the parties' determination and willingness to compromise. The agreement should further economic relationships and

establish closer ties between the two countries. The agreement mostly follows the OECD model convention and is in line with Switzerland's agreement policy. The new agreement must be ratified by the relevant Turkish and Swiss authorities before it can enter into force.

#### **South America**

DTAs based on the OECD model convention are to be concluded with the most important trading partners as part of the implementation of Switzerland's strategy regarding South America. Agreements have successfully been concluded with Argentina, Chile and Columbia, and negotiations are now under way with Brazil and Peru. However, these negotiations are proving difficult, and there seems to be practical as well as political problems with Brazil.

## **Circular 21: documents for reimbursement of withholding tax levied on income credited by foreign banks**

**Hans-Joachim Jaeger**, Partner Financial Services Tax; hans-joachim.jaeger@ch.ey.com  
**Rolf Geier**, Senior Manager, Financial Services Tax; rolf.geier@ch.ey.com

### **The Swiss Federal Tax Administration ("SFTA") issued Circular 21 on withholding tax reclaims on April 1, 2008.**

**In broad terms, this circular sets out new documentation requirements for the reimbursement of Swiss withholding tax levied on income, which is credited by foreign (non-Swiss) banks, acting as custodians.**

Under the new system, an applicant who files the requisite claim for refund of the Swiss withholding tax must be in possession of a tax voucher in order for his refund to be processed. Therefore, if an income statement (deduction certificate) and/or a tax statement is issued by a foreign bank or custodian, a tax voucher must be attached to claims for refund. These provisions apply to dividend payments due as of April 1, 2008.

The regulation aims at preventing situations where the SFTA potentially has to refund more Swiss withholding tax than has originally been paid by the Swiss dividend payor. This situation may - in particular - arise, where Swiss shares had been subject to a short sale transaction which extends over the ex-dividend date and where the short seller had to pay a manufactured dividend to its counterparty. The regulations however, have to be seen in conjunction with existing rules and regulations. They already govern short sales, where Swiss banks are involved as custodians, on the one hand, and securities lending as well as repo transactions on the other (for the two latter transactions, rules have been introduced and are effective since January 1, 2007). Basically, these rules require Swiss banks or Swiss borrowers/cash providers, who introduce a manufactured dividend into the paying chain, to submit an artificial second withholding tax of 35% to the SFTA.

Whilst the new system currently only aims at withholding taxes on dividends, the SFTA has explicitly reserved the right to also cover withholding taxes paid by Swiss debtors on interest payments if it deems necessary.

Again, in broad terms, the circular obligates foreign banks and custodians to issue a voucher to their clients which certifies that the number of income statements (evidencing the deduction of the Swiss withholding tax) produced by such bank or custodian does not exceed the number of dividends confirmed by their own upstream custodian. In other words, the foreign bank or custodian did not introduce a manufactured dividend into the chain of payments. Such a voucher may only be produced after having received a respective confirmation by the upstream custodian or - if short sales had been effected over the ex-dividend date - after the foreign bank has paid a respective amount of withholding tax to the SFTA.

The voucher itself does not entitle to a claim for refund but serves as a requisite confirmation that no manufactured dividend had been introduced into the system or, as the case may be, that a corresponding second withholding tax had been paid to the SFTA.

# International transfer pricing

Gregor Freimoser, Manager International Tax Services - Transfer Pricing; gregor.freimoser@ch.ey.com

**This year saw two important advances as regards international transfer pricing - a fundamentally new approach to the selection and processing of transfer pricing audits and penalties against taxpayers in the UK, and the OECD's proposal to withdraw the current guidelines that give preference to traditional transactional transfer pricing methods versus transactional profit methods.**

## **Changed transfer pricing environment in the UK**

A fundamentally new approach to the selection and processing of transfer pricing audits and penalties against taxpayers - provided that intra-group transfer prices are adjusted during the audit - was implemented in the UK at the end of March 2008. Her Majesty's Revenue and Customs ("HMRC")

has set up an independent transfer pricing board in a bid to improve its monitoring of compliance with the transfer pricing regulations. It has also set up two expert panels and a transfer pricing group initially made up of 55 specialists who will in the future carry out the transfer pricing audits. The new legal sanction framework should ensure that penalties and transfer pricing adjustments, which in the past have rarely mixed, are imposed more consistently in future. In addition, penalties will be calculated on the potential additional revenue that was lost, and the company as well as the companies' officers may be held liable for penalties assessed due to deliberate inaccuracy.

## **OECD consultation document on transactional profit methods**

In its consultation document published in January 2008, the OECD recommended abolishing the preference for traditional transactional methods to transactional profit

methods currently contained in the OECD guidelines. The main reasons for this include the limited availability of the information needed to apply the traditional transactional methods and the resulting increase in the use of transactional profit methods in practice. Particular mention should be made of the transactional net margin method (TNMM). However, if traditional transactional methods can be applied reliably, such methods must still be given preference. At the same time the OECD proposes the introduction of a structured method selection process based on an evaluation of all OECD methods. This would help to identify the most appropriate transfer pricing method for a particular case. In contrast to the current OECD guidelines, the consultation document makes provision for the application of several methods and sanity checks. At the end of the day, the implementation of the consultation document and its challenges, in particular arising from the added importance granted to the comparison of OECD methods and the functions of the parties involved in a transaction, will mean that companies will have to document transactions in more detail.

# Tax exemption for foundations

Natalie Nyffenegger, Assistant Tax Services; natalie.nyffenegger@ch.ey.com

**Despite numerous court rulings and the Swiss Federal Tax Administration's circular letter no. 12 of July, 8, 1994, the practice in individual cantons with regard to tax exemptions for legal entities with charitable, public or cultural purposes has, to date, been inconsistent.**

Based on the results of a survey conducted in the cantons, the Swiss Tax Conference published, on January, 18, 2008, practice notes for the cantonal tax authorities with the aim of harmonizing the divergent practices of the cantons in relation to tax exemption and the deductibility of donations.

The practice notes deal specifically with certain areas of tax practice and offer the tax authorities guidance for their decisions based on certain criteria. They discuss such topics as tax exemptions for private schools, retirement and care homes for the aged as well as for institutions that provide child care services outside the family. In addition, the notes address the subject of tax exemptions for trade fair organizers and exhibitors, youth organizations, institutions with cultural purposes and the privatization sector.

A major part of the notes is devoted to tax exemptions for institutions with charitable or public objectives that are involved in activities abroad. In principle, institutions

that are active abroad are entitled to a tax exemption if they meet the other requirements for exemption. However, the practice notes stipulate that only donations to charitable and public tax-exempt legal entities domiciled in Switzerland will continue to be deductible from income or profits.

In connection with compensation paid to the executive bodies of tax-exempt foundations, the practice notes state that such compensation should not be in contradiction to the requirements that foundations have charitable objectives and are not allowed to generate income or serve personal interests. The rule is that only costs effectively incurred may be compensated. Apart from these, only activities will be compensated that go beyond the standard duties of the function, such as when it is a person's main gainful employment. In addition, the practice notes define that

members of a foundation board or the executive committee of an association may not, in principle, hold executive functions at the same time.

Although the practice notes provide helpful assistance to tax authorities in certain cases, they are often no more than a rough

guide, and may possibly fail to produce a unified approach on the part of the cantons.

There is clear evidence of a deliberate tendency towards a more restrictive approach to tax exemptions. The strict requirements and more rigorous controls create additional administrative work for the authorities, on top of the high workload they already face.

There could be scope for action in the tax area by those foundations whose compensation to executive bodies is in need of review as well as for those where the powers of the foundation board and executive board are mixed. In certain cases clarification and agreement with the tax authorities may be essential.

## Real estate leasing

**Stefan Grob**, Senior Manager Tax Services; stefan.grob@ch.ey.com  
**Claudio Bertini**, Senior Tax Services; claudio.bertini@ch.ey.com

**Given the special factors affecting the taxation of real estate leasing, the Swiss Tax Conference (STC) published a circular (Circular 29 of June 27, 2007), the contents of which the Swiss Federal Tax Administration declared (Circular 19 of February 6, 2008) to be applicable to direct federal tax. The new circular replaces the old one of 1980 and clears up the uncertainties surrounding the fiscal treatment of the depreciation of leased property under contracts with a purchase option and the investment costs for the purposes of real estate capital gains tax.**

*The new Circular 29 of the STC (and Circular 19 of the SFTA) governs the fiscal treatment of leasing transactions for commercial and industrial properties from the point of view of the lessor and lessee and is applicable to year-end statements from 2007. The following distinction is applied:*

### *Type A leasing transactions*

*This type of leasing transaction only involves the right to use a property. At the end of the lease term the leased property is returned to the lessor.*

### *Type B leasing transactions*

*This type of leasing transaction involves the right to use the property and grants the lessee certain contractual rights and obligations with regard to the purchase of the*

*leased property at the end of the lease term (e.g. predetermined sale, purchase or sale option).*

### **Fiscal treatment of type A leasing transactions ("pure right to use")**

#### *Taxation of lessor*

As in the old circular, the leasing payments as well as other payments by the lessee represent taxable income for the lessor.

The leased property is recognized as an asset in the balance sheet of the lessor and the depreciation and administrative expenses can be deducted from the taxable income (however, in contrast to previous practice, depreciation no longer has to be reported as a separate valuation adjustment item). Depreciation on the property may not exceed the generally applicable rates of depreciation as laid down in the SFTA's practice sheet or according to cantonal tax practice (but does not have to correspond to the depreciation charge included in the leasing payments). The amount written down by the maximum depreciation allowance (final tax value) equals the expected (lowest) value of the property when it will be disposed. The maximum amount to which the property can be written down is the purchase price of the land (except if actual impairment is higher).

#### *Taxation of lessee*

The lessee can deduct all related costs (i.e. leasing payments and fees) from taxable income (regardless of the depreciation charge included in the leasing payments).

### **Fiscal treatment of type B leasing transactions (right to use followed by purchase)**

In contrast to the previous practice, the new taxation rules applying to the depreciation of leased property are described comprehensively and clearly. The lessor in particular can under certain conditions periodically claim higher writedowns than before. It is also stated clearly that the lessee may use tax add backs in the tax balance to increase the income tax value (and investment costs) of the property to be acquired later.

#### *Taxation of lessor*

Generally speaking, the provisions on depreciation under type A leasing transactions by the lessor also apply to type B leasing transactions, except that the lessor may use the predefined price (according to the sales option) and the lease term to calculate the reduction in value of the leased property. This means that the calculation can be based on the depreciation charge contained in the leasing payments. If the depreciation component calculated in this manner exceeds the generally applicable rates of depreciation (and thus the depreciation that would be permissible for a type A transaction), the difference is deemed to be a tax-deductible impairment, which was not the case in the old circular. If the leased property is not sold at the end of the lease term, the impairment must be reversed through the correspondent investment account. If it appears that the impairment was excessive, the excessive amount is added back for income tax purposes and carried in the tax balance as a taxed hidden reserve (taxed added value).

#### *Taxation of lessee*

As with type A transactions, the lessee's costs generally can be deducted from tax-

ble income. However, the depreciation charge included in the leasing payment is not accepted in full as an operating expense if it exceeds the permissible depreciation amount for type A transactions (i.e. if the calculated residual value of the leased property is less than the final tax value). This part of the leasing payment is not tax-deductible, and is therefore treated as a taxed hidden reserve (taxed added value).

If the property is not acquired, the lessee can dissolve the taxed hidden reserves and reduce taxable income in the respective amount. If, on the other hand, the purchase right or purchase option is exercised, the taxed hidden reserves must be treated by the lessee as additional investment costs for the property. The income tax value of the property then equals the agreed purchase price plus the taxed hidden reserves (see graph on the right).

#### Investment costs applicable for real estate capital gains tax purposes

As mentioned before, the new circular, unlike the old one, contains information on real estate capital gains tax.

In cantons using the monistic system (such as Zurich, Basel-City and Berne), the gain on the sale of the leased property (type B leasing transaction) is subject to real estate capital gains tax, which is charged on the difference between the sales proceeds and the investment costs.

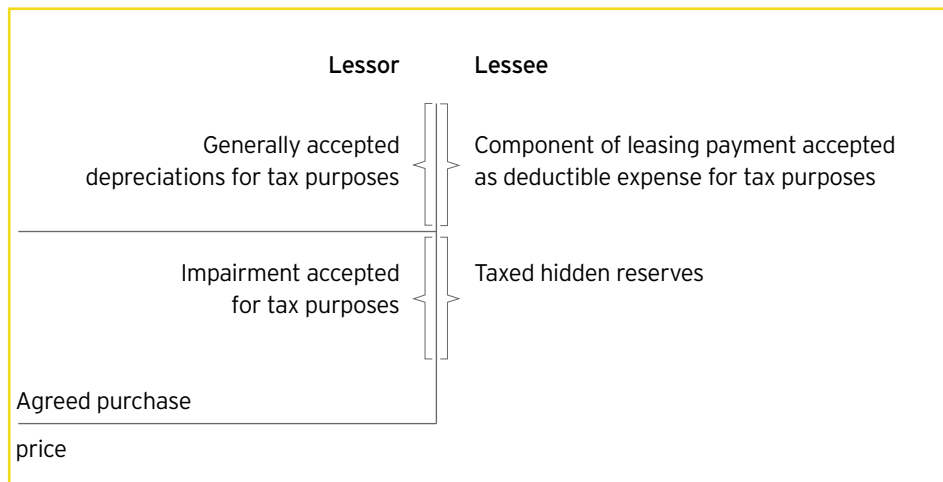
For the lessor, the investment costs equal the original purchase price of the property (including value-adding investments). The sales proceeds equal the purchase price agreed in the leasing contract plus the taxed hidden reserves by the lessee.

For the lessee, the taxed hidden reserves represent advance payments on the purchase of the property and are therefore accepted as investment costs if the lessee should sell the property again (in addition to the agreed purchase price).

#### Summary

The new circular introduces uniform rules regarding tax-deductible depreciation options on real estate leasing contracts followed by the purchase of the leased property. It also defines the tax-deductible

#### Type B leasing transaction



investment costs of the lessor and lessee for real estate capital gains tax purposes.

The circular uses an open and general description of the final tax value. As this final tax value is the value written down by the

maximum depreciation allowance for type A leasing transactions and is used to determine the lessee's taxable hidden reserves for type B leasing transactions, it is recommendable to rule this value with the tax authorities in advance.

## Draft of the revised company and accounting law: admissibility of individual account statements prepared in accordance with recognized standards for tax purposes

**René Röthlisberger**, Partner Tax Services; [rene.roethlisberger@ch.ey.com](mailto:rene.roethlisberger@ch.ey.com)  
**Sandra Wyler**, Assistant Tax Services; [sandra.wyler@ch.ey.com](mailto:sandra.wyler@ch.ey.com)

**The Federal Council approved the Message and the draft of the revised company and accounting law on December 21, 2007. Of the aspects that are of interest from a tax point of view, we take a closer look at the new option of using financial statements prepared in accordance with a recognized accounting standard for tax purposes.**

According to Art. 962 of the draft act, companies that prepare their financial statements in accordance with a recognized accounting standard will no longer have to prepare separate financial statements in accordance with the Swiss Code of Obligations

(SCO). These financial statements will then also be valid for the calculation of the taxable profit and capital. By moving away from financial statements drawn up in accordance with the SCO (principle of prudence) and towards financial statements prepared in accordance with a recognized accounting standard (true and fair view), assets will be revalued in line with different valuation bases. The transition from SCO financial statements to, for example, financial statements prepared in accordance with IFRS will lead mainly to the disclosure of hidden reserves and therefore complies with the realization principle for tax purposes. Generally speaking, all temporary differences between the book values under a recognized accounting

standard and the tax values will disappear, as these two values will be identical. There will then also be no more deferred tax provisions.

If a recognized standard is applied for tax purposes, several questions arise that must be solved during the practical implementation of the new system. For example, we believe that the aim of simplifying the procedure for the taxpayer can only be met if a pragmatic approach is adopted with regard to the tax values, i.e. the valuation rules of the recognized standard must be applied consistently and must not be questioned by the tax authorities.

There are also questions regarding the tax deductibility of provisions. While the application of what is known as the "fair presentation" usually leads to a higher valuation of net assets and disclosure of hidden reserves, additional provisions may also be required (for example, future pension fund obligations are recognized as a liability). If the financial statements prepared in accordance with a recognized accounting standard can be used for tax purposes, such provisions must logically also be tax-deductible, even though they do not meet the criteria of Art. 63 of the Direct Federal Taxation Act (DFTA). It would be objectionable if the fair presentation approach applies only to assets, i.e. only when this approach increases the tax base but not when it grants advan-

tages to the taxpayer compared to SCO financial statements.

Other tax questions relate to the profit and loss items (for example, the appreciation of investments valued at equity), which under IFRS are recognized directly in equity.

Here it must be made clear which positions need a tax correction and should be added to the profit calculated according to a recognized accounting standard for the purposes of calculating the taxable profit.

The acceptance of financial statements prepared in accordance with a recognized accounting standard for tax purposes should allow companies to prepare their tax balance sheet without much additional effort. In most cases this will lead to an increase in the tax base, i.e. taxable income will be taxed earlier than before. There will be companies where this additional tax burden will be more than compensated by the costs that are saved thanks to the simplified procedure. For these companies the new procedure is an attractive solution.

However, we must ensure that the new rules are not in fact weeded out because the interpretation follows commercial law too closely. Only if the tax values can really be based on a recognized accounting standard, even if this should by way of exception benefit the taxpayer, will the new rules be useful.

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#### Imprint

##### Tax News

Electronic publication in German, French and English

##### Designed and produced by

Ernst & Young Ltd  
Corporate Communications & Marketing  
P.O. Box  
8022 Zürich

##### Subscriptions / address changes

[www.ey.com/ch/newsletter](http://www.ey.com/ch/newsletter)

[www.ey.com/ch/tax](http://www.ey.com/ch/tax)

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