



Protection of Privacy in Financial Matters

Brief Summary

In Switzerland, banking secrecy protects the financial privacy of citizens from unauthorized access by third parties or by the State. Important financial centers such as Switzerland are exposed to the risk of abuse for criminal purposes, and therefore require high-quality regulation and supervision. At the international level, Switzerland is at the front lines in participating in the fight against cross-border financial crime, using internationally recognized standards for ensuring integrity. By adopting Article 26 of the OECD Model Convention on international administrative assistance in tax matters in its bilateral double taxation agreements, Switzerland will now exchange information for tax purposes with other countries in individual cases and upon specific request. Switzerland is prepared to further expand the existing cross-border collaboration within the scope of bilateral negotiations and is examining measures to promote the tax honesty of bank clients (for example, the introduction of self-declaration).

The Protection of Privacy: Banking Secrecy

In Switzerland, citizens have the right to protection of financial privacy. Banks are required to maintain confidentiality concerning the financial affairs of their clients. The owner of the information is the bank client, not the bank. The bank alone cannot lift banking secrecy. The client may relieve the bank of its confidentiality, however, and allow or even require it to disclose information covered by banking secrecy. In the cases provided by law, the bank may also be forced by the competent authority to disclose bank client information--especially when there is sufficient suspicion of an offense. Banking secrecy arises from civil law, especially the contractual obligation of the banker to keep the personal information of his or her client confidential. The privacy of the client is also protected by the general provisions of the Swiss Civil Code concerning protection of personality (Articles 27 et seq.) and by the law on data protection. Moreover, under civil law, banking legislation considers the confidentiality of the banker to be a professional obligation, the violation of which is punishable (Article 47 of the Banking Act).

Legally Defined Limits of Banking Secrecy

There are legally defined limits of banking secrecy. Numerous provisions of civil law, debt collection and bankruptcy law, criminal law, administrative criminal law, and mutual assistance in criminal matters provide for exceptions to banking secrecy. Accordingly, banking secrecy can be lifted against the client's will on the order of a judicial authority or a supervisory authority. The Swiss financial center has comprehensive mechanisms at its disposal to defend against assets originating from criminal offenses. By international standards, the Swiss rules are very strict. In particular, they require that the contracting party be identified when accepting assets and that the origin of the assets be clarified. The framework is established by the Anti-Money Laundering Act, the provisions of which are specified in more detail by the implementing rules and regulations. The instruments employed

to fight money laundering are also used to combat terrorist financing (see the "Combating Money Laundering and Terrorist Financing" fact sheet).

International Cooperation in Tax Matters

In its international relations, Switzerland has two ways of exchanging information in tax matters. Administrative assistance, which is based on bilateral double taxation agreements (DTAs), on the one hand, and international mutual assistance in criminal matters, through which information can be exchanged between judicial authorities, on the other. Mutual assistance is rendered in accordance with the Federal Act on International Mutual Assistance in Criminal Matters (IMAC).

In March 2009, Switzerland adopted Article 26 of the OECD Model Convention on international administrative assistance in tax matters, making it possible to exchange information for tax purposes with other countries in individual cases and upon specific and justified request regardless of whether there is a tax offense.

At the same time, Switzerland is actively committed--in the OECD and in particular in the Global Forum on Taxation--to a level playing field for implementing standards internationally and to the establishment of an efficient monitoring procedure. Switzerland is now represented for the first time in the Bureau of the OECD Committee on Fiscal Affairs and in the Bureau of the Global Forum on Taxation. It can thus contribute directly, formally, and in a timely manner to the discussions and projects of the committee on taxation.

Further Measures to Ensure the Integrity of the Financial Center

The Federal Council wants to harmonize the interests of foreign countries in enforcing their tax legislation with Switzerland's long-term interests as a financial center. That is why international cooperation will be further expanded within the scope of bilateral negotiations. In return, Switzerland expects improved market access for cross-border financial services and regularization of undeclared accounts in relation to the tax authorities of the countries concerned. In addition, protection of the privacy of bank clients must be ensured, that is, no automatic exchange of information.

In that regard, the Federal Council is prepared to examine different measures, which include the introduction of a final withholding tax in dealings with important neighboring countries, as well as other measures which promote the tax honesty of bank clients and thereby help to reduce the associated legal risks.

The introduction of a final withholding tax on cross-border investment income would be carried out within the scope of bilateral agreements. The compensatory nature of the tax means that foreign bank clients would have fulfilled their tax obligations with the levying of the tax and its transfer via the Federal Tax Administration (FTA) to the respective foreign tax authorities. Protecting the privacy of foreign bank clients of Swiss financial institutions is guaranteed through a system of this kind.

Link:

[Federal Department of Finance](#)