

The Swiss/UK Tax Cooperation Agreement and HM Revenue & Customs (HMRC)

What is the purpose of this factsheet?

Following the signing of the Swiss/UK Tax Cooperation Agreement, the purpose of this factsheet is to inform UK taxpayers with assets in Switzerland how the agreement might affect them. It also outlines the action that they can take to ensure that their tax affairs are brought up to date. It is for guidance only and supplements Frequently Asked Questions published at the time of the signing of the agreement.

The terminology used in this factsheet has the same meaning given to it as that used in the agreement itself and associated documents, which are available on the HMRC website at www.hmrc.gov.uk/taxtreaties/ukswiss.htm

Background to the Swiss Agreement

The Swiss/UK Tax Cooperation Agreement was signed on 6 October 2011 and is expected to come into force on 1 January 2013. The agreement provides for you:

- to be subject to (1) a one-off payment on 31 May 2013 to clear past unpaid tax liabilities and/or (2) a withholding tax on income and gains for the future from 1 January 2013, or
- to authorise your bank or paying agent to provide details of your Swiss assets to HMRC.

The one-off payment will clear those tax liabilities relating only to assets included in the figure of capital used in the payment calculation. In most cases, this will be the account balance either at 31 December 2010 or 31 December 2012. Amounts taken out of the account before the relevant date may not be cleared. There are separate rules for non-UK domiciled individuals.

The Swiss Federal Tax Authority has produced its own helpsheet about the agreement on its website.

Options available under the agreement

1. One-off payment and/or withholding tax

If you do nothing, a one-off payment will be deducted from your Swiss assets.

The payment is calculated in accordance with an agreed formula which is based on capital and income/gains, the length of time that the account was held and the rate of balance increase over the relevant period. See the HMRC website for further details
hmrc.gov.uk/taxtreaties/ukswiss.htm

You will still be able to authorise disclosure at any time in the future to avoid having withholding tax deducted for the following tax year. If you continue to do nothing, future income and gains arising on those assets will be subject to a withholding tax each year in the future.

In the case of the death of the UK resident beneficial owner of a Swiss account, a charge of 40% of the account balance will also apply when the Swiss authorities are not instructed to provide the UK with details of assets forming part of an estate following the death of a relevant person.

2. Choosing to authorise disclosure

When approached by their bank or paying agent, an alternative option available to UK residents will be to authorise disclosure of details about their Swiss assets to the Swiss authorities for onward transmission to HMRC. If you take this option, you will not be subject to a one-off payment or withholding tax.

HMRC will in due course review the information provided. If you take this option, you have not been relieved of your obligation either in the past or the future to include all taxable income and gains on your UK tax returns.

Additional Information

The agreement is designed to be an effective mechanism for HMRC to recover previously unpaid UK tax liabilities in respect of assets located in Switzerland. If you think you may have unpaid tax in relation to Swiss assets, you should consider making a disclosure directly to HMRC. This will bring your tax affairs up to date and provide certainty that they are in order.

1. Making a voluntary disclosure directly to HMRC

Whether you have been subject to the one-off charge/future withholding tax or authorised the release of relevant details, you may at any time take the opportunity to bring your tax affairs up to date by making a direct disclosure to HMRC. If undisclosed liabilities are not cleared under the one-off charge or future withholding tax, then the normal tax rules will apply.

Depending on the nature of the underlying behaviour, a tax-g geared penalty may be due where tax has been unpaid as a result of careless or deliberate conduct. For further information on penalties that may be due, please see the following helpsheet
www.hmrc.gov.uk/compliance/cc-fs7.pdf

2. Liechtenstein Disclosure Facility (LDF)

Subject to the relevant entry conditions being satisfied, then it is possible for you to make your disclosure through the LDF. Please refer to LDF 1 *Liechtenstein Disclosure Facility: making a disclosure* (available within the Liechtenstein Disclosure Pack) and the associated material available on the HMRC website at

www.hmrc.gov.uk/disclosure/liechtenstein-disclosure.htm

3. Contractual Disclosure Facility (CDF)

If tax may have been underpaid as a result of fraud, HMRC may offer the Contractual Disclosure Facility as a means of bringing your tax affairs up to date. Further information can be found here

www.hmrc.gov.uk/admittingfraud/help.htm

HMRC set out its position in relation to the criminal investigation of relevant persons for past liabilities incurred before the date of this Agreement in respect of relevant assets in a letter dated 6 October 2011, available at our website

www.hmrc.gov.uk/taxtreaties/letter-hmrc.pdf

More generally in terms of a disclosure, failure to make a full disclosure could result in a civil/criminal investigation.

However a person who makes a full, accurate and unprompted disclosure to HMRC or has all unpaid tax liabilities cleared under the terms of the agreement is unlikely to be subject to criminal investigation by HMRC.

Contact point for Swiss Agreement

HM Revenue and Customs
Offshore Coordination Unit
3rd Floor
City Centre House
BIRMINGHAM
B2 4AG

Email contact: swissagreement.hmrc@hmrc.gsi.gov.uk

These contacts are available to discuss the process of making a disclosure. Please note that a disclosure may be dealt with elsewhere within HMRC and you will be advised of the appropriate contact point.

If you have a tax adviser, you may wish to approach them for their assistance in making the disclosure.