

Audit of the supervision over the direct federal tax exemptions

Key facts

Each year, the Confederation forfeits some of its tax revenue in favour of creating or maintaining jobs. These losses stood at 1.4 billion francs in 2011, compared with 1.7 billion francs in 2010. The companies concerned earned pre-tax profits of 19.4 billion francs in 2011, compared with 23.7 billion francs in 2010¹⁰. With the reduction in the geographical scope of direct federal tax relief after expiry of the Lex Bonny in 2007, the decrease in number of new relief decisions is significant.

In practice, the State Secretariat for Economic Affairs (SECO) prepares the tax relief decisions for the Federal Department of Economic Affairs, Education and Research (EAER), and supervises their implementation by the cantons. In this audit, the Swiss Federal Audit Office (SFAO) verified the measures taken by SECO and/or the cantons with regard to the recommendations made in its previous audits in 2010 and 2011¹¹, as well as the establishment of a new supervision system. The cantons of Fribourg, Neuchâtel, Vaud, Glarus and Uri were also subject to an onsite examination.

Significant improvement in SECO's supervision and risk analysis

Twelve of the fourteen SFAO recommendations which were still pending at the end of 2013 have been implemented. The EAER and SECO have improved the tax relief decision-making system and the supervision of such decisions, which now include company business plans. The SFAO further noted the introduction of a true supervisory and controlling concept by SECO.

As in 2011, the SFAO identified cases of companies benefitting from both tax relief and special cantonal tax statuses. It noted the absence of harmonised supervision of the granting conditions. In particular, this means that the same job can be used on the one hand to respond to the criterion of economic promotion (job creation) and on the other to justify the application of reduced tax to profits generated abroad. There is room for improvement regarding supervision of the cantons, particularly when their government delegates decision-making and follow-up powers to the tax administration. The SFAO also noted that the qualitative analysis of the job criterion is often insufficiently documented. In general, it recommends defining the relief conditions in such a way that they ensure better traceability of their implementation, like in the case of the criterion regarding the impact on the regional economy.

It can also happen that a company changes its original business plan (e.g. huge jump in profits). In this case, the EAER is explicitly responsible for relief decisions. However, in the case of company restructuring, decision-making power lies with SECO. The SFAO believes that these two cases should be subject solely to the decision-making power of the EAER.

¹⁰ See the SECO statistics of 10 October 2014 (appendix 3)

¹¹ Direct federal tax relief – assessment of SECO's supervision of the cantons (audit mandate 10434) and assessment of direct federal tax relief granted in accordance with the Federal Act in Favour of Economic Regeneration Zones - Bonny decree (audit mandate 11406)

Supervision of the cantons is not uniform and could be improved

The SFAO made several observations in its examination of the cantons under review. It noted with satisfaction that one company which did not comply with the conditions for a direct federal tax relief rate of 80% is paying the tax reimbursement due according to the terms and conditions arranged with the cantonal tax administration and the EAER¹².

The possible consequences of revocation are not predefined in the tax relief decisions. The SFAO found that it could lead to scope for interpretation in the cantonal calculations of the amount to be reimbursed in the case of non-compliance with the relief conditions. A normative framework is here recommended.

In the cantons, supervision can range from a detailed inspection of the data in the annual report to a plausibility check. However, SECO receives little information on the nature and extent of the controls. The SFAO recommends that it establish minimum standards or a guide on good practices. In this area, the SFAO sees as a solution cross-checking the employee data of exempted companies with that of old-age and survivors' insurance. Another solution would be to ask the companies' external auditors to validate the data transmitted to the authorities.

Improved transparency of direct federal tax relief

In 2010, the SFAO underscored the lack of transparency regarding the financial volumes concerned by direct federal tax relief. It invited the Federal Finance Administration (FFA) to show the numbers and financial volumes of direct federal tax relief in the Federal Council subsidy report. It also suggested breaking down the figures by canton. The FFA stuck to this principle of transparency but considered that a cantonal breakdown would be detrimental to Switzerland's external economic interests and the relations between the Confederation and the cantons.

The SFAO believes that the upcoming revision of the ordinance should provide the occasion to lay the foundation for the principle of transparency regarding direct federal tax relief figures. As suggested by a SECO report published in the autumn of 2013, this should also make it possible to introduce a ceiling in order to keep down the tax amounts that can be subject to relief.

Original text in German

¹² *Audit mandate 11406, example 2, page 33.*