

IRS unveils criteria for Swiss bank account disclosures

By David S. Hilzenrath
Washington Post Staff Writer
Tuesday, November 17, 2009 10:08 AM

If you had less than \$248,200 (250,000 Swiss francs) in your secret account at Switzerland's largest bank, or if it generated less than \$99,280 (100,000 Swiss francs) in annual revenue, you can breathe easier.

A landmark deal that the U.S. and Swiss governments struck in August to expose American tax dodgers does not call for the Swiss to blow your cover.

On the other hand, if you had more than \$992,802 (1 million Swiss francs) in your account at any time from 2001 through 2008 and you failed to disclose it to the Internal Revenue Service, don't count on Switzerland's legendary tradition of bank secrecy to protect you any longer. It may be just a matter of time before your account details are in the hands of U.S. tax collectors and federal prosecutors.

The IRS Tuesday released previously undisclosed details of its August settlement with the Swiss government and Swiss banking giant UBS, showing the criteria being used to determine which accounts are subject to disclosure.

The previously confidential annex to the agreement offers further evidence that, to end a potentially devastating legal battle

with the United States, Switzerland compromised the client protections that have help make it a global banking powerhouse.

Before the showdown over UBS, Swiss law generally shielded depositors whose only offense was failing to disclose assets and income on their tax forms. To jeopardize their entitlement to secrecy, bank clients had to engage in more overt acts of concealment, described as "fraud and the like."

However, according to the newly unveiled annex, the Swiss appear to have stretched the definition of that kind of subterfuge. Under the annex, Switzerland defined "fraud and the like" to include failure to provide a W-9 disclosure form for three years and having at least a certain amount of money on deposit. If American residents had more than 1 million Swiss francs in their UBS

Advertisement



Send flowers
for any occasion
Bouquets \$19.99
from 19^{+s/h}

ProFlowers®
Order ONLY at
proflowers.com/happy
or call 1-877-888-0688

IRS unveils criteria for Swiss bank account disclosures

account, and if the account generated more than \$99,280 (100,000 Swiss francs) in annual income on average over a three-year period, the Swiss have agreed to process the request.

The agreement also covers accounts of more than 250,000 Swiss francs if the American depositors used some type of structure -- such as a shell company registered in an offshore haven -- to hide their ownership of the funds.

Under the painstakingly negotiated terms of the international agreement, the Swiss have not explicitly promised to turn over the account information, only to "process" a U.S. request. Nonetheless, the U.S. government has made clear that, once the Swiss review runs its course, it expects to get the details on about 4,450 accounts.

"Switzerland is no longer a place where Americans can freely think that their account information will be forever protected," said Scott D. Michel of the law firm Caplin & Drysdale, which represents UBS clients.

UBS admitted early this year that it schemed to defraud the U.S. government by helping Americans hide money in secret Swiss accounts. The bank surreptitiously recruited wealthy Americans as clients and then helped some of them set up shell companies to obscure their connection to the accounts.

To avoid a potentially ruinous criminal prosecution of the bank, UBS agreed to pay the U.S. government \$780 million. Then, the U.S. government stepped up a civil action against UBS, asking a federal court to force the bank to disclose the holders of 52,000 accounts. If it ruled against UBS, the federal court could have ordered the seizure of UBS's vast assets in the United States.

The U.S. government was trying to combat tax evasion, which costs the nation badly needed revenue; the Swiss government was trying to protect Switzerland's lucrative banking industry.

Through the deal struck in August, the two governments chose accommodation over confrontation, with face-saving measures for both sides. For example, the U.S. government accepted the possibility that some people who used UBS to evade taxes will get away with it.

Advertisement



Get a Free GE Home Alarm System
Call Now: 866-943-3874
Protect America

The advertisement features a white GE Home Alarm System control panel with a black display screen and a keypad. The keypad includes a numeric keypad (1-9, 0, *, #), a 'Stop' button, a 'Panic' button, a 'Change' button, a 'Test' button, and an 'Exit' button. The panel is set against a blue background.

http://www.washingtonpost.com/wp-dyn/content/article/2009/11/17/AR2009111701240_pf.html

IRS unveils criteria for Swiss bank account disclosures

Details as to which accounts the two governments would target for disclosure under the agreement were withheld until Tuesday to keep depositors guessing about their risk of being exposed -- and to keep them under pressure to confess in return for an IRS offer of leniency.

The offer, originally set to expire in September, was extended to mid-October. As the deadline loomed, a crush of depositors filed voluntary disclosures. It was a new twist on the kind of rush that precedes the annual April 15 deadline for filing tax returns.

Many depositors faced a knuckle-biting dilemma: should they turn themselves in or take their chances?

For others, the choice was simpler. UBS notified some clients that their accounts would be among the first swept up in the settlement, signaling them to seek leniency before it was too late.

Advertisement

Get a Free GE Home Alarm System
Call Now: 866-943-3874
Protect America



http://www.washingtonpost.com/wp-dyn/content/article/2009/11/17/AR2009111701240_pf.html