

UK Tax Agreement



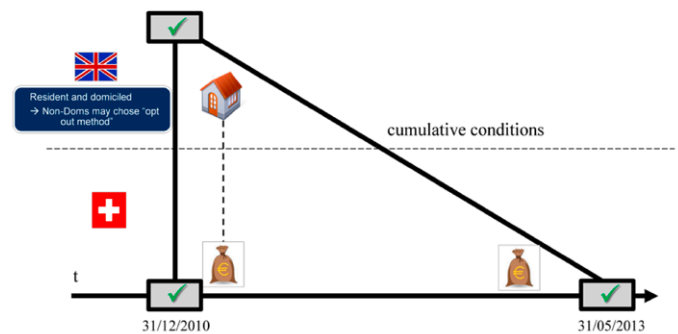
The agreements between Switzerland and Germany as well as the United Kingdom regarding the regularisation of existing untaxed assets and the introduction of a final withholding tax ("Abgeltungsteuer") on future income were signed on 21 September 2011 and 6 October 2011, respectively.

Are the UK and German Agreements different?

The tax agreement between Switzerland and the United Kingdom is very similar to the Agreement with Germany that was signed on 21 September 2011. The differences can be explained by the different tax systems and are related in particular to the treatment of non-UK domiciled persons and the tax rates for future income. Some of these differences have a significant impact on the banks and the bank clients and can be summarised as follows:

One-off payment

Accounts held by relevant UK persons in Switzerland will be subject to a one-off payment of 19% to 34% to settle past tax liabilities on 31 May 2013; this is possible if the account was open on 31 December 2010 and is still open on 31 May 2013 and the respective bank client was resident and domiciled in the UK on 31 December 2010. This payment will settle income tax, capital gains tax, inheritance tax and value added tax which the relevant person would have had to pay. Corporation tax or stamp duty are for example not cleared by the deduction of the one-off payment in relation to the funds in the account. The deduction will not be applied if the account holder instructs the bank to disclose details of the account to the UK tax authority ("HMRC").



Relevant persons for the one-off payment

According to a preliminary interpretation of the Agreement by HMRC, it is important to note that clearance for the past only applies to the funds subject to the withholding. The impact of this is that persons who have withdrawn funds representing taxable income or capital gains will not have certainty that all liabilities in their tax affairs will be settled. It remains to be seen whether this interpretation will be confirmed in future publications of the Swiss tax authority or HMRC.

Final withholding tax ("Abgeltungsteuer") on future income and capital gains

From 2013, income and gains arising on investments held by individual UK taxpayers in Swiss banks will be subject to a new final withholding tax of 40% on dividends, 48% on interest and other income and 27% on capital gains. Again, the final withholding tax will not apply if the account holder authorises disclosure of details of income and gains to HMRC.

Covered persons

The applicability of the Agreement extends wider than accounts held by individuals and is also likely to include UK persons who are the beneficial owners of offshore companies, foundations, trusts and other establishments not trading or carrying on commercial activities. It seems that discretionary structures with UK resident beneficiaries will not be caught by the agreement.

Non-UK domiciled individuals

There are a number of special provisions relating to non-UK domiciled individuals who pay tax on the remittance basis. In particular, non domiciled persons are able to opt out of the one-off charge for the past and the withholding tax on future income and capital gains (with the exception of UK sourced income/gains and remitted income/gains).

Liechtenstein Disclosure Facility ("LDF") versus regularisation under the Agreement

It is likely that many UK persons with Swiss assets will now be contemplating a disclosure. For a large number of UK taxpayers the LDF often is still likely to be the most appropriate (and cheaper) route. The key immediate benefits of the LDF are: guaranteed immunity from prosecution, the use of the composite rate option (which from our experience to date can reduce the size of the tax liability substantially), being able to resolve worldwide undisclosed assets and achieving certainty for the future.

How can KPMG support you

KPMG can assist the bank with respect to the implementation of the UK Agreement as well as the bank clients in a variety of questions that may arise in the context of the Agreement in Switzerland and the United Kingdom.

Contacts:

KPMG AG

Badenerstrasse 172
Postfach
CH-8026 Zurich

UK Agreement

Jürg Birri

Financial Services

Partner

T: +41 44 249 29 17

E: jbirri@kpmg.com

Mike Walker

Tax

Partner

T: +44 161 246 41 17

E: mike.walker@kpmg.co.uk

German Agreement

Heiko Kubaile

Tax

Director

T: +44 249 26 75

E: hkubaile@kpmg.com

Philipp Zünd

Financial Services

Manager

T: +41 44 249 24 77

E: pzuend@kpmg.com

Derek Scott

Tax

Director

T: +44 20 731 126 18

E: derek.scott@kpmg.co.uk

Günter Gräber

Tax

Director

T: +44 249 26 49

E: guentergraeber@kpmg.com

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