

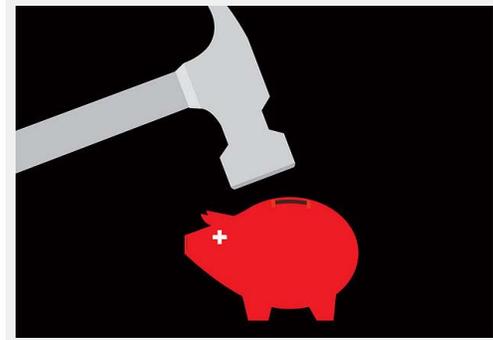


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THE TAX LAWYER

TAXES | 5/31/2013

Swiss Disclosure Deal--'No Secrets Now'

Swiss bank secrecy is beginning to sound like jumbo shrimp. Now, the Swiss government has changed the law so banks can disclose account data. It is being hailed as a watershed event. See [Switzerland to Allow Its Banks to Disclose Hidden Client Accounts](#). But is it?



It seemed inevitable that Switzerland, once known for its discretion, had to give in to the U.S. government. With the new Swiss enabling law, legal impediments to disclosures slip away. Supplying client names and account data will occur under a treaty, but now banks will be able to do it, period.

What's more, there are special provisions protecting Swiss bank employees. Up to now, they've faced sanctions for disclosing much of anything. Now, Swiss banks must protect employees who cooperate with the U.S. Justice Department.

That's a relief, since many employees have faced pressure from the U.S. to disclose, with opposing pressure under Swiss law to clam up. American authorities have indicted several dozen Swiss bankers, lawyers and financial advisers. In some cases these foreign nationals have never set foot in the U.S.

Will the legal change mean more disclosures of American names? Yes, but a bigger change will be the easing of tensions in Swiss banks. They can finally start working out deals with the U.S. Soon, they can hand over broad client details and pay fines in making deals with U.S. authorities.

Although the Swiss government doesn't itself have to pay fines, many Swiss banks will. Some estimate the fines may total \$7 billion to \$10 billion. See [Switzerland Weighs Deal in Tax Cases](#). Some advisers expect there to be another uptick in American account holders coming forward, too. After all, getting to the IRS first and voluntarily is important if you want to avoid criminal tax-evasion charges.

But the big impact is likely to be the deals with U.S. authorities that the Swiss banks must make themselves. In 2009, UBS agreed to enter into a deferred-prosecution agreement with the U.S. The giant bank eventually turned over 4,450 names and paid \$780 million in fines to the U.S.

But then other Swiss banks took over that business for American clients who fled UBS. Wegelin was one of them, and it was indicted, plead guilty and quickly went out of business. See [Swiss Bank's Tax Evasion Sentence Is Really Death](#). That shocker must worry other banks, and new Swiss policies should be a relief.

Despite the deal-making this change should foster, some banks may still face deferred-prosecution or non-prosecution agreements. Those are lesser punishments than indictment. And bank activities since 2009 may be pivotal. By then it was clear the U.S. meant business.

Banks still in the U.S. crosshairs include Credit Suisse, which disclosed in July 2011 that it was under grand jury investigation. Bank Julius Baer is reportedly still being pursued, as is the Swiss wing of [HSBC Holdings](#). Israeli banks under investigation include Bank Hapoalim, Mizrahi-Tefahot Bank and Bank Leumi. See [Why Every American Should Worry About Bank Record Subpoenas](#).

With a changing Swiss legal landscape, banks that want to resolve their relationship with U.S. authorities should be able to cooperate and negotiate. That's good news for a system that has experienced a sea change (combined with an avalanche) like few others.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.