

STAF: the federal architecture

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The Federal Act on Tax Reform and AHV Financing, known in German as STAF and in English often as TRAF, was adopted by Parliament on 28 September 2018. A referendum was launched by groups from both left and right, including some who objected to the combination of two unrelated subjects in a single bill. On 19 May 2019 voters approved the act by about 66 per cent. It entered into force on 1 January 2020, although some cantons had already brought parts of their own implementation into force from 2019.¹ The combination with the pension system was the decisive political innovation. For each franc of tax relief for companies, roughly one franc was to flow into the old-age and survivors' insurance, financed through higher payroll contributions, an increased federal contribution and the allocation of the entire VAT percentage point already dedicated to demography.

The tax part of STAF abolished the cantonal regimes for holding, domicile and mixed companies with effect from 1 January 2020. The federal practices on principal companies and finance branches were withdrawn at the same time by the Federal Tax Administration. In their place the act introduced a set of instruments, most of them optional or mandatory for the cantons, which can be summarised as follows:²

1. A mandatory cantonal patent box, under which the net profit from patents and comparable rights is taxed at a reduced level, with a maximum relief of 90 per cent and with the qualifying share determined by the modified nexus approach.
2. An optional additional deduction for research and development expenditure incurred in Switzerland, of up to 50 per cent above the actual expenditure, so that the total deduction can reach 150 per cent.
3. An optional deduction for self-financing in the form of a notional interest deduction on surplus equity, available only to cantons whose effective tax

burden in the capital city reaches a defined minimum, a condition that in practice only Zurich met.

4. A relief limitation, under which the combined relief from the patent box, the research deduction, the notional interest deduction and certain depreciation on disclosed reserves may not exceed 70 per cent of the taxable profit before these measures.

5. Transitional rules for companies that lose their special status, including the separate taxation of hidden reserves realised within five years and the tax-neutral disclosure of hidden reserves on immigration (step-up).

6. Optional relief in the capital tax for equity attributable to participations, patents and intra-group loans.

7. An increase in the taxation of dividends from qualifying participations held by individuals, to 70 per cent at the federal level and to at least 50 per cent at the cantonal level.

8. Restrictions on the tax-free repayment of capital contribution reserves by listed companies, discussed below.

9. An increase in the cantons' share of the direct federal tax from 17 to 21.2 per cent, together with adjustments to the federal financial equalisation system.

The figure most often cited in the public debate was the contribution to the old-age and survivors' insurance of about CHF 2 billion per year.³ For the cantons, the decisive figure was the increase in their share of the federal tax, which gave them room to reduce their own profit tax rates. The act did not prescribe any cantonal rate. It left each canton free to decide whether and how much to reduce its ordinary rate, which instruments to introduce and how to compensate its residents. That freedom made the cantonal implementations the real battlefield of the reform.

Several of the new instruments were designed with research-intensive industries in mind. The patent box rewards companies that develop patented inventions themselves or commission others in Switzerland to do so, which describes the core of the Basel pharmaceutical model. The research deduction applies to personnel costs for research staff, increased by a flat surcharge, and to a share of contract research costs. The capital tax relief for patents and participations reduces the burden on the large balance sheets of group parent companies.⁴ The reform was therefore sometimes described as a reform for the pharmaceutical industry. That description is too simple, because the abolition of the regimes affected trading companies and holding structures in every canton. It nevertheless captures the

importance that the federal legislator attached to keeping research activity in Switzerland.

1 Notes

1. Federal Act on Tax Reform and AHV Financing of 28 September 2018 (AS 2019 2395); popular vote of 19 May 2019, accepted with about 66.4 per cent yes votes; entry into force on 1 January 2020. To be verified. ↩
2. STAF, amendments to the StHG and the DBG; for a systematic overview, see the Federal Tax Administration's explanatory publications and the circulars of the Swiss Tax Conference on the implementation of STAF. To be verified. ↩
3. Federal Council, explanatory booklet for the vote of 19 May 2019; the additional revenue for the AHV was estimated at about CHF 2 billion per year, financed by an increase of payroll contributions by 0.3 percentage points, a higher federal contribution and the allocation of the "demography percentage" of VAT. Figures to be verified. ↩
4. StHG, Arts. 24a–24b (patent box), Art. 25a (research and development deduction), Art. 25b (relief limitation) and Art. 29 para. 3 (capital tax relief); see also the Ordinance on the Tax Relief of Patents and Comparable Rights (Patentbox-Verordnung) of 13 November 2019 (SR 642.142.1). To be verified. ↩

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