

IP holding companies and the patent box

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The location of intellectual property within a group has major tax consequences, as chapter III of this part shows in detail. Until the end of 2019 many multinational groups held their patents through Swiss principal or holding companies that benefited from cantonal tax privileges. The Federal Act on Tax Reform and AHV Financing abolished these privileges with effect from 1 January 2020 and introduced instead a patent box in accordance with the modified nexus approach of the OECD.¹ Under this regime, profits from patents and comparable rights benefit from a reduction of the cantonal profit tax, limited to the share of the research and development that the company has carried out itself or commissioned from third parties.

The nexus requirement has changed the economics of IP holding companies. A company that merely holds patents developed elsewhere in the group can no longer benefit fully from the regime, because only qualifying expenditure incurred in Switzerland counts. This rule has strengthened the incentive to carry out research in the country, which corresponds to the long-standing practice of the Basel groups, whose principal research centres remain in Basel. The OECD's work on base erosion and profit shifting also changed the approach to transfer pricing of intangibles. Since the revision of the Transfer Pricing Guidelines in 2017, the remuneration of a group company depends on the functions it actually performs in the development, enhancement, maintenance, protection and exploitation of the intangible.²

The global minimum tax of fifteen per cent under Pillar Two, which Switzerland has applied through a qualified domestic top-up tax since 2024, has reduced the value of the patent box for large groups. A reduction of the effective tax rate below fifteen per cent triggers a top-up tax, so that the patent box can no longer lower the effective rate of a large group below that floor. Chapter III examines how Basel-Stadt has responded to this

change with support measures for research and innovation. For smaller biotech companies below the revenue threshold of seven hundred and fifty million euros, the patent box keeps its full value once they become profitable.

1 Notes

1. Federal Act on Tax Reform and AHV Financing (STAF) of 28 September 2018, in force 1 January 2020; Art. 24a and 24b of the Federal Act on the Harmonisation of Direct Taxes of the Cantons and Communes (StHG) on the patent box. See chapter III of this part. To be verified. ↩
2. OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (2017 and 2022 editions), chapter VI on intangibles, with the DEMPE functions and the approach to hard-to-value intangibles. To be verified. ↩

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