Basic information

Date: 12 June 2012

Switzerland-Italy tax dossier

Summary

Switzerland and Italy have been trying to resolve their outstanding tax and financial issues for several years now. In May 2012, both countries created an intergovernmental steering group tasked with pushing ahead with the outstanding work.

The negotiations target five areas: revision of the double taxation agreement with Italy, revision of the agreement on cross-border commuters, removal of Switzerland from black lists, regularisation of Italian taxpayers' assets in Switzerland and improvement of access to the Italian market for Swiss financial institutions.

- **Double taxation agreement (DTA):**

The DTA with Italy dates back to 1976. The efforts made to revise this agreement since 2001 have proved unsuccessful. Unlike the revised DTAs in force, e.g. with Germany and France, the clause on the exchange of information in the DTA with Italy does not reflect the international standard, but corresponds to Swiss tax practice concerning administrative assistance prior to 2009. The revision of the DTA with Italy will create an opportunity to adapt this provision as well as to settle other issues such as withholding tax rates.

- **Agreement on cross-border commuters:**

The agreement between Switzerland and Italy regarding the taxation of cross-border commuters, which dates back to October 1974 and applies to the cantons of Graubünden, Valais and Ticino, is an integral part of the DTA. Under this agreement, the Canton of Ticino levies a withholding tax on the income of cross-border commuters and returns 38.8% of this to Italy.

In order to pressurise the authorities of both countries to revise this agreement, the Canton of Ticino decided in June 2011 to pay out only half of the sums due as retrocession payments

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and to deposit the other half in a blocked account. The Canton of Ticino released these funds (CHF 28 million) in May 2012.

- **Black lists:**

Rome has had Switzerland mentioned on two black lists for several years. As a result, Italy has taken a whole series of measures that penalise cross-border exchanges, direct investment and Swiss exporters.

The first list concerns natural persons. It refers to the taxation of taxpayers who have transferred their place of domicile from Italy to a country that does not have a clause providing for an exchange of tax information in line with the international standard.

The second one applies to companies domiciled in countries that benefit from a preferential tax regime. Switzerland is on this list because of the tax status awarded to certain company types (holding companies, domiciliary companies and joint ventures).

- **Regularisation of assets:**

In April 2012, the European Union declared that the withholding tax agreements signed by Switzerland with Germany and the United Kingdom were in compliance with EU legislation. Following this green light, Italy showed a certain amount of interest in this type of agreement. The agreements provide for the payment of a one-off lump sum to regularise the past as well as the levying of a withholding tax without the taxpayer's identity being revealed (final withholding tax for the future).

- **Market access:**

The Italian market is of major importance for Switzerland's banking sector. In return for the final withholding tax model, Switzerland is trying to ensure better market access for financial institutions, like is the case with the tax agreements it has signed with Germany, the United Kingdom and Austria. Under the agreement with Germany, for example, Swiss banks no longer have to open a subsidiary in Germany in order to offer their services there.