

Switzerland under international pressure

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Seminar Tax Justice Network

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Basic Facts

- Swiss Financial Centre is a global player

Value-added of banks and insurance companies:

New York 118 515 Mio \$

London 24 716 Mio \$

Paris 21 948 Mio \$

Switzerland 18 805 Mio \$

Lombardy 16 383 Mio \$

Frankfurt 11 449 Mio \$

Basic Facts (2)

- Swiss Franc = a hard currency
- Stable conditions, efficient infrastructure
- Bank Secrecy

Swiss law distinguishes between:

- Tax evasion:
 - failing to declare or false declaration
 - no criminal offence, not punishable with a fine, only administrative pursued
 - no mutual international assistance
- Fiscal Fraud:
 - e.g. Falsification
 - prosecuted by penal legislation
 - submitted to international legal assistance

Market leader in Cross-border asset management

- Market share of Switzerland in cross-border asset management: 27% (2000)
- Offshore Private Banking
- Assets held in customer deposits and managed by Swiss banks amounted to 3 700 Bn SFr.

Main Political Issues on Taxation

- Bilateral Negotiation with the EU:
 - Taxation on Savings
 - Combating of Fraud
 - Schengen/Dublin
- OECD
 - Information Exchange
 - Harmful Tax Practices
- US
 - Qualified Intermediary Agreement
 - Bilateral Tax Treaty

EU- Taxation on Savings

- “Bank Secrecy is not negotiable”
- CH: “Interest earnings of EU citizens should be appropriately taxed”
- System of tax retention, initially of 15 %, rising to 20 % and then of 35 % from 2011.
- 75% of the revenues go to the EU and its member states.
- Administrative assistance in cases of tax fraud
- “Well-balanced overall result”
- Ratification with the final package

EU-Taxation on Savings

Critics

- Weakening information exchange:
(Juncker, PM LU: „Nothing will happen in Luxembourg that will not happen in Switzerland and elsewhere“)
- Exemptions for Austria, Belgium and Luxembourg
- Tax rate clearly below maximum rates:
tax evasion remains attractive
- No basis for taxation on wealth and inheritance

EU-Taxation on Savings

Critics (2)

- Easy circumvention
Swiss Bankers Ass.: „High costs, low return...only small people affected...gaps in EU legislation“
CS CEO: „ It is quite possible that investors will choose investment instruments without interest dividends“.
- Extending EU-CH-agreement on developing countries (most favoured-nation clause)

Combating Fraud

(Custom matters)

- EU-mandate to negotiate a co-operation agreement with Switzerland on combating fraud and other criminal acts harmful to the financial interests of the EU (custom duties, VAT, tax on tobacco, tax on beer)
- Switzerland: legal and administrative assistance only in cases of fraud :
 - Principle of double criminality
 - linked exclusively to a custodial sentence of at least 6 months
 - simple tax evasion excluded

Association to the Agreements of Schengen/Dublin

- International cooperation in combating criminality
- Limited international legal and administrative assistance
- Maintaining the bank secrecy

OECD

Improving Access to Bank Information for Tax Purposes 2000

- Switzerland's hard fight for soft information exchange
- Principle of double incrimination
- Relevance of criminal law
- Report compatible with Swiss law

Switzerland continues to be reluctant to automatic information exchange

OECD

Harmful Tax Practices

1998

- Switzerland and Luxembourg withheld approval, but continued to be observer
- Swiss critic: no comprehensive report
 - the report covers only „mobile financial activities“, but not tax incentives, subsidies etc.
 - too much emphasis on international mutual administrative and legal assistance
- Switzerland never responded publicly to so-called harmful tax practices (administrative and services companies)

OECD

Harmful tax practices (2)

- Nervous reaction on the newest negotiations: „Switzerland only remaining on the black list?“
- No transparency
- Obviously some weak internal initiatives to reduce privileges for holding societies in some of the most exposed Swiss cantons

USA

- Qualified Intermediary Agreement :
 - US tax-payers holding assets in Switzerland has to be taxed accordingly to the US rulings
 - Swiss banks have to inform US tax authorities (IRS) about their investment. Alternative: withholding tax of 31 %
 - Controversial debate on lifting the bank secrecy

USA (2)

- Bilateral Tax Treaty:
 - Mutual agreement on the interpretation of the provision concerning administrative assistance
 - Principle of double criminality
 - American interpretation of tax fraud accepted, which includes failure to file
 - Swiss interpretation: deception is also needed
 - Conclusion: bank secrecy may be softened

Political requests of the Swiss Coalition

- Enhancement of EU agreement on developing countries
- Revision of bilateral tax treaties
- Abolish the distinction between tax evasion and fiscal fraud
- Penalization of tax evasion
- Improvement of the international legal assistance
- Enhancement of the information exchange