

The old cantonal regimes

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

Before 2020, the harmonisation act allowed the cantons to grant special status to certain companies. Article 28 of the act distinguished three categories. Holding companies, whose statutory purpose consisted mainly of the long-term administration of participations and whose participations or participation income represented at least two thirds of their assets or revenue, paid no cantonal profit tax on their income apart from Swiss real estate income. Domicile companies, which had only an administrative presence in Switzerland and no business activity there, were taxed at a reduced level on their foreign income. Mixed companies, whose business activity was predominantly foreign, could have their foreign-source income taxed only in part, depending on the importance of the administrative activity carried out in Switzerland.¹

At the federal level, these privileges did not exist in the same form. The direct federal tax applied its ordinary rate to all companies, although holding companies benefited from the participation deduction on dividends and qualifying capital gains, which in practice reduced their federal burden on such income almost to zero.² The combined effective rate for a mixed company therefore consisted of the full federal tax of about 7.8 per cent and a much reduced cantonal and communal burden. Depending on the canton and the ruling obtained, practitioners spoke of total effective rates of roughly 8 to 11 per cent for the foreign income of mixed companies. Figures to be verified.³

These regimes were not designed for the pharmaceutical industry in particular. They originated in the middle of the twentieth century, when several cantons, among them Zug, Glarus and Graubünden, sought to attract headquarters and administrative companies of foreign groups. Their spread across the country reflected the logic of tax competition: once one canton offered favourable treatment for holding and trading activities, others followed in order to keep mobile income. By the beginning of the

twenty-first century, the federal tax administration estimated that a substantial share of all profit taxed in Switzerland was earned by companies with a cantonal special status and that these companies paid a large share of the direct federal tax.⁴ The paradox was that the federal treasury profited from regimes that, at the cantonal level, existed precisely to reduce taxation.

1 Notes

1. StHG, former Art. 28 paras. 2–4, in the version in force until 31 December 2019; see also the cantonal implementing provisions and the circulars of the Swiss Tax Conference on the taxation of holding, domicile and mixed companies. To be verified. ↩
2. DBG, Arts. 69–70, on the participation deduction (Beteiligungsabzug). The participation deduction continues to apply after the 2019 reform and is not a special regime in the sense of the international criticism. To be verified. ↩
3. Indicative ranges are taken from practitioner literature and the explanatory reports of the Federal Council on Corporate Tax Reform III and on the TRAF. Exact rates varied by canton and by individual ruling. Figures to be verified. ↩
4. The Federal Council's message on Corporate Tax Reform III of 5 June 2015 (BBl 2015 5069) contains estimates of the share of status companies in the profit tax base and in direct federal tax revenue. Figures to be verified. ↩

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