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The first part of a proposed two-part reform of the Swiss VAT system will enter into force on January 1, 2010.

Earlier this year, the Swiss parliament approved Part A of a two-part VAT reform bill. Because no optional referendum was held on the matter, this part of the law will enter into force in January. (For prior coverage, see *Doc 2009-26281* or *2009 WTD 229-4*.)

Part A of the reform bill calls for a complete formal redrafting of the VAT law, as well as about 50 material changes. In essence, the reform simplifies Swiss VAT law and significantly reduces the administrative burden for VAT-collecting enterprises. The changes in Part A are generally undisputed and are supposed to be revenue neutral.

The proposals contained in the pending Part B would implement more controversial changes, such as a unification of VAT rates and a radical reduction of tax exemptions. While Part A is generally considered a welcome piece of legislation, Part B represents a greater challenge from a legislative and public acceptance point of view. (For prior coverage of Part B, see *Doc 2008-15118* or *2008 WTD 134-2*.)

The following are the most important changes to Swiss VAT law as of January 1:

- Establishment of a clear threshold in the amount of CHF 100,000, below which no VAT liability exists.
- Extension of the taxpayer's right to claim back input VAT. The new law introduces a general right to claim back input VAT related to an entrepreneurial activity.
- Reduction of the mandatory formal requirements to claim back input VAT. Input VAT will be deductible to the extent it has been incurred in connection with the acquisition, retention, or sale of participations of at least 10 percent with the intention of a long-term investment or for restructuring reasons — which means that Swiss holding companies can claim back input VAT.
- Expansion of the scope for applying a simplified VAT accounting procedure (establishment of so-called settlement tax rates).
- Expansion of the scope for applying for an option for voluntary VAT liability. The ability to opt for taxation of real estate transactions will be expanded. Under current law, this option requires that the counterparty is a taxable person and uses the real estate at least partly for taxable purposes. Under the new provision, it is sufficient that the real estate is not exclusively used for private purposes.
- Introduction of a fictitious input VAT deduction for trade of used goods to replace the current margin taxation.
- Change in definition of supply of services. Subject to exceptions, the place of supply of services will generally be considered as the place where the recipient of the services has its business domicile. In an international context, this is the most important change in Swiss VAT law. This provision is in line with EU Directive 2008/8/CE, according to which the place of supply of services to a taxable person is deemed to be the place where that person is established. Under the new law, VAT on services will generally be levied in the country where consumption occurs.
- Entitlement of taxpayers to binding advice and rulings issued by the tax administration regarding their tax obligations (including, notably, a right to be audited for VAT purposes).
- Change in treatment of recapitalization. The new law considerably improves taxpayers' situations in cases of recapitalization. Contributions to enterprises, interest-free loans, recapitalization measures, and waivers of receivables no longer lead to input VAT reduction.

VAT Rate to Increase in 2011

A constitutional amendment to increase the VAT rate was approved by popular vote on September 27. This amendment will not enter into force until January

1, 2011, when the general Swiss VAT rate will increase from 7.6 percent to 8 percent. The increase is a means of making up deficits in Switzerland's disability insurance scheme. (For prior coverage, see *Doc 2009-21432* or *2009 WTD 187-3*.) ◆

♦ *Cristina Avagliano, tax attorney, Altenburger LTD legal + tax, Zurich*