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Lump-sum taxation in Switzerland: Recent developments

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The lump-sum taxation system in Switzerland that taxes on the basis of living expenses rather than actual income, is offered to foreign nationals taking up residence in the country or to residents returning after a long absence. Recently, various cantons have seen a wave against this system and its subsequent abolition in some of its cantons including Zurich. This article sets out the current situation with regards to this system in different cantons.

I. Introduction

Switzerland offers foreign nationals—who take residence in Switzerland for the first time or after ten years of absence, and who are not employed here—the possibility of paying tax based on their living expenses rather than their actual income. This so-called lump-sum taxation has recently become under pressure in various cantons of Switzerland. The canton of Zurich was the first one to abolish lump-sum taxation by a popular vote. Many of the other cantons voted to keep the lump-sum tax regime, but implemented stricter rules. As for federal level, the Swiss Federal Parliament approved revisions which mainly set a higher basis for taxation.

II. Gstaad: Stricter rules for the lump-sum taxation in the canton of Berne

On September 23, 2012 the people in the canton of Berne voted on the question whether or not the lump-sum taxation system should be abolished. With a clear majority of two thirds wanting to retain the system of lump-sum taxation, the canton continues to preserve the same system. Most interesting is the overwhelming majority of 92 percent, with which the community of Saanen (which includes the well known Gstaad) clearly rejected the proposal of abolishing lump-sum taxation.

Nevertheless, the rules will be redefined with an accepted counterproposal setting forth stricter rules for the calculation of the taxable basis. These rules follow the proposal of the Swiss Federation regarding federal taxes and this solution has been duly accepted by 53 percent of the voters in Berne. The basis for taxation will increase substantially to seven times the rental value with a new minimum taxable income of CHF 400,000. At the moment, approximately 230 people in Berne are said to benefit from the lump-sum taxation.

Contrary to the cantons of Basle City and Basle Land, where the lump-sum taxation was recently abolished (see below), the canton of Berne has a much more important presence of foreigners benefiting from lump-sum taxation and therefore the economic stake is by far more substantial.

III. Recent developments at the cantonal and federal levels

Following the abolition of the lump-sum taxation in Zurich during the year 2009, the cantons of Schaffhausen and Appenzell Outer Rhodes also voted in 2011 and 2012 respectively to abolish lump-sum taxation. Further, the big council of Basel City decided on September 19, 2012 to abolish lump-sum taxation in 2014. The deadline is still officially open to present a referendum; however, there are very slim chances that such a referendum will be presented. The canton of

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Basle Land voted on September 23, 2012 and accepted the abolition of the lump-sum tax regime with a majority of 62 percent.

Thurgau, St. Gall, Lucerne and Glarus voted to retain the system of lump-sum taxation. However, the first three cantons have introduced stricter rules to govern it.

The Swiss Federal Parliament has approved revisions for lump-sum taxation at federal and cantonal levels. The following amendments were subjected to final vote on September 28, 2012 by both the chambers of the parliament and will be implemented in the subsequent ways:

- For federal and cantonal tax purposes, the lump-sum tax base will be at least seven times the rental value of the individual's own property, or seven times the rent paid to the landlord in Switzerland, or three times the costs for board and lodging.
- For federal tax purposes, the minimum tax base will be CHF 400,000. The lump-sum tax will be increased within a period of five years.
- For cantonal tax purposes, the minimum tax base will be freely determined by the canton concerned, but has to be minimum CHF 400,000. The cantons will have to levy a wealth tax. The cantons have to implement the new law within a period of two years.
- A transition period of five years will be granted to all individuals subject to lump-sum taxation at the time when the new regulation enters into force (which is likely to be 2014).

IV. The initiative to abolish lump-sum taxation

The alternative left wing party is expected to submit a proposal to the federal government this month to abolish lump-sum taxation. The proposal has the title *"An End to Tax Privileges for Millionaires"*. The deadline for the collection of signatures expires on October 19, 2012. The process of collecting the necessary signatures was lengthy (it started in 2011) and also proved to be quite a challenge. However, due to the support of the Socialists, the Green Party and the Federation of Trade Unions, it did receive a significant number of signatures. By the middle of September, there was only a shortfall of around 10,000 signatures. Representatives of the Socialist Party are confident that the necessary number of minimum 100,000 signatures will be achieved by the deadline with a strong hope that the proposal will be launched in due course. However, even if the initiative is successful, a vote will be necessary to decide on this issue, which can take some time, and the outcome of such a vote is open.

If the initiative is accepted by vote, lump-sum taxation will be abolished at federal and cantonal levels based on a new constitutional Article, 127 paragraph 2 bis, stating that *"Tax privileges for natural persons are illegal. Taxation based on the expenses is forbidden."* The initiative introduces a deadline of three years for the Federation to issue the corresponding implementing laws.

V. The trends and what to expect

A trend against lump-sum taxation started with the abolition of the lump-sum taxation in Zurich in 2009. Since then the voters in eleven other cantons have de-

bated on the same issue. In most of the respective cantons, the Government and the Parliament have attempted to save the lump-sum taxation in the same manner as the federal government. It remains uncertain whether the efforts of the federal government will be sufficient to save the lump-sum taxation on a long term basis as is illustrated by the above-mentioned initiative for its abolition. However, substantial economic interests are at stake in certain cantons like Vaud, Geneva, Valais, Ticino and Grisons where there are significant numbers of lump-sum tax payers. The results of the initiative are therefore difficult to predict.

The OECD recommended the abolition of the lump-sum taxation in its country report on Switzerland in January 2012. The OECD's recommendation should be relativised in view of the fact that several other EU jurisdictions have similar taxation methods, such as the UK with its resident non-domiciled tax status.

A further trend in connection with lump-sum taxation seems to be a shift in the attitude of the authorities in various cantons. These authorities are seen to exercise greater controls over persons domiciled in their cantons who are benefiting from the lump-sum taxation system and effectively have their centre of life interests in that canton. Such controls could also result in the revocation of residence permits of those persons who have not complied with the domiciliation rules.

VI. Conclusion

By tendency, the efforts for the abolition seem to fall on fertile ground where the lump-sum taxation is not of great importance. In the cantons of Appenzell, Aargau and Schaffhausen for example, only 22 and 5 persons respectively were subjected to lump-sum taxation; therefore, this instrument of taxation played a very marginal role. Also, in Baselland and Basel-Stadt (with only 9 and 19 people subject to lump-sum taxation), the abolition is more of a symbolic character. On the other hand, in areas where lump-sum taxation has a strong economic impact, as high as 92 percent of the votes are in favour of retaining the lump-sum tax regime (such as Saanen / Gstaad). The situation is also different in the canton of Vaud with its almost 1400 inhabitants taxed on a lump-sum basis. Although the canton is under the influence of a strong political left wing, in the light of the fiscal consequences, they do not succeed in collecting the required signatures for a people initiative.

All individuals subject to lump-sum taxation today will benefit from a transitional period of five years following the date when the new regulation enters into force. Therefore, it is estimated that their respective tax situations may not need to be reassessed until the years 2018 or 2019. On the other hand, the developments with regard to the initiative to abolish the lump-sum taxation system also need to be monitored.

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