

TAX SHIELD

(Bouclier fiscal)

In addition to the usual income tax deductions, which leave little room for manoeuvre, several Swiss cantons, including the canton of Geneva and Vaud, have a provision in their tax law for a **maximum tax limit**. This provision is commonly referred to as the **Tax Shield** (Bouclier fiscal in French).

The purpose of the Tax Shield is to respect the federal constitution which provides for the prohibition of confiscatory or spoliatory taxes resulting from the accumulation of income tax and wealth tax. On the other hand it also reduces the tax burden by preventing taxpayers from having to reduce their assets to pay wealth tax. Finally, it makes the taxation of the concerned taxpayers more attractive especially in the inter-cantonal context.

Tax provisions

- Article 8 paragraph 3 of the law on communal taxes (LCom), in force since 01.01.2009.
- **"The cantonal and municipal taxes on income and wealth may not exceed a total of 60% of the net income within the meaning of article 29 of the law of 4 July 2000 on direct cantonal taxes (LI), plus the deductions provided for in article 37, letters h, hbis and i LI. However, for this calculation, the net income of the assets may not be lower than the rate set in the annual tax law."**
- Article 7 of the annual tax law 2016: "for the calculation of cantonal and communal taxes on income and wealth, the rate provided for in Article 8, paragraph 3, last sentence of the law of 5 December 1956 on communal taxes (LCom) **is of 1%.**"

Calculation samples (tax rates are illustrative)

Sample 1

Net wealth : CHF 10'000'000 = tax amount : CHF 75'000 (0,75%)
Net income : CHF 300'000 = tax amount : CHF 90'000 (30%)
Total cantonal & municipal tax = CHF 165'000

Maximum tax = 60% of CHF 300'000 = CHF 180'000

As the total ordinary tax is lower than the maximum standard, there is no tax reduction (no application of the tax shield)

Sample 2

Net wealth : CHF 10'000'000 = tax amount : CHF 75'000 (0,75%)
Net income : CHF 120'000 = tax amount : CHF 36'000 (30%)
Total cantonal & municipal tax = CHF 111'000
(tax equivalent to 93% of net income)

Maximum tax (application of the tax shield) :

- Minimum return of 1% achieved (CHF 10 million / CHF 120,000 = 1.2%)
- Maximum tax amount according to standard (60%) = CHF 72'000
- The maximum tax amount of CHF 72,000 (-35%) is levied instead of the CHF 111,000 which is clearly confiscatory.

Sample 3

Net wealth : CHF 10'000'000 = tax amount : CHF 75'000 (0,75%)

Net income : CHF 80'000 = tax amount : CHF 24'000 (30%)

Total cantonal & municipal tax = CHF 99'000

(tax equivalent to 124% of net income)

Maximum tax (application of the tax shield) :

- Corrected net income (1% on CHF 10 million) = CHF 100'000
- Maximum tax amount according to standard (60%) = CHF 60'000
- The maximum tax amount of CHF 60,000 (-40%) is levied instead of the CHF 99,000 which is clearly confiscatory.