Exchange of information by Switzerland in white collar crime cases / tax offences

A roadmap

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Mutual legal assistance in criminal matters

- Exchange of information ("EoI") by criminal authorities in the framework of criminal proceedings;
- Dual criminality: corruption, fraud, money laundering but not simple tax offences;
- Speciality principle: excludes transmission of information by judicial authorities to tax authorities
- Requesting state must demonstrate initial suspicion of a crime.

Instrument suitable to obtain information on accounts etc. in Switzerland in case of white collar crime investigations in the requesting state but not in case of mere tax offences
Administrative assistance between tax authorities

- **New Double Tax Agreements** India-CH, Singapore-CH, Hong Kong-CH (cover taxes on income & capital);
- EoI similar to **OECD** standard;
- Obligation to exchange *information foreseeably relevant* to the correct application of a tax convention as well as for purposes of the administration and enforcement of domestic tax laws of contracting states, i.e. *tax evasion is not excluded*;
- **Swiss bank secrecy** does not prevent disclosure;
- EoI only *upon request in individual cases* (no spontaneous or automatic EoI)
- Limitation to taxes covered by DTA (income tax, including any surcharge thereon)
- **No fishing expeditions** – “group requests” as from 1 January 2013
- Safeguard of taxpayers’ rights, i.e. administrative procedural rules regarding taxpayers’ rights provided for in the requested Contracting State remain applicable before the information is transmitted to the requesting Contracting State (appeal possible)
- Guarantee of a fair procedure
- **No retroactivity**, i.e. Eol only in case of requests for information in respect of income arising in any Indian fiscal year beginning on or after the first day of April 2012
- No Eol if request is based on stolen data (HSBC list!)
Q&A

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