

Tax Agreement between Switzerland and the UK

Background

The UK and Swiss governments reached a landmark deal on Wednesday, 24 August 2011 to tax undeclared Swiss bank accounts in an accord expected to yield an initial £5bn for the British Government. This agreement aims to apply to both the past and the future and bring about

- The levying of a final withholding tax on future investment income and gains on assets in Switzerland, and
- The taxation of British taxpayers' previously untaxed assets in Switzerland.

The agreement, which will begin in 2013, addresses two legitimate concerns, i.e. the protection of bank clients' privacy (on the Swiss side) and the implementation of legitimate tax claims (on the UK side) and follows a similar deal reached with Germany this month.

Future taxation of British taxpayers' investment income in Switzerland

- The rates of the final withholding tax are broadly in line with the UK's marginal tax rates of income and gains, and amount to 48% for interest income, 40% for dividend income, 48% for other income and 27% for capital gains. The small deduction from the marginal tax rates in the UK is justified by the fact that a tax at source is levied earlier in time.
- However, British taxpayers can also avail themselves of the possibility of the Swiss paying agent disclosing their income to HMRC.
- This arrangement will ensure overall that investment income is taxed in the same way in Switzerland and the UK, and thus competition between the British and Swiss financial centres will no longer be distorted by tax considerations.

Taxation of previously untaxed assets

- A "one-off" levy of between 19 and 34 per cent will be applied to all Swiss accounts held by UK residents, with the precise percentage to be determined by the size of the deposit and how long it has been maintained.
- Taxation will be conducted in Switzerland. The Swiss authorities will ensure that this is implemented correctly and that the banks involved are monitored. As a sign of goodwill in implementing the agreement in accordance with its aim and purpose, the Swiss banks have committed themselves to making an advance payment in the amount of CHF 500 million. This advance payment will be offset by the "one-off" payments and thereby reimbursed to the banks.
- The solution negotiated ensures there will no longer be any untaxed investments in Switzerland held by British taxpayers in accounts or deposits.

Outlook

- Commentators have generally welcomed the Agreement, although much of the detail will still need to be examined when the complete text is available in a few weeks time, to explore e.g. how a disclosure can effectively be made anonymously.
- It is worth noting also that the agreement is not to come into force until 2013. In the meantime, disclosure under the existing Liechtenstein Disclosure Facility still provides a definite alternative.
- The UK authorities state that the criminal prosecution of bank employees due to participation in tax offences is highly unlikely.

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