

## Positive Signals for Switzerland: Continuation of Lump-Sum Taxation in Switzerland and the Canton of Geneva

In Sunday's vote on a popular referendum, Swiss voters decided by a clear majority of 59.2% on the retention of the lump-sum taxation regime on a federal, cantonal and communal level. A separate vote in the Canton of Geneva had the same result on the cantonal level in Geneva: a majority of 68.7% of the Geneva voters decided on the retention of the lump-sum taxation regime on the Geneva cantonal level.

Besides the retention of the lump-sum taxation regime, Swiss voters also clearly decided against the "Ecopop" referendum which would have foreseen restrictive requirements for immigration to Switzerland.

### Current Legislation

Under the lump-sum taxation regime, income tax for qualifying individuals is calculated on the basis of their total annual living expenses incurred by the taxpayers in Switzerland and abroad. Typically, the amount of the (deemed) annual living expenses is disclosed and agreed in a ruling sought from the respective cantonal tax authorities prior to relocating to Switzerland.

At present, the taxable expenses imposed federally and in most cantons amount to at least five times the rental value of the taxpayer's home or five times the rent paid. The lump-sum taxation regime also provides for a comparative calculation method (known as "control calculation") pursuant to which the lump-sum tax payable must, in any event, not be lower than the tax calculated on specific gross elements of income and wealth at regular taxation rates. The relevant income includes all income from Swiss sources as well as income for which the taxpayer claims relief from foreign taxation under any double taxation agreements to which Switzerland is a party. Under certain circumstances, cantonal tax and immigration authorities define

minimum amounts to be paid by non-EU citizens relocating to Switzerland and applying for residence permits.

The lump-sum taxation applicable to a taxpayer does not cover his/her position under the applicable Swiss cantonal inheritance and gift tax acts.

### Enhanced Pre-requisites for Lump-Sum Taxation as of 2016

To strengthen the acceptance of the taxation regime, the Swiss Federal Council increased the assessment basis for the lump-sum taxation in 2012. As of 2016, more stringent conditions will apply for the lump-sum taxation regime on federal, cantonal and communal levels. In particular,

- married applicants will both be required to meet the criteria for lump-sum taxation;
- the taxpayer's relevant worldwide expenses must amount to at least seven times the housing costs;
- a minimum taxable income of CHF 400,000 will be deemed to apply for the calculation of federal income tax; and

- the cantons will be required to define at their discretion a minimum amount as the assessment basis, by taking into account both cantonal and communal income and wealth taxes. In many cantons, the assessment basis for wealth tax amounts to at least twenty times the deemed taxable income.

Current legislation and rulings would continue to apply for a transitory period of five years from 1 January 2016 for individuals taxed under the current lump-sum taxation regime.

The cantons of Zurich, Appenzell-Ausserrhoden, Schaffhausen, Basel-Stadt and Basel-Land, still do not offer lump-sum taxation regime on the cantonal and communal level.

## Outlook for Current and Future Lump-Sum Taxed Individuals

Rulings in place today for lump-sum taxed individuals are likely to lapse after the end of the legal transitory period. Exceptional prolongations will need to be negotiated on a case-by-case basis with cantonal tax authorities. In each case, the affected taxpayers and their legal, taxation and financial counsels will have to evaluate planning options to effectively optimize the Swiss tax burden.

Planning options include the reduction of the housing costs and the income streams considered under the control calculation. Finally, for certain cases not reaching the minimum taxable income of CHF 400,000, a change to the ordinary taxation regime in combination with wealth and succession optimization measures may need to be considered.

Today's ruling for individuals relocating to Switzerland under the lump-sum taxation regime do, in most cantons, already reflect the upcoming enhanced pre-requisites, either by a limitation of the ruling's application until 1 January 2021, or by providing for enhanced financial requirements.

Bär & Karrer gladly assists you in determining a tailor made tax and estate planning solution for existing and future Swiss tax residents.

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