Bär & Karrer Briefing
June 2015

BÄR & KARRER

TAX NEWS: Swiss Voters Reject Introduction of Swiss Federal Inheritance Tax – Current Cantonal Inheritance and Gift Tax System Remains Unchanged

After a controversial political debate, the Swiss voters have decided to reject the popular initiative to introduce a federal inheritance tax with a vast majority of 71.7% in the popular vote of 14 June 2015. The 26 Cantons also unanimously rejected the the popular initiative. The clear result shows that Swiss voters broadly support the current cantonal inheritance and gift tax legislations. It sends a very positive signal to entrepreneurs and high net worth individuals and families living in Switzerland or contemplating a relocation to Switzerland. Tax planning structures remain accessible and developable both in the field of succession planning as well as tax optimization. As a consequence, in combination with its strategic location and the outstanding quality of life, Switzerland remains a most attractive hub for high net worth individuals and families and an ideal platform to settle and structure their wealth.

Current and Future Inheritance and Gift Tax Landscape in Switzerland

Under the current Swiss legislation, inheritance taxes (in certain Cantons: estate taxes) as well as gift taxes are levied based on cantonal legislation only. In this context, the Canton of Schwyz has not implemented any inheritance and gift tax legislation at all, and the Canton of Lucerne, aside from certain exceptions, only levies inheritance taxes but no gift taxes.

Under all cantonal inheritance/estate and gift tax systems, inheritance or gift taxation in the respective Canton is triggered if

- a deceased individual or donor had or has his/her (last) domicile within the respective Canton, or
- real estate situated in the respective Canton is transferred *causa mortis* or *causa donandi*, or
- business assets situated in the respective Canton are transferred in the international context, or
- if certain civil law measures with regard to an estate are undertaken within the respective Canton.

Furthermore, in the Canton of Ticino, gift tax may also be triggered vis-à-vis Ticino resident recipients of gifts from donors abroad. Both inheritance and gift taxes are due by the recipients (heirs, donees), irrespective of their personal tax residency within or outside of Switzerland.

Under the existing cantonal inheritance and gift tax regimes, not only the applicable tax rates (in certain cantons for third party recipients up to 50%) are arranged differently but also tax exempt amounts for various classes of recipients and formal and procedural measures. As a common ground, however, transfers of assets *causa mortis* or *causa donandi* to spouses are tax exempt in all

Cantons, and transfers to direct descendants are tax exempt in most Cantons. Transfers to recognized charities within the same Canton and, mostly, within Switzerland are tax exempt. Switzerland has implemented certain domestic law principles to fully or partially avoid international double taxation in the field of inheritance and gift taxation (e.g., allocation of taxation rights on non-Swiss real estate typically to *situs* jurisdiction), but has concluded only a limited number of double taxation treaties in the international context in the area of inheritance taxation. The treaty network currently includes the US, the UK, Germany, the Netherlands, Sweden, Denmark and Finland, and covers only inheritance, but not gift taxes. It is to be analyzed on a case by case basis how the exposure to international double taxation in the field of inheritance and gift taxation in the international context for affected individuals and businesses can be mitigated or avoided.

Impact and Planning Opportunities under Cantonal Inheritance and Gift Tax Legislations

Together with the Swiss voters' recent decision to maintain the lump-sum taxation regime (cf. our Bär & Karrer Briefing of December 2014), the refusal to introduce a significant inheritance tax burden on most transfers *causa mortis* and *causa donandi* is a strong positive signal for Switzerland. Under the proposed federal inheritance tax, in certain circumstances even retroactively as of January 2012, all transfers of assets without consideration and exceeding a threshold of CHF 2 million from Swiss domiciled decedents or donors resp. of Swiss *situs* real estate would have been subject to a flat-rate 20% estate taxation, with exemptions only applicable to spouses, charities and certain businesses. In particular transfers to direct descendants, but, in certain Cantons, also to cohabiting partners and close relatives would have suffered a significant increase of tax burden.

With the current, for close relatives and direct descendants significantly more favorable legislations to be continued, Switzerland remains an attractive place for wealthy individuals and families to settle and from where to plan and implement tax optimization and succession planning strategies. Key drivers are:

- attractive tax rates for income and wealth taxation in Switzerland, with a focus on certain locations with specifically interesting tax rates e.g. in central Switzerland;
- option for income and wealth taxation under lump-sum taxation / forfeit taxation regime in most cantons available to non-Swiss citizens under certain conditions;
- comprehensive double taxation treaty network covering income and wealth taxation available in Switzerland;
- attractive inheritance and gift tax systems in most cantons with possibility to forward assets and businesses to spouses and direct descendants (children) during lifetime or *causa mortis* without inheritance / gift tax consequences in most Cantons and little inheritance / gift tax burden in other Cantons;
- good and reliable collaboration with (tax) authorities and (binding) tax rulings as frequently used tool to determine tax situation in advance.

By maintaining the Cantonal inheritance and gift tax regimes, Switzerland has once more demonstrated its political and financial stability. Wealthy individuals and families may choose from a wide variety of tax planning possibilities in order to maintain, structure and grow their investments in real estate, financial products and art as well as their charitable work.

Bär & Karrer provides individuals and families residing in Switzerland – or contemplating a relocation to Switzerland – with tailor made tax and succession planning. Working hand in hand with experienced specialists abroad we adopt a multi-national approach and implement cross-border solutions on both a tax and a civil law level

BÄR
& KARRER

Dr. Ruth Bloch-Riemer
ruth.blochriemer@baerkarrer.ch
T: +41 58 261 56 51

Daniel Bader
daniel.bader@baerkarrer.ch
T: +41 58 261 54 32

Peter Reinarz
peter.reinarz@baerkarrer.ch
T: +41 58 261 53 30

Dr. Daniel U. Lehmann
daniel.lehmann@baerkarrer.ch
T: +41 58 261 54 30

Paolo Bottini
paolo.bottini@baerkarrer.ch
T: +41 58 261 58 00

Zurich

Bär & Karrer AG, Brandschenkestrasse 90, CH-8027 Zurich,
T: +41 58 261 50 00, F: +41 58 261 50 01, zurich@baerkarrer.ch

Geneva

Bär & Karrer SA, 12, quai de la Poste, CH-1211 Geneva 11,
T: +41 58 261 57 00, F: +41 58 261 57 01, geneva@baerkarrer.ch

Lugano

Bär & Karrer SA, Via Vegezzi 6, CH-6901 Lugano,
T: +41 58 261 58 00, F: +41 58 261 58 01, lugano@baerkarrer.ch

Zug

Bär & Karrer AG, Baarerstrasse 8, CH-6301 Zug,
T: +41 58 261 59 00, F: +41 58 261 59 01, zug@baerkarrer.ch

www.baerkarrer.ch