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Tax Information Exchange between Switzerland and the USA: Introduction to the New Regime

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A. Background

1. The UBS Case

1. The Olenicoff matter marked the starting point of the UBS affair.

2. Evidence gathered in connection with the prosecution of the Californian tycoon Oleg Olenicoff for tax fraud and of the former UBS manager Bradley Birkenfeld – who pleaded guilty to conspiracy to defraud the IRS and cooperated with the prosecuting authorities – permitted the US to initiate a criminal investigation against UBS and to eventually threaten the bank with filing an indictment.

3. UBS was thus forced to enter into a deferred prosecution agreement with the Tax Division of the US Department of Justice and the US Attorney's Office for the Southern District of Florida in order to avoid a further escalation of the criminal case.

4. In that context UBS had to admit to certain wrongdoings and, more importantly, agree to exit its United States cross-border business. Henceforth, banking or securities services could only be provided to US persons through SEC registered entities, and any US persons wishing to continue their relationship to UBS had to supply a fully executed IRS Form W-9.

5. UBS, a key player in the private banking sector, was thus forced to desist from providing offshore services to US persons, and the example made of UBS prompted other Swiss banks to review their offshore private banking business practices to bring them in line with US rules.

6. On the other hand, the information obtained in the course of the prosecution of Messrs. Olenicoff, Birkenfeld and others, permitted the IRS to file an application in Florida known as the John Doe Summons, seeking the disclosure of information by UBS relating to 52'000 accounts believed to be held by US persons.

7. This second challenge of UBS and its US clients must be seen in conjunction with the publication by the IRS of a fixed penalty framework for voluntary disclosures on March 23, 2009.

8. Apparently, the John Doe Summons was an important element of a more comprehensive set of measures taken by the IRS to encourage US persons who held unreported off-shore accounts to come forward and voluntarily resolve their tax issues with the IRS.

9. The investigation and prosecution of UBS accordingly served mainly two objectives:

   (i) to subject the US private client business of UBS and others to US control, and

   (ii) to create an overall atmosphere of uncertainly to motivate US tax payers to make use of the voluntary disclosures program of the IRS.

10. The same tactics can now be seen in connection with Credit Suisse.

11. In February this year newspaper reports on arrests of Credit Suisse bankers were published. And also in February this year the IRS announced its second voluntary disclosure initiative to bring offshore money back into the US tax system.

12. The nexus is in my opinion quite obvious: Again, the US authorities try to create an atmosphere encouraging tax payers to come forward.

13. The statement made by IRS Commissioner Douglas H. Shulman on February 8, 2011 when officially announcing the new program illustrates this best:

    "We have additional cases and banks under review. The situation will just get worse in the months ahead for those hiding assets and income offshore. The new disclosure initiative is the last, best chance for people to get back into the system." (IR-2011-14, February 8, 2011).

a. Pressure from the OECD

14. The UBS case must be seen in the wider context of a general development of international law in the field of tax information exchange, namely within the G-20 and the OECD.

15. Switzerland had entered into a significant number of double tax treaties on the basis of the OECD model convention on the avoidance of double taxation (the OECD Model Convention), but always made a reservation to art. 26 (on tax information exchange), thereby restricting the exchange of information to the prevention or prosecution of tax fraud or equivalent offenses. The distinction between tax fraud and tax evasion which Switzlerland used to make was however a concept which an increasing number of OECD member states found incompatible with standards generally applied within the OECD.

16. As a result of growing international pressure, Switzerland withdrew its reservation to art. 26 of the OECD Model Convention on March 13, 2009 and declared that it would re-negotiate existing, and enter into new, tax treaties with the aim to provide administrative assistance (exchange of information) not only for the purposes of preventing or prosecuting tax fraud, but generally for the purpose of

implementing domestic tax laws of the requesting state. In early April 2009 the OECD nevertheless set Switzerland (and 38 other countries like Luxembourg, Liechtenstein, Monaco, Singapore, the Caribbean islands) on a grey list of jurisdictions that *"have committed to the internationally agreed tax standard, but have not yet substantially implemented"* the measures required.

17. As continuing non-compliance was widely seen within Switzerland as a serious reputational issues, and since the G-20 quite openly threatened to impose sanctions on countries that should continue to remain noncompliant, the Swiss Government launched an unprecedented initiative to simultaneously revise Switzerland's double tax treaties with a multitude of countries.

18. The pace at which Switzerland implemented the new policy was remarkable. Already in the course of September 2009, the twelfth agreement (with Qatar) was signed and Switzerland was accordingly removed from the OECD list of uncooperative tax havens in the course of the same month.

19. To illustrate the speed at which the change in the official position of Switzerland regarding tax information exchange took place, I would like to quote from a speech held by Mr. Hans Rudolf Merz, at the time Swiss minister of finance, at the General Meeting of the Swiss Funds Association in Berne on April 4, 2008 (informal translation of the German original text):

"Bank secrecy is not up for discussion. Whoever seeks to force us to abandon bank secrecy will find it a nut too hard to crack."

20. It took less than one year for the G-20 and the OECD to crack the nut.

2. The OECD Standard for Tax Information Exchange

21. Within this wider setting, Switzerland and the USA signed on September 23, 2009 a protocol amending article 26 of the existing Swiss-US tax treaty to implement the said OECD standard.

22. What does the OECD standard mean?

23. Art. 26 sec. 1 of the OECD Model Tax Convention on Income and Capital reads as follows:

"1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authori-

ties, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2."

24. Obviously, the OECD standard for tax information exchange is not limited to the prevention or prosecution of tax fraud. This standard does not even require suspected tax evasion. Indeed, the contracting states should exchange all information foreseeably relevant for carrying out the tax treaty or – and this is the important part for our purposes – foreseeably relevant to the administration or enforcement of the domestic laws of the requesting state.

25. The key words are *"foreseeably relevant"*. The standard of foreseeable relevance is intended to provide for exchange of information in tax matters to the widest possible extent. Restrictions only apply insofar as contracting states are not at liberty to engage in "fishing expeditions" or to request information that is unlikely to be relevant to the tax affairs of a given tax payer (cf. Model Tax Convention on Income and Capital: Condensed Version July 2010, p. 398).

26. Also the OECD Manual on the Implementation of Exchange of Information Provisions for Tax Purposes of 2006 (TIEA Manual) clarifies that information exchange pursuant to the OECD standard must not be restricted to the prevention or investigation and prosecution of suspected offenses, but should also be granted simply to facilitate the assessment and collection of taxes. It says:

"(…) the scope of both the Model Convention and the Model Agreement [on Tax Information Exchange] *include information exchange for 'collection of taxes' and thus information assisting in the collection of domestic taxes can be exchanged between contracting parties."* (TIEA Manual, p. 6).

27. Information for the administration or the enforcement of domestic laws under art. 26 of the OECD Model Convention may typically include the following items (cf. TIEA Manual, p. 10 et seq.):

- The fiscal residence of an individual or a company;
- the tax status of a legal entity or an individual;
- the nature of income in the source country;
- the income and expenses shown on a tax return;
- business records (for instance to determine the amount of commissions paid to a company of another State);
- formation documents of an entity and documents about subsequent changes of shareholders/partners;

- name and address of the entity at the time of formation and all subsequent name and address changes;
- number of entities residing at the same address as the requested entity;
- names and addresses of the directors, managers, and other employees of a company for the relevant years, evidence (contracts and bank statements) of their remuneration, social security-payments and information about their occupation with regard to any other entities;
- banking records;
- accounting records and financial statements;
- copies of invoices, commercial contracts, etc.;
- the price paid for goods in a transaction between independent companies in both States;
- information involving a so-called triangular situation where in transactions between two companies, each situated in a contracting party, a company of a third country C (with which neither country A nor B have an information exchange instrument), is interposed. Here, countries A and B may exchange information regarding transactions with the company in country C for the correct taxation of their resident companies;
- prices in general, necessary to check the prices charged by their taxpayers even if there are no business contacts between the taxpayers. For instance, country A may wish to check prices charged by its taxpayers by reference to transfer pricing information on similar transactions in country B, even if there are no business contacts between the respective taxpayers in countries A and B.

(Cf. paragraph 8, sub-paragraph c of the Commentary on Article 26 of the Model Convention).

28. The scope of permissible information exchange under the OECD Model Convention also comprises confidential non-taxpayer specific information such as statistics, information about a particular industry, tax evasion trends, administrative interpretations and practices.

29. Regarding information gathering measures to be applied by the requesting state, the OECD Model Convention provides that the requested party shall not have an obligation to carry out administrative measures at variance with its laws and administrative practice. A contracting state should not be required to do any more to satisfy a request for information than it would do if its own taxation was at

stake. Thus, where the information asked for is not yet in its possession the requested party must take all available information gathering measures, including special investigations or special examinations of business accounts, provided it would take similar measures for its own tax purposes.

30. It is important to recall in this context that bank secrecy, whilst possibly withstanding information gathering for domestic purposes, does not permit a requested state to deny an information request pursuant to the OECD standard (cf. art. 26 sec. 5 of the OECD Model Convention).

31. Information gathering measures may typically include the following:

- Question a person that may have knowledge of information or may be in possession, custody or control of information.
- Request the production of books, papers, records or other tangible property.
- Gain access to and search premises for the purpose of locating and securing books and records or other tangible property for examination.
- Produce true and correct copies of books, papers, records or other tangible property.
- Permit the competent authority of the requesting state to provide written questions to which the individual giving testimony or producing books, papers, records or other tangible property is requested to respond.

32. A topic which was until recently controversially discussed in Switzerland is the question of whether or not an information request pursuant to the OECD standard must identify the tax payer concerned by stating his name, and specify the party assumed to hold relevant information by giving such party's name and address.

33. Article 26 of the Model Convention does not specify the formal requirements which an information request must meet to identify the parties concerned. Module 1 of the TIEA Manual (dealing with information exchange on request) provides a checklist of what information should be included in a request. According to such list, names and addresses should be furnished. The relevant items of the checklist read as follows:

"(…)

4. The identity of the person(s) under examination or investigation: name, date of birth (for individuals), marital status (if relevant), TIN and address (including email or internet addresses, if known).

5. The identity of any foreign taxpayer(s) or entity(ies) relevant to the examination or investigation and, to the extent known, their relationship to the person(s) under examination or investigation: name, marital status (if relevant),TIN (if known), addresses (including email or internet addresses if known), registration number in the case of a legal entity (if known), charts, diagrams or other documents illustrating the relationships between the persons involved.

6. If the information requested involves a payment or transaction via an intermediary mention the name, addresses and TIN (if known) of the intermediary, including, if known, the name and address of the bank branch as well as the bank account number when bank information is requested.

(…)." (OECD Manual on the Implementation of Exchange of Information Provisions for Tax Purposes – Module on Exchange of Information on Request, p. 3).

34. However, today the position generally accepted amongst the OECD members is that whilst a requesting country should take into account the items of information contained in the mentioned checklist, the names of the taxpayer concerned and of the holder of information are not mandatory. According to this opinion the relevant standard is set by the terms of the OECD Agreement on the Exchange of Information in Tax Matters (OECD Model TIEA). Art. 5 sec. 5 of such agreement stipulates regarding the identification issue:

"5. The competent authority of the applicant Party shall provide the following information to the competent authority of the requested Party when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:

(a) the identity of the person under examination or investigation;

(…)

(e) to the extent known, the name and address of any person believed to be in possession of the requested information;

(…)."

35. Since item (a) does not provide for an express requirement to state the name of the taxpayer, it is generally accepted that in cases where the requesting authority is not in a position to furnish the name (and/or the address) of the party under examination or investigation such party may be identified by other appropriate means. The same applies to item (e); the identification of the holder of informa-

tion is to be seen rather as an issue of practicability and proportionality than as a mandatory formal requirement for a request to be admissible.

36. An important question is of course, what means, other than the name, would be acceptable pursuant to the OECD standard to identify the taxpayer under examination or investigation. The issue is discussed controversially within the OECD. Reportedly, Germany is advocating the view that information requests which identify a taxpayer by objective criteria such as a concrete description of a specific conduct allowing the requested state to sort out the targeted individual(s) are in keeping with the standards set by the OECD. Switzerland has applied such approach in connection with the UBS affair, as will be shown later on, and it is quite possible that it will do so also in the future.

B. The Protocol of September 23, 2009 Amending the Swiss-US Double Tax Treaty

1. Status

37. Immediately following the announcement of the Swiss Government of March 13, 2009 that Switzerland would henceforth accept the OECD standard for tax information exchange the USA signalled their interest to amend the existing agreement on the avoidance of double taxation with respect to taxes on income of October 2, 1996 (the "Swiss-US DTA") and to implement such standard.

38. Negotiations on a respective amending protocol (the "Protocol") took place from April 28-30, 2009 and June 16-18, 2009. On June 18, 2009 the final wording of the Protocol was initialled, and the instrument was signed on September 23, 2009.

39. On November 27, 2009, the Swiss Government submitted the Protocol to the Swiss Parliament for consent. Such consent was granted by resolution of both chambers of the Parliament of June 18, 2010. The Swiss Government is thus authorised to formally ratify the Protocol any time.

40. Ratification however has not yet occurred due to delays in the US approval process. Whilst the message from the President transmitting the Protocol was submitted to the Senate on January 26, 2011, the treaty is still pending advice and consent by the Senate to ratification (status as of May 12, 2011; cf. http://www.state.gov/s/l/treaty/pending/).

41. As regards the effective date of the amended tax information exchange regime, such delay will in practice however be of minor significance. The Protocol provides for retroactive effect regarding information held by banks and financial intermediaries.

42. Article 5 paragraph 2 of the Protocol stipulates:

"2. This Protocol shall enter into force upon the exchange of instruments of ratification. Its provisions shall have effect:

a) (…);

b) in respect of Articles 3 and 4 of this Protocol [i.e. the provisions dealing with tax information exchange]*, to requests made on or after the date of entry into force of this Protocol:*

i) regarding information described in paragraph 5 of Article 26 of the Convention, to information that relates to any date beginning on or after the date of signature of this Protocol, and

ii) in all other cases, to information that relates to taxable periods beginning on or after the first January of the year following the date of signature of this Protocol.

c) (…)."

43. Art. 26 paragraph 5 of the Swiss-US Double Taxation Treaty, as amended by the Protocol, refers to information that is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or which relates to ownership interests in a person.

44. Accordingly, once entered into force, the US authorities will be in a position to obtain information about offshore accounts held or beneficially owned by US persons dating back to September 23, 2009.

2. The Tax Information Exchange Clause

45. The core elements of the Protocol are article 3 – adjusting art. 26 of the Swiss-US Double Taxation Agreement to the OECD standard (with some modifications which shall be briefly discussed in the following) – and article 4 – replacing article 10 of the existing protocol supplemental to the Double Taxation Agreement containing technical explanations and guidelines for interpretation regarding provisions on exchange of information of the treaty.

46. Further amendments to the Double Taxation Agreement concern the introduction of an arbitration mechanism to resolve disputes between the contracting states and the exemptions of certain types of pension funds from taxation of dividend payments. Being not relevant to the subject matter of this presentation I shall not further dwell on them.

47. The wording of section 1 of article 3 of the Protocol, stipulating the general terms of tax information exchange, reads as follows:

" Article 26 (Exchange of Information) of the Convention shall be deleted and replaced by the following provisions:

'ARTICLE 26

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as may be relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1 [which defines the personal scope of application of the Swiss-US DTA]."

48. This wording appears to be pretty much in line with the OECD standard, but there are a few noteworthy variations:

49. First of all, the clause does not refer to the standard of "foreseeable relevance", but provides for an obligation to exchange information that "may be relevant", which is apparently a lower standard.

50. Second, the information exchange is restricted to "taxes covered by the Convention" (i.e. income taxes pursuant to article 2 of the Swiss-US DTA), whereas the OECD standard refers to "taxes of every kind".

51. Third, the OECD standard provides for information exchange also for the purposes of administration or enforcement of taxes levied by political subdivisions and local authorities of the requesting state, whilst article 26 of the Swiss-US DTA, as amended by the Protocol, is restricted to federal taxes.

52. Bank secrecy is not an obstacle to furnishing information. Whilst paragraph 3 of article 26, as amended by the Protocol, provides in accordance with the OECD standard that the requested state shall not be obligated to carry out measures at variance with its own laws and practices or those of the requesting state, that it shall not have to supply information that it could not obtain in a domestic administrative procedure, and that trade, industrial and professional secret shall be protected, paragraph 5 makes clear:

"5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person

acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person. In order to obtain such information, the tax authorities of the requested Contracting State, if necessary to comply with its obligations under this paragraph, shall have the power to enforce the disclosure of information covered by this paragraph, notwithstanding paragraph 3 or any contrary provisions in its domestic laws."

53. The treaty text thus provides for an immediately applicable authorization overruling possible limitations of domestic law which could prevent the requested state from accessing information sought by the other contracting party. This is of particular significance in the field of bank information as the Swiss tax authorities, pursuant to domestic law, are not empowered to pierce bank secrecy unless they investigate tax fraud or a tax offense of comparable gravity.

3. Requirements to be met by Information Requests

54. The Swiss-US DTA of October 2, 1996 includes a protocol (the "1996 Protocol") which provides explanations, specifications and interpretations for certain clauses of the agreement. Art. 10 of the 1996 Protocol deals with information exchange.

55. The Protocol signed on September 23, 2009 provides in its article 4 that article 10 of the 1996 Protocol shall be deleted and replaced by a set of rules specifying the formal requirements of information requests and, at the same time, providing guidance for their interpretation. These rules supersede possibly more restrictive domestic rules regarding formal exigencies, namely those set out in the Swiss Government's Ordinance on Administrative Assistance pursuant to Double Tax Treaties of September 1, 2010.

56. The key provisions are set out in paragraphs 10(a) and 10(b) the amended 1996 Protocol.

57. Paragraph 10(a) reads as follows:

"a) It is understood that the competent authority of a Contracting State shall provide the following information to the competent authority of the requested State when making a request for information under Article 26 of the Convention:

i) information sufficient to identify the person under examination or investigation (typically, name and, to the extent known, address, account number or similar identifying information);

ii) the period of time for which the information is requested;

iii) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;

iv) the tax purpose for which the information is sought; and

v) the name and, to the extent known, the address of any person believed to be in possession of the requested information."

58. Paragraph 10(b) specifies:

"The purpose of referring to information that may be relevant is intended to provide for exchange of information in tax matters to the widest possible extent without allowing the Contracting States to engage in "fishing expeditions" or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer. While paragraph 10(a) contains important procedural requirements that are intended to ensure that fishing expeditions do not occur, subparagraphs (i) through (v) of paragraph 10(a) nevertheless are to be interpreted in order not to frustrate effective exchange of information."

59. The first thing to be noted: Otherwise than provided in article 26 of the Swiss-US DTA as currently in effect, there is no longer a need for the requesting authority to show prima facie evidence of a tax offense. It will be sufficient under the new regime to state the purpose of the request, hence to simply inform the other party about there being an examination or investigation carried out in relation to a tax payer.

60. Second, it is not mandatory for the requesting state to provide the name of the person under examination or investigation. The information to be furnished must however be sufficient to identify the targeted person – which is more a practicality issue, rather than a legal constraint.

61. Subparagraph 10(a)(v) seams to suggest that at least the name of the party believed to hold the requested information must be stated. This is however not the case. As paragraph 10(b) clarifies, the requirements as set out in subparagraphs (i)-(v), including the requirement to state the name of the holder of the information sought, are meant to prevent "fishing expeditions", but they shall not frustrate effective exchange of information. The understanding of the parties is thus that such information is important and desirable, but not indispensable.

62. Indeed, the Swiss Government submitted on April 6, 2011 a message to the Parliament, proposing in respect of all double tax treaties of Switzerland which provide for the OECD standard, including the amended Swiss-US DTA, to adopt

resolutions clarifying that Switzerland does not insist on the identification of the parties concerned by their names.

63. This recent development was prompted by a peer review of the Swiss tax information exchange rules and practice currently carried out by the Global Forum of Transparency and Exchange of Information for Tax Purposes. Such peer review revealed as a preliminary result that the Swiss approach, according to which proper identification of the parties involved would require the disclosure of the name and – concerning the information holder – also of the address, was not compliant with the OECD standard.

64. The proposed parliamentary resolution relating to the USA provides for the following key points:

65. Switzerland shall grant an information request provided

(i) the USA demonstrate that such request is no random search for information (fishing expedition)

(ii) the USA identify the taxpayer concerned, whereas the identification may be done by means other than name and address;

(iii) the USA provide the name and address of the person believed to hold the requested information to the extent known.

66. Two questions remain: First, what alternative information would the Swiss authorities consider as sufficient to identify the parties concerned, and, second, would Switzerland accept so-called "multiple requests for information"?

67. Guidance may be obtained from a decision of the Swiss Federal Administrative Court made in the UBS case on March 5, 2009 (case no. A-7342/2008), hence at a time when Switzerland and the USA had not yet entered into a special treaty to resolve the UBS matter.

68. The court found (consid. 4.5; informal translation of the German original text):

"Administrative assistance according to the terms of the Swiss-US DTA does not require that the information request names specific persons who are suspected of having committed tax fraud or the like. If one were to take the opposite stance, this would mean that one would (…) ignore cases of likely tax fraud committed by an unknown offender. Rather, it is thus sufficient also within the context of administrative assistance pursuant to the Swiss-US DTA that there is reason to suspect that such an offense was committed, which means that there are reasonably specific indications of unlawful conduct and that the existence of such indications is demonstrated in the information request.

(…).

The existence of reasonably concrete indications of unlawful conduct is therefore sufficient to grant administrative assistance."

69. The question of what would be sufficient information to identify the person under examination or investigation thus can be answered: In lieu of the name, the requesting state should provide information about a specific behaviour or pattern which can be condensed to concrete search criteria, allowing to identify the person concerned by applying such search criteria to information available in the requested state (e.g. registers, data bases at banks etc.).

70. Also, the question of whether or not Switzerland would accept multiple requests for searches may be answered in the affirmative on the basis of the quoted court decision. The court held in this regard (consid. 4.5; informal translation of the German original text):

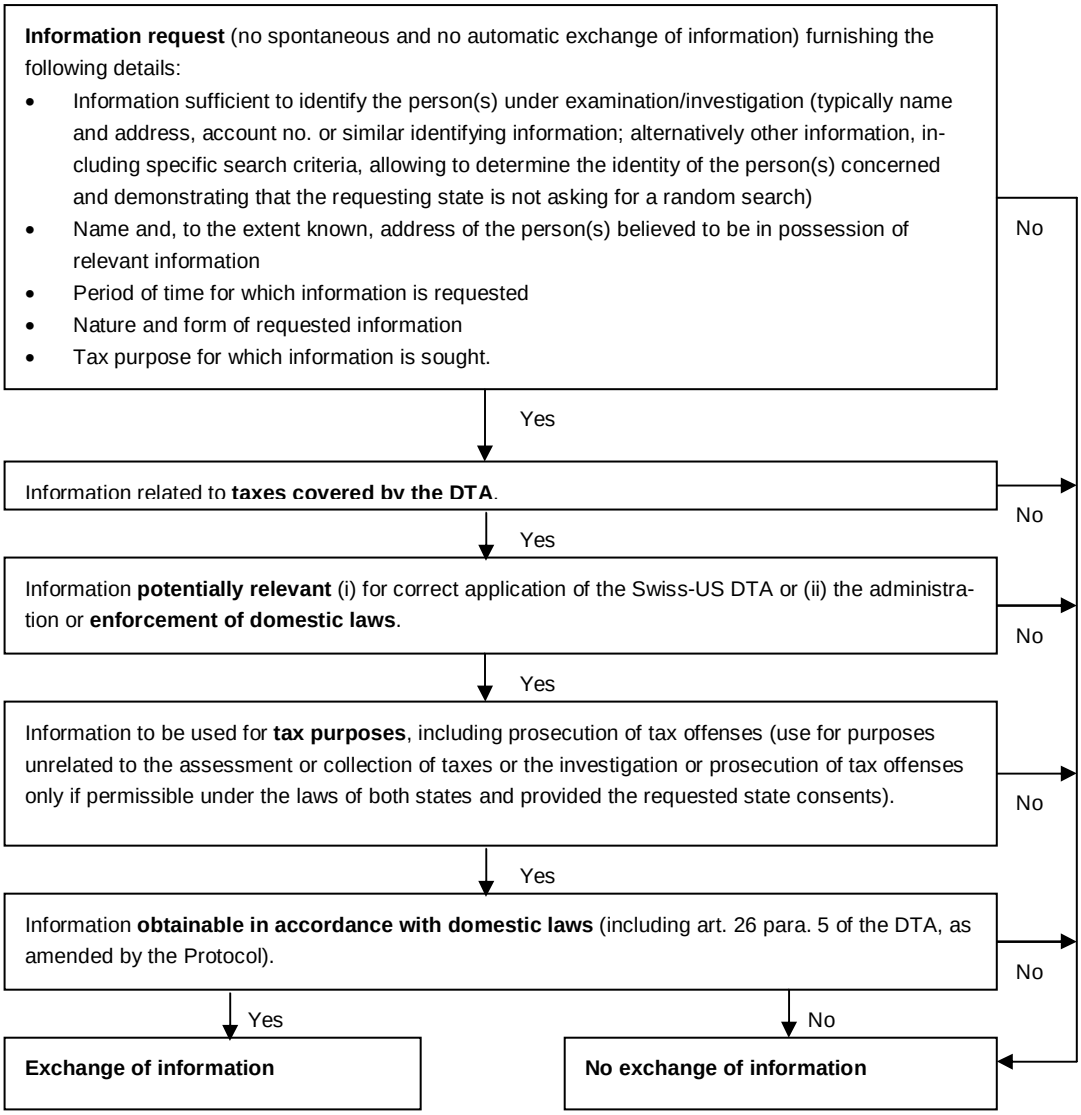
"The fact that a multitude of tax offenses had been committed or that applicable laws were violated systematically, respectively that such a suspicion is being raised in an information request, cannot possibly have an impact on the admissibility of the request. Accordingly, it is irrelevant for the assessment of the request whether an individual is being reproached with having committed a tax fraud, or whether such reproach is being raised against several taxpayers."

71. Finally, and for completeness' sake, it should be noted that also under the new regime tax information will only be exchanged on request. Article 10 of the 1996 Protocol, as amended, specifies in this regard:

"d) Although Article 26 of the Convention does not restrict the possible methods for exchanging information, it shall not commit a Contracting State to exchange information on an automatic or spontaneous basis."

C. Conclusions and Outlook

72. In summary, the key parameters deciding on the admissibility of a request for tax information pursuant to the new regime are the following:



73. To close my speech, I dare to dedicate a few words to the future:

74. Further erosion of bank secrecy is likely to occur, both in relation to the European Union (EU) and the USA.

75. The FATCA, which will become effective January 1, 2013, eliminates the last remainders of bank secrecy US clients of Swiss banks have enjoyed so far in dealings with the US IRS.

76. And the EU is about to implement automatic tax information exchange amongst member and associated states (cf. Directive 2011/16/EU); it is to be assumed that it will exercise pressure on Switzerland to accept equivalent standards.

Whilst the Swiss Government has so far been very clear in its opposition there is a risk that Switzerland will eventually have to submit to a system of automatic tax information exchange.

77. Due to increased transparency as a result of the new Swiss tax information exchange regime, the amount of unreported funds held by private clients in Swiss bank accounts will further decrease, and likewise will – in the long term – the number of information requests by foreign authorities relating to individuals suspected of holding unreported funds in Switzerland decrease.

78. The importance of tax information exchange regarding individuals who hold offshore assets in Switzerland will thus decline in the years to come. But this does not mean that tax information exchange will become a non-issue. The focus will just shift.

79. It is no prophecy to say that the future target of US and EU tax authorities will no longer be individuals, but rather Swiss based corporate entities affiliated with US or EU concerns which have been set up to channel a maximum share of the group's profits into Switzerland in order to benefit from a favourable tax environment.

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