

ASSOCIATION OF INTERNATIONAL BUSINESS LAWYERS

Recent developments in tax law

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Oberson AVOCATS

Overview

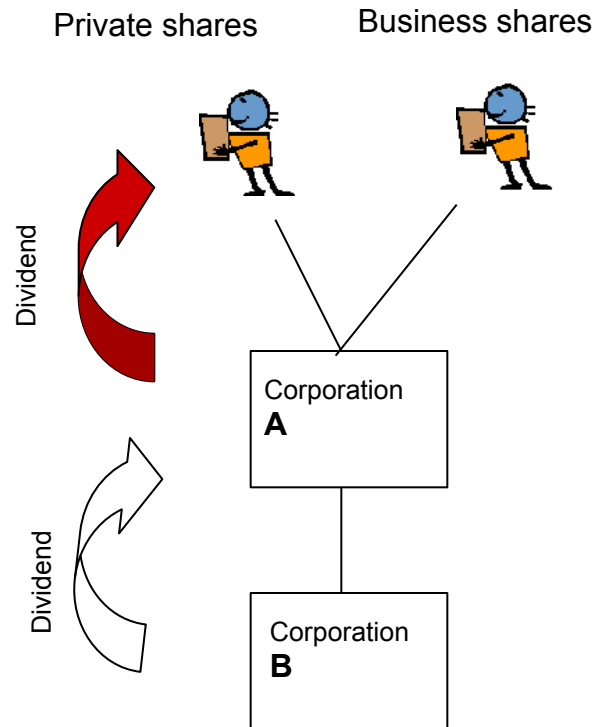
1. Direct taxes: second reform of the corporate income tax legislation
 - i. Taxation of dividends at shareholder's level
 - ii. Other new rules
2. Indirect taxes: new VAT Law
3. Other (future) developments

Direct taxes – taxation of dividends

- Corporate income tax reform adopted at federal level on February 2008
- Entry into force in two tranches (2009/2011).
- Taxation of dividends at shareholder's level (individuals)
 - ✓ Federal level as of January 1st, 2009
 - ✓ Dividends out of private shares: taxable up to 60% (for investments of not less than 10%)
 - ✓ Dividends out of business assets: taxable up to 50% (for investments of not less than 10%)
 - ✓ In the latter case: also for capital gains (holding period: 1 year minimum)
 - ✓ Two new circular letters issued end of 2008 (also deal with interest expense deductions, etc.)

➤ Situation in the cantons (VD, GE, VS...)

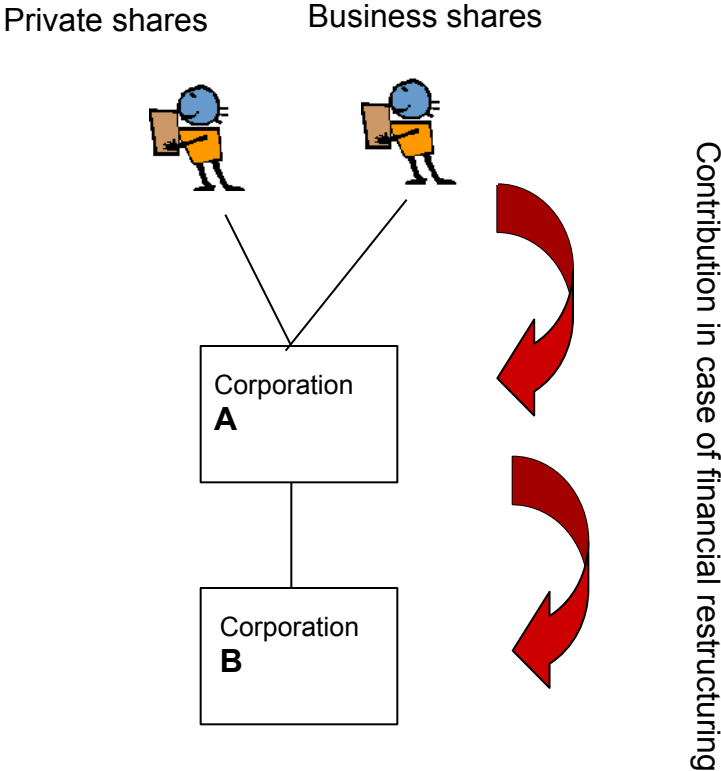
Direct taxes – taxation of dividends



Direct taxes – corporate income tax reform – other new rules

- Financial restructurings: new rules regarding issuance stamp tax as of January 1st, 2009
 - ✓ Tax free creation of equity for the acquisition of an indebted company
 - ✓ Exemption of first 10 mio. for financial restructuring measures.

Direct taxes – stamp tax exemption

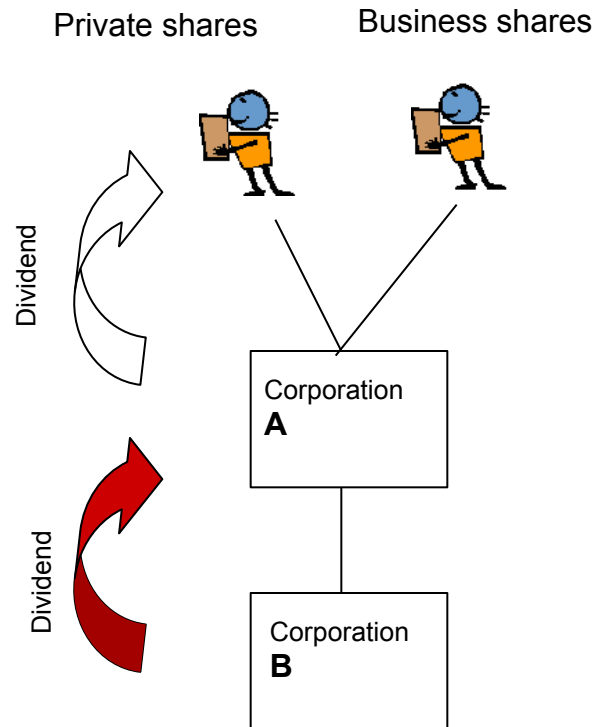


Direct taxes – corporate income tax reform – other new rules

Other important new rules entering into force on January 1st, 2011

- Various measures for independent taxpayers (individuals), in particular deferral of hidden reserves for transfer of real estate from business assets into private wealth.
- New threshold for participation relief for corporate shareholders from 20% to 10%
- New tax treatment for paid-in surplus (including for withholding tax purposes)
- Broader application of reinvestment relief (“same function” not anymore required)

Direct taxes – taxation of dividends



Indirect taxes – new VAT Law

- Reform launched in 2005
- Main purpose: simplify VAT
- Project two folds:
 1. “Technical modifications” within the current system
 - ✓ More than 50 amendments
 - ✓ Various significant new rules (tax liability, refund of input VAT, procedure, etc.)
 - ✓ Project moving on swiftly
 - ✓ Possible application as of 2011

Indirect taxes – new VAT Law

2. “Single rate”: one single tax rate and suppression of VAT exemptions (i.e. taxation of education, culture, medical cares, etc. but NOT banking, insurances, real estate).
 - ✓ Strong political debate
 - ✓ Uncertain future development of this part of the project

Other (future) developments

Project of a new corporate income tax reform

(press release of the "Conseil fédéral" dated December 10, 2008)

- Purpose: increase international competitiveness of Switzerland.
 - ✓ Reform of the special regimes (EU compatibility?)
 - ✓ Abolishment of issuance stamp tax
 - ✓ Reform of participation relief
 - ✓ Possibility for the cantons to abolish net wealth tax on equity ("*impôt sur le capital*").