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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 clients from abroad. 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, will conduct peer reviews. Whether jurisdictions effectively apply the standard will be checked in this manner. Irrespective of this, a country can terminate a bilateral agreement if the partner state does not comply with the requirements.

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Introduction in Switzerland

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

The legislative procedures in Switzerland do not allow the automatic exchange of information to be introduced before 2017/2018. The Federal Council intends to submit the legal basis for the automatic exchange of information to Parliament for approval in 2015, together with the bilateral agreements or arrangements with partner states. If Parliament and possibly voters agree, Swiss financial institutions could start to collect the account data of taxpayers abroad in 2017, and the first exchange of data could take place in 2018.

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

The existing legislative framework excludes the automatic exchange of information. 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.

How precisely is Parliament involved?

Unlike in most other countries, Parliament is involved in all individual steps (administrative assistance convention, MCAA, AEOI Act, individual agreements or arrangements with countries) in Switzerland.

What exactly is the difference between implementation models 1 and 2?

Model 1 is the traditional route with an international treaty; although it appears simpler, it is actually more cumbersome because all international treaties have to be amended if the OECD standard changes. Model 2 seems more complicated, but it is simpler in practice because, if the standard changes, only the MCAA has to be amended and not all of the bilateral agreements with partner states. Ultimately (introduction of the AEOI), however, both models are the same and can thus exist in parallel.

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?

No. The international standard forms the basis for the cross-border exchange of client data between tax authorities. Transparency within the states will continue to be determined by the states themselves.

How heavy is the financial burden of the bill for the Confederation and the cantons?

That cannot be foreseen at present. However, more information on taxpayers should also tend to result in additional receipts.

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, 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.

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.

Will the international withholding tax agreements with Austria and the United Kingdom be maintained?

Both countries have indicated that they wish to move to the AEOI, which would cause the international withholding tax agreements to cease to apply. The agreements enabled the past to be settled with both countries and market access to be clarified.

EU savings tax agreement

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

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. This is based on the US FATCA model, which will continue to exist. Consequently, certain exceptions will apply for the United States in a transitional period. For example, US financial institutions do not have to identify the beneficial owners of foreign 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. However, the United States will levy a withholding tax of 30% on the gross amount of all revenue and sales proceeds from US securities.

For how long will the United States be allowed such an arrangement?

There will be growing pressure from the international community for all financial centres to comply in full with the OECD standard after a transitional period. 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.

Spontaneous exchange of information

How does the spontaneous exchange of information differ from the automatic exchange of information?

With the spontaneous exchange of information, data is not transmitted automatically or following a prior request, but rather when the transmitting state has to assume another state's possible interest in information it already has. This is the case if there are circumstances that would seem to suggest a loss of tax in another state, for example.