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Memorandum

To:	**our Clients**
From:	**ALTENBURGER LTD legal + tax**
Date:	**30 September 2014**
Subject:	**Swiss Referendum on Lump-Sum Tax Regime**

In October 2012, an initiative (assembling roughly 103’000 signatures) requesting the abolition of the lump-sum tax regime in Switzerland was filed. The referendum on this initiative will take place on 30 November 2014.

The purpose of this memo is to provide the necessary background information and to set out the consequences of an acceptance of this initiative by the Swiss population.

1. The initiative

The initiative suggests to introduce a new article into the Swiss constitution according to which no tax privileges are admissible for individuals and the lump-sum tax regime is forbidden.

The initiative furthermore imposes a transitional rule. The necessary legislation for the abolition of the lump-sum tax regime must be enacted within 3 years after the acceptance of the initiative.

2. The current legislation

Today, the lump-sum tax regime is available in Switzerland at federal level as well as in most cantons (as regards the cantons, see below).

This special tax regime can be applied for by foreigners who are settling in Switzerland for the first time (or after ten years of absence) and who do not carry out any gainful activity in Switzerland. Applying the lump-sum regime means that the taxes to be paid are not assessed based on the effective income and wealth, but rather on an income and wealth estimation based on the actual annual living expenses of the concerned tax payer.

This tax regime has a longstanding history in Switzerland and is designed for foreigners who wish to take residence in Switzerland after retirement.

In most recent years, changes were introduced to this tax regime at both federal and cantonal level. The main change was that a minimum assessment basis was introduced (which is CHF 400'000 p.a. at federal level).

3. What if the initiative is accepted?

If the Swiss voters accept this initiative on 30 November 2014, the Swiss lump-sum tax regime will be abolished. The regime would no longer be available, neither at federal nor cantonal level.

Taxpayers being currently taxed pursuant to the lump-sum tax regime would, if they continue to maintain their Swiss residence, be subject to ordinary income and wealth taxes (which would mean that their worldwide income and wealth would be taxed in Switzerland).

As the transitional rule of the initiative provides that the necessary legislation would have to be enacted within 3 years, one can expect that the abolition would enter into force on 1 January 2018. This would then also be the deadline for leaving Switzerland if taxpayers currently subject to the lump-sum tax regime do not want to be ordinarily taxed in Switzerland.

4. Outlook on the referendum

The public discussion on the abolition of the lump-sum tax regime was launched by a very small leftist party in the canton of Zurich (the federal taxes were not concerned by this initiative). The vote on this initiative took place in 2009 and a thin majority of the Zurich population voted, to the surprise of everybody, in favour of the initiative.

This Zurich referendum provoked a serious of the same initiatives in other cantons. In four other cantons, the lump-sum taxation was also abolished (Appenzell Ausserroden, Schaffhausen, Basel Land and Basel Stadt). In five cantons (Thurgau, St. Gallen, Luzern, Bern and Nidwalden), the same initiative was turned down by the voters. A very special situation will be taking place on 30 November 2014 in the canton of Geneva as the Geneva voters will be asked to vote on the federal initiative explained in this Memo and at the same time on a cantonal initiative also asking for the abolition of the cantonal lump-sum tax regime[1].

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1 At the cantonal level, the Geneva voters will actually have the choice between the abolition of the lump-sum tax regime and a modified regime proposed by the Geneva Parliament (amongst other changes, the minimum assessment basis would be set at CHF 600'000 p.a.). The cantonal initiative for the abolition is extreme in the sense that there aren't any transitional rules so that, in the event the cantonal initiative is accepted, the abolition would apply as from 1 January 2015.

What has to be taken into account is that the cantons which abolished the regime didn’t have a longstanding history in applying it and therefore also had relatively few taxpayers subject to this regime. In contrast, other cantons (Vaud, Valais, Geneva, Ticino, Graubünden, Schwyz, Nidwalden, Obwalden) had introduced this tax regime a long time ago and they are today the home for an important number of taxpayers who opted for this regime.

The acceptance of the Swiss initiative does not only require that a majority of all Swiss voters are in favour of the initiative, but also that a majority of the cantons are in favour of it. So, even if a majority of the Swiss voters will be in favour of abolishing the regime (eventually helped by the voters of the canton of Zurich who are numerous as compared to those of other cantons), it seems questionable that a majority of the cantons are in favour of the initiative. In case of acceptance, the Swiss initiative would draw off a further piece of autonomy of the cantons.

The initiative on abolishing the lump-sum tax regime is driven by the politically motivated argument that this specific category of people (foreign retirees), who are typically rather rich, should not be able to take advantage of any tax privileges and should be ordinarily taxed as everybody else. This argument is simple and therefore dangerous as compared to the arguments of the opponents of the initiative, who are arguing that the abolition of this tax regime would have a major negative impact on tax revenues and on the economy in general.

The previous cantonal votes demonstrated that the voters do understand that an abolition of the lump-sum tax regime is only politically motivated and would harm the Swiss economy. All in all, we are confident that the initiative will be turned down.