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Automatic Exchange of Information (AEOI)

The Federal Law on the International Automatic Exchange of Information on Tax Matters (AEOI Law) came into force in Switzerland on 1 January 2017. As a result, information will be collected from persons obligated to report and exchanged depending on when the AEOI is in force with the partner state (see table on the back page). We explain below which persons are affected by AEOI, what information will be exchanged and what actions will have to be taken by the persons obligated to report.

The object of AEOI is to prevent global tax evasion. The Council of Europe has been working jointly with the Organisation for Economic Co-operation and Development (OECD) for several years to set up the corresponding background conditions for implementing the automatic exchange of information at global level. The result of these efforts is the Common Reporting Standard (CRS). Apart from Switzerland, more than 100 countries have already declared themselves ready to adopt this standard. Switzerland has signed the international agreements which are necessary for this.

International treaty basis / Implementation in Switzerland

Based on the Convention on Mutual Administrative Assistance in Tax Matters Administrative Assistance Convention, Switzerland has signed the Multilateral Competent Authority Agreement (MCAA). This means that in future it will be possible to activate AEOI with another country on a bilateral basis without having to conclude a separate international treaty. AEOI can also be introduced using the ordinary path of an international convention between two countries.

Persons affected by AEOI

From a Swiss perspective, the persons affected by AEOI are those who have movable assets in Swit-

zerland (funds, shares, bonds, etc.) and whose tax residence or domicile is in a country with which Switzerland has concluded an AEOI treaty. Persons whose tax residence or domicile is in Switzerland are not affected by AEOI with regard to assets situated in Switzerland. Swiss bank client confidentiality remains unchanged within Switzerland.

Swiss financial institutions (banks, insurance companies, etc.) are obligated as from 1 January 2017 to identify the reportable accounts and/or persons, to collect the relevant data and then to exchange this with the countries of residence of the persons concerned provided that the other country has signed an AEOI treaty with Switzerland. A distinction is made here between existing accounts and new accounts of individuals on the one hand, and of legal entities (legal persons and trusts) on the other hand. The Common Reporting Standard provides different tests for identifying reportable persons.

- Individuals

In the case of existing accounts of individuals, a distinction is made between accounts with a high value (> CHF 1,000,000) and those with a low value (< CHF 1,000,000), the relevant amount being the consolidated value of all accounts with the financial institution concerned as at 31 December. For low-value accounts, the tax residence of the individual has to be evidenced on the basis of

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a documented address. For high-value accounts, the financial institution must carry out an in-depth electronic search according to a defined pattern.

Where individuals open new accounts, the self-declaration (including a plausibility check) is sufficient. Each of these new accounts is reportable, i.e. there is no threshold below which the reporting obligation does not apply. The reporting comprises the individual's name, address, tax domicile, tax identification number, date and place of birth. If the financial institution cannot find out this information within 90 days after opening the account, it must close the account.

– Legal entities

In the case of existing accounts of legal entities, the financial institutions have first to establish whether the legal entity has its tax residence in a country for which reporting applies. This review can in principle be made on the basis of the available information (including public information) or by obtaining a self-declaration. Accounts with a total value of less than CHF 250,000 do not have to be reported.

For existing accounts of legal entities that qualify as a passive Non-Financial Entity (NFE), the tax residence of the controlling person must always be determined. A passive NFE is defined as a legal entity which primarily receives passive income (interest, dividends etc.) and/or which holds assets that generate passive income. Legal entities whose shares are traded on a stock exchange, or which belong to a group of companies whose shares are traded on a stock exchange, are excepted from this. Where a legal entity is a passive NFE, the financial institution must find out the tax residence of the controlling person. The proceeding for doing this is the same as with individuals. Where a controlling person is resident in a country for which report-

ing applies, the account is always classed as subject to reporting, even if the amount is below the CHF 250,000 threshold for legal entities.

Information to be exchanged

The following information relating to reportable accounts is transmitted:

- Individuals: the name, address and tax identification number, date and place of birth for each reportable person who is the owner of an account;
- For a legal entity which owns an account and for which one or more controlling persons have been identified who are reportable: the name, address and tax identification number of the legal identity as well as the name, address and tax identification number, date and place of birth for all reportable persons;
- Account number;
- Name and identification number of the reporting financial institution;
- Amount or value of the account at the end of the relevant calendar year;
- Gross amount of the interest, dividends and other income;
- Gross amount of the proceeds from sale or redemption of assets.

For which persons is action needed?

For persons affected by AEOI who have correctly paid tax up to now on their assets located abroad, AEOI will not lead to any negative consequences.

Persons who are resident abroad and who have undeclared assets with a Swiss financial institution should consider making a voluntary disclosure of these assets. It is possible that their country of residence offers a tax amnesty program which permits voluntary disclosure at favorable conditions.



SPOTLIGHT AS PDF:

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Partner state	AEOI effective date ¹
Andorra ²	01.01.2018
Antigua and Barbuda ²	01.01.2018
Argentina ²	01.01.2018
Aruba ²	01.01.2018
Australia	01.01.2017
Barbados ²	01.01.2018
Belize ²	01.01.2018
Bermuda ²	01.01.2018
Brazil ²	01.01.2018
British Virgin Islands ²	01.01.2018
Canada	01.01.2017
Cayman Islands ²	01.01.2018
Chile ²	01.01.2018
China ²	01.01.2018
Columbia ²	01.01.2018
Cook Islands ²	01.01.2018
Costa Rica ²	01.01.2018
Curacao ²	01.01.2018

Partner state	AEOI effective date ¹
EU	01.01.2017
Faroe Islands ²	01.01.2018
Greenland ²	01.01.2018
Grenada ²	01.01.2018
Guernsey	01.01.2017
Isle of Man	01.01.2017
Iceland	01.01.2017
India ²	01.01.2018
Indonesia ²	01.01.2018
Israel ²	01.01.2018
Japan	01.01.2017
Jersey	01.01.2017
Principality of Liechtenstein ²	01.01.2018
Malaysia ²	01.01.2018
Mauritius ²	01.01.2018
Marshall Islands ²	01.01.2018
Mexico ²	01.01.2018
Monaco ²	01.01.2018

Partner state	AEOI effective date ¹
Montserrat ²	01.01.2018
New Zealand ²	01.01.2018
Norway	01.01.2017
Russia ²	01.01.2018
Saint Lucia ²	01.01.2018
Saint Kitts and Nevis ²	01.01.2018
Saint Vincent and the Grenadines ²	01.01.2018
San Marino ²	01.01.2018
Saudi-Arabia ²	01.01.2018
Seychelles ²	01.01.2018
South Africa ²	01.01.2018
South Korea	01.01.2017
Turks and Caicos Islands ²	01.01.2018
United Arab Emirates ²	01.01.2018
Uruguay ²	01.01.2018

¹ The collected information's will be exchanged the following year after entry into force
² Planned date; consultation last till 15 March 2017 resp. 13 April 2017