



# Questions and answers on the tax agreement with Germany

## Final withholding tax

### What is a final withholding tax? How does it work?

A final withholding tax is a tax which has the effect of settling all claims. It is a tax levied at source at a flat rate and transferred to the tax authority of the twin state. The specific procedure is as follows: the Swiss bank deducts a flat-rate tax sum on existing fortunes from German clients (past) and on investment income and capital gains (future) respectively, and forwards this sum to the Swiss Federal Tax Administration (SFTA). The SFTA then transfers the tax to the German tax authorities. Once this transfer has been made, the tax liability is deemed to have been settled – hence the term final withholding tax. With this mechanism, bank clients can protect their privacy while the foreign tax authorities receive the tax payments they are legally entitled to.

## Regularisation of the past

### How does the regularisation of existing banking relationships work?

Clients domiciled in Germany can opt for one of two different ways of regularising existing banking relationships in Switzerland (see figure on the right):

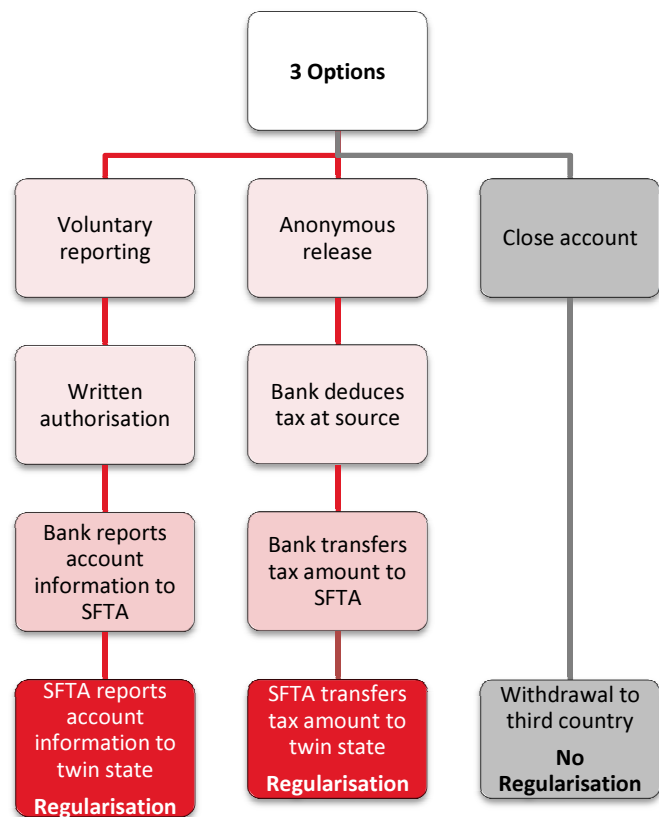
- They can pay a one-off flat-rate tax. For German taxpayers, the rate of this tax will be between 19% and 34% of their asset holdings and will be determined on the basis of a formula contained in the tax agreement. Still outstanding tax arrears will be settled by the one-off taxation to regularise the past.
- They can disclose their banking relationship in Switzerland to the German authorities. Disclosure means that the customers will be subject to retrospective taxation by their tax authorities on an individual basis.

Clients who decide not to regularise their position, i.e. clients who are unwilling to accept either an anonymous release or a voluntary reporting, must close their accounts or custody accounts in Switzerland within five months of the agreement coming into force; otherwise, the tax will be automatically deducted from their assets. In the long run, this is intended to ensure that in future only tax-compliant assets are invested in Switzerland.

### How will clients be prevented from closing their accounts before the agreement enters into force so as to avoid paying tax?

Because of the free movement of capital, clients cannot be prevented from closing their accounts early. However, the agreement reduces the incentives to evade taxation:

- Clients will miss the opportunity to regularise their untaxed assets and income once and for all and in doing so to gain free legal access to their money.
- Clients will also miss out on the advantages Switzerland offers as a financial centre (legal security, quality of service, currency stability, geographical location etc.).
- In the agreement, Switzerland also undertakes to provide the German authorities with statistical information on



the most important destination countries of clients who have terminated their account relationships in Switzerland.

Swiss banks make an advance payment toward future tax revenues; this payment will be refunded to the banks if sufficient tax revenues are raised from clients. The prepayment amounts to CHF 2 billion in the case of Germany.

## Withholding tax for the future

### *How does the withholding tax for the future work?*

For the client, therefore, after the Agreement enters into force, the client domiciled in Germany only has two options (see figure on the right). Either he makes an anonymous withholding tax payment or he reports to the German authorities. There will be no other way to open or maintain an account.

The level of tax rates is aligned on the tax rates of Germany so as to avoid any distortion of competition regarding taxes. For German taxpayers the uniform tax rate is 26.375 % in line with the current flat-rate withholding tax in Germany (25%, plus solidarity surcharge). The signatory states have endeavoured to set the tax rates in such a way that tax equity is preserved and that tax offences are not rewarded after the event.

### *How can implementation of the arrangements be monitored?*

Implementation of the tax by the Swiss banks will be periodically monitored by the Swiss authorities. This will be achieved by means of audits contractually laid down in the tax agreement. The law provides for penal sanctions in the event of the banks acting in breach of the rules.

### *How can fresh untaxed funds be prevented from entering Switzerland?*

It cannot be ruled out that taxpayers who have regularised their position could in due course deposit new untaxed funds in their Swiss accounts. As a safeguard, certain enquiries on the part of the German authorities will therefore be possible in which the name of the client will be required. For Germany, the maximum number of enquiries is between 750 and 999 over a period of two years.

### *What impact will the agreement have on Swiss banking secrecy?*

Protecting the privacy of the banks' clients is and will remain one of the pillars of the Swiss financial sector. The agreement respects this requirement: only tax payments will be handed over to foreign tax authorities, not names of bank clients. Banking relationships will only be disclosed with the explicit consent of the person concerned. To this end, the agreement enables appropriate and substantial taxation without abandoning protection of clients' privacy. In short, in future privacy will only be protected for honest clients.

## What are the next steps?

After signature of the tax agreement by the governments concerned, it will need to be approved by the various national parliaments. In Switzerland, this parliamentary decision will probably be subject to an optional referendum. Assuming they are ratified, the agreements are expected to enter into force at the beginning of 2013.

