



Basic information

Date 20 March 2012

Withholding tax agreement between Switzerland and the United Kingdom

Switzerland and the United Kingdom of Great Britain and Northern Ireland wish to consolidate relations in the financial area and strengthen cooperation regarding tax matters. The withholding tax agreement of 6 October 2011, which was supplemented by a Protocol of Amendment on 20 March 2012, ensures effective taxation of UK taxpayers' assets in Switzerland. 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 UK taxpayers' previously untaxed assets in Switzerland under this agreement.

The negotiated agreement 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.

The Protocol of Amendment of 20 March 2012

With the Protocol of Amendment signed on 20 March 2012, the concerns of the EU Commission regarding compatibility with EU law have been removed. The agreement remains unchanged in essence. The withholding tax provided for under the agreement should not be levied on interest payments insofar as a retention tax in accordance with the EU Agreement on the Taxation of Savings was levied (currently 35%). In this case, however, a final payment amounting to 13% is to be paid in addition to the retention tax. This ensures UK taxpayers can discharge their tax liability on interest payments and thereby fulfil their tax

obligations. Effectively, the originally agreed rate of 48% remains for bank clients, with only the legal structure changing. As a result of the amendment, Switzerland no longer has to relinquish its share of the retention tax receipts as originally planned (approximately CHF 6 million in 2010).

Inheritance is now covered by the agreement in order to eliminate a loophole. In the case of inheritance, the heirs must consent to either collection of a tax (at the marginal rate of 40%) or disclosure.

Moreover, the United Kingdom has agreed on a solution with the EU for the EU's share of the VAT associated with the regularisation of the past.

A most favoured nation clause is also to be introduced for the regularisation of the past, thereby allowing the parallels with the agreement with Germany, in particular, to be maintained.

The agreement of 6 October 2011

Future taxation of UK taxpayers' investment income in Switzerland:

It is planned to introduce a final withholding tax on investments of UK 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, 27% for capital gains and 48% for other income. 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, UK taxpayers can also avail themselves of the possibility of the Swiss paying agent disclosing their income to the UK 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 UK and Swiss financial centres will no longer be distorted by tax considerations.

Retrospective 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 UK 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 UK tax authorities.

With the one-off, flat-rate tax payment, the taxpayer will cease to have any liability towards the United Kingdom for 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.

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 will 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 held by UK taxpayers in accounts or deposits in Switzerland.

Security for the future:

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 UK tax office sees a plausible reason in the case of a UK taxpayer to check the accuracy and completeness of the information concerning the taxpayer in their tax return about possible capital investments in Switzerland, the UK 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.

Other points in the agreement:

A Memorandum sets out improvements in the field of market access for cross-border financial services provided in the United Kingdom by firms in Switzerland. It will reduce the administrative burden and provide Swiss financial institutions with clear guidance for offering financial services to UK clients. The Memorandum clarifies the legal framework and creates legal certainty. This will allow the financial institutions to continue and expand their cross-border activities in the United Kingdom.

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