

GHR Factsheet

Swiss lump sum taxation regime - update

Foreign nationals moving to Switzerland are in general subject to the same income and wealth taxes as Swiss residents. In view of the very low tax rates in some Swiss cantons respectively communities, ordinary taxation rules may already offer an attractive tax environment. This being said, foreign nationals who move to Switzerland may, under certain conditions, pay in lieu of ordinary wealth and income taxes, a lump sum tax based on their living expenses. In certain cases, this so-called expense-based or lump-sum taxation may provide significant tax savings. The taxable income and wealth bears no direct relation to the actual worldwide income or assets. The lump sum taxation provisions are specifically aimed at financially independent persons who are not seeking employment in Switzerland.

Requirements and procedure

The lump-sum taxation regime is only available to foreign nationals who immigrate to Switzerland for the first time or after an absence from Switzerland of at least ten years. The lump-sum taxation regime is only available to individuals who abstain from any gainful, professional or commercial activity in Switzerland. Activities carried on outside of the Swiss territory are not affected by this requirement. Prior to immigrate to Switzerland, it is strongly recommended to request a formal tax ruling with the competent tax authorities in order to get confirmation that the requirements for lump-sum taxation are met and, in particular, to determine the amount of living expenses relevant for the lumps sum taxation. This tax ruling is binding for the tax authorities based on the facts disclosed but can be reviewed in any given tax period. However, usually the agreed amount of living expenses is not reviewed until relevant changes in the personal or financial situation of the taxpayers arise. Determination of tax base Income taxes under the lump-sum taxation are based on a notional, fictitious net income, which is determined primarily by reference to the individual's or family's living expenses that must amount to at least five, seven or ten times (depending on the canton; see Federal Law on the Amendment of the Lump Sum Taxation Regime) the annual housing expense (annual rental payments for the apartment or house in which the foreign national will reside in Switzerland; if the foreign national owns the real estate, the annual real rental value is taken as the basis for this calculation).

However, other income elements must also be considered when calculating the total tax liability, namely (i) Swiss source income as well as income for which (ii) a partial or total reduction of foreign taxes is requested under one of the double tax treaties concluded by Switzerland. Please

note that the tax treaties with Germany, Austria, Belgium, Canada, Italy, Norway, and the United States contain specific provisions, which provide that an expense based taxpayer residing in Switzerland can seek relief under the relevant tax treaties only if all income derived from the relevant country is fully taken into consideration (so-called *Modified Expense-Based Taxation*).

Furthermore, most of the cantons require a minimum amount of (deemed) taxable income (and net wealth) for the lump-sum taxation regime to be applied. In addition to this calculation of the income tax base, the cantonal net wealth tax base is then typically determined by capitalizing the income tax base. The tax amount is then calculated by applying the ordinary rates for the income and net wealth taxes. It has to be mentioned that in practice the taxable income/net wealth shall bear an "acceptable" relation to actual worldwide income or assets (even though the tax payer is not officially asked to declare his worldwide income or assets in Switzerland).

Federal Law on the Amendment of the Lump Sum Taxation Regime

Following increased criticism of the lump sum taxation regime which is granted to foreigners taking up residence in Switzerland, the Federal Government has decided to review and adapt the rules for lump sum taxation at the cantonal and federal levels. According to such new regulations:

- at the cantonal level, annual taxable income shall be equivalent to at least seven (instead of five) times the imputed income attributable to homeowners or three times the annual board and lodging costs or a minimum amount determined by the cantons. The cantons are required to align their laws to these provisions by January 1, 2016;
- at the federal level, the same rules apply as at the cantonal level but the minimum income tax assessment shall amount to at least CHF 400'000.— per year.

These changes will enter into force on January 1, 2016. The law provides for a transition period of five years.

Popular Initiative against Lump Sum Taxation Rejected by Swiss Voters

In October 2012, a «Committee for the Abolition of Lump Sum Taxation» introduced a constitutional initiative entitled «An End to Tax Privileges for Millionaires». It aimed at abolishing lump sum taxation in Switzerland at the federal and cantonal levels.

However, on November 30, 2013, the Swiss voters rejected the proposed constitutional amendment and decided to uphold the lump sum taxation regime for foreign citizens domiciled in Switzerland. The popular initiative was rejected by a clear majority of 59.2% of the votes.

Social security contributions

Social Security Contributions Old-age and survivors' insurance (AHV), invalidity insurance (IV) and income compensation insurance (EO) are compulsory insurances for all persons living or working in Switzerland. Particularly, also non-working persons must pay social contributions following the year after their 20th birthday until reaching the ordinary retirement age, currently 65 years for men and 64 years for women. Individuals under lump-sum taxation may also belong to this category. In most cantons the calculation of the contributions are based on the tax assessment of the cantonal tax authorities. The maximum contribution amounts to CHF 23'750 per year. If both spouses have not reached the ordinary pension age the annual contributions of both together amounts up to CHF 47'500. In case of an employment abroad (in particular within the EU) it might be possible to apply for an exemption from the obligation to pay Swiss social security contributions.

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