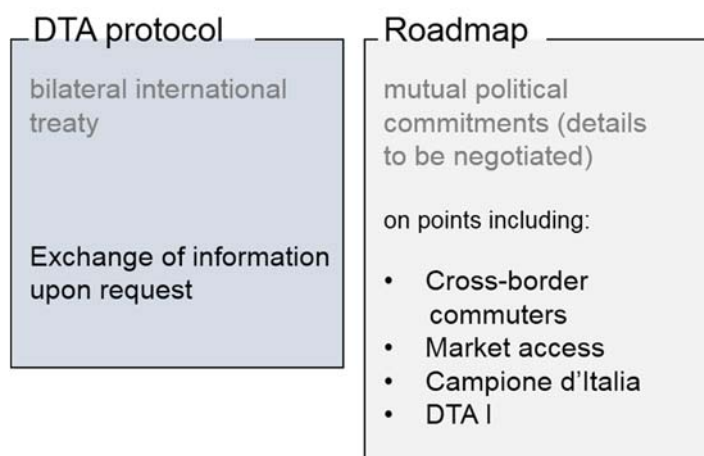




23 February 2015

Documentation

Switzerland – Italy: agreement on tax issues



DTA protocol

The Italian law on a voluntary disclosure programme (VDP) came into force on 1 January 2015. The voluntary programme enables taxpayers residing in Italy to regularise any previously undeclared assets and income with retrospective taxation. However, there is the risk of sanctions if undeclared deposits are held in countries that are on Italy's blacklist of countries that do not exchange information with Italy in accordance with the OECD standard. Switzerland used to be one of those countries as it did not have a double taxation agreement with Italy that was in compliance with the OECD standard. In accordance with the VDP, countries that sign a double taxation agreement that includes the exchange of information upon request in compliance with the OECD standard within 60 days of the VDP coming into force will be treated in the same way as countries that are not on Italy's blacklist.

On 19 December 2014, Switzerland and Italy initialled a corresponding Protocol of Amendment that makes provision for the exchange of information upon request in accordance with the OECD standard. For the purposes of the VDP, Switzerland will thus be treated as if it were not on Italy's blacklist. The Protocol of Amendment applies to facts and circumstances that arise from the date of signing, that is, from 23 February 2015.

The protocol will be submitted to parliament for approval and is subject to an optional referendum.

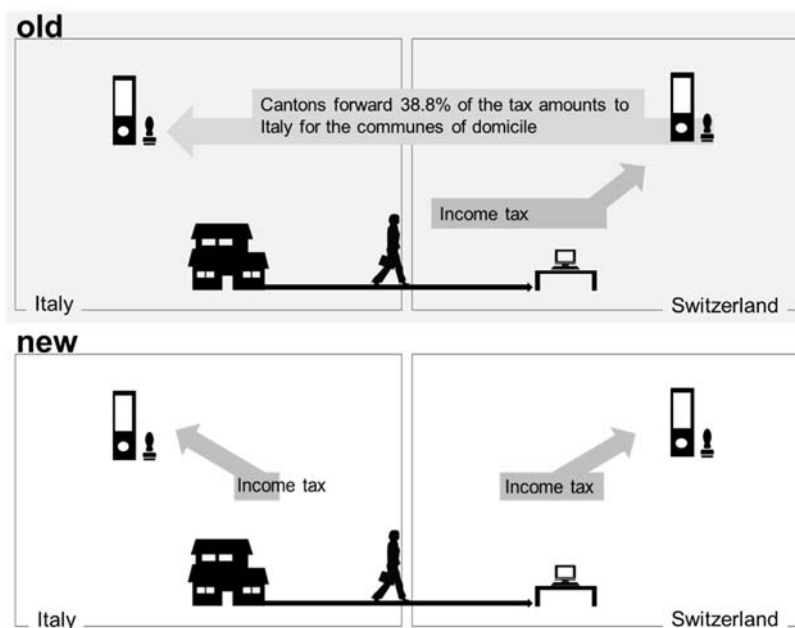
To date, Switzerland has signed 50 DTAs (incl. Italy) and 7 tax information exchange agreements (TIEAs) that are in line with the international standard on the exchange of information upon request, and of these, 41 DTAs and 3 TIEAs are in force.

Roadmap

Aside from the Protocol of Amendment to the DTA, the negotiations have enabled a roadmap to be concluded. This contains a clear political commitment to several aspects of bilateral relations between Switzerland and Italy in the area of taxation and finance. The following points are included in the roadmap:

- Automatic exchange of information (AEOI): The OECD standard is to be introduced between Switzerland and Italy in the future with a new legal basis. Negotiations are currently under way with the European Commission to reach an agreement on the introduction of the AEOI with EU member states.
- Regularisation of the past: Italian taxpayers with an account in Switzerland can take part in the Italian voluntary disclosure programme (VDP) under the same conditions as those in countries that are not on a blacklist. Both countries can make group requests to identify persons who wish to conceal untaxed assets. The OECD standard applies in this respect; fishing expeditions are not permitted.
- Prosecution of taxpayers as well as financial institutions and their employees: Taxpayers who participate in the VDP get a reduced penalty. Financial institutions and their employees are not responsible for the tax offences of their clients in principle. Financial institutions' cooperative behaviour with the regularisation of their clients will be looked upon favourably.
- Taxation of cross-border commuters: Until now, cross-border commuters working in Switzerland have been taxed in Switzerland only. The cantons where they work forward 38.8% of the tax amounts to Italy for the communes of domicile. In the future, cross-border commuters should be subject to reduced taxation in the state where they work and regular taxation in their country of domicile. The proportion in the state of work will be a maximum of 70% of the total withholding tax. The total tax burden of cross-border commuters will not be lower than at present with these new regulations, and initially it will not be higher either. The new taxation of cross-border commuters should be the subject of an agreement to be finalised in the first half of 2015 – a revision clause is also to be contained in the agreement. Both sides have undertaken to ensure swift negotiations.

Cross-border commuters agreement between Switzerland and Italy



- Italian blacklists: With the entry into force of the Protocol of Amendment to the DTA, Switzerland will be removed from lists that are based solely on the absence of the exchange of information. The special regimes for corporate taxation that are currently on Italian blacklists will be removed from these lists once they have been abolished or adjusted to bring them into line with international standards.
- Financial market access: Both sides confirmed their intention to seek ways of enhancing cross-border cooperation and financial market access. Technical discussions in this regard will commence soon.
- Further amendment of the DTA between Switzerland and Italy: In a second stage, it will be sought to reduce the tax rates on dividends and interest payments, amend the abuse provision and include an arbitration clause.
- Campione d'Italia: The competent authorities will continue to pursue the discussions in order to find pragmatic solutions for individual aspects of indirect taxes in the short term, as well as to find solutions for the other tax and non-tax issues in the longer term.

After years of controversy, this agreement between Switzerland and Italy is laying new foundations that will make it possible to strengthen cooperation, improve relations between the two countries and develop bilateral economic relations in a constructive atmosphere. The agreement will facilitate the processing of the Italian voluntary disclosure programme recently adopted by Italy's parliament and will considerably increase legal certainty for Italian taxpayers who have an account in Switzerland.