

## Canton Ticino – New Draft Bill Regarding the Amendment of Lump-Sum Taxation

On 23 September 2015 the Government of the canton of Ticino issued a draft bill announcing the amendment of the Tax Law (*Legge Tributaria*) dated 21 June 1994 relating to lump-sum taxation. This amendment has become necessary in order for the Ticino's fiscal regulations to comply with the Federal Law on Harmonization of direct taxes of cantons and communes (*LAID*) and the Federal direct tax Law (*LIFD*) as of 1 January 2014.

The present reform aims at tightening the legal provisions concerning the granting of lump-sum taxation.

This briefing will illustrate the main elements of the planned amendments. Subject to the approval of the cantonal parliament and any referendum by the people of Ticino, the revised law will enter into force on 1 January 2016.

### Requirements for Lump-Sum Taxation

In future, only foreign citizens may qualify for the application of lump-sum taxation, provided they fulfill the current requirements, namely having no gainful occupation in Switzerland and being taxed in Switzerland for the first time or after a ten-year absence. Citizens holding dual citizenship (with Switzerland), will not qualify either.

### Personal Requirements for Both Spouses

Both spouses entertaining a common household must comply with the requirements stated above, including holding foreign citizenship. Married cou-

ples relocating to Switzerland after 1 January 2016 will not be able to request lump-sum taxation if one spouse is a Swiss citizen. The citizenship of children under 18 years of age/minors will have no relevance in this context.

### Calculation of Expenses

When calculating living expenses, the worldwide expenditures of the taxpayer must be taken into consideration. These must amount to either at least CHF 400,000, seven times the annual rent paid or annual rental value, or three times the pension payments for those individuals without a personal household (formerly CHF 200,000 until 31 December 2013 and CHF 400,000, respectively five times and twice the housing costs, since 1 January 2014).

## Wealth Tax

The new Federal law provides, for taxpayers benefitting from the lump sum taxation, for the introduction of a new tax to replace the ordinary wealth tax. This new tax will be calculated based on the taxable wealth, and will amount to at least five times the expenditure used as the basis for the income tax (see above).

## Control Calculation

Lump-sum taxation must be equivalent to the sum of income and wealth tax as calculated according to the ordinary rates based on the gross total of following elements:

- real estate located in Ticino and the income therefrom;
- movable assets located in Switzerland and the income therefrom;
- securities from Swiss sources (including e.g. those from Swiss issuers but that are deposited abroad), including of receivables secured by mortgage rights and the income therefrom;
- copyrights, patents and similar rights exercised in Switzerland and the income therefrom;
- retirement annuities and pensions from Swiss sources;
- income for which the taxpayer is entitled to claim partial or full tax relief from foreign taxes applying a Double Treaty Agreement with Switzerland.

## Transitional Regime

The new provisions will enter into force on 1 January 2016. Individuals already benefitting from lump-sum taxation on that date will remain subject to the current lump-sum taxation rules for a transitory period of five years (i.e. until the tax period 2020). The alignment to the new regulations will take place from 1 January 2021.

## Examples\*

### Example 1

A foreign taxpayer who has been taxed according to the lump-sum regime since 2008, who pays an annual rent of CHF 100,000 and whose minimum expenditure under the old regulation amounts to CHF 500,000 (five times the annual rent) will be taxed according to the transitional rules on the basis of a minimum expenditure of CHF 500,000 until 31 December 2020 despite the fact that the minimum expenditure, under the new regulations, would amount to CHF 700,000 (seven times the annual rent).

### Example 2

A foreign citizen subject to lump-sum taxation based on expenditures of CHF 450,000 and married to a Swiss citizen subject to ordinary taxation will be able to benefit from the lump-sum regime until 31 December 2020. Starting from the tax period 2021 the foreign taxpayer will no longer be subject to lump-sum taxation because of the Swiss citizenship of her husband.

### Example 3

For a taxpayer already subject to lump-sum taxation based on expenditures of CHF 400,000: From 1 January 2021 (after the transitional regime has expired), the new wealth tax will cause increased accrued taxes of approx. CHF 9,800 which amounts to an additional burden of approx. 7.7% compared with the current legal situation.

Taxable income	Taxable Wealth	Income tax (total)	Wealth tax (total)	Total tax	Increase
400'000	2'000'000	128'400	9'800	138'200	+ 7.7%

\*Source: Dispatch no. 7120 of the Government of the Canton Ticino dated 23 September 2015.

Paolo Bottini  
paolo.bottini@baerkarrer.ch  
T: +41 58 261 58 00

Edoardo Buzzi  
edoardo.buzzi@baerkarrer.ch  
T: +41 58 261 58 00

Zurich  
Bär & Karrer AG, Brandschenkestrasse 90, CH-8027 Zurich,  
T: +41 58 261 50 00, F: +41 58 261 50 01, zurich@baerkarrer.ch

Geneva  
Bär & Karrer SA, 12, quai de la Poste, CH-1211 Geneva 11,  
T: +41 58 261 57 00, F: +41 58 261 57 01, geneva@baerkarrer.ch

Lugano  
Bär & Karrer SA, Via Vegezzi 6, CH-6901 Lugano,  
T: +41 58 261 58 00, F: +41 58 261 58 01, lugano@baerkarrer.ch

Zug  
Bär & Karrer AG, Baarerstrasse 8, CH-6301 Zug,  
T: +41 58 261 59 00, F: +41 58 261 59 01, zug@baerkarrer.ch

[www.baerkarrer.ch](http://www.baerkarrer.ch)