



## UK - Swiss Tax Treaty Announced

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The UK and Swiss Governments have now signed the long awaited UK-Swiss Confederation Taxation Cooperation Agreement. The new treaty still has to be ratified before coming into effect, but is expected to be fully effective from 1 January 2013.

The treaty will generally apply to UK taxpayers who held a Swiss account as of 31 December 2010 and where the account remains open as of 31 May 2013. Non-UK domiciliaries will have to prove, by way of a certification by a lawyer or tax agent that they have claimed the remittance basis of taxation for the year in question, and give notice to opt-out of the agreement. Under the terms of the agreement, UK taxpayers may either:

1. Retain anonymity and suffer an initial one off deduction of between 19-34%, or
2. Make a voluntary disclosure to HMRC regarding their Swiss assets and income.

### Option 1

There will be an initial one-off deduction, in order to settle past tax liabilities, of between 19% and 34% applied to the balance of a UK resident's existing Swiss accounts as of 31 December 2010.

The rate charged depends upon the number of years of investment and the account movement. It is estimated that the applicable rate will be 20-25% for most taxpayers.

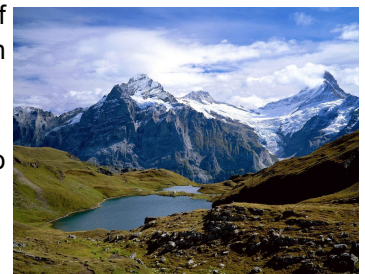
In addition to this, from 2013 there will be a withholding tax of 48% on interest income, 27% on Capital Gains, and 40% on dividends.

Taxpayers who pay the levy and withholding tax will be able to retain anonymity (subject to EU approval).

### Option 2

Alternatively the taxpayer can make a full disclosure of untaxed Swiss income and gains to HMRC. HMRC will then seek unpaid taxes, interest and penalties from this disclosure.

If a disclosure is made, the taxpayer's accounts will not be subject to the one off charge and future withholding tax. However the taxpayer must inform their banks that they have chosen to disclose otherwise the one-off levy will be automatically applied.



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## What to do now

It is likely that UK persons with undisclosed Swiss income will need to contemplate whether to make a disclosure or pay the one off levy and suffer the withholding tax moving forwards.

### *Disclose*

There is no specific disclosure facility contained within the Treaty, so HMRC will levy penalties at normal rates on any liabilities disclosed. HMRC can assess such tax liabilities for up to twenty years so the total cost of tax, interest and penalties could be very high.

A more generous disclosure opportunity is available using the Liechtenstein Disclosure Facility (LDF). The LDF provides certainty of settling past worldwide tax issues, with liabilities being limited to those arising after April 1999, and with a set 10% penalty rate for years up to 5 April 2009. More importantly, the LDF provides immunity from prosecution.

### *Pay the Levy and Withholding Tax*

The one off charge is levied on the value of Swiss funds as of 31 December 2010 and therefore only clears tax liabilities associated with those funds and therefore does not guarantee that all past Swiss liabilities will be settled.

As a result it does not offer immunity from prosecution but does however ensure that anonymity is retained.

### *Move Assets to another Jurisdiction*

It is possible to move assets to another jurisdiction before the 31 May 2013 to avoid the regime; however Swiss banks will be providing information to HMRC on the top ten destinations where funds are being moved. If the taxpayer is subsequently caught they will be liable for tax due, going back to 20 years, with penalties of up to 200%, public 'naming and shaming' and the risk of prosecution.

## How Eaves & Co Can Help

Based on the LDF's that Eaves & Co have already made for clients, the average cost is around 17% of the account value at the time of the disclosure. This is less than the 19%-34% levied under the Swiss Tax Treaty; however each case will need to be judged on its own merits.

In order to establish the best option for the individual involved it would be useful to undertake a technical review to compare the net costs of both options.

