

STRATEGIC TAX PLANNING

International & UK Tax Consultants

6 May 2011

A NEW SWISS TAX DEAL FOR TAX EVADERS?

The headline in the Financial Times earlier this week was just one of series of Articles based on rumours swirling around about a tax deal between the UK and Switzerland relating to UK Residents' undeclared and untaxed income in Switzerland.

These rumours have actually been circulating amongst UK tax professionals involved in this field for over a year.

Rates of withholding tax that the Swiss will supposedly withhold from a Bank Account held by a UK Resident, vary from 25%-35% up to 50% (according to the latest comments). The length of time that they will go back and deduct monies from accounts and funds held in Switzerland for prior year tax liabilities, varies from 6 to 10 years.

Liechtenstein who, two years ago signed their unique and innovative Liechtenstein Disclosure Facility ("LDF") with the UK are concerned that the proposed Swiss deal will somehow be better than their deal. This fear has been expressed by many Liechtenstein Bankers involved with LDF Clients.

The truth is that such speculation is counter-productive and takes the focus away from what is in my view, the key issue here.

Those UK Residents who have undeclared income and assets Offshore are not necessarily in a position to pick and choose under which deal they go. They can only **definitely** be in that position, if the UK HMRC have NOT discovered, obtained or received information from a Bank or some other Financial Tax Institution that would indicate that they have undeclared Offshore income and gains and opened a Tax Enquiry.

Whilst most of the speculative comments focus on the amount of tax that this proposed facility with Switzerland might raise (ranging from £3 to £6 billion). The truth is, that those who have such Offshore income and assets; the Swiss deal will be another opportunity to make a fundamental decision.

That decision is whether they believe (that based on statistical chance), they can continue to escape the UK tax net and live in the UK, enjoying their undeclared income and assets held Offshore.

The reality of HMRC's ability to track down tax evaders is that the statistical advantage still lies with the tax evader. However, following a number of successful court cases in recent years where HMRC have managed to obtain orders for information (including names and address) from various UK based

1

STRATEGIC TAX PLANNING

International & UK Tax Consultants

financial institutions and Banks, the net is closing. That statistical advantage is shifting in favour of HMRC.

A further development is the UK signing multiple Exchange of Information and Tax Co-operation Agreements with Countries both in the EU (on the basis an OECD initiative) and with various Tax Havens around the World.

These developments, coupled with Tax Treaties that now permit Foreign Tax Authorities to collect UK tax debts, means that if someone becomes one of those unfortunate *Statistics* caught by UK HMRC; they will face huge penalties, large fees and a stressful Enquiry, that may effectively swallow up most their wealth!

Whatever the specific detail of the UK/Swiss treaty that is finally hammered out (supposedly later this month), the key issue is that there is a tough decision to be made for those with undeclared Offshore income and gains.

They can either hope, that in spite of more information coming into HMRC's hands (heightening the chance of them being discovered) they can continue to *run the gauntlet*, or they can take expert tax law advice that evaluates the options between the LDF and the new Swiss deal and regularise their tax situation in the most favourable way.

In addition, by selecting advisers that specialise in viable tax planning they can minimise their tax liabilities going forward.

Finally, there is of course a third option for UK Tax Residents and that is to cease to be UK Tax Resident and to take up residence in a Country that does not have any Agreements or Treaties with the UK regarding exchange of information or collection of Foreign tax debts. The list of these Countries is narrowing annually. However, the option of flight still exists if someone is not too fussy about where they are going to live and are aware they may not be able to return to the UK for a very long time!

Strategic Tax Planning has many years' legal experience and expertise in dealing with HMRC investigations into Offshore assets (in the strictest confidence) and a clear insight into the precise and beneficial terms of the LDF.

Once the specific terms of the Swiss deal are known, Strategic Tax Planning will be in a unique position to offer the best advice to those Clients who want to resolve their outstanding UK tax issues, enabling them to move forward with legitimate tax planning, creating a *Holistic Solution* to a thorny problem!

Daniel Feingold
Senior Partner

Strategic Tax Planning is a trading style of Stratax LLP
Partnership No: OC354457
3rd Floor, The Triangle, Exchange Square, Manchester M4 3TR.
Tel: 0161 838 5616. Fax: 0161 838 5601. E-mail: info@stratax.co.uk
Web: www.stratax.co.uk