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# LUMP SUM TAXATION IN SWITZERLAND, CANTON TICINO

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## 1. Introduction

Individuals with a high net wealth and important foreign source income, who want to make Switzerland, and particularly Canton Ticino, their country of residence, have the option of being taxed with a **simplified lump sum taxation system or expenditure based system**, computed only on the worldwide living expenditures (also called lump sum or global taxation).

We find the **legal basis** in the Cantonal Tax Law and in the Direct Federal Tax Law as well as in the new Circular no. 44 issued on 24 July 2018, which replaces the previous Circular No. 9 of 1993. The purpose of the new provisions is to clarify the application of the legislation on direct federal tax. For more information, please visit the following web site:

https://www.estv.admin.ch/estv/it/home/direkte-bundessteuer/direkte-bundessteuer/fachinformationen/kreisschreiben.html

In order to qualify for being admitted to such a taxation regime, the following **conditions** must be met:

- The applicants cannot be Swiss citizens: those who have dual citizenship are not considered foreigners and, therefore, cannot opt for the global taxation but will be subject to Swiss ordinary taxation. Neither is global taxation allowed for couples where one spouse is a Swiss citizen (both spouses, therefore, must be foreign nationals);
- Age limit: for citizens of EU / EFTA states there is no age limit; conversely, a minimum age limit of 55 years is set for citizens of non-EU / EFTA countries;



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- Making Switzerland their country of residence for the first time or after an absence of at least 10 years[1];
- They must not pursue a lucrative activity in Switzerland, or in the broadest sense, an entrepreneurial activity. This requirement applies to both spouses[2].

2. Determination of income presumed to be subject to taxation

As a **tax base** for the taxation of the presumed income of the taxpayer, **annual expenses incurred for subsistence and that of family members living in the same household**, on a worldwide basis, are taken into account.
It is understandable, however, that this process proves quite burdensome for the tax administration (since the lump sum taxpayer is required to list all the annual costs incurred with the relevant supporting documentation).

Therefore the tax authority base their calculation on the **higher value** resulting from the following parameters:

- minimum income presumed necessary for subsistence: CHF 400’000 (resulting in taxation of about CHF 123’000) for citizens of one of the EU / EFTA member countries, and CHF 750’000 (which corresponds to about CHF 275’000 in taxes) for citizens of non-EU / EFTA states;
- For taxpayers who own a household, an amount equal to seven times the annual rent or the rental value of their home, as determined by the tax authority;
- For other taxpayers: an amount equal to three times the amount of their annual pension, for board and lodging at the place of residence.

The tax calculation (respectively the tax rates) follows the taxable income as determined above.

3. Tax on wealth

Following the amendments of the tax law of Canton Ticino in January 2016, as well as income tax, there is a wealth tax. The taxable base corresponds **to five times the income tax base as determined in accordance to the criteria just mentioned above** (the minimum taxable wealth for Canton Ticino is therefore, for the year 2020, CHF 2 million being five times the minimum taxable income of CHF 400'000). The corresponding annual wealth tax on CHF 2 million net assets is about CHF 8’500.

4. The annual fiscal “control computation”

The tax amount resulting from the taxable income and wealth base thus determined must be subject annually to the so-called "**control calculation",** where it is compared with the income and wealth tax that would be due on the following items:

- Swiss sourced income from movable and financial assets as well as income ( or imputed income) from real estate sites in Switzerland;

[1] Please note that the possessor of a border commuter (*frontalieri)* G permit who intends to transform his or her G permit into a B residence permit, has the right to request to be taxed under the lump sum tax scheme, since as a commuter (*frontaliere)* he or she was not subject to Swiss unlimited taxes.

[2] There is an exception for those who are members of a board of directors of a company based in Switzerland, but only when they perform these activities in an honorary capacity



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- Amount of assets qualified as “Swiss assets” whether attributable to movable/financial assets or real estate properties;
- Foreign-sourced income (such as for example dividends, interests, royalties) for which one claims for a partial or total exemption of foreign taxes at source by virtue of a Double Tax Treaty.

Movable assets located in Switzerland and Swiss sourced income means more precisely:

- Swiss movable assets of any kind, bank accounts opened in Switzerland in any currency, securities of Swiss issuers or domestic borrowers, including loans secured by real estate lien, and related income;
- Metals and precious stones deposited in Switzerland (for example in safe deposit boxes);
- copyrights, patents and similar intangible rights exercised in Switzerland, together with related income;
- Swiss-sourced retirement benefits, annuities and pensions.

5. The ‘modified’ lump sum taxation

For some countries (Canada, France, Germany, Belgium, Austria, Italy, Norway and the USA), with which Switzerland has concluded Double Tax Treaties, taxpayers subject to tax on expenditure **are not entitled to claim for its conventional benefits**.

This because under these Conventions, a person is not considered resident for tax purposes if he or she is not ordinarily subject to tax on all income that the Convention with the above-mentioned states, assigns to Switzerland.

In a case where the taxpayer has at his or her disposal, income sourced from one or more of the above-mentioned countries, he or she would be advised to opt for the said “***modified”* lump sum taxation**.

In such a case, the taxpayer will be able to:

- Avail himself/herself of the total or partial exemption of foreign tax levied at its source or its reimbursement by the states mentioned above;
- Benefit from a tax credit computation (provided certain conditions are met) for the remaining unrecoverable foreign tax withheld .

By opting for the ‘modified” lump sum taxation regime, therefore, the taxpayer agrees that he or she will **be taxable, beyond his or her assets and income that have a Swiss source, on all income elements from the respective state mentioned above**, at the maximum ordinary tax rate on his or her total income. In this way, he or she **will be entitled to claim the relief of the Double Tax Treaties** with recognition of his or her tax residence in Switzerland.

This appears to be excluded from conventional relations with France and Italy and their respective internal rules of implementation that are designed to deny Swiss tax residence if no proof is given of effective residence and hence the shifting of the vital center of personal and economic interests to Switzerland.



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6. Taxes and social charges not covered by the regime of taxation on expenditure

The global / expenditure tax **does not relieve** the taxpayer from Cantonal taxes such as:

- Inheritance or gift taxes;
- TUI (tax on real estate gains);
- Cantonal property tax.

*The taxpayer is also subject, in case he or she has not reached the retirement age, to the payment of social security contributions (AVS), or to contributions for old age and survivors' benefits, which represent the central pillar of Swiss social security.*

7. Switching to ordinary taxation

Foreign nationals have the **option**, if he or she meets the conditions mentioned above, to be taxed with the lump sum taxation regime or the ordinary procedure. **That choice must be expressed clearly on his or her arrival in Switzerland, Canton Ticino**.
Different tax consequences will arise according to the option chosen and these must be taken into consideration.Opting for the expenditure based taxation, he or she can switch at any time to ordinary taxation but the reverse is not possible. The taxpayer will remain subject to the same ordinary taxation treatment as long as he or she remains a tax subject in Switzerland.

The question arises therefore as to what are the reasons that would push a foreigner to opt for one taxation regime rather than another.

**Lump sum taxation may be a positive choice** where:

- The fiscal burden turns out to be less than the one that would be assessed with ordinary taxation;
- There is no or little Swiss-sourced income compared with the sum of the "worldwide" assets and income therefrom,
- There is important income from a foreign source and there are considerable assets located abroad. This also applies to the 'modified' lump sum tax regime where such income and the assets are not referred to treaty countries (Canada, France, Germany, Belgium, Austria, Italy, Norway and the US).
- The taxpayer wants to make use of a simplified tax return.

Conversely, choosing **ordinary taxation may be a valid alternative** where:

- The tax burden on all worldwide assets and income therefrom is fairly minor;
- The taxpayer is able to claim unlimited tax credits (the so-called global tax calculation) for withholding tax levied by foreign states;
- The application, without exclusions, of the conventional reliefs as provided by the Tax Treaties, procures a tax saving;
- The taxpayer wants to acquire Swiss citizenship (in any case, he or she would lose the benefits of the tax on expenditure regime);
- One wants to start a gainful or entrepreneurial activity in Switzerland.



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Switzerland offers tax-planning opportunities to foreigners and lump sum taxation is one of the most advantageous tools, which makes Switzerland very attractive place for residence in particular for wealthy individuals.

An accurate asset and income analysis is necessary before the tax regime is chosen within the migration process as well in case the taxpayer desires to switch to ordinary taxation.

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