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State Secretariat for International Financial Matters SIF

Questions and answers on the automatic exchange of information

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General

Which information is automatically exchanged with the OECD standard?

The information to be transmitted includes account and tax identification numbers as well as the names, addresses and dates of birth of taxpayers abroad with an account in a country other than the country of origin, all types of income and account balances. The standard covers both natural persons and legal entities. The actual beneficial owners of the account in accordance with the international provisions on combating money laundering (FATF) must be identified in application of the OECD standard and the FATF recommendations.

How is the automatic exchange of information conducted?

The information on taxpayers abroad with an account in a country other than the country of origin is transmitted to national tax authorities by banks as well as certain collective investment vehicles and insurance companies. These authorities then automatically forward the data to the tax authority in the relevant partner country once per year.

What happens with the data that is exchanged?

Client data may be used solely for the agreed purpose, i.e. to establish a correct tax assessment in this case. However, the standard does not indicate how precisely the national tax authorities are to do this (e.g. spot checks or extensive data reviews). Data protection has to be ensured.

How does the new global standard affect the competitiveness of Switzerland's financial centre?

The global standard creates a level playing field for all financial centres around the world. For Switzerland, this means that tax-related banking secrecy will no longer apply for foreign clients. Furthermore, Switzerland will be less vulnerable internationally. As a result, legal certainty will increase and the key strengths of the financial centre, such as neutrality, political and economic stability, own strong currency, high-quality services and international expertise, will be shown to greater advantage. Competitiveness would be boosted on the whole.

How will compliance with the new global standard be monitored in the future?

The Global Forum on Transparency and Exchange of Information for Tax Purposes, which has approximately 120 member states, is currently preparing methods and criteria for checking implementation of the new global standard in the individual countries in the future. Switzerland is actively involved.

Communications SIF
Bundesgasse 3, 3003 Bern
Phone +41 58 462 46 16
Fax +41 58 463 24 02
info@sif.admin.ch
www.sif.admin.ch

Introduction in Switzerland

At the earliest, when could Switzerland introduce the automatic exchange of information?

The Federal Council aims to be able to submit the legal basis for the automatic exchange of information as well as the first agreements negotiated with partner states to parliament for approval in 2015. If parliament and possibly voters agree, Swiss financial institutions could start to collect overseas taxpayers' account data in 2017 and the first exchange of data could take place in 2018.

A series of countries wish to introduce the automatic exchange of information in 2016 and data transfers from 2017. Why has Switzerland not done like these early adopters?

The legislative procedures in Switzerland do not allow the automatic exchange of information to be introduced before 2017/2018.

Which legislative amendments are necessary in order for Switzerland to be able to implement the new global standard?

The introduction of the automatic exchange of information with foreign countries will be conducted by means of agreements with partner countries, which have to be approved by parliament here. Moreover, implementing legislation will be required in national law. This is currently being prepared by the Federal Department of Finance and will be submitted to parliament together with the first agreements which have been negotiated. The existing legislative framework excludes the automatic exchange of information.

How will Switzerland use data on Swiss taxpayers with accounts abroad that it receives within the scope of the reciprocal exchange of information?

The domestic use of data received from abroad is up to the individual countries. Given that the cantonal or communal tax administrations are responsible for tax assessments in Switzerland, the Federal Tax Administration will forward the financial information received from abroad to the competent assessment authorities for the application and enforcement of Swiss tax law.

Will the automatic exchange of information apply domestically too in the future?

The international standard forms the basis for the cross-border exchange of client data between tax authorities. However, this says nothing about transparency within the states. That is for the individual states to decide. The exchange of information in the national context is a political debate that will have to be conducted separately in each state, irrespective of the international standard.

Partner countries

With which countries will Switzerland enter into a bilateral agreement on the automatic exchange of information?

The primary focus is on the EU and its member states, as well as the United States. Negotiations on the automatic exchange of information with other selected countries are to be examined. In an initial phase, consideration would be given to countries with which there are close economic and political ties and which provide their taxpayers with sufficient scope for regularisation and which are considered to be important and promising in terms of their market potential for Switzerland's financial industry.

Could Switzerland introduce the automatic exchange of information even with countries with which it has not achieved a solution for the regularisation of the past?

It is in the interests of both partner countries to find an arrangement for any previously untaxed assets before the automatic exchange of information is introduced. Otherwise, there will be a risk of outflows to dubious jurisdictions, which is undesirable for both of the countries involved. Consequently, Switzerland will implement the automatic exchange of information as a matter of priority with countries that provide their taxpayers with sufficient scope for regularisation.

Will Switzerland make better market access a condition for reaching an agreement on the automatic exchange of information?

Cross-border business is hampered without market access. Following the implementation of the automatic exchange of information, there are no longer tax grounds for restricting market access. If there are opportunities for improving the current situation regarding market access in a given country, the automatic exchange of information could be agreed more quickly with that country than with others.

EU savings tax agreement

The EU member states formally adopted the revised directive on the cross-border taxation of natural persons' savings income in the form of interest payments on 24 March 2014. Is Switzerland now striving for the automatic exchange of information within the scope of the negotiations on extending the EU savings tax agreement?

Yes. In view of the rapidly progressing international implementation of the automatic exchange of information, it no longer makes sense to settle the interest sub-segment with a separate solution.

Relationship with the United States

What will it take for Switzerland to be able to switch from the existing Model 2 to Model 1 for the implementation of the Foreign Account Tax Compliance Act (FATCA) with the United States?

The FATCA agreement between Switzerland and United States makes provision for such a change. The negotiations on a Model 1 agreement should commence in the near future. After the signing of such an agreement, another consultation would be carried out and the agreement, together with a dispatch, would be submitted to parliament for approval.

What is the difference between the FATCA Model 1 and Model 2?

Model 2 makes no formal provision for the automatic exchange of information. Information can be transferred directly from the financial institution to the US authority only if the client has consented to the transfer. If the client does not consent, data is exchanged only upon the United States' request, whereby the person affected can take part in the procedure. In the case of Model 1, the data is exchanged automatically via the two countries' tax authorities.

With regard to the automatic exchange of information standard (AEOI standard), will the United States get preferential treatment in relation to transparency of financial constructs?

The United States has approved the OECD's AEOI standard as a member of the G20 and OECD. The OECD's AEOI standard is designed in a reciprocal manner and provides for the identification of the beneficial owners of legal entities and structures. The OECD's documents state that it is compatible with the AEOI standard that US financial institutions do not have to identify the beneficial owners of investment companies that have not concluded an agreement as a Foreign Financial Institution (FFI) with the United States and are located in a state that has not concluded a FATCA agreement with the United States (no look-through principle).

The arrangement, which features a very narrow scope of application, is justified by referring to the fact that FATCA is a system that was introduced before the introduction of the OECD's AEOI standard and underlies it, and it is expected that the United States will look through these cases also in the medium term. What is also crucial is that the United States levies withholding tax of 30% on the gross amount of all revenue and sales proceeds from US securities in the case of non-participating FFIs. The withholding tax levied in this way on gross revenue is prohibitively high. Moreover, it is expected that this arrangement is temporary.

If it transpires when implementing the automatic exchange of information standard that certain regulations are being used as loopholes, the Global Forum will point this out. Upon implementation, Switzerland too will thoroughly check whether other countries, particularly competing financial centres, are complying fully with the standard. If they are not, it will play its part accordingly in the Global Forum.