Tax Justice Network Backgrounder: European money in Switzerland

This background note accompanies our Press Release.

1. The Swiss "Rubik" model: context

The "Rubik" model has two parts. **First**, Switzerland levies a one-off, lump sum capital payment (to account for evaded past taxes) and remits it to the taxpayer's home country, anonymously. A Greek deal has not been signed so we do not know the rate that might be incurred, but the UK deal levies 21-41 percent of the average value of the capital over the past 10 years, and the average rate is expected at 20-25%. Once this is paid, all past criminal liabilities are cleared. **Second**, the accounts incur withholding taxes on the subsequent income, which in the UK's case ranges between 27-48 percent. Our backgrounder explains more.

The Tax Justice Network carried out a [forensic analysis](#) of Britain's Rubik deal with Switzerland, showing that Britain would be lucky to raise a tenth of the £4-7 billion in tax revenues that UK politicians have been promising. We have publicly and repeatedly [challenged](#) the UK tax authorities, the Swiss tax authorities, the Swiss Bankers' Association and several private tax adviser to find faults in our analysis, without luck. The European Commission objected to parts of the UK agreement and so it was [amended](#) in March, weakening the agreement further.

Germany's Rubik deal, originally pushed forwards by Finance Minister Wolfgang Schäuble for mysterious reasons, has not been ratified, and it seems to be falling apart as German politicians wake up to the loopholes and to its ethical and democratic implications. Germany's *Die Zeit* newspaper [said](#):

> "Most likely, the [Swiss] tax agreement with Germany is doomed to fail."

If Germany's deal fails then Britain's [may well](#) fall apart too. If these countries turn against Rubik then any other that *were* to sign risk conflict with those wiser European partners who have shunned the Swiss swindle.

1.1 The Rubik loopholes

Here are the main loopholes in the Rubik model:

- **Foundations, discretionary trusts and other 'ownerless' structures** –standard tax evasion vehicles – are deliberately and explicitly outside Rubik's scope. Such structures are slippery: while they will ultimately benefit someone (a Greek tycoon, say), that person is not legally identified as the beneficial owner or beneficiary: the assets are 'ownerless' and therefore outside the scope of a Rubik deal (see Section 3.1. [here](#))
- **Insurance 'wrappers.'** An insurance 'wrapper' is bit like a trust, where the Greek tax evader is entitled to all the <u>economic</u> benefits from the assets in question, but <u>legally</u> speaking it is the insurance company that is

the beneficial owner. The legal beneficial owner is not identified as Greek, so it is outside the scope of a Rubik deal.[1]

- **Commercial companies.** Only domiciliary companies falling under Swiss definitions are in scope – and that excludes any untaxed offshore company from somewhere like the Cayman Islands, for instance, where it can be pretended they have a 'commercial' purpose.
- **Fees, donations, loans, royalties**. Rubik only includes investment gains on "bankable" assets. So if your assets are in a safe deposit box in Zürich, or your profits are distributed as, say, a 'consulting fee', these assets are not 'bankable" and are outside Rubik's scope.
- **Foreign bank accounts**. Move your assets from a Swiss subsidiary of the bank to a Singapore subsidiary, and you fall out of scope.
- **Defer, then move.** Rubik lets you defer all your income until you move to another country. So you might set up a deferred pension – then retire to sunny Portugal with your untaxed pension pot, which no bilateral Swiss-Greek deal could touch. Only the EU's multilateral approach could work.

2. The detailed calculations.

2.1 European Savings Tax Directive (EUSTD): the source data

Using public data, we can make a very rough estimate of the maximum amount Greece might raise from a "Rubik" tax deal with Switzerland. We can work this out from data on an existing tax scheme, the European Savings Tax Directive (EUSTD), which is similar enough to Rubik to be able to make a rough estimate.

The EUSTD is a transparency initiative to help European countries tax cross-border income. Switzerland, though not an EU member, is one of the 42 EUSTD participating members. Most EUSTD participants share information about each others' taxpayers' income, though several including Switzerland have opted instead to withhold taxes anonymously and transfer this revenue (after deducting a 25% fee) to the taxpayer's home jurisdiction, while preserving the taxpayer's secrecy.

A large majority of European taxpayers using Swiss banks evade the Directive, but those who do submit to it have two options: <u>either </u>they pay a withholding tax on the interest income earned from their Swiss banks, <u>or </u>their income is declared to their home country. **Table 1** provides the data.

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[1] Rubik claims that it covers insurance wrappers: but what the Swiss bankers fail to advertise is that only *Swiss* insurance wrappers are in scope: Non-Swiss ones slip the net.

Table 1: *performance of the EU Savings Tax Directive in Switzerland, selected countries, 2011. Source: [EU-Zinsbesteuerung](), Confederation Suisse, 2012*

Country*	1. Sums remitted by Switzerland CHFm, 2011**	2. Sum withheld by Switzerland CHFm 2011 *	3. Interest declared, CHFm, 2011	*4. Memo: No. of citizens declaring*
Austria	10.9	13.5	15.1	*567*
Belgium	17.1	22.8	32.5	*1189*
Britain	21.4	28.5	68.5	*2979*
Germany	122.1	162.8	420.0	*31,991*
Greece	**11.4**	**15.2**	**12.2**	***1,360***
Italy	65.8	87.7	16.6	*915*
Luxembourg	1.7	2.3	0.4	*36*
Total (all EU countries)	**379.9**	**506.3**	**713.0**	-

* The countries selected are those that have signed or shown interest in a Swiss Rubik deal.
** The amount remitted to the taxpayer's home country is 75% of the total amount withheld by Switzerland. Switzerland keeps the remaining 25% as a fee. So col. 2 is col. 1 divided by 0.75.
Memo: the CHF Swiss Franc is currently fixed at 0.83 Euros.

2.2 How do we use EUSTD data to calculate likely maximum Rubik revenues?

The EUSTD and Rubik cover the same universe of European taxpayers.

The EUSTD is currently riddled with loopholes – essentially the same main loopholes in the Rubik model (though Rubik has a broader definition of 'income'.) Those who escaped the EUSTD have already decided to engage in criminal tax evasion, and as Section 2.3 below explains, the incentive to evade Rubik is massively higher than the incentive to evade the EUSTD. So those who have escaped the EUSTD will escape Rubik too: we can disregard them.

That leaves those taxpayers who are 'captured' by the EUSTD: essentially, those referred to in Table 1 above: a) those whose income is declared; and b) those where the EUSTD withholds taxes on income and remits it to their home country.

We can also disregard those taxpayers who have opted to have their income declared to their home country, since their Swiss accounts are transparent and clean and therefore outside Rubik's scope. What is left is the assets on which the EUSTD withholds and remits taxes. This is the asset base that Rubik has at least some hope of capturing. If we know that asset base, we can apply Rubik's tax rates to work out potential revenues.

2.3 How do the tax rates differ between the EUSTD and Rubik?

There is one big different between the EUSTD and Rubik: the effective tax rate.

The effective rate under Rubik is massively higher than the EUSTD tax rate, so the incentive to evade Rubik is massively higher.

The EUSTD only collects taxes on *income,* at 35%. So $1 million earning 3 percent in 2012 would yield $30,000, subject to $10,500 tax.

The Rubik model, by contrast, levies both income taxes and a one-off capital charge on the total asset value, typically at a whopping 20-25%. So that $1m asset produces a $200-250,000 charge: twenty to twenty-five times what the EUSTD earns – plus ongoing taxes on income!

This tantalisingly huge capital charge (which is justified as a one-off payment to compensate for past tax crimes, and a guarantee of ongoing secrecy) is the fabled bounty that has been used to lure Germany and other countries into signing Rubik deals with Switzerland.

But remember the old adage: if it seems too good to be true, it probably is.

2.4 How much money might Greece earn from a Rubik deal?

To work out how much of this bounty Greece might actually earn, we work backwards from Table 1 to estimate the size of the undeclared Greek assets that the EUSTD 'captures': that is, the Greek-owned assets in Swiss banks that produce those withheld taxes (Table 1, col. 2 above.)

We know that Rubik's potential asset pool is somewhat larger than the EUSTD's pool, because Rubik targets a broader definition of income than the EUSTD does. The EUSTD covers only fixed income products, which represent 55 percent of the total potential assets in a typical Swiss portfolio[2]; Rubik's potential asset pool includes other assets such as equities, and is therefore 1.8 (1 divided by 0.55) times larger than the asset pool potentially covered by the EUSTD. So we multiply our number for Greek assets 'captured' by the EUSTD by 1.8 to get an estimate for the size of Greek assets potentially 'captured' by a Swiss Rubik deal.

Once we have that, we apply the 20-25% estimated capital charge (see Section 2.1 above) to those assets, to produce an estimated revenue sum from the one-off capital charge.

But we also know from Section 2 that – given the massively higher incentive to avoid Rubik, and its many easy loopholes – this figure for the potential capital charge must be the extreme upper limit of what Rubik might capture. The true figure must be far smaller, since many more people will want to evade Rubik.

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[2] Clients investing in Swiss banks usually have particularly conservative portfolios: Helvea estimated 50-60% in fixed income and cash.

2.5 The capital charge: details

To calculate the size of undeclared Greek assets 'captured' by the EUSTD, we take the data for taxes <u>withheld</u> by Switzerland and remitted to Greece under the EUSTD, then assume a reasonable 3% interest rate and a 27.5% tax rate, to estimate the underlying asset base. (See Table 2 below.)

Table 2: Implied assets 'captured' by EUSTD, by country

Country	Taxes withheld CHFm, 2011	"Withheld:" Implied assets CHF bn
Austria	13.5	1.7
Belgium	22.8	2.8
Britain	28.5	3.5
Germany	162.8	19.7
Greece	**15.2**	**1.8**
Italy	87.7	10.6
Luxembourg	2.3	0.3
<u>**All Europe**</u>	<u>**506.3**</u>	<u>**61.3**</u>

So the EU STD 'captured' roughly CHF 1.8 bn, (or €1.5bn) of Greek assets last year, through the withholding tax option.

Because Rubik covers a broader definition of interest income, including equities as Section 3.0 above explains, we multiply this number by 1.8, to get <u>€2.7 billion</u> of assets potentially captured by a Swiss Rubik deal.

So the Rubik capital charge, at an expected average 20-25% rate of the <u>€2.7 billion</u> asset base, raises an approximate absolute maximum **€650m for Greece**.

<u>Reminder</u>: because of the loopholes and massively higher incentive for evasion, this is an extreme upper limit: there is *no way* that Greece will get this much revenue. The likely total is far smaller.

2.6 The ongoing income taxes, inheritance taxes.

Essentially, we can disregard the ongoing income taxes levied under Rubik because to the extent that the relevant assets are 'captured,' Greece is already receiving them under the EUSTD.

If Greece did sign a deal, it may well negotiate an inheritance tax addition to its agreement, which would likely produce the following revenue.

Assume that 2.5% of taxpayers die each year, and a 50% inheritance tax rate on the assets when the taxpayer dies, we would see annual income of 1.25% of the value of the assets. In Greece's case, with an absolute maximum €2.7bn assets 'captured' by Rubik, that would earn an absolute maximum of about <u>€35</u>

million per year over and above what the EUSTD would yield.

That, again, is an extreme upper limit, not a forecast – and if and when the EUSTD Amendments are passed, it will raise far greater sums than that.

3. The implications for Greece

Even the maximum possible revenues from the one-off charge is insignificant when compared to Greece's €21bn budget deficit last year. The ongoing maximum inheritance tax income would represent little more than 0.1% of the deficit.

The price Greek and European citizens will pay for this is colossal: Rubik not only guarantees secrecy and impunity for criminal tax-evading élites, but it will sabotage the key EUSTD Amendments which would close most of the big loopholes and collect far greater sums than Rubik ever could.

The Tax Justice Network recently estimated that there are $21-32 trillion in financial assets owned offshore, essentially beyond the reach of tax authorities. Former Greek Prime Minister Papandreou, citing these figures in August, said that if offshore tax havens had been properly tackled, Greece would probably have avoided a bailout.

As our accompanying note explains, reports in the Greek media that there are up to 200 billion Euros' worth of Greek tax-evading money in Switzerland, are vastly exaggerated. There is a lot of Greek money in Swiss banks, but less than $1/100^{th}$ of the sums mentioned could be caught in Rubik's net. Swiss bankers exaggerate these figures because they provide a tantalising prospect of huge revenues to be tapped.

The fabled Swiss bounty will never materialise. The Swiss deal is a swindle.

The overall effect of a Rubik deal will be to reduce tax collections in Greece and in Europe.

4. Further reading

The German Bundestag holds hearings on Germany's Rubik deal on September 26, 2012. We recommend reading presentations by Mark Morris, a private consultant; by Itai Grinberg, a former U.S. Treasury official, and by TJN's Markus Meinzer (in German).