Current News

Swiss Banking: secrecy is not the only issue.

More than one year after Switzerland was forced by the USA and the EU to give up its strict banking secrecy rules in favor of exchange of information upon request from foreign tax administration and after the Swiss Parliament very reluctantly approved the governmental agreement regarding the transfer of 4500 UBS client names to the USA (http://www.news.admin.ch/message/?lang=fr&msg-id=33742), new private client funds are pouring into Swiss banks.

Is banking secrecy no longer an issue for clients?

Quite clearly, this is not true! Banking secrecy remains an issue and will continue to be under attack, but through different angles. Urs Zulauf, a distinguished member of the Swiss banking regulatory authority has published an article in Le Temps (Friday June 11, 2010 "La Finma encadrera les voyages des gérants de fortune" http://www.letemps.ch/Page/Uuid/14062c2a-74d0-11df-bd0f-a8a17673274e/La_Finma_encadrera_les_voyages_des_gérants_de_fortune) to warn banks, financial intermediaries and even lawyers of the risks of advising foreign clients in a cross border situation, in particular about - but not limited to - ways to minimize their tax burden. He has also indicated that FINMA, the Swiss Regulatory Authority for the Banking and Financial Sector is preparing new rules on cross-border activities to force banks in particular to asses and manage related risks in a way that does not threat the stability of the institutions involved, as was the case with UBS in the USA. These new rules have become necessary because of the ever increasing restrictions and licensing requirements introduced in many of the countries from where clients of Swiss banks originate.

So if the pressure from foreign governments on Swiss banks continues, why is it that foreign nationals still put new assets on a large scale into Switzerland's banks? (Le Temps June 21, 2010 "Les banques suisses surmontent le choc de 2009" http://www.letemps.ch/Page/Uuid/0b5b99d2-7cac-11df-a0a0-47ffe7af2940/Les_banques_suisses_surmontent_le_choc_de_2009)

There are three main explanations to this:

1. First of all, after the 2008 banking collapse which originated in the USA and which exposed seriously Credit Suisse and UBS, both banks survived, one without any state help at all, the other one with only limited state help and the Swiss Banking System as a whole proved more robust and safe than that of many other countries. Suffice to mention the USA, with more and bigger bank failures than any other country, or the UK, where the banking system had to be nationalized to an unprecedented level. This was then followed by the Euro crisis in 2010, due to the public deficits of many European countries reaching an intolerable level in violation of all the principles they had officially agreed upon.

   Here again Switzerland stands in a sharp contrast to all its neighbors, showing a national economy in much better shape than most other developed countries and a much smaller public indebtedness.

   Switzerland as a safe harbor has retained its unique position over time like no other country and remains therefore highly attractive even for clients who fully declare their assets to their home tax authorities.

2. The second factor explaining the influx of foreign assets into Swiss banks is the behavior of foreign governments.

   Scaring their citizens by using criminals to get access to information is a more widely used method to gain additional information about their tax payers than using the exchange of information rights provided for in the revised double taxation treaties. Unfortunately Switzerland participated also in such a scheme as part of the Swiss - USA agreement to resolve the dispute around the 4500 UBS client names to be disclosed to the US authorities. But at least it was an exceptional occurrence resented as highly offensive and not as normal political business as elsewhere.

   This attitude of the German, French and Italian authorities in particular, does of course not increase the loyalty and trust of high network tax payers towards their home authorities, but leads them rather to use more sophisticated legal means to escape the threats posed by their domestic governments.

   The attitude of the foreign authorities using all available methods to scare their citizens could not be in sharper contrast to the policy of the Swiss authorities, which is to foster the loyalty of the tax payers by limiting to a reasonable level the amount of taxes due.

3. The third factor explaining the continued influx of foreign assets is of course the fact that Switzerland continues to value and protect more than most other countries the right of each individual to a private sphere, which includes all financial matters.

   The Swiss government has indicated very clearly that it will not provide information under the new or revised double taxation treaties which include now the exchange of information for tax purposes, if the information used by the foreign governments to seek the assistance of the Swiss authorities was acquired through methods which are illegal in Switzerland.

   It is also worth pointing out that, even today, the Swiss Bank Regulators, FINMA, do not authorize private banking information to be forwarded to foreign supervisory authorities in the context of consolidated banking supervision, when the clients do only deposit their assets and manage them through a Swiss Bank account.

Conclusion:

The key comments made on September 7, 2009 under the title "Protect your assets" (http://www.stswiss.com/news_publications.php) remain true today. The high net worth individuals who are hunted by many governments should ensure that their assets are held by reputable banks in countries that take seriously the legitimate concerns of their clients regarding the protection of their assets, including the confidentiality related thereto. This is why many Swiss and Singapore banks remain real leaders in this area, yesterday as much as today and tomorrow.

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