Taxes on the Sale of a Business: A Guide for SMEs in Switzerland

1. introduction

Importance of taxes in the sale of a company, regardless of the purchase price

The sale of a company is a complex process in which many factors must be taken into account. One of the most important aspects is the tax treatment of the sale. In Switzerland, capital gains from the sale of private assets are generally tax-free. However, there are exceptions that must be taken into account.

Frequency of succession or succession planning in SME companies

In the next few years, many SME companies in Switzerland will be facing a succession plan. This transition may have tax implications, especially if the company is sold.

The various tax aspects in Switzerland for taxing

- **Overview of the Swiss tax system**: Switzerland is known for its favorable tax system and its impact on M&A transactions. For owners who want to sell their business in Switzerland, it is important to understand the Swiss tax system.
- **Share Deal vs. Asset Deal**: The type of transaction

structure chosen can have a significant impact on the tax implications of the transaction. In a share deal, the buyer acquires the shares of the company, whereas in an asset deal, the buyer acquires the assets of the company.

- **Advantages and disadvantages of each type of deal structure**: From a tax perspective, each type of deal structure has its own advantages and disadvantages. Equity deals tend to be less complicated, while asset deals offer more flexibility in tax planning.
- **Considerations for Swiss buyers compared to international buyers**: Swiss buyers and international buyers have different tax implications when acquiring a business in Switzerland. Swiss buyers are subject to Swiss tax laws, while international buyers may be subject to both the tax laws of their home country and Swiss tax laws.
- **Impact on the final terms of the agreement and the value received by the successor**: Tax considerations can have a significant impact on the final terms of the sale and the value received by the It is important for successors to understand these implications and work with a tax advisor to ensure they get the best possible outcome from the transaction.
- **Important tax aspects**: When selling a business in Switzerland, it is important to consider various tax aspects such as capital gains tax, VAT and stamp duty. A thorough understanding of these tax aspects and how they apply to the particular transaction is crucial for owners to ensure that they achieve the best possible outcome from the act of sale.

Share Deal vs. Asset Deal: What's Right for You?

When it comes to selling your business in Switzerland, there are two main options: Share Deals and Asset Deals. In order to make an informed decision that best suits your needs and objectives, it is important to understand the key differences and implications of each transaction structure.

Share deal (often with joint stock company or limited liability company)

- Sale of the shares of a company and not the assets
- The buyer acquires ownership and control of the company, but also assumes all liabilities and obligations
- Tax implications may vary depending on the specifics of the transaction and the buyer's jurisdiction

Advantages:

- Simplified transfer of ownership and control
- Possibly lower tax impact as capital gains tax is lower than corporate income tax in some cases

Disadvantages:

- The buyer assumes all liabilities and obligations of the company
- The seller may have limited control over the future of the company and its operations

Asset deals (often with sole proprietorship / partnership)

- Sale of certain assets and liabilities of a company rather than shares
- The buyer acquires ownership of the assets and assumes the liabilities associated with them
- Tax implications may vary depending on the specifics of the transaction and the buyer’s jurisdiction

Advantages:

- Greater control over the transfer of certain assets and liabilities
- Possibly lower tax impact as capital gains tax is lower than corporate income tax in some cases
- The seller may retain ownership of the business and its remaining assets

Disadvantages:

- Complex process of transferring certain assets and liabilities
- The seller may still be liable for the remaining liabilities of the company
- Potentially higher tax impact as seller may be taxed on transfer of individual assets

2. Tax aspects of the sale of business

Tax-free capital gain on a sale transaction

In principle, the profit from a sale transaction of private assets is not taxed in Switzerland. This applies in particular when a private investor realizes a profit from his equity securities traded on the stock exchange.

Exceptions: Indirect partial liquidation and lock-up period for divestments

However, there are two important exceptions to the tax exemption: the indirect partial liquidation and the lock-up period. These two aspects can have significant tax consequences and should be taken into account when planning the sale of a company.

3. Differences regarding the tax consequences between the sale of a joint stock company and a limited liability company

The sale of a corporation or limited liability company can have different tax consequences. It is important to understand these differences and plan accordingly. The same applies to partnerships, which are sometimes treated differently.

4. Indirect partial liquidation

Definition and conditions

Indirect partial liquidation occurs if the shares sold are held by the purchaser as business assets and a dividend of substance is paid to the new owner within five years of the transfer.

Tax consequences and risks

The asset dividend can be taxed as income for the seller, even if he actually has nothing to do with the distribution. This can lead to considerable tax burdens.

Contractual protection

In order to minimize the risk of an indirect partial liquidation, the seller should provide contractual safeguards. These can, for example, include the condition that no substance is distributed from the company’s assets within the 5-year lock-up period.

5. Lock-up period

Definition and conditions

The lock-up period is a period of five years after a tax-neutral conversion from a personal enterprise (e.g. sole proprietorship) into an AG or GmbH. If the company is sold within this period, the hidden reserves transferred tax-free at that time may be subject to subsequent taxation.

Tax consequences and risks

The lock-up period can have significant tax consequences. A sale within this period may result in subsequent taxation, which can significantly reduce the financial benefits of the sale.

6. Special cases and further exceptions

Sale to a company subject to accounting requirements

A sale to a company subject to accounting requirements may have special tax implications. In this case, the tax authority will examine for five years whether any substance dividends have been distributed during this period.

Substantive dividends and their tax effects

Substantive dividends are distributions at the expense of reserves that already existed at the time of the sale of the company. They can lead to unexpected tax burdens for the seller.

7. Tax aspects of succession planning

Succession planning is an important aspect of selling a business. It should be carefully planned and the tax implications taken into account.

8. Practical tips and strategies

Preparation for the sale of the company

Good preparation is the key to a successful company sale. This includes a thorough valuation of the company, consideration of all tax aspects and the development of an effective sales strategy.

Contractual arrangements and safeguards

Contractual arrangements and safeguards can help minimize the risk of unexpected tax charges. They should be carefully planned and reviewed by an experienced lawyer or tax advisor.

Tax optimization before the sale

Effective pre-sale tax optimization can minimize potential tax burdens and maximize net proceeds from the sale.

9. Case studies and examples from practice

Case studies and real-world examples can provide valuable insights into the tax aspects of selling a business. They can help identify potential pitfalls and develop effective tax optimization strategies.

10. Effects of tax legislation on the value of the company

Tax legislation can have a significant impact on the value of a business. It is important to understand this impact and take it into account when planning the sale of a business.

11. Role of consultants and experts in the sale of companies

Consultants and experts can be a valuable support during the sale of the company. They can help with the valuation of the business, tax optimization planning and negotiation of the sale agreement.

12. Conclusion

The sale of a company is a complex process in which many factors must be taken into account. The tax aspects are of particular importance. Through careful planning and consideration of all relevant tax aspects, the sale can be carried out successfully and with minimal tax risk.

Outlook and further resources

There are several resources available for more information and assistance with selling a business. These include reference books, consulting firms and online resources. It is important to be well informed and to seek professional assistance if needed. Likewise, in addition to taxes, it is certainly also advisable to look at social security contributions, the timing of the sale and any differences depending on the canton.

Frequently asked questions about selling company taxes in Switzerland

What do I have to consider from a tax point of view if I want to sell my company?

Taxes are usually incurred on the sale of a company. However, taxation depends on various factors, such as the legal form of the company, the sale price as well as the time of the sale. It is advisable to consult a tax advisor to clarify the tax consequences of selling a company.

What taxes are incurred when

selling a company?

When selling a company, different taxes may be incurred, such as income taxes, capital gains taxes, profit taxes or social security contributions. The exact tax consequences vary depending on the legal form of the company and the sale price.

Are corporations and limited liability companies different for tax purposes when selling?

AGs and GmbHs are treated differently for tax purposes. For example, in the event of a sale of an

What does the sale of a company mean?

The sale of a company means that the owner or group of owners transfer their rights to the company to another individual or legal entity.

What is a corporation?

A corporation is a legal entity established by at least two persons to carry out an entrepreneurial activity. The corporation has its own assets and is therefore limited by liability.

What is the difference between an AG and a GmbH?

The AG (joint stock company) and the GmbH (limited liability company) are both corporations, but have different requirements for their formation, structure and liability.

What are partnerships?

Partnerships are companies in which the partners are personally liable for the debts of the company. These include, for example, sole proprietorships, the collective partnership and the limited partnership.

Who are the buyers when selling a company?

Buyers in the sale of a company may be individuals or legal entities interested in the business activity and assets.

What is a sole proprietorship?

A sole proprietorship is an entrepreneurial activity run by a natural person. The owner is personally liable for the debts of the company.

What is the best legal form for a company?

The choice of legal form depends on various factors such as liability, taxation, formation costs and the size of the company. There is no perfect legal form that is suitable for everyone.

What are the tax consequences of selling a company?

When a company is sold, various taxes may be incurred, such as income tax, withholding tax, VAT and real estate gains tax.

What is a dividend?

A dividend is a portion of a corporation’s earnings that is distributed to shareholders.

How is the selling price of a company determined?

The selling price of a company is determined based on the book value, the difference between the book value and the market value, and the earning power of the company.

In the case of an AG, a dividend may be distributed, whereas in the case of a GmbH, a distribution may be made as a capital gain or similar. It is advisable in each case to observe the specific tax regulations for the chosen legal form of the company.

How is the profit from the sale of a company taxed?

The gain from the sale of a company can be taxed differently depending on whether it is an asset deal or a share deal. As a rule, in the case of an asset deal, the gain from the indirect partial liquidation is determined, whereas in the case of a share deal, the capital gain of the seller is taxed.