FACT SHEET

Swiss tax consequences of share buybacks via issue of put options

Castle Private Equity AG (hereinafter CPE) conducts, from time to time, share buybacks via the issue of put options to its shareholders. The tax implications are different for shareholders depending on the nature and tax residence. Whereas some shareholders achieve the most beneficial tax result by selling the put options received in the market, others may do best by exercising the options and tendering the CPE shares.

Purpose of the transaction

The issue of put options offers to shareholders the same result as a dividend payment. Since the put options have a value and can be traded in the market, shareholders could sell the options and collect the cash. Alternatively, the options can be exercised leading to redemption of shares to CPE. Investors may also benefit from arbitrage transactions due to differences in the market pricing by buying additional put options for slightly less than the technical value. This may be favourable for investors entitled to refund of Swiss withholding tax.

Basic recommendations for most common shareholder categories

Swiss resident individuals (private wealth)

In most cases, the put options received should be sold in the market. This usually leads to a tax free capital gain instead of taxable dividend income, when exercising the options.

Foreign resident individuals

Since the Swiss withholding tax triggered upon exercise of the options could (in the best case) only be refunded partially and the refund procedure is administratively burdensome, investors usually do best by selling the options in the market. However, the income tax rules in the country of residence may offer different rates for dividend payments and for capital gains from the disposal of the options, whereas the redemption of shares may be treated as a dividend (as is the case in Switzerland) or nor. An exercise of the options including partial refund of Swiss withholding tax and credit of the residual withholding tax to the foreign income tax should be analysed based on the rules applicable in the jurisdiction of residence.

Swiss resident corporations, limited liability companies and cooperatives

Provided that the overall investment in CPE has a fair market value of at least CHF 1 million, an exercise of the options should not lead to corporate income taxation (participation relief for qualifying dividend payments should apply). In contrast, a disposal of the options in the market leads to a taxable gain. Thus, investors normally do best by exercising the options and collecting tax exempted dividend income. Arbitrage gains may be achieved by acquiring additional put options in the market. The Swiss withholding tax triggered upon the exercise of the options should be fully refundable. However, this creates an administrative burden.

Foreign resident corporations and limited liability companies

Since the Swiss withholding tax triggered upon exercise of the options could in most cases only be refunded partially and the refund procedure is administratively burdensome, investors usually do best by selling the options in the market. This holds particularly true for investors resident in offshore jurisdictions with no corporate income taxation and no entitlement to refund of Swiss withholding tax in case of an exercise. In other locations, the income taxation may be different for the disposal of the options and for an exercise. In this case, an exercise should be taken into consideration, depending on the possibilities for full or partial refund of Swiss withholding tax based on the applicable double tax treaty.

Pension funds and charitable organisations

Swiss pension funds and charitable organisations are usually exempted from corporate income taxation. As a consequence, there are no corporate income tax consequences from a disposal of the put options in the market. However, as the market price of the put options is typically slightly lower than their technical value, the options could also be exercised, still without corporate income tax consequences due to the tax exemption. The Swiss withholding tax triggered in the latter case should be fully refundable, though creating an administrative burden. Investors could also take advantage of arbitrage gains when acquiring additional options in the market.

Income tax exempted foreign resident pension funds and charitable organisations should analyse whether they are entitled to full refund of Swiss withholding tax based on the applicable double tax treaty. If this should be the case, an exercise of the put options – eventually including the prior acquisition of additional put options in the market, making advantage of arbitrage gains – may pay off. Otherwise, the options should be sold in the market.

Collective investment schemes

Fiscally transparent Swiss and foreign collective investment schemes usually do best by selling the put options in the market. Provided the reporting takes place properly, they could offer a tax free capital gain to their Swiss resident individual investors.

In contrast, Swiss SICAFs should exercise the options in order to collect tax free dividend income instead of a taxable capital gain. The Swiss withholding tax can be fully refunded by the SICAF.

For foreign resident SICAFs an exercise of the put options may only be advisable if the Swiss withholding tax could be fully refunded based on the applicable double tax treaty. If this is not the case, the options should be sold in the market.

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