

The exclusion of gold, real estate and safety deposit boxes could present a loophole but also a problem for some persons.³⁷³ If someone wants to regularise his Swiss assets but also has gold bullion in a safety deposit, he is not able to regularise this via the agreement. After the one-off deduction, the tax liabilities of the bankable assets are compensated, but the tax liabilities for the gold bullion are not. It would have been possible to liquidate the gold before 31 December 2012, but this would still have been subject to the “20% cap” problem, as explained in chapter 3.4.6.

3.4.3.2 One-Off Payment

If a relevant person opts for a one-off payment, the Swiss paying agent must collect the assets.³⁷⁴ In general, the tax rate is 34%.³⁷⁵ The account and deposit must have been made since December 31 2002 for the tax rate to apply.³⁷⁶ The tax rate is based on the following factors:³⁷⁷

- The date the bank account was opened. At most back to 31/12/2002
- The asset value on this opening date
- The asset value on 31/12/2010
- The change in asset value in 2011 and 2012
- The final value of the asset on 31/12/2012

After the payment, the Swiss paying agent has to issue a certificate for the relevant person and the person has 30 days to enter any opposition.³⁷⁸ After these 30 days, the Swiss paying agent forwards the payments to the Swiss tax authority on a monthly basis. After a further month, the Swiss tax authority forwards the payments to HMRC. HMRC should therefore receive the final payment on 1 February, 2014. Payments which are delayed due to legal proceedings or similar must be transferred immediately after the problem is solved.³⁷⁹ All transactions are made in sterling.³⁸⁰ After the certificate is issued, all tax liabilities, income tax, capital gains tax, inheritance tax, and VAT for the relevant assets are regularised for the past.³⁸¹ The one-off deduction is not available for persons under investigation by HMRC or if the relevant person is already part of a disclosure or if the assets are from criminal proceeds or fraud.³⁸²

³⁷³ Urtz, 2012 (1), 61.

³⁷⁴ CH-UK Tax Agreement, 2011, art. 9, para. 1.

³⁷⁵ CH-UK Tax Agreement, 2011, art. 9, para. 2.

³⁷⁶ Urtz, 2012 (1), p. 62 & 63.

³⁷⁷ Koblenzer, 2012 (1), p. 128.

³⁷⁸ CH-UK Tax Agreement, 2011, art. 9, para. 4.

³⁷⁹ CH-UK Tax Agreement, 2011, art. 9, para. 5.

³⁸⁰ CH-UK Tax Agreement, 2011, art. 9, para. 6.

³⁸¹ CH-UK Tax Agreement, 2011, art. 9, para. 7, 8 & 10.

³⁸² CH-UK Tax Agreement, 2011, art. 9, para. 13.