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US Tax Reform

Swiss-Amcham's position on the proposed excise tax in the tax reform bill H.R. 1

Swiss companies are the 7th largest foreign direct investor in the USA with US\$ 317 bn investments (2016 preliminary numbers, source: US Dept. of Commerce, Bureau of Economic Analysis). These Swiss companies and the Swiss-American Chamber of Commerce are supportive of U.S. tax reform which provides for a pro-growth and competitive US tax system. However, we have great reservations about the base erosion proposals put forward in H.R.1. These would hinder growth from foreign investments which are a major part of the US economy. Our preliminary analysis shows that the new base erosion proposals have a number of grave limitations and risks as outlined below and, based on current analysis, the new base erosion proposals would be WORSE for multinationals with global supply chains than the border adjustment tax (BAT).

Key messages:

- It appears that the effect of the US corporate base erosion proposal could fall disproportionately on foreign corporations invested in the United States. Early indications are that the pharmaceutical, auto and reinsurance sectors will be heavily and adversely affected by the provision which is included in the House version of the bill, the Tax Cut and Jobs Act of 2017, HR 1.
- The provision would impose a tax on all corporate transfers between foreign-headquartered corporations operating in the United States and their affiliates abroad. Tax experts have labeled the provision a "blunt instrument" to tackle the rationale for the provision -- to address erosion of the tax base.
- The most immediate effect of the House provision would be to disrupt manufacturing global supply chains and trade relationships among suppliers. The provision is likely to make companies' trade arrangements less efficient.
- **This provision will massively discourage foreign direct investment in the US.** With respect to the R&D operations (Swiss companies are the largest investors in US based R&D operations with more than US\$ 10bn yearly R&D spending), the provision threatens high-quality, high-paying US jobs in this desirable sector. Changing US tax treatment for multinationals in the way this provision foresees consequently could put that R&D investment at risk, endangering the pipeline of US-sourced innovation that will be a major source of US-based value in the future.
- It is possible that the House provision could violate tax treaties the US has negotiated around the world. It is also possible, depending on the likely effect of the provision, that it may violate WTO rules as discriminatory if, as it appears, it falls most heavily on foreign corporations. We could expect other trading partners to examine this aspect closely and be prepared to challenge the provision if it is ultimately enacted (or something closely modeled on it is adopted). Some have likened the proposal to the controversial "border adjustment tax" that was dropped from the House Republican tax proposal earlier this year.
- The House provision requires further examination and analysis by governments, trade associations and companies alike to understand the actual effects of a change in the US tax structure of this magnitude.
- We believe, based on our early discussions with key players in Washington, that the provision has not undergone sufficient scrutiny to evaluate its full implications and unintended consequences. We urge you to work with the key multinational companies to assess the impact on the attractiveness of US foreign direct investments and potentially to weigh in on discrimination against foreign companies.