

Let's get the Swiss-US legacy problem out of the way

If Switzerland breaks its treaty with the US on secret bank accounts, its credibility would be damaged as it would be seen as proof of Switzerland protecting tax criminals.

In June, the Swiss Parliament will have to ratify the Swiss-US treaty on the request of bank clients' information by the US Internal Revenue Service (IRS). This treaty was negotiated in August last year between the two governments. Its purpose was to find a solution for the entangled problem of achieving a balance between the rightful pursuit of US tax avoiders and the equally rightful Swiss banking laws, especially the banking secrecy laws, in accordance with the current Swiss-US Double Taxation Treaty (DBA). In January 2010, the Swiss Federal Administrative Court (FAC) ruled that this treaty was not fully covered by current Swiss law. On advice from the highest judge of FAC, the Swiss government has decided to submit the treaty to the Swiss Parliament for ratification. If this treaty is rejected, Switzerland's economy runs a high risk of facing serious and damaging consequences.

This treaty is a binding contract under international law. Were Switzerland to break such a binding treaty, its credibility would be severely damaged as it would be seen as a proof of Switzerland protecting tax criminals. Especially in light of the US mid-term elections in November, Switzerland must not expose itself as a target for the struggle of the Democrats in their mission to fight tax offenders – let us not forget: this is the most important success story of the Obama Administration and is therefore pursued with utmost priority. Hence, it is highly likely that a rejection of the treaty would lead to a headline – let's say in the New York Times: "Swiss



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reject Treaty in order to protect Tax Criminals". Apart from the damage of reputation and the massively increased likelihood of a revival of Tax Haven Initiatives, a ratification of the new Double Taxation Agreement with the USA would then be difficult.

All this would lead Swiss Companies – large and small – to reconsider their strategies as far as their activities in the US are concerned (the US is a key market for internationally active Swiss companies, accounting for 25%-50% turnover). US companies based in Switzerland, generating 5% of the GDP and providing 120,000 jobs, would be under pressure and would need to review their presence in Switzerland. Furthermore, in the case of rejection, the Swiss financial sector would be under intense pressure and UBS would be "back to square one" – all of which would affect a large number of jobs. And last, but certainly not least, all these looming risks would have serious implications on the Swiss relationship with Germany, Italy, France and the UK as well as with OECD and the G-20.

Therefore, the Swiss Parliament will need to swallow what is certainly a bitter pill for all involved and will have to authorise this treaty in order to protect Swiss interests. Once this major legacy issue will be out of the way, causes and culprits for this quandary can be searched for and a solid strategy can be discussed and implemented, not only for the Swiss-US relationship but also for the welfare of the Swiss financial market place and, subsequently, the Swiss economy as a whole.