

By PwC Deutschland | 16 August 2011

Swiss bank secrecy upheld

Germany and Switzerland have initialled a treaty for the anonymous taxation of German assets in Switzerland whilst respecting the Swiss bank secrecy for criminals.

Germany and Switzerland have long been at loggerheads over the alleged Swiss practice of providing a safe haven for German tax evaders in the interests of the Swiss banking industry. Switzerland has answered this accusation with a counter accusation to the effect that Germany has aided Swiss wrongdoers by buying bank data from disgruntled employees, the breach of bank secrecy being an offence under Swiss law. Representatives of the two finance ministries have now reached a settlement of this dispute with a draft treaty initialled in Bern on August 10. The draft has not been published pending signature; however, according to the German announcement, it covers the following:

- In future all interest and similar income, including capital gains, intended for German resident account holders will be credited under deduction of a 26.375% withholding tax. This tax is a final burden and exonerates the account holder from all further disclosure and similar duties. Its proceeds will be paid to the German government without identifying the individual taxpayer. It corresponds to the final burden withholding tax in Germany of again 26.375 % (25% plus 5.5% solidarity surcharge), so a German tax evader's interest in a Swiss bank account is now limited to protecting the possibly doubtful past and/or the equally possible doubtful origins of the capital.
- The past will be rectified by a one-time only lump sum taxation on an account balance. The rate will lie between 19% and 34% depending on the length of time the account was held and on the difference between the opening and closing balances. Further details of the calculation have not been released, but it would seem that the intention is to tax the undeclared interest from the past without burdening the original capital. An account holder can avoid this burden by allowing the bank to disclose his account details to the German authorities. Thus, the honest business with a genuine reason for an account in Switzerland is protected.
- The German tax authorities may request information from their Swiss counterparts on named taxpayers. However, they must give a plausible ground for suspicion of tax fraud in each case. These requests are limited by number and should lie within the range of 750-999 within a two-year period. An automatic information exchange is excluded, as are requests at random.
- According to the announcement legal problems in Switzerland arising from the German purchase of confidential data stolen from Swiss banks, and from the breach of Swiss bank secrecy rules by the employees who sold it, have been settled. Further details have not been released.
- The restrictions on Swiss banks operating in Germany and on German banks in Switzerland resulting from the dispute are to be lifted.

The agreement requires parliamentary ratification and, in Switzerland, probably confirmation by referendum. If all goes well it will enter into force on January 1, 2013.

Keywords

Swiss bank, bank secrecy, tax evaders