April 2012

Switzerland's tax agreement with Germany

Calculation examples for regularisation of the past

Original text of the agreement and the associated Protocol of Amendment: www.sif.admin.ch

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A. Capital stock on 31.12.2012 a maximum of 20% *more* than on 31.12.2010
(with adherence to the capital growth conditions[1] during the interim period[2])

1. A **lawyer** opened an account with a Swiss bank in 2002, depositing EUR 100,000 at that time. Over the years, she has regularly paid further sums into this account. In addition, income on the capital has been credited to the account. On 31.12.2012, the closing balance stands at EUR 1 million.

- Capital relevant to the calculation of retrospective taxation: **EUR 1 million** (balance as at 31.12.2012)
- Tax amount: **EUR 318,400**
- Tax rate applied to the capital at the time of calculation of retrospective taxation: **31.84%**

2. A **craftsman** opened an account with a Swiss bank in 2004, depositing EUR 30,000 at that time. He has paid new funds into this account every year up to 31.12.2012. In addition, income on the capital has been credited to the account. On 31.12.2012, the closing balance stands at EUR 100,000.

- Capital relevant to the calculation of retrospective taxation: **EUR 100,000** (balance as at 31.12.2012)
- Tax amount: **EUR 26,740**
- Tax rate applied to the relevant capital: **26.74%**

3. A **car dealer** opened an account with a Swiss bank in February 1010, depositing the cash proceeds from the sale of a second-hand car amounting to EUR 9,000. He invests the money, and the capital has increased to EUR 10,000 by 31.12.2012.

- Capital relevant to the calculation of retrospective taxation: **EUR 10,000** (balance as at 31.12.2012)
- Tax amount: **EUR 2,504**
- Tax rate applied to the relevant capital: **25.04%**

4. A **pensioner** opened an account with a Swiss bank 20 years ago, depositing EUR 9,000 at that time. She has made no further deposits up to the time of calculation of retrospective taxation. Only the annual interest has been credited to the account during this period. On 31.12.2012, the closing balance stands at EUR 10,000.

- Capital relevant to the calculation of retrospective taxation: **EUR 10,000** (balance as at 31.12.2012)
- Tax amount: **EUR 2,100**
- Tax rate applied to the relevant capital: **21%** (minimum tax rate)

5. In 1965, a **doctor** opened an account with a Swiss bank, depositing EUR 30,000 at that time. Over the years, he regularly paid more money into this account. In addition, income on the capital has been credited to the account. On 31.12.2012, the closing balance stands at EUR 8 million.

- Capital relevant to the calculation of retrospective taxation: **EUR 8 million** (balance as at 31.12.2012)
- Tax amount: **EUR 3,280,000**
- Tax rate applied to the capital: **41%** (maximum tax rate)

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[1] Cf. Article 7, paragraph 6, letter b of the agreement with Germany.
[2] 31.12.2010 - 31.12.2012.

B. Capital sum on 31.12.2012 *smaller* than on 31.12.2010[3]

6. An **artist** opened an account with a Swiss bank in 2002, depositing EUR 4,500 at that time. Over the years, she has paid further sums into this account on a regular basis. In addition, income on the capital has been credited to the account. On 31.12.2010, the closing balance stands at EUR 1 million. In October 2011, she transfers assets from her Swiss bank account to another country. When the agreement enters into force, the assets in the Swiss bank amount to just EUR 500,000.

- Balance as at 31.12.2012: **EUR 500,000**. Capital relevant to the calculation of retrospective taxation: **EUR 1 million** (balance as at 31.12.2010)
- Tax amount: **EUR 350,000**
- Tax rate applied to the relevant capital: **35%**

Explanation: The amount relevant for the retrospective taxation procedure may *not* be reduced by a withdrawal of assets between 31.12.2010 and the time of entry into force of the agreement.

7. The **brother of the artist in example 6** opened an account with a Swiss bank in 2002, depositing EUR 4,500 at that time. Over the years, he has paid further sums into this account on a regular basis. In addition, income on the capital has been credited to the account. On 31.12.2010, the closing balance stands at EUR 1 million. In October 2011, he moves assets from his Swiss bank account to another country. When the agreement enters into force, his account balance at the Swiss bank stands at EUR 300,000.

- Balance as at 31.12.2012: **EUR 300,000**. Capital relevant to the calculation of retrospective taxation: **EUR 1 million** (balance as at 31.12.2010)
- Tax amount: **EUR 350,000**
- Tax rate applied to the relevant capital: **35%**

Explanation: If the assets in the account on 31.12.2012 are insufficient for the payment of the tax amount, the bank gives the client a maximum of eight weeks to deposit the funds required. If this sum is not provided, the bank will disclose the banking relationship via the Federal Tax Administration to the German tax authorities.

[3] Cf. Article 7, paragraph 6, letter a of the agreement with Germany.

C. Capital sum on 31.12.2012 more than 20% *greater* than on 31.12.2010
(*without* adherence to the capital growth conditions[4] during the interim period[5])

8. A **management consultant** opened an account with a Swiss bank in 2004, depositing EUR 300,000 at that time. Over the years, he has paid further sums into this account on a regular basis. In addition, income on the capital has been credited to the account. No asset outflows have taken place. On 31.12.2010, the balance of his account stands at EUR 500,000. In July 2012, he transfers assets from a bank outside Europe to his Swiss account. The balance of the account at the Swiss bank when the agreement enters into force amounts to EUR 800,000.

- Capital relevant to the calculation of retrospective taxation: **EUR 600,000** (120% of balance as at 31.12.2010)
- Tax amount: **EUR 140,040**
- Tax rate applied to the relevant capital: **23.34%**

Explanation: Inflows during the interim period not compensated for by asset outflows between 31.12.2002 and 31.12.2010 are included in the regularisation procedure up to a maximum proportion of 20% of the balance as at 31.12.2010. The proportion of the capital sum that exceeds this amount as at 31.12.2012 is considered new assets. These assets are not subject to the retrospective taxation procedure and are therefore not regularised; i.e. if this sum of EUR 200,000 has not been taxed in Germany, it remains untaxed assets. Following a corresponding request, this account relationship would be disclosed to the German authorities within the scope of the provision of information that forms part of the agreement.

9. A **dentist** opened an account with a Swiss bank in the mid-1990s. Over the years, he has paid further sums into this account on a regular basis. In addition, income on the capital has been credited to the account. On 31.12.2002, the account balance stands at EUR 3 million. Thereafter too, the dentist continues to transfer new assets to this account. Over the years, he has withdrawn a total of EUR 4 million from this account and invested it in property. On 31.12.2010, the balance of his account stands at EUR 6 million. In July 2012, he transfers the sum of EUR 4 million from a foreign account (not in Switzerland or Germany) to his Swiss bank account. The account balance at the Swiss bank amounts to EUR 10 million as at 31.12.2012.

- Capital relevant to the calculation of retrospective taxation: **EUR 10 million** (balance as at 31.12.2012)
- Tax amount: **EUR 2,730,000**
- Tax rate applied to the relevant capital: **27.30%**

Explanation: Asset inflows during the interim period amounting to more than 20% of the account balance as at 31.12.2010 may be regularised if they are matched by equivalent asset outflows between 31.12.2002 and 31.12.2010. The assets involved in the inflows and outflows in question need not be of the same type. This does not apply to assets which flow directly or indirectly to Germany and which flow out of Germany between signature of the agreement and entry into force. The portion of the one-off payment calculated on these assets will be considered as a payment on account against income taxes in Germany.

[4] Cf. Article 7, paragraph 6, letter c of the agreement with Germany.
[5] 31.12.2010 - 31.12.2012.

D. Special case: Opening of a new client relationship with a Swiss bank during the interim period[6]

10. A **market stallholder** opened an account with a Swiss bank in March 2011, and had paid new funds into this account between then and the entry into force of the agreement. Previously, he had no bank account in Switzerland.

Explanation: Assets in bank accounts opened after 31.12.2010 are considered new assets. They are not covered by the retrospective taxation clause and **are not regularised**. Following a corresponding request, this account relationship would be disclosed to the German authorities within the scope of the provision of information that forms part of the agreement.

11. An **architect** opened an account with a Swiss bank in 2004, depositing EUR 300,000 at that time. Over the years, she has paid further sums into this account on a regular basis. In addition, income on the capital has been credited to the account. On 31.12.2010, the closing balance stands at EUR 477,500. In July 2012, she closes her account with the Swiss bank and transfers the balance (which has now increased to EUR 492,500) to another bank in Switzerland. On 31.12.2012, the balance at the new bank amounts to EUR 500,000.

- Capital relevant to the calculation of retrospective taxation: **EUR 500,000** (balance as at 31.12.2012)
- Tax amount: **EUR 108,200**
- Tax rate applied to the relevant capital: **21.64%**

Explanation: The account relationship with the previous Swiss bank is taken into account for the retrospective taxation procedure. This is carried out by the new Swiss bank. The client in question must authorise the former bank to provide the new bank with all the necessary information for this to be effected.

12. The **twin sister of the architect in example 11** opened an account with a Swiss bank in 2004, depositing EUR 300,000 at that time. Over the years, she has paid further sums into this account on a regular basis. In addition, income on the capital has been credited to the account. On 31.12.2010, her closing balance stands at EUR 500,000. In July 2012, she **transfers a proportion of this amount**, namely EUR 250,000, to a newly opened account with another Swiss bank.

- Capital relevant to the calculation of retrospective taxation: **EUR 500,000** (balance as at 31.12.2010)
- Tax amount: **EUR 108,200**
- Tax rate applied to the relevant capital: **21.64%**

Explanation: The previous bank undertakes the retrospective taxation procedure for the assets booked with it as at 31.12.2010. The funds transferred to another bank in Switzerland after 31.12.2010 are likewise included in the retrospective taxation procedure and regularised. The client must confirm in writing to the new bank that the client relationship at the previous bank continues to exist. The new bank does not undertake any retrospective taxation.

[6] 31.12.2010 - 31.12.2012.