

Foreign tax crimes, money laundering and criminal proceedings abroad

USA, UK, Germany, Austria: how to identify the foreign tax crimes and avoid criminal proceedings for the clients, the professionals & their entities?

Project of the new Swiss AML Law: what are your new obligations?

THURSDAY 30 OCTOBER 2014, ZURICH, HOTEL MARRIOTT

8.45 Opening speech by the conference chairman

9.00 Tax crimes: the UK approach

- The range of crimes a professional can commit under UK law in relation to tax
 - Tax crimes in statute and common law
 - Money laundering: how does this interact with tax offences in the UK?
 - Non-tax specific crimes: fraud, accounting offences, Companies Act offences, banking offences, bribery
- The proposed "professional assistance" offence
- Investigation and prosecution in the UK
 - Who can prosecute, who can they prosecute and what are they interested in?
 - Offshore accounts
 - Multiple jurisdictions and multiple prosecutors
- Professional responsibilities in the UK
 - Reporting to the authorities: money laundering, tax avoidance schemes
 - Reporting to the regulators

Emma Hardaker, Director, Promontory, London

9.45 United States: are the laws new, or the interpretation new?

- Most of the laws have not changed in 30 years
- What potential offences are being committed?
 - Aiding and abetting tax evasion - criminal and civil aspects
 - Aiding and abetting and conspiracy claims under the Bank Secrecy Act regarding FBAR filings
 - Wire fraud and misuse of international monetary transfer infrastructure
 - Review of the indictments, NPAs, DPAs, etc.
- Criminal proceedings abroad against professionals
 - Evolving practice with respect to pursuit of non-US advisors with a particular focus on Swiss related proceedings
 - Movement towards the pursuit of employees rather than institutions
 - Future developments - Will additional US pressure come to bear in future extradition requests and proceedings

Marnin J. Michaels, Partner, Baker & McKenzie, Zurich

10.30 Coffee break

11.00 Criminal offences and their prosecution in Germany

- The range of offenses, old and new: qualification in German law
 - Criminal and Administrative tax offences such as: tax evasion, negligent understatement of tax, customs offences as well as criminal preparatory measures
 - Applicable framework of penalties and sanctions
 - Assessment of penalties according to German case law
- What offence are you and your customer committing?
 - Criminal and administrative risks under German criminal law both for professionals and the entity the professional acts for
 - Criminal tax offences and money-laundering under German criminal law
- Criminal proceedings abroad against professionals & entities abroad
 - Proceedings against professionals acting abroad
 - Proceedings against entities abroad, the professionals work for

- Voluntary self-disclosure to avoid penalties and recent developments in German Legislation and case law
- Requests for mutual assistance in particular regarding cross border assistance between Germany and Switzerland
- Future developments regarding mutual assistance and cross border data exchange

Beatrix Elsner, Senior Associate, Clifford Chance, Frankfurt

11.45 New tax compliance and criminal prosecution of the professionals under Austrian Law

- The profile of the riskiest professionals
 - Risk minimization measures
 - Financial advisors and the banking secrecy
 - Legal advisors and the professional secrecy
 - Voluntary declaration to avoid penalty
- New tax compliance
 - Tax treaty Austria-Swiss - financial criminal aspects
 - Automatic Exchange of Information / OECD common reporting standard
 - The qualification and the range of sentences of the different offenses in the Austrian law
 - Advices/actions/failures to create problems both for the clients and the professionals
 - Recent, current or forthcoming judicature
 - Austrian private foundations Versus "trusts" organized under the laws of the United States of America
 - Obligation to inform about the beneficiary
 - Commitment to the special asset dedication
 - Purpose of the private foundation: the fulfilment of a permissible purpose defined by the founder
 - Withholding tax on capital gains
 - Money laundering
 - Compliance rule "Know your customer"
 - EU "money laundering" directive 2005/60/EC and the implementation in Austria
 - External effect of the Austrian prosecution
 - Structures considered as illegal by Austrian tax authorities

Christoph Kerres, Partner, Kerres Partners, Vienna

12.30 Lunch

14.00 Double incrimination for tax related crimes committed abroad: in which cases is it possible? What are your risks?

- On what legal basis could the Swiss judicial authorities pursue criminal or civil tax offences abroad?
- What protection does the Swiss legal system offer against extra-territorial application of foreign laws?
- What is the influence of the principle of reciprocity on the applicability of double taxation treaties?
- Which are the projected amendments to the criminal code with regards to tax-related crimes?

Michael Nordin, Partner, Schellenberg Wittmer Ltd, Zurich

14.50 The powers of the foreign court in Switzerland (search, summons, seizure of documents ...) to what extent and what protections are available for the customer?

- The procedural/legal side (International Mutual Legal Assistance in Criminal and Civil Matters, art. 271 / 273 CC
- The proceedings via the respective Hague treaties, etc.)
- What foreign courts can do and what not and what procedures have to be followed, therewith also explaining what defences a concerned person has
- Examples and advices

Daniel Marugg, Partner, Altenburger, Zurich

15.40 Coffee break

16.00 New situation created by the Project of the new Swiss AML Law

- The Project at a glance
- What are the new obligations of bankers? In particular:
 - Obligation to identify the beneficial owners of all unlisted companies?
 - Obligation to identify the physical persons controlling all legal entities?
 - Application of the PEPs regulation in terms of risk-assessment?
- What are the new reporting obligations of financial intermediaries?
Obligation to report to MROS and the obligation of freezing the assets in the event of a suspicious activity report?
- Which measures will have to be taken and how to control the clients' tax conformity?
- Will tax certificates brought by the clients be enough to protect banks and their employees from international proceedings?

Simone Nadelhofer, Partner, Lalive, Zurich

16.50 End of the conference

Practical information

How to register:

Tel : +41 22 849 01 11

Fax : +41 22 849 01 10

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By mail : Academy & Finance SA,
PO Box 6069, CH-1211 Geneva 6

Conference fee

1350 CHF + TVA (8%)

Discounts

2nd delegate -10%, 3rd delegate -15%

Registration and payment

To confirm your booking, credit card details must be given as a guarantee of payment. Payment by cheque or bank transfer must be received by Academy & Finance BEFORE the conference date to guarantee admission

Transfer of registration

Registrations can be transferred within a firm or company

Cancellation dates

Cancellations received by 10 October 2014 will receive a full refund.
Cancellations received between 11 and 20 October 2014 will receive a 50% refund less the administrative fee. No refund after 20 October 2014.

Registration form

Yes, I would like to register for the seminar «Foreign tax crimes, money laundering and criminal proceedings abroad» in Zurich on 30 October 2014.

Full name

Position

Company

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I wish to pay by: Credit card Wire transfer

Credit card payments will be debited immediately upon receipt of card details. Credit card payments will be subject to a surcharge of 3% (inc. VAT) to cover commission charge

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Name of card holder

Address of AMEX card holder

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Date Signature.....

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