3rd Swiss corporate tax reform rejected by referendum 12 February 2017

Against our hopes but in line with the most recent polls, 59% of the Swiss population today voted against the 3rd Swiss corporate tax reform which means that the reform will not be implemented in its proposed form. Although the outcome of today’s referendum is a clear and major setback in the long process of reaching consensus on the much-needed Swiss corporate tax reform, we remain confident that an attractive reform remains within reach. Such modified reform should be a lighter version of the proposal which failed to convince the population today.In that respect, it was good to see that the opponents of the reform, mainly the Swiss socialist party, gave clarity on what they consider acceptable and what they reject within the Swiss corporate tax reform during the campaign and today, right after the results of the vote became public. Based on the lively public debates before the vote and the arguments often invoked by the opponents of the reform, we must conclude that new special tax regimes for Swiss based corporates do not carry sufficient popular support. This means for example that notional interest deductions cannot be part of a new Swiss corporate tax reform proposal. To what extent and in what form the patent box and the R&D incentives can remain part of a new tax reform, is subject of discussion with the opponents but it seems possible to reach wider-carried consensus in this field.Fortunately, it remains rather clear that the core part of the proposed tax reform, which implies (i) an alignment of the corporate tax rates for foreign companies with the rates applicable to Swiss businesses (ii) combined with a significant reduction of the overall effective corporate income tax rate, is not the controversial part of the reform and can be supported by all forces on the Swiss political spectrum. We hope and expect that the Swiss federal government and Parliament can thus quickly propose a new corporate tax reform based on (i) a uniform tax treatment for all Swiss based companies, whether domestic or foreign oriented, and (ii) providing financial compensation to the cantons allowing them to reduce the overall rates to an attractive level of say between 12 to 15%.All Swiss political parties, whether left, center or right, seem to realize that speed is of essence now. Switzerland has committed to abolishing its existing special cantonal tax regimes as per 31 December 2018 and is thus in need of a new corporate tax regime that can enter into force as per 2019. A reform just based on an alignment of taxation of Swiss and foreign companies, combined with a general rate reduction, can be quickly accepted in Parliament and supported by all relevant political parties and could even be sustained by a new popular vote, if needed.Finally, it is worth noting that the canton of Geneva has always focused on the non-controversial part of the corporate tax reform, i.e. equal treatment of Swiss and foreign companies combined with an attractive overall rate reduction to arrive at an overall tax rate of some 13.5%. Geneva did not plan to introduce any notional interest deductions and would allow only minimal use of a patent box. In addition, the Geneva tax reform plans contain strict provisions for a minimum rate of 13%. Based on today’s popular vote, it seems that the Geneva tax reform proposal is exactly the kind of reform proposal that can carry the support and vote of the majority of the Swiss population.We closely follow all Swiss tax reform developments and regularly advise our clients on the implications the reform may have on their businesses.