CANTON TICINO: ITS UNIQUE ATTRACTIVENESS AND ROLE IN SOUTHERN SWITZERLAND FOR DOING BUSINESS AND INVESTMENTS

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1. Introduction: why Canton Ticino?

2. An overview and brief comparison of Canton Ticino’s taxation

2.1. Taxation of individuals
2.1.1. Income taxation
2.1.2. Wealth taxation
2.1.3. Inheritance and gift taxation
2.1.4. Lump sum taxation for retired individuals

2.2. Corporate income and capital taxation

2.3. Ticino as an attractive location for companies / businesses and highly-skilled manpower

2.4. Advantageous fiscal treatment of holding and service companies, headquarters and companies qualified as "principal", as well as fiscal treatment of investment funds and asset management companies

3. Tax planning opportunities for foreign trusts, fiscal treatment of Swiss located trustees and taxation of trust assets and income

4. Swiss tax reforms and developments: a positive impact on the business environment of Canton Ticino

5. Conclusion
1. **Introduction: why Canton Ticino?**

The many good reasons to invest in or relocate to Switzerland are equally valid for the southern Swiss Canton Ticino, which has an area of 2'812 sq. km or 6.8% of the total area of Switzerland and a population of about 330'000 inhabitants. Unlike the northern French and German Cantons of Switzerland, which consist of many Cantons, each one with its own particular cultural, political and economic features and cantonal legislation, the southern part of Switzerland consists of just only one Canton with its unique Italian cultural identity but with strong roots in the Swiss Confederation. As Prof. J. Steinberg of the Pennsylvania University stated in an article entitled: "Ticino: A Model of Europe" written in July 2004 “Ticino calls itself officially the Republic and Canton of Ticino and like every modern state, has a proper constitution” and “Ticino serves as a model of Europe and acts as the glue which has helped to hold the Swiss Confederation together”.

Taking into consideration the relevant key factors of Switzerland’s attractiveness, which are positively considered by foreign managers, investors and individuals, namely quality of life, a high standard of formation, top research centres with an excellent degree of innovation, a highly skilled, multilingual workforce, political and monetary stability, and moderate business friendly taxation, Canton Ticino is able to offer collaterally:

- An attractive business and investment environment, which benefits from being the third Swiss financial services centre in Switzerland, located mainly in the Lugano area, the presence of important regional headquarters of large multinational companies and, thanks to the unique geographic position of Ticino, an international logistic district (in the Mendrisio-Chiasso area).

- A high degree of social freedom and security for persons and goods (Lugano has been recently acknowledged as one of the most secure cities in Switzerland).

- High level of education, training and outstanding standard of research centres. The attractiveness of Ticino and its international exposure is confirmed by the presence of the oldest American boarding school in Europe (www.tasis.com) and by Franklin College (www.fc.edu) as well as the University of Lugano (www.usi.ch) and the Academy of Architecture of Mendrisio (www.arc.usi.ch) which, thanks to its geographic position, have rapidly emerged as an academic bridge with Northern Italy. In addition, the Swiss University of Applied Sciences in Canton Ticino (www.supsi.ch) together with the Centre for Banking Studies (www.csbancari.ch), the Swiss National Supercomputing Centre (www.cscs.ch), the Biopolico Ticino (www.bipolo.ch) and the Cardiocentro Ticino (one of the most outstanding cardiac centres in Switzerland, www.cardiocentro.org) form a strong and highly qualified concentration of technical and scientific centres dedicated to training and research.

- Optimal transport connections: the airport of Milan-Malpenssa can be reached within an hour’s drive, whereas from Lugano Airport, the airports of Geneva and Zurich can easily be reached in about 30 minutes.

- And finally, but not least, there is a business-oriented, tax-friendly, safe and outstandingly beautiful environment with a high quality of life, Mediterranean-influenced climate and Italian lifestyle and culture (www.bellinzonaturismo.ch, www.lugano-turism.ch). In addition, there is strong support for start-ups of entrepreneurial activities, regulated by the Law on Economic Innovation, offered by the Canton Ticino Economic Promotion Office (www.ti.ch/promozione-economica), which provides incentive measures for new industrial initiatives with high technological and innovative value.
2. **An overview and brief comparison of Canton Ticino’s taxation**

The Swiss direct democracy system together with the high degree of constitutional autonomy and sovereignty given to the Cantons have assured a moderate fiscal burden for individuals as well as for companies providing at the same time a “lawful” tax competition between Cantons and even at the Communal level. Canton Ticino is increasingly confronted with such competition, which exercises a strong break to certain political initiatives to increase tax rates especially for corporate income taxes and for high income and wealth levels of individuals. In general terms Canton Ticino’s fiscal burden for individuals and corporations is situated within the Swiss average. A more detailed analysis is presented to the reader hereinafter.

2.1. **Taxation of individuals**

2.1.1. **Income taxation**

A study published by the Fiscal Research Centre of Supsi University (www.ti.ch) in May 2010, comparing the tax burden of Canton Ticino on the income of individuals with the one of other Cantons has shown the following result:

The maximal tax burden as a percentage of the taxable income for the year 2010 in the capital city of Canton Ticino, Bellinzona is 29.7, whereas the average Swiss tax burden is situated at 20.78%. A brief comparison with other Cantons shows the following: Zug 11.6, Luzerne 19.2, Graubünden 20.9, Wallis 25, Zurich 28.5, Vaud 30, Geneva 33.5.

On the other hand, for low and medium size taxable income (individuals living alone without children), the result of the comparison is the following:

Taxable income CHF 50’000.00: Ticino 7.22, Swiss average 8.90, lowest Swiss tax burden Zug 4.64, highest tax burden Neuchâtel 12.04.

Taxable income CHF 200’000.00: Ticino 18.3, Swiss average 17.46, lowest Swiss tax burden Zug 9.94, highest tax burden Neuchâtel 23.74.

2.1.2. **Wealth taxation**

Wealth taxation is only levied at Cantonal and Municipal level and not at Federal level. Based on the study referred to above, Canton Ticino tax policy tends to privilege small size wealth (up to CHF 200’000.00 Ticino is in first place in Switzerland) whereas for medium and high wealth, the situation is as follows:

Taxable wealth CHF 500’000.00: taxation 2.29‰, rank 14°, Swiss average 2.86‰.

Taxable wealth CHF 5 millions: taxation 6.13‰, rank 17°, Swiss average 4.78‰.

Taxable wealth CHF 10 millions: taxation 6.51‰, rank 20°, Swiss average 4.91‰.

2.1.3. **Inheritance and gifts**

Inheritance or estate tax jurisdiction (as well as for donations) is kept exclusively at the Cantonal level. Canton Ticino generally provides for such tax liability when the deceased had his last domicile in Canton Ticino. Without exception, there is also tax liability based on immovable property situated in the Canton. The heir or beneficiary is tax liable regardless of his residency or nationality. In line with the general Cantonal tendency to exempt the spouse and children of the deceased from taxation Canton Ticino tax law provides for a full
exemption for direct line ascendants or descendants and the same applies for the surviving spouse. The same principle applies to donations.

2.1.4. Lump sum taxation for retired individuals

Canton Ticino has recognized that this special advantageous fiscal treatment, to which only foreigners being resident in Switzerland for the first time or after an absence of 10 years, can benefit (provided they do not exercise or pursue any gainful activity) is of paramount importance for the local economy. The attractiveness of Canton Ticino is also based and strengthened by such a lump-sum taxation system, which has a strong legal base. As determined by the Cantonal tax administration, the minimum taxable income applicable to the lump sum fiscal system has been fixed for the year 2012 at CHF 200’000.00, which compared to other Cantons is quite advantageous. Considering the various parliamentary interventions in Switzerland and the political debate, which has resulted in an intervention of the Federal Department of Finance and a statement by the Directors of the Cantonal Finance Departments, Canton Ticino will in future maintain in full force the lump sum taxation system although, in line with the Federal Government, it will modify the conditions for applying this taxation system as follows:

For Federal tax purposes the minimum tax base will be CHF 400’000.00.
For Cantonal tax purposes, the minimum tax base shall be freely determined, however, the tax base will be increased in accordance with certain parameters.
For existing lump sum taxpayers a “grandfathering period” of 5 years will be assured.

2.2. Corporate income and capital taxation

Corporations are considered resident for tax purposes and thus subject to full taxation in Switzerland respectively in the Canton if incorporated there or, in the case of foreign established corporations, if their place of effective management is located in Switzerland / Canton Ticino as provided by Article 50 Direct Federal Tax Law and Article 20 (1) of the Federal Harmonization Tax Law and the Tax Law of Canton Ticino (Legge Tributaria – LT) applicable to juridical persons as regulated in Articles 59, 60, 61 and 62 LT.

Companies and cooperatives are subject to Cantonal company income taxation, which has been fixed at a rate of 9% computed on the taxable net income (Article 76 Cantonal Tax Law). Based on the Communal / Municipal fiscal multiplier (which ranges from 50 to 100%), the total tax burden on the corporate net taxable income or on the income earned by a permanent establishment of a foreign company based in Canton Ticino, is calculated as follows:

Federal tax 8.5% (Article 68 Federal Direct Tax Law)
Cantonal taxation 9%
Municipal tax: in accordance with the Municipal tax multiplier, calculated on the amount corresponding to the Cantonal taxation.

It is important to note that the effective tax burden is lower than the sum calculated of all here mentioned tax factors as, in accordance with Article 68 LT of the Cantonal Tax Law, the Federal, Cantonal and Municipal taxes paid, form a deductible cost when calculating the taxable amount.

In addition, companies are subject to taxation at Cantonal and Municipal level on their net equity equal to 1.5%o of the equity owned (paid in share capital, reserves, undistributed profits) as provided for by Articles 80 and 82 LT of the Cantonal Tax Law.
2.3. Ticino as an attractive location for companies / businesses and highly-skilled manpower

Two important pieces of research published by KPMG in October 2010 entitled “KPMG’s Corporate and Indirect Tax Survey 2010” (www.kpmg.com) and by BAK Basel Economics AG in December 2009 entitled “BAK Taxation Index 2009” show following positive and encouraging results:

a) Comparing the maximum corporate direct tax rates in 2010 of the Swiss cantons with all European countries, so in total a comparison of 49 tax systems, Ticino is placed at rank 24 with an effective maximum tax burden of 20.78% before other Swiss cantons like Fribourg, Zurich, Valais, Berne, Neuchâtel, Basel City, Vaud and Geneva and before The Netherlands (25.5%), Finland (26%), Sweden (26.3%), UK (28%), Germany (29.41%), Italy (31.4%), France (33.33%) and Belgium (33.99%). Although Canton Ticino cannot enjoy a very low corporate taxation like Zug, Canton Ticino remains a very attractive location and keeps its highly competitive position.

b) When comparing taxation of highly skilled manpower, the BAK Taxation Index 2009 shows effective tax levels in the Index that range between 11.6% in Singapore to 56.5% in Belgium (Italy 50.3%) while the position of Canton Ticino (with 34.1%) is within the average of the Swiss cantons showing Zug with 24% and Vaud with 37.3%.

2.4. Advantageous fiscal treatment of holding companies, service companies and headquarters, companies qualified as “principal” and attractive fiscal treatment of investment funds and asset management companies

Canton Ticino can also be an attractive location for a foreign investor when he has to evaluate the setting up of a holding company, an auxiliary company, a service company or a “principal” company, the last being a company belonging to an international group that has taken over certain corporate tasks and functions as well as entrepreneurial risks within the group and this following certain market or product criteria.

In order to strengthen the competitiveness of Switzerland as an attractive and advantageous place to set up investment funds and relocate foreign fund managers to Switzerland, the Federal Act on Collective Investments Schemes entered into force the 1.1.2007. For cantonal tax purposes (and federal) only SICAFs are regarded subject to tax while transparent entities like Limited partnerships for collective investments and SICAV are itself not taxable. On the other side, the fund manager /advisor (of Swiss funds) structured as a company formed and managed in Canton Ticino will be liable to ordinary taxation with no special advantageous fiscal treatment. Should however the fund management company manage assets of a foreign fund, it would be advisable to obtain a favourable advance tax ruling to reduce the (Swiss) taxable base to a modest portion of the overall foreign source income correlating such taxable base to the marginal and auxiliary nature of the administration done in Canton Ticino.

3. Tax planning opportunities for foreign trusts, fiscal treatment of Swiss located trustees and taxation of trust assets and income

Assuming that the reader of the present article is aware of the legal framework that has recognized trusts in Switzerland as well as of the Circular 30 of the Swiss Tax Conference issued 22nd August 2007 and Circular 20 of the Federal Tax Administration issued 27th March 2008 it can be confirmed that the Ticino Cantonal Tax Administration has fully adopted the
fiscal rules and principles on how either the settlor or the beneficiaries are subject to tax. The administrative practice on the fiscal treatment of trusts has no doubt further assisted the business case for locating trustee activities in Switzerland and Canton Ticino in particular, being recognized that only the trustee fee is taxable while trust assets (and income) could have a tax free home in Canton Ticino. This is because what counts is not the location of trust assets but the fiscal residency of the settlor and / or of the beneficiaries depending whether the trust is revocable or irrevocable and whether it is discretionary or a fixed interest trust. The rule, in accordance to which a Swiss resident settlor is considered not to have disposed of his / her assets when forming an irrevocable discretionary trust, is not applicable to a foreign resident settlor even if he moves at a certain time to Switzerland. On the other hand, the settlement by a Swiss resident settlor of an irrevocable fixed interest trust with beneficiaries, being his direct descendant, who will be resident abroad when they receive distributions, could be an appropriate tax planning issue to mitigate taxation of assets and income in the hands of the settlor. For Swiss residents subject to tax on a lump sum basis, only assets in Switzerland and income from Swiss sources are to be taken into account in their tax assessments. Such persons may still set up discretionary irrevocable trusts provided the trust was created prior to the settlor taking up residence in Switzerland. It is in any case recommended, before setting up a trust settlement or before relocating a settlor of a foreign trust or a beneficiary to Switzerland, to apply for an advanced tax ruling from the competent Cantonal tax authorities.

4. Swiss Federal tax reforms and developments: a positive impact on the business environment of Canton Ticino

The hereinafter mentioned fiscal measures adopted by the Federal Act on the Improvement of Tax Law for the Entrepreneurial Activity and Investments (Business tax reform II as approved the 24.2.2008 have been in the meantime implemented and acknowledged in the Cantonal legislation (Legge Tributaria – LT) and are now fully effective:

a) tax free reorganizations of a business operation; art. 29. 73 and 125 f LT;
b) tax relief for liquidation of a business; art. 37b LT;
c) tax free replacement of business assets;
d) tax free replacement of participations;
e) shareholder relief taxation for individuals; art.17, art 19, art.44, art.71 LT;
f) participation relief for companies and cooperatives; art. 77 LT;
g) principle of paid-in capital.

For private investors as well as for business operations and reorganizations all the measures adopted by the Canton Ticino tax legislation mean an incentive and substantial reduction of the fiscal burden on the return of entrepreneurial capital investment. This positive fiscal frame will be improved with the adoption of the tax provision of the Business Tax Reform III. The proposed abolition of the Federal Stamp Duty and of the Cantonal Taxation on capital together with an amelioration of the participation exemption for companies will further increase attractiveness for entrepreneurial activities in Canton Ticino.
5. Conclusion

Foreign investors, managers and individuals may have different targets and motives for considering their investments, business relocations or simply the wish to relocate as an individual to Canton Ticino. Some other Cantons like Zug offer more advantageous fiscal conditions; other cantons, like Zurich are more business driven being the “economic capital city” of Switzerland. Ticino, however, with its financial and business driven areas can provide an ideal mix combining its unique southern Swiss geographical position (with high quality of life and Mediterranean climate in an outstanding landscape and efficient transportation system) with all the ingredients that assure innovation, security, entrepreneurship, freedom and a strong banking system. The appealing taxation system, that compares so favourably with other countries and with many other Swiss cantons, should be considered as further criteria for answering positively the question ‘Why Canton Ticino’?

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