



TAXE COMMITTEE

**Special Committee on tax rulings
and other measures similar in nature or effect**

Delegation visit to Switzerland - Friday 22 May

Mission report

Agenda

- 8.30-09.15 Welcome and presentation by Ulrich TRAUTMANN**
First Counsellor, Head of Sector Trade and Economic Affairs
Delegation of the EU to Switzerland & Liechtenstein
Presentation on the EU delegation's analysis of Swiss tax policy and in particular the use of the cantonal Swiss company tax schemes including ruling practice and policies in different Swiss cantons
- 09.15 - 10.00 Meeting with Business representatives**
Markus R. Neuhaus, Chairman of the Board of PwC Switzerland, Member of the office of the Global Chairman of PwC
[Economie Suisse](#)
Frank Marty, Member of the executive board, Head Financial Services & Taxes François Baur, Permanent Delegate in Brussels, Head European Affairs
[Swiss Holdings](#)
Martin Zogg, Member of the Executive Committee, Head Domestic and International Taxation,
[Swiss Bankers Association](#)
Urs Kapalle, Director Financial Policy and Taxes
- 10.00 - 10.45 Meeting with NGOs: Alliance Sud and Declaration of Berne (DoB)**
Mark Herkenrath, Programme Officer International Finance & Tax Policy and designated Director of Alliance Sud, Member of Global Alliance for Tax Justice
Olivier Longchamp, Tax Policy & International Finance, Declaration of Berne (DoB)
- 11.00 - 12.00 Meeting with Jacques de Watteville, State Secretary in the Federal Department of Finance (DFF)**
Accompanied by
Ambassador Christoph Schelling, SIF, Head of Tax Policy Division
Ambassador Dominique Paravicini, Directorate for European Affairs (DEA), Head of Division for Economic Affairs
Adrian Hug, Director of the Swiss Federal Tax Administration
Fabian Baumer, Swiss Federal Tax Administration, Vice-Director, Head of Tax Policy Division
Natassia Martinez, SIF, Section for Multilateral Tax Issues and Corporate Taxation
- 12.00 - 14.00 Working lunch with the State Secretary**
Participants as above, plus in addition:
For the lunch, the delegation mentioned above will be enlarged by:
Ruedi Noser, Member of the National Council, Head of the Committee for Economic Affairs and Taxation
Urs Schwaller Member of the Council of States, Vice-Chair of the Committees for Social Security and Health
Martin Godel, State Secretariat for Economic Affairs (Seco), Deputy Head of Promotion Activities Directorate
Ambassador Richard Jones, EU Ambassador to Switzerland
- 14.00 - 14.15 Press point State Secretary and TAXE Chair**
14.30 - 15.30 Meeting with think tank: "Avenir Suisse"
Dr. Marco Salvi, Senior researcher, Avenir Suisse
Programme ends around 15.30

Interpretation : EN, FR

TAXE COMMITTEE
ad hoc Delegation
to Bern 22 May 2015
Final list of participants

Members

Alain LAMASSOURE, Chair	PPE
Theodor STOLOJAN	PPE
Elisa FERREIRA	S-D
Michael THEURER	ALDE
Miguel VIEGAS	GUE
Eva JOLY	Verts/ALE

Political advisers

Eriks DAUKSTS	PPE
Michael SCHMITT	Verts/ALE

Secretariat

Massimo PALUMBO	Head of Unit
Marcus SCHEUREN	Administrator

Interpreters

Peter STRAUSS (team leader)
Sarah ADLINGTON
Vanessa EGGENBERGER
Catherine GRIS
Pascal GODART, technician

1. Presentation by Ulrich TRAUTMANN, EU Delegation to Switzerland

Main findings:

There are three independent levels of taxation (federation, canton, municipality), and the tax collection is under cantonal authority.

The European Commission already found in 2007 that certain Swiss company tax regimes were incompatible with the EU-Switzerland agreement of 1972 (Decision C(2007)411 final, notably cantonal tax schemes as the Holding Scheme, Management Company Scheme and Mixed Company Scheme). Finally in 2014 EU and Switzerland signed a joint Statement on business taxation, in which Switzerland committed to abolish cantonal tax schemes and federal schemes. However there remains a long way to go: first step would be the Swiss company tax reform III (CTR3) which would have to pass both chambers of parliament, and as a second step cantonal implementing legislation.

Tax rulings play an important role in the Swiss tax system, and can be used to obtain a tax exemption for newly created or relocating company, to clarify the tax status with regard to the application of special cantonal regimes, to agree minimal tax rates in compliance with provisions in double taxation agreements, or to agree on details of tax assessments. Authorities issuing rulings are all cantonal, with the canton as sovereign entity and without supervision by the federal authorities. However there are certain federal restrictions for rulings, with however limited enforcement of these limitations.

With regard to exchange of information with 3rd countries, tax payers in Switzerland can challenge this in several instances, with the overall judicial process taking up to 5 years in total.

2. Meeting with Business representatives

Experts participating in the discussion:

- *Markus R. Neuhaus, Chairman of the Board of PwC Switzerland, Member of the office of the Global Chairman of PwC*
- *Frank Marty, Member of the executive board, Head Financial Services & Taxes, Economie Suisse*
- *François Baur, Permanent Delegate in Brussels, Head European Affairs, Economie Suisse*
- *Martin Zogg, Member of the Executive Committee, Head Domestic and International Taxation, Swiss Holdings*
- *Urs Kapalle, Director Financial Policy and Taxes, Swiss Bankers Association*

Questions addressed to the business representatives focused on how the automatic exchange of information of tax rulings would work, how the tax advisers would advise their clients in Switzerland (and Luxembourg), how they would assess international developments at OECD/ G20 level and the Swiss role in this, and how tax competition works between cantons.

Main messages from business representatives:

- Switzerland is committed to abolish the criticised harmful tax regimes, and Swiss business is fully supportive of this, while Switzerland has to remain competitive and attractive for investments;
- once the Swiss federal level decides to abolish the harmful tax regimes, the cantonal level will have to follow;
- the Swiss 'harmonisation law' already defines taxable income at federal level, but leaves a certain discretion of interpretation at cantonal level;
- Switzerland is committed to comply with international tax standards, also for reputational reasons;
- the high FDI in Switzerland is not only tax-motivated, while the tax incentives certainly play a role.

3. Meeting with NGOs: Alliance Sud and Declaration of Berne (DoB)

- Mark Herkenrath, Programme Officer International Finance & Tax Policy and designated Director of Alliance Sud, Member of Global Alliance for Tax Justice
- Olivier Longchamp, Tax Policy & International Finance, Declaration of Berne (DoB)

Questions addressed to the NGOs representatives focused on whether the envisaged Swiss company tax reform III (CTR3) would solve the problem of harmful tax practices, its chances and timeline of implementation, the design of the new envisaged Swiss patent box regime, and the role of the cantons in the implementation of the tax reform.

Main messages from the NGO representatives:

- companies with 'special tax regimes' pay currently up to seven times less corporate tax than 'normal' companies;
- Swiss current tax ruling practices can be considered 'harmful' tax practices;
- the new envisaged Swiss patent/ license box regime (foreseen in CTR3) is not yet clearly defined;
- however new fiscal measures may replacing old ones, may be more difficult to challenge, as these exist also in many EU Member States;
- the Swiss federal government is more open to signing international tax agreements, as it could be considered more 'progressive' or realistic with regard to the potential reputational damage for Switzerland, however the Swiss parliament is rather critical of these;
- given upcoming national elections in Switzerland, Parliament may not show great interest in tax reform, even less so after the elections, depending on outcome.

4. Meeting with Jacques de Watteville, State Secretary in the Federal Department of Finance (DFF) and his tax administration

Participants:

Monsieur de Watteville was accompanied by its tax administration.

Ambassador Christoph Schelling, SIF, Head of Tax Policy Division

Ambassador Dominique Paravicini, Directorate for European Affairs (DEA), Head of Division for Economic Affairs

*Adrian Hug, Director of the Swiss Federal Tax Administration
Fabian Baumer, Swiss Federal Tax Administration, Vice-Director, Head of Tax Policy Division
Natassia Martinez, SIF, Section for Multilateral Tax Issues and Corporate Taxation*

For the working lunch, the delegation above was including:

*Ruedi Noser, Member of the National Council, Head of the Committee for Economic Affairs and Taxation, Swiss Parliament
Urs Schwaller Member of the Council of States, Vice-Chair of the Committees for Social Security and Health, Swiss Parliament
Martin Godel, State Secretariat for Economic Affairs (Seco), Deputy Head of Promotion Activities Directorate
Ambassador Richard Jones, EU Ambassador to Switzerland*

Questions addressed to the Minister focused on the protection of whistleblowers, need for smaller countries to compete on tax systems, the chances of implementing the CTF3 and the likelihood of a referendum, whether the future exchange of information of tax rulings will be automatic or on demand/ 'spontaneous'.

Main messages from the Minister:

- Tax rulings are a common practice in CH, and are part of the dialogue between tax administration and tax payers;*
- Tax rulings practice in CH is similar to practices in France;*
- OECD is expected to define the tax rulings framework in September, and CH is committed to comply by this;*
- Tax rulings are only interpretation of facts and laws, not law-making;*
- Switzerland is committed to working constructively within the OECD on BEPS and to comply with the BEPS recommendation, and to abolish the criticised harmful tax regimes in the planned CTR3;*
- The abolition of the 'special tax status' and the lowering of the general corporate tax rates in CTR3 will lead to a finance gap, which will inevitably lead to the introduction of new taxes or raising other taxes, which in return may affect the adoption and implementation of the CTR3;*
- Switzerland was itself a 'victim' and negatively affected by the practices revealed in Luxleaks, as these also eroded the Swiss tax base, and therefore also committed to ending harmful tax practices;*
- International efforts currently focus on tax practices, but should also address other state aid measures at global level, to create a level playing field;*
- G20 need to commit to implement BEPS measures globally to achieve level playing field;*
- The EU and OECD should aim to adopt the same, not different tax standards;*
- On protection of whistleblowers: in the specific case of Falciani, the Swiss government considers this a case of a individual trying to sell stolen business secrets, who couldn't find a buyer, and who then offered it to the French state;*
- Switzerland intend to put forward a law to protect whistleblowers;*
- On the Freeport in Geneva: Minister conceded that certain practices might be to opaque, but rather an issue of customs (and/or money-laundering) than harmful tax practices;*
- On the question of economic substance requirements and the application of the anti-abuse law in known cases of lack of such substance (IKEA etc.): no answer.*

5. Meeting with Dr. Marco Salvi, Avenir Suisse

Main messages

- *Corporate income tax (CIT) has a much smaller share in Swiss tax revenues than personal income tax (PIT), similar to other OECD countries;*
- *CIT revenues increase in Switzerland despite falling CIT rates (in line with global trend);*
- *Capital taxation is on par with similar European countries;*
- *"special tax regimes" are of varying importance in Switzerland, depending on canton;*
- *The finance gap of the CTR3 (considered as a fundamental overhaul of CIT in Switzerland) will need to be compensated with other taxes, e.g. higher dividend taxation;*
- *Fiscal federalism is an important aspect of the Swiss tax system and therefore of any CIT reform.*