Why are Swiss Intellectual Property Holding Companies so Popular?

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Switzerland is an attractive location for Intellectual Property (IP) companies. It combines a proactive business and tax approach with a stable political and economic environment.

Holding and administering IP rights in one jurisdiction under one central IP company considerably simplifies the management of group IP rights and enables stronger control.

Switzerland: A Formidable Intellectual Property Jurisdiction

The World Economic Forum's global competitiveness report for 2015-16 ranked Switzerland third in terms of IP protection and the world's most competitive country for the seventh year in a row. Geneva is also the headquarters of the World Intellectual Property Organization (WIPO).

Switzerland is a member of all the major international IP treaties. These include: the Paris Convention, the Berne Convention, the Madrid Agreement, the Patent Cooperation Treaty and the Hague Agreement.

A Swiss company can therefore register IP rights in a large number of jurisdictions through its centralised registration system, without the need to mandate local representatives in each jurisdiction. The treaties enable a Swiss registrant to claim the priority date of a Swiss registration for the registration of IP rights in other countries.

A Swiss IP Company and Taxation

A Swiss IP company is generally taxed as a mixed company. This is because its business activity will typically, primarily be related to activities abroad.

Corporate Income Tax: Mixed Companies

- The effective combined Swiss tax rate (federal, cantonal, communal) will be between 8% and 11.5% on foreign sourced net royalty income, depending on the company's location. The precise status is granted based on an Advance Tax Ruling.
  The principal requirement, to benefit from this status, is that at least 80% of income and expenses must be foreign source related.

- Taking into account tax deductible expenses (e.g. IP amortisation) it is possible for a Swiss IP company to achieve a significantly reduced tax rate, and perhaps for this to even be reduced to less than 1%. Details regarding qualifying expenses and the maximum annual amortization allowable are available from the Dixcart office in Switzerland.

Substance

There needs to be sufficient substance, management and activity to comply with international transfer pricing rules and the OECD Model Tax Convention on Income and Capital. All of the key decisions regarding IP need to be made by the Swiss Company.

Withholding Tax Efficiencies

Switzerland benefits from a large double tax treaty network, with over 110 treaties, and also benefits from the EU Parent/Subsidiary Directive and the EU Interest and Royalties Directive.

- More than 25 Swiss double tax treaties provide for a 0% rate of withholding tax on royalties. This enables a Swiss IP company to collect royalty payments with no foreign tax being withheld.

- Switzerland also offers a tax credit system for non-refundable foreign taxes such as withholding tax. Precise details vary depending on whether a double tax treaty is in force and, if so, what the terms of the treaty specify. Additional information is available from the Dixcart office in Switzerland.

There is NO Swiss withholding tax on royalty payments to local or foreign recipients.

Transfer of IP Rights to Switzerland

The transfer of IP rights to Switzerland does not generally trigger Swiss tax. However, the tax position in the country of origin of the rights would need to be established.

Swiss Company with a Foreign IP Branch

Switzerland unilaterally exempts foreign branches from Swiss income tax if the foreign activities constitute a Permanent Establishment (PE), from a Swiss domestic tax perspective.

Accordingly, if IP related activities in the foreign branch, from a Swiss perspective, are at a level to constitute a PE, the income will be taxed locally and not in Switzerland. Depending on the industry and the circumstances of each case, a foreign PE location might include tax efficient jurisdictions, such as Dubai, Singapore or Liechtenstein. In most cases it is not necessary to have a double tax treaty with the country where the foreign PE is located.

Summary

In addition to the prestige offered by Switzerland as a location for IP companies, Swiss IP companies offer a number of tax advantages in relation to corporation tax and withholding tax.

Additional Information

If you require additional information regarding Swiss IP companies, please speak to your usual Dixcart contact or to Christine Breitler at the Dixcart office in Switzerland: advice.switzerland@dixcart.com.