

The European Savings Tax Agreement

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The first breach in the system came from the European Union. In 2003, the European Union adopted the Savings Taxation Directive, which provided for the automatic exchange of information on interest payments to residents of other member states. Switzerland, as a non-member, was not bound by the directive, but the European Union made the conclusion of an equivalent agreement with Switzerland a condition of other bilateral agreements. In 2004, Switzerland and the European Union concluded the Savings Tax Agreement, which entered into force in 2005.¹

The agreement did not require Switzerland to exchange information. Instead, Swiss paying agents withheld a tax on interest payments to residents of the European Union, at a rate that rose from fifteen per cent in 2005 to thirty-five per cent in 2011, and transferred three quarters of the revenue to the member states of residence, without disclosing the names of the recipients. Clients could avoid the withholding tax by authorising the disclosure of their interest payments to their home tax authorities.

The withholding tax model preserved banking secrecy while giving the European Union a share of the revenue. It was the Swiss answer to the demand for transparency, offering the partner states revenue while keeping the names of the account holders confidential. The model had large loopholes, since it applied only to interest payments, leaving dividends and capital gains untouched, and only to individuals, so that companies and trusts fell outside it. Many clients restructured their holdings to avoid it. Even so, the model showed that Switzerland was prepared to make concessions to preserve the principle of banking secrecy, anticipating the withholding tax agreements that Switzerland would propose to other states a few years later.

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1 Notes

1. Council Directive 2003/48/EC on taxation of savings income in the form of interest payments; Agreement between the Swiss Confederation and the European Community providing for measures equivalent to those laid down in the Directive, signed on 26 October 2004, in force since 1 July 2005, replaced in 2017 by the AEOI agreement. To be verified. ↩

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