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Department of Justice

Office of Public Affairs

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Monday, March 30, 2015

BSI SA of Lugano, Switzerland, is First Bank to Reach Resolution Under Justice Department's Swiss Bank Program

The Department of Justice announced today that BSI SA, one of the 10 largest private banks in Switzerland, is the first bank to reach a resolution under the Department of Justice's Swiss Bank Program
<<http://www.justice.gov/tax/2013/txdv13975.htm>>.

"Because of the department's continuing efforts to root out offshore tax evasion, Swiss banks are operating much differently today than they did just a few years ago, and the department's Swiss Banking Program is a big part of that change," said Acting Deputy Attorney General Sally Quillian Yates. "When we announced the program, we said that it would enhance our efforts to pursue those who help facilitate tax evasion and those who use secret offshore accounts to evade taxes. And it has done just that. We are using the information that we have learned from BSI and other Swiss banks in the program to pursue additional investigations into both banks and individuals."

The Swiss Bank Program, which was announced on Aug. 29, 2013, provides a path for Swiss banks to resolve potential criminal liabilities in the United States. Swiss banks eligible to enter the program were required to advise the department by Dec. 3, 2013, that they had reason to believe that they had committed tax-related criminal offenses in connection with undeclared United States-related accounts. Banks already under criminal investigation related to their Swiss-banking activities and all individuals were expressly excluded from the program.

Under the program, banks are required to:

- * Make a complete disclosure of their cross-border activities;
- * Provide detailed information on an account-by-account basis for accounts in which U.S. taxpayers have a direct or indirect interest;

- * Cooperate in treaty requests for account information;
- * Provide detailed information as to other banks that transferred funds into secret accounts or that accepted funds when secret accounts were closed;
- * Agree to close accounts of account holders who fail to come into compliance with U.S. reporting obligations; and
- * Pay appropriate penalties.

Banks meeting all of the above requirements are eligible for a non-prosecution agreement.

According to the terms of the non-prosecution agreement signed today, BSI agrees to cooperate in any related criminal or civil proceedings, demonstrate its implementation of controls to stop misconduct involving undeclared U.S. accounts, and pay a \$211 million penalty in return for the department's agreement not to prosecute BSI for tax-related criminal offenses.

"The department's Swiss Bank Program is an innovative effort to get the financial institutions that facilitated a massive fraud on the American tax system to come forward with information about their wrongdoing – and to ensure that they are held responsible for it," said Acting Associate Attorney General Stuart F. Delaney. "Today's resolution demonstrates that the program is working. BSI is paying an appropriate penalty for its misconduct and the information and continuing cooperation we have required the banks to provide in order to participate in the program is allowing us to systematically attack offshore tax avoidance schemes."

BSI helped its U.S. clients create sham corporations and trusts that masked the true identity of its U.S. accountholders. Many of its U.S. clients also opened "numbered" Swiss bank accounts that shielded their identities, even from employees within the Swiss bank. BSI acknowledged that in order to help keep identities secret, it issued credit or debit cards to many U.S. accountholders without names visible on the card itself. ◆=A0

BSI not only helped U.S. clients shield their identity from the Internal Revenue Service (IRS), but helped them repatriate cash as well. BSI admitted that its relationship managers and their U.S. clients used code words in emails to gain access to funds. BSI disclosed instances where its U.S. clients would use coded language, such as asking their private bankers, "can you download some tunes for us?" or note that their E2◆◆gas tank is running empty" when they required additional cash to be loaded to their cards.

From the beginning of the Swiss Bank Program, the department has emphasized the importance of the banks' helping to identify individuals who facilitate U.S. tax evasion and U.S. accountholders. BSI provided substantial assistance in this regard. ◆=A0

"An individual is not culpable simply because he or she is identified by a bank within the program," said Acting Assistant Attorney General Caroline D. Ciraolo of the department's ◆=80◆s Tax Division. "With that said, the department strongly encourages those individuals and entities currently under indictment, under investigation, or who have concerns regarding their potential criminal liability to contact and fully cooperate with the department to reach a final resolution."

Since 2009, the department has charged more than 100 offshore bank accountholders, dozens of facilitators, and financial institutions. The department's offshore enforcement efforts have reached far beyond Switzerland, as evidenced by publicly announced actions involving banking activities in India, Luxembourg, Liechtenstein, Israel and the Caribbean.

BSI had more than 3,000 active United States-related accounts after 2008, many of which it knew were not disclosed in the United States. In resolving its criminal liability under the program, BSI provided extensive cooperation

and encouraged hundreds of U.S. accountholders to come into compliance. BSI is also assisting with ongoing treaty requests.

"This action under the Swiss Bank Program shows just how far we've come in our efforts to stop offshore tax avoidance," said Deputy Commissioner Douglas O'Donnell of IRS's Large Business and International Division (LB & I). "The IRS and DOJ remain committed to aggressively enforce our nation's tax laws regardless of how sophisticated or complicated the schemes may be."

While BSI's U.S. accountholders who have not yet declared their accounts to the IRS may still be eligible to participate in the IRS's offshore voluntary disclosure programs, the price of such disclosure has increased.

Most U.S. taxpayers who enter the IRS offshore voluntary disclosure program to resolve undeclared offshore accounts will pay a penalty equal to 27.5 percent of the high value of the accounts. On Aug. 4, 2014, the IRS increased the penalty to 50 percent if, at the time the taxpayer initiated their disclosure, either a foreign financial institution at which the taxpayer had an account or a facilitator who helped the taxpayer establish or maintain an offshore arrangement had been publicly identified as being under investigation, the recipient of a John Doe summons or cooperating with a government investigation, including the execution of a deferred prosecution agreement or non-prosecution agreement. With today's announcement of BSI's non-prosecution agreement, its noncompliant U.S. accountholders must now pay that 50 percent penalty to the IRS if they wish to enter the IRS' program.

BSI and other banks in the Swiss Bank Program are also providing detailed information to the department about transfers of money from Switzerland to other countries. The Tax Division and the IRS intend to follow that money to uncover additional tax evasion schemes.

The department has emphasized the importance of identifying U.S. accountholders who have undeclared foreign bank accounts, and BSI has provided assistance in that task. Because of the information provided to the department under the program, the Tax Division has already begun the process of identifying noncompliant U.S. accountholders who have maintained accounts at many Swiss banks participating in the Swiss Bank Program. <=>

"Today's action sends a clear message to anyone thinking about keeping money offshore in order to evade tax laws," said Chief Richard Weber of IRS-Criminal Investigation (CI). "Fighting offshore tax evasion continues to be a top priority for IRS-CI and we will trace unreported funds anywhere in the world." IRS-CI special agents are our nation's best financial investigators, trained to follow the money and enforce our country's tax laws to ensure fairness for all."

Acting Assistant Attorney General Ciraolo thanked the IRS and in particular, IRS-CI and LB & I for their substantial assistance, as well as Trial Attorney Kevin F. Sweeney of the Tax Division, who served as lead counsel on this matter, and Senior Counsel for International Tax Matters and Coordinator of the Swiss Bank Program Thomas J. Sawyer of the Tax Division.

Additional information about the Tax Division and its enforcement efforts may be found on the division's website <<http://www.justice.gov/tax>> .

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