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Banques Privées Suisses
Vereinigung
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Association of Swiss Private Banks

Withholding Tax Reform: the people should decide

Towards the end of 2014, the Federal Council initiated a consultation on its proposal for reforming the withholding tax, which would all but abolish this tax for non-residents while considerably broadening its scope for Swiss residents. The Association of Swiss Private Banks (ASPB) supports the first objective, but considers the second overly complicated and potentially unnecessary.

The ASPB urges the Federal Council to submit the initiative "Yes to the protection of privacy" to the popular vote, and to clearly state what the consequences might be if it is accepted (extension of the withholding tax levied by the paying agent) or rejected (automatic notification of income from securities, as proposed by *economiesuisse* and the Swiss Bankers Association). This is the only approach that both ensures the popular will is respected and avoids redundant or conflicting measures.

Furthermore, if automatic notification of income from securities is adopted, which would amount to a profound modification of the Swiss tax system, the Federal Council should provide a simpler option for becoming compliant than currently available.

The law drafted by the Federal Council allows clients to opt for a notification to the tax authorities. However, this is a poisoned gift for both taxpayers and their banks: a client who chooses not to notify and pays the 35% withholding tax instead may be suspected of tax evasion. Consequently, some banks may decide to impose automatic notification on all their clients. This seems like a backdoor way of introducing automatic exchange in Switzerland, while forcing banks to institute a practically useless tax.

But that is not the only problem with the draft law. It is also extremely complex and imposes considerable costs and risks on the paying agents tasked with enforcing it. The drafters of the law failed to give due consideration to these costs and risks, thus disregarding the conclusions of the Brunetti group of experts. The proposed model would be especially detrimental to small and medium-sized banks, which are already struggling under the weight of existing regulations.

In the event that the people vote in favour of the privacy protection initiative, a safeguard tax will have to be implemented. If so, the tax should at least be limited to matured interest, as initially foreseen. The ASPB opposes taxing accrued interest as income, as this would significantly complicate the task of paying agents, most likely without increasing tax revenue for the government.

In addition, it should be noted that the only aspect of this purely domestic issue that must be urgently addressed is the extension or introduction of an exemption from withholding tax for loans issued under the "too big to fail" rules, from 1 January 2017. In the view of the ASPB, it should be possible to implement the transitional solution included in the draft law, in order to give the country time to calmly consider what tax system it wants.

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