

Swiss paying agents have to inform relevant persons within 2 months that the Swiss-UK tax agreement is in force.³⁶⁴ The relevant person has the duty to inform the Swiss paying agent in writing which option he wants to take and has to provide the required assets for the one-off deduction.³⁶⁵ If a new business relationship starts after this agreement is in force, the relevant person has to inform the paying agent if the assets were booked before 31/12/2012 to a Swiss account and whether such an account still exists. If the assets were previously with another Swiss bank and this account no longer exists, the relevant person has to authorise the new Swiss bank to collect all relevant information from the previous bank. The bank has to make a disclosure if the person does not reply, in writing, on time.³⁶⁶ The agreement only covers assets booked on bank accounts and deposits.³⁶⁷ Precious metals, works of art, antiques and real estate are not covered and can therefore not be regularised.³⁶⁸

Koblenzer criticises the change in how payment agents are treated. He constructs a case where a relevant person who wishes to be paid out in cash, then changes the cash into gold or gold coins through a bullion dealer in order to open a bank account with another Swiss bank and to deposit the gold there.³⁶⁹ However, Koblenzer does not take into account that the agreement has an anti-abuse rule under which Swiss paying agents are not allowed to “knowingly manage or encourage the use of artificial arrangements whose sole or main purpose is the avoidance of taxation of the relevant persons under the provisions of this Agreement”³⁷⁰. Swiss paying agents who breach the rule are liable for the missed tax, with the option of regress to the affected person.³⁷¹

Furthermore, and independent from the agreement, the withdrawal of a large amount of cash must be carefully scrutinised by banks. According to the due diligence law, banks must keep records of withdrawals and the reasons for them. Furthermore, not every bank will pay out large amounts in cash without the certainty of a paper trail.³⁷² It might be possible to avoid paying any tax, but the person runs the risk that the bank will inform the “Meldestelle für Geldwäscherei”. Finally, if such a person is detected later by the tax authority, he cannot expect to be treated leniently.

³⁶⁴ CH-UK Tax Agreement, 2011, art. 6, para. 1.

³⁶⁵ CH-UK Tax Agreement, 2011, art. 7, para. 1&2.

³⁶⁶ CH-UK Tax Agreement, 2011, art. 8, para. 1, 2 & 6.

³⁶⁷ Hosp & Langer, 2011 (2), p. 913.

³⁶⁸ Urtz, 2012, p. 61.

³⁶⁹ Koblenzer, 2012, p. 125.

³⁷⁰ CH-UK Tax Agreement, 2011, art. 33, para. 2.

³⁷¹ Jirousek, 2012, p. 208.

³⁷² Eidgenössische Finanzmarktaufsicht, Verordnung der Eidgenössischen Finanzmarktaufsicht über die Verhinderung von Geldwäscherei und Terrorismusfinanzierung (GWV-FINMA), 2013, art. 13, 14 & 20.