Basic information

Date 24 August 2011

Tax agreement between Switzerland and the United Kingdom

The United Kingdom and Switzerland wish to consolidate relations in the financial area and strengthen cooperation regarding tax matters. Consequently, both countries' negotiators worked on reaching an agreement that will ensure effective taxation of British taxpayers' assets in Switzerland and formally concluded their negotiations on Wednesday, 24 August 2011 with the initialling of the agreement. This should apply both for the past and for the future, and bring about

1. the levying of a final withholding tax on future investment income and gains on assets in accordance with the provisions of this agreement, and
2. the taxation of British taxpayers' previously untaxed assets in Switzerland under this agreement.

Switzerland and the United Kingdom adopted a joint approach in order to find a solution that would both fulfil future British tax claims regarding the investments of British taxpayers in Switzerland and set out acceptable provisions for all concerned regarding the past in the form of lump-sum taxation.

The agreement negotiated combines two legitimate concerns, i.e. the protection of bank clients' privacy and the implementation of legitimate tax claims.

Switzerland and the United Kingdom acknowledge that the bilateral cooperation established under the agreement will have an enduring effect that is equivalent to the automatic exchange of information in the area of investment income.

Communications FDF
Bundesgasse 3, 3003 Bern
Phone +41 31 322 60 33
Fax +41 31 323 38 52
info@gs-efd.admin.ch
www.finance.admin.ch

Future taxation of British taxpayers' investment income in Switzerland

It is planned to introduce a final withholding tax on investments of British taxpayers in Switzerland that corresponds in terms of content to the United Kingdom's taxation of income and gains. The agreement between the United Kingdom and Switzerland therefore stipulates that Swiss paying agents are to levy such a final withholding tax. This will not affect the Agreement of 26 October 2004 between the European Community and the Swiss Confederation providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments.

The rates of the final withholding tax are in line with the United Kingdom's marginal tax rates on income and gains, and amount to 48% for interest income, 40% for dividend income, 48% for other income and 27% for capital gains. The small deduction from the marginal tax rates in the United Kingdom is justified by the fact that a tax at source is levied earlier in time.

However, British taxpayers can also avail themselves of the possibility of the Swiss paying agent disclosing their income to the British tax authorities.

This arrangement will ensure overall that investment income is taxed in the same way in Switzerland and the United Kingdom, and thus competition between the British and Swiss financial centres will no longer be distorted by tax considerations.

Taxation of previously untaxed assets

In order to find a satisfactory solution for the taxation of future investment income, the issue of the past had to be resolved at the same time.

In accordance with an assessment basis defined in the agreement, a one-off, flat-rate tax payment can be made anonymously. This will be forwarded to the British tax authorities.

In principle, the assessment basis is the capital present in Swiss accounts or deposits on a specific reference date in the past.

The combination of an assessment basis and tax rate when calculating the tax will take into account how long the assets were held untaxed in Switzerland. The individual charge will then range from 19% to 34%. The calculation of this individual charge will be based on the duration of the client relationship as well as the initial and final amount of the capital.

Anyone who does not wish to pay the one-off, flat-rate tax can consent to the disclosure of the data necessary for individual taxation to the relevant British tax authorities.

With the one-off, flat-rate tax payment, the taxpayer will cease to have any liability to the United Kingdom taxes cleared in accordance with this agreement. Thereby the basis for a fresh start will be created. However, in certain cases the taxpayer's assets will not be cleared and the one-off payment will be considered a payment on account, for example when the assets originate from criminal sources, an investigation is ongoing or the taxpayer has previously participated in a disclosure facility.

Whoever declares that they do not wish their untaxed assets in Switzerland to be taxed using a flat rate or taxed individually must close their accounts or deposits in Switzerland. Switzerland will provide aggregated data on this matter.

In order to provide the parties concerned with the possibility to come to a decision, within two months after the agreement has come into effect they will be provided with information by their credit institutions on the content of the agreement and the resulting rights and obligations. Thereafter, those concerned have time to decide how they wish to react and to make the relevant arrangements.

Taxation will be conducted in Switzerland. The Swiss authorities will ensure that this is implemented correctly and that the banks involved are monitored. As a sign of goodwill in implementing the agreement in accordance with its aim and purpose, the Swiss banks have committed themselves to making an advance payment in the amount of CHF 500 million. This advance payment will be offset by the one-off payments and thereby reimbursed to the banks.

Finally, the solution negotiated ensures that there will no longer be any untaxed investments in Switzerland held by British taxpayers in accounts or deposits.

<u>Security for the future:</u>

In order to prevent "black money" from once again being invested in Switzerland in the future, even assuming acceptance of the final withholding tax, provision has been made for a security mechanism to be introduced. This consists of an obligation on the part of the Swiss authorities to provide information which goes beyond the current OECD minimum standards. It is obvious for both contracting parties that no arbitrary requests for information may be made and thus so-called fishing expeditions will not be permissible.

If the responsible British tax office sees a plausible reason in the case of a British taxpayer to check the accuracy and completeness of the information concerning the taxpayer in their tax return about possible capital investments in Switzerland, the British tax authorities may in future verify this information by sending a request to Switzerland for information as to whether the taxpayer concerned held or holds an account or deposit with a Swiss paying agent. It is not necessary to indicate a Swiss paying agent in such case.

In principle, Switzerland must respond to the request submitted as to whether or how many accounts or deposits the taxpayer concerned holds in Switzerland. The number of requests of this nature is limited and, after the agreement enters into force, will be set within the low to mid hundreds and not exceed 500 per year by a committee on the basis of collective representation from both contracting states; the number may subsequently be adjusted based on the results.

<u>Other points in the agreement:</u>

In the field of market access, a Memorandum on the provision of cross-border financial services in the United Kingdom by firms from Switzerland has been signed. It will reduce the administrative burden and provide Swiss financial institutions appropriate guidance to offer financial services to UK customers. The Memorandum will clarify the legal framework and provide Swiss financial institutions legal security which will allow them to continue and expand their cross-border activities in the UK.

In addition, against the backdrop of the agreement, the United Kingdom does not envisage to purchase stolen bank client data.

The United Kingdom further states that the criminal prosecution of bank employees due to participation in tax offences is highly unlikely.

In an initial statement, Finance Minister Eveline Widmer-Schlumpf revealed her satisfaction that it has now been possible to negotiate a tax agreement also with the UK: "The two agreements with Germany and the UK show that Switzerland is serious about implementing its white money strategy. We want to consistently focus on the management of tax-compliant assets. This creates legal certainty and will strengthen the competitiveness and the reputation of Switzerland as a financial centre in the long term".

Further details: Roland Meier, Media Spokesperson FDF, +41 (0)31 322 60 86
Mario Tuor, Communications, SIF, tel. +41 (0)31 322 46 16