Switzerland: 
Agreement reached with Italy on tax issues

Switzerland and Italy have reached agreement on a protocol that would amend the existing tax treaty dating from 1976 (as previously amended) to enhance the provisions on the exchange of tax information and, in principle, future tax cooperation in tax matters. The parties also agreed on a “roadmap” that includes a clear political commitment to several aspects of bilateral relations between the treaty partners. The protocol, initialed on 19 December 2014, followed more than two years of protracted negotiations over untaxed Italian assets in Swiss banks. It is expected to be signed before the 2 March 2015 deadline that would allow Switzerland to be removed from Italy’s “black list” for purposes of Italy’s voluntary disclosure program (VDP) that applies from 1 January 2015 and is expected to operate until the end of September (the VDP allows Italian residents to “regularize” undeclared assets held abroad). The roadmap is expected to be signed at the same time.

The protocol to the treaty will incorporate the OECD standard for the exchange of information upon request, and will apply as from the date the protocol was signed, rather from the date it is ratified by both countries.

The roadmap includes the following provisions:

- The OECD standard for the automatic exchange of information is to be introduced between Switzerland and Italy in the future.
- Italian taxpayers that have accounts in Switzerland can participate in the Italian VDP under the same conditions as individuals in countries that are not included on any black list.
- Taxpayers who participate in the VDP are eligible for reduced penalties. Financial institutions and their employees generally will not be held liable for tax offenses committed by their clients.
- The treaty is likely to be further amended to reduce the withholding tax rates on dividends and interest payments, revise the anti-abuse provision and add an arbitration clause.
- The tax treatment of cross-border commuters will be revised. The governments of Italy and Switzerland intend to negotiate an agreement under which cross-border commuters would be subject to reduced taxation in the state in which they exercise their employment, and regular taxation in their country of residence. The portion of tax retained by the state where the employment is exercised will be a maximum of 70% of the total income tax withheld.
- Once the protocol enters into effect, Switzerland will be removed from Italian lists that are based solely on the absence of an exchange of information. The Swiss privileged regimes that currently are on Italy’s black lists (i.e. the holding, mixed and domiciliary regimes) will remain listed until they have been abolished or adjusted to bring them in line with international standards.
- Both countries intend to seek ways to enhance cross-border cooperation and financial market access.

The agreement between Italy and Switzerland is a milestone, and should substantially improve relations with regard to financial and tax matters between the two countries. In particular, the
removal of Switzerland from Italy’s black list should have a positive market impact for Swiss companies.

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