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Tuesday, August 11, 2009 Commentary: A financial arms dealer will soon have to come clean

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Last Update: 12:01 AM ET Aug 11, 2009NEW YORK (Market Watch) -- Let me let you in on a little secret: the Swiss banking ruse is over -- and it's about time.

Historically, Switzerland's neutrality has been an esteemed philosophical island in a world full of bitter cultural animosity and politics. But its banking rules, which were liberalized to help Jews hide assets from the Nazis, emphasize secrecy over law and have become less-than admired and more controversial around the world.

That's about to change with the culmination of an aggressive U.S. Internal Revenue Service effort, led by attorney John McDougal to gain the identities on 52,000 Swiss bank accounts held by UBS AG. UBS See full story.

Switzerland's seven-member cabinet met Monday to discuss the IRS's demand, and several analysts believe the meeting is the first step in what ultimately will be capitulation by the Swiss to allow access to banking records in tax-evasion cases.

The fight between the IRS and the Swiss government is complicated, but it ultimately comes down to two sovereign laws at odds in the international realm.

The Swiss have offered legal banking secrecy to anyone and for the last 75 years, unveiling account holders' identities has been a criminal offense. The IRS, in its pursuit of tax dodgers who have used overseas accounts to hide funds, is seeking the names as part of a sweeping probe. Swiss movement The U.S. effort has put a lot of its goodwill with Switzerland, not to mention a treaty protecting secret bank accounts, at risk with the move. The Swiss sometimes reveal account holders' identities when there's strong evidence accounts are being used to hide proceeds from activities including drug trafficking, organized crime and more recently, terrorism. Some argue that the U.S. is violating its own search-and-seizure protections by aiming to reveal account holders' identities without specific evidence. Probable cause is a nifty argument, except that in this case it's a fallacy. Probable cause does not mean that someone has to be guilty; it means there's a likelihood that evidence of a crime exists in the place to be searched. Take a look at the nature of Swiss bank accounts and, though it may not fit a tidy legal definition, it's fairly obvious that the only reason an American would want to deposit their funds there and maintain secrecy is to hide something. The Swiss tax all interest earned on the accounts at a rate of about 35%. That penalty can be waived if you can prove you're not a Swiss citizen and to do that you must agree to reveal your identity.

Americans with Swiss accounts do so for many reasons that aren't necessarily nefarious. UBS and Credit Suisse CS have substantial holdings in the U.S. banking market. Having a Swiss account gives international travelers options that their small local banks may not offer. The Swiss franc is a relatively stable currency. But there are other reasons -- if not illegal then questionable -- for having a Swiss account. Hiding assets in a divorce is one; tax evasion is another. And even though the Swiss will lift secrecy when there's evidence of illegal activity, it doesn't happen very often. Not that there has been a shortage of corrupt officials opening up accounts in Switzerland. Former Phillipine president Ferdinand Marcos, ex-Nigerian president Sani Abacha and Vladimir Montesinos, the one-time head of Peru's intelligence agency, all had numbered accounts with Swiss banks. A slippery slope The so-called benefits of banking secrecy have made Swiss banks the top holders of offshore accounts globally -- with 35% of all assets -- and created supersized wealth for the nation. The tiny country ranks among the top 40 in gross domestic product, per capita income is 17th in the world and a 3% unemployment rate as of December, according to the U.S. State Department. With so much of Switzerland's wealth at stake, it's no surprise the banks and Swiss government want to retain their competitive edge. But that's true with anyone who serves people or entities shunned by the rest of the world. Switzerland is, in a financial sense, an arms dealer with a secret client list, legal but unsavory. The Swiss may have a perfectly legal right to offer such services. The U.S. also has a right to chase down tax dodgers and criminals. If that means barring U.S. citizens from opening secret accounts or renegotiating a treaty to force more openness, then our government can play hardball, too. So far, U.S. pressure has already paid off. In January, UBS closed 19,000 accounts believed to have been used for evading taxes. And the IRS said it has received a record response to a clemency program for tax evaders using offshore accounts. The squeeze is the reason true banking secrecy is on its way out, whether it's the Swiss providing more information about its banking clients or our government taking those clients away. E-Mail Article Printer-Friendly Translate Share Article Text Size International Provider Aug 11, 2009Banks pressured as British shares pull back, Market Watch.com Bank shares fall for a third consecutive session in London as analysts note their rally over the past few month has left lenders priced at levels not far from they were before the credit crunch hit. Aug 11, 2009Europe shares drop as banks, miners slide, MarketWatch.com European shares were lower on Tuesday, with financials such as UBS, Lloyds Banking Group and Aegon giving back a fraction of the steep gains made since March. Aug 11, 2009Citigroup spells out second-quarter TARP spending, MarketWatch.com Under renewed scrutiny, Citigroup lays out the ways in which money received under TARP -- the government's Troubled Asset Relief Program -- was deployed during the second quarter. Aug 11, 2009Panel warns smaller banks face whole-loans threat, MarketWatch.com A bank-bailout oversight panel says smaller public banks could

face serious trouble if a worst-case scenario develops for their whole-loan portfolios. Aug 11, 2009 Tuesday's biggest gaining and declining stocks, MarketWatch.com Stocks moving significantly in Tuesday trading include AIG, CIT, Fossil, Quest, Sprint and Zions. Aug 11, 2009 Treasuries up before first auction of refunding, MarketWatch.com Treasury prices advance, pushing yields down for a second day, before the government kicks off \$75 billion in debt sales with a record sale of three-year notes. Aug 11, 2009 Financials down as CIT Group, MBIA weigh on sector, MarketWatch.com Financial stocks are lower as renewed bankruptcy fears swirling around commercial lender CIT Group Inc. and an analyst downgrade of a bond insurer weighed on investor sentiment. Aug 11, 2009 U.S. stock market to test July lows, analyst says, MarketWatch.com A sharp decline in trading volume on the Standard & Poor's 500 signals a looming test of last month's lows, with the widely followed equity benchmark then destined to fall under its March low, says stock market technician Tony Cherniawski. Aug 11, 2009 Citigroup's real progress will come by asset sales, MarketWatch.com Citigroup Inc. on Tuesday outlined the progress it's making toward repaying the U.S. government under the Troubled Asset Relief Program. Aug 11, 2009 Why you should ask for lower rent, MarketWatch.com It isn't easy to build up the nerve to ask your landlord for a reduction in rent. But these days having the gumption to renegotiate a lease is paying off as landlords struggle to find and keep tenants with good credit and a history of paying on time.

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