Kellerhals Carrard

In a nutshell

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Planned repeal of rental value taxation and increase in dividend taxation – Tax tips for homeowners and business owners

With the planned repeal of the rental value taxation and the increase in dividend taxation, two legislative projects are currently pending, which will significantly impact homeowners and business owners and should therefore be planned well in advance. This newsletter points out the planned revisions and possible tax-saving options.

I. Repeal of rental value taxation

A. Current taxation of owner-occupied properties

Taxpayers who occupy properties or parts thereof that they own or over which they hold a right of use at no charge must, on the one hand, pay taxes on the rental value of the property as income and can, on the other hand, deduct costs associated with the property and debt interest from their income. Costs associated with the property that may be deducted include costs for maintenance, for the renovation of newly acquired properties, for insurance premiums, for third party management, for energy saving and environmental protection measures as well as costs for historical preservation. Debt interest that may be deducted includes mortgage interest up to the taxable income out of the asset (including the rental value of the owner-owned property) and an additional CHF 50,000.

Despite the rental value of owner-occupied property being set lower than the market rental value and despite the deductions of the costs associated with the property and the debt interest, the taxation of the rental value of owner-occupied property regularly results in additional taxable income. The taxation of the rental value of owner-occupied property is widely criticised, because it results in the taxation of a fictitious income, runs contrary to the goal of promoting the ownership of housing, increases the incentive to take on debt and is unique compared to other jurisdictions.

B. Planned repeal of rental value taxation

The Economic Affairs and Taxation Committees of the Council of States and the National Council have proposed the repeal of the rental value taxation to the Federal Assembly. The key points of their proposal are as follows:

- Refrain from the taxation of the rental value of the primary residence (but not for second homes) as income.
- Remove the deduction for costs for maintenance, for the renovation of newly acquired properties, for insurance premiums and for third party management. The deduction for the costs of energy saving and environmental protection measures as well as the costs for historical preservation is also set to be removed for federal taxes, whilst the cantons shall be free to continue to grant the deduction for cantonal taxes.
- The debt interest deduction shall generally be limited to either 80% or 100% (yet to be determined) of the return on the asset (without the rental value of owner-occupied property).
- First-time buyers of owner-occupied properties shall be granted an additional debt interest deduction. This would initially amount to CHF 10,000 and would then be reduced in stages over a ten-year period.

Since both the Committees of the Council of States and the National Council have proposed the repeal, since the Swiss homeowners' association supports it and since a large segment of the population considers the taxation of the rental value to be unfair, the repeal could in fact become reality. However, because of the applicable legislative procedure, the repeal is not expected to enter into force prior to the 2021 tax period.

C. Tax tips for homeowners

Homeowners who expect the repeal of the rental value taxation have the following tax-saving options until the discussed revision takes effect:

- Bring forward any value-preserving maintenance work to the years 2019 and 2020 in order to be able to claim the deduction for maintenance costs before it is repealed. Even if taxation on the rental value of owner-occupied property were not subsequently repealed, it may make sense to bundle value-preserving maintenance work due to the option of choosing, and taking full advantage of, the lump-sum deduction in the following years.
- Reduce debt levels so that the debt interest actually owed does not exceed the maximum deductible debt interest under the planned law. The reduction of debt levels could be achieved for example by a (staggered) early withdrawal of pension fund or other retirement capital, which can also lead to tax savings for itself, or alternatively by an advance against a future inheritance.
- Choose flexible models (variable or fixed-rate mortgage with a short term) or flexible terms (ability to make early repayments) when taking on new debt obligations, so that the debt level – and hence the debt interest – can be reduced at the time the revision takes effect.

II. Increase in the dividend taxation

A. Current dividend taxation

According to currently applicable law, distributions (dividends, profit shares, proceeds of liquidation etc.) from corporations in which the benefitting natural person holds shares of at least 10% of the nominal or equity capital (so-called qualified investments) are only taxed in part (e.g. cantons of Basel-Stadt, Ticino, Vaud, Valais and the Confederation: so-called partial income procedure) or at a reduced rate (e.g. cantons of Argovia, Basel-Landschaft, Bern and Zurich: so-called partial taxation procedure).

B. Planned increase in the dividend taxation

As part of the proposed "Tax Proposal 17" respectively "STAF" the taxation of dividends is set to be increased, respectively, the tax privilege currently granted is set to be reduced. According to the planned revision, the partial income procedure shall apply in all cantons, and distributions shall be taxed at a rate of at least 50%. However, the cantons shall be free to tax distributions at a rate higher than 50%. According to information currently available, distributions shall be taxed as follows in the future:

Canton	New	Previous	(Envisaged) Entry into force
Argovia	60 %	40 % des Gesamtsteuersatzes	1.1.2020
Ba-	80%	50%	Perhaps 1.1.2019
Ba-	60%	Half of the overall tax rate	1.1.2020
Bern	70%	Half of the overall tax rate	Still unknown
Geneva	70%	60%	1.1.2020
Ticino	70%	60%	came already into force
Vaud	70%	70%	1.1.2019
Valais	70%	60%	Still un known
Zurich	50/60%	Half of the overall tax rate	1.1.2020
Confederation	70%	60%	1.1.2020

The revision will result in higher taxes on distributions in most cantons.

Due to international pressure, the revision appears to be only a matter of time. The federal authorities plan to have the revision take effect for the 2020 tax period. However, in some cantons the revision might take effect even earlier.

C. Tax tips for business owners

Business owners who expect the taxation of dividends to increase have the following tax-saving options until the planned revision takes effect:

– Business owners distribute dividends or liquidate companies awaiting liquidation before the revision takes effect. Decisive is that the due date of the distribution is prior to the effective date of the revision. The due date of dividends is generally the date of the shareholders' meeting. If you wish to make such distributions, but no liquid assets are available within your company to do so, the dividend may be left as a loan from the shareholder to the company (posting record: voluntary retained earnings to shareholder loan) rather than being paid out. Those who wish to benefit from the still favourable dividend taxation without reducing the company's equity capital basis can create free shares or free nominal value (posting record: voluntary retained earnings to share capital). In both cases, however, the payment of withholding tax cannot be deferred.

– Due to the generally progressive structure of income tax rates, we suggest to pay out the distributions over the years, instead of paying it all at once, until the revision takes effect. If you still wish to pay out dividends in 2018 and the ordinary general meeting has already taken place, such distributions may be made through an extraordinary general meeting until the end of the year.

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