



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

A roadmap

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Singapore, 30 November 2012

Mutual legal assistance in criminal matters

- Exchange of information (“**Eol**”) 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);
- Eol 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;
- Eol only **upon request in individual cases** (no spontaneous or automatic Eol)

- 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. EoI 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 EoI if request is based on **stolen data** (HSBC list!)

Q&A

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