

Tax: from Holding Privileges to STAF and Pillar Two — overview and summary

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Taxation is the point at which the pharmaceutical industry of Basel meets the state most directly. The two previous chapters described the industrial base of Roche, Novartis, Syngenta and Lonza and the way these groups raise, hold and distribute capital. Each of those decisions carries a tax dimension. The location of a patent, the place where a product is invoiced to a foreign distributor, the choice between a dividend and a share buyback and the jurisdiction in which a research centre is built all depend in part on the tax rules of the Confederation, of the canton and of the countries in which the groups sell their medicines. Part D described how the chemical industry became the largest taxpayer of Basel-Stadt in the twentieth century and how that dependence shaped cantonal politics.¹ The present chapter follows that story into the period of international pressure, reform and global minimum taxation that began around 2005 and has not yet ended.

The chapter proceeds in roughly chronological order. It begins with the structure of Swiss company taxation and the cantonal regimes that gave Switzerland its reputation as a location for holding, trading and principal companies. It then traces the pressure exerted by the European Union and the OECD, the failure of the first reform package at the ballot box in 2017 and the adoption of the Federal Act on Tax Reform and AHV Financing in 2019. A second group of sections turns to Basel: the cantonal implementation of the reform in Basel-Stadt and Basel-Landschaft, the transfer pricing of pharmaceutical intellectual property, withholding tax and capital contribution reserves, the practice of tax rulings and the effect of the United States tax reform of 2017. The final sections examine the global minimum tax of Pillar Two, the "location package" with which Basel-Stadt answered it and the degree to which the canton's budget depends on a few large taxpayers. Throughout, the question is how a small

canton uses its fiscal sovereignty when the companies it taxes are among the largest in the world.

1 Notes

1. See Part D, Chapter II, section "The chemical industry and the canton's tax base". The present chapter takes up the promise made there to examine the modern relationship between canton and industry. ↩

2 Conclusion

Over two decades, the taxation of the Basel pharmaceutical industry moved from a system of cantonal special regimes and federal practices to a framework shaped by European pressure, the OECD's BEPS project and the global minimum tax. The holding, domicile and mixed company regimes, the principal company practice and the finance branch were abolished by the Federal Act on Tax Reform and AHV Financing, approved by voters on 19 May 2019 after the defeat of Corporate Tax Reform III in 2017. Basel-Stadt implemented the reform through the "Basel compromise", which lowered its profit tax to an effective rate of about 13 per cent, introduced the patent box with tight limits and combined these measures with premium subsidies, income tax relief and higher dividend taxation. After the global minimum tax had raised the burden on large groups to 15 per cent, the canton returned much of the additional revenue through a location package approved in 2025.

The common thread is the use of fiscal sovereignty by a canton whose budget depends on a few global companies. Tax policy in Basel has become a negotiation among the canton, the companies and the electorate, framed by rules set in Paris, Brussels and Washington. Much of what is taxed, and where, depends on the location of intellectual property, which is the source of the pharmaceutical groups' profits and the object of the patent box. The next chapter therefore turns to intellectual property, licensing and the financing of the biotech companies that are meant to sustain Basel's life sciences cluster in the coming decades.

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