BIANCHISCHWALD

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LUMP SUM TAXATION in the Canton of Geneva

Foreign individuals who take up residence in Switzerland may choose to be taxed under the special regime called "**lump sum taxation"** or "**forfait fiscal**". This special regime that has been modified in 2016 applies instead of the ordinary taxation on worldwide income and assets. The lump sum taxation does however not replace the estate and gift taxes[1].

The **conditions** for the "forfait fiscal" are the following:

- no Swiss citizenship,
- first tax residence in Switzerland or new tax residence after an absence of at least 10 years, and
- no gainful activity in Switzerland (dependant or independent). A gainful activity abroad is possible as long as the taxpayer maintains his effective domicile in Switzerland.

In case of a **married couple**, each spouse must fulfil all the conditions.

The **taxable amount** is set based on the living expenditure in Switzerland and abroad of the taxpayer and the persons supported economically by the taxpayer. In practice, the taxable amount is negotiated with the tax authorities of the canton of residence upon arrival in Switzerland. But the taxable amount must be at least equivalent to the highest of the following amounts:

- an amount set by the canton,
- 7x the annual rent (or the rental value) of the main residence, and
- 3x the annual pension for the accommodation and food.

The **amount of tax** must be at least equivalent to the amount of taxes assessed according to the ordinary regime on the following items:

- real estate in Switzerland and income derived therefrom ;
- movable assets situated in Switzerland and income derived therefrom ;
- investments placed in Switzerland and income derived therefrom, including receivables secured by mortgage and income therefrom (foreign securities are treated as foreign investments even if there are deposited with a bank in Switzerland) ;

[1] Most of the Swiss cantons have abolished the estate and gift taxes between direct relatives and spouses; for those cantons that still level these taxes, the rate is very low. There is an exemption in the canton of Geneva but it does not apply if one of the three last tax assessments of the donator / deceased was established under the "forfait fiscal" regime. In this case, the estate and donation tax between direct relatives and spouses will not exceed 6%.

- copyrights, patents and other similar rights exploited in Switzerland and income derived therefrom;
- pensions and annuities from Swiss sources;
- foreign source income benefiting from a tax relief under a double taxation treaty concluded by Switzerland.

A comparison (i) of the taxes calculated on the above elements (ii) and the taxes calculated on the forfeit negotiated with the authorities will be made each year by the tax authorities (**control calculation**) and the higher will be levied.

Only the above listed elements must be declared by the lump sum taxpayers. In other words, **the foreign source income** that do not benefit from a double taxation treaty and **foreign assets** do not need to be declared.

Lump sum taxpayers may in principle benefit from **the double taxation treaties** concluded by Switzerland. Some of them (treaties with **Germany, Austria, Belgium, Italy, Norway, Canada and the USA**) provide for a special condition that the forfait taxpayers must include in their Swiss tax return all the income derived from the foreign country in question and taxable in Switzerland according to the treaty. As regards the treaty with **France**, the situation is uncertain since France unilaterally declared that forfait taxpayers are no longer regarded as Swiss residents for the operation of the treaty.

As any other person resident in Switzerland, the forfait taxpayers must contribute to **AVS** (social security system) until 65 years old (for men) and 64 years old (for women). The amount of the contributions depends on the lump sum agreed by the tax authorities. The maximum contribution of CHF 25’150.- per annum is reached if the lump sum is CHF 427’500.-. For a couple, each spouse is subject to this contribution.

<u>In the canton of Geneva</u> :

The cantonal law provides since 2016 for a minimum taxable amount of **CHF 400’000.-** (subject to indexation according to the evolution of the Swiss cost of living). Which is the same as for direct federal tax.

For young people (till 55 years old) who have no EU passport and no particular links with Switzerland, getting a residence permit is more complicated and triggers in general a higher minimum taxable amount (in the range of **CHF 750’000.-**).

Since the law was changed in 2016, **the taxable amount** calculated as per the above rules is increased by 10% in order to take wealth tax into account.

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