

The Swiss domestic amnesties of 2010

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Switzerland also reformed its own law. With effect from 1 January 2010, the Federal Act on the Simplification of Subsequent Taxation in Cases of Succession and on the Introduction of Penalty-Free Voluntary Disclosure created two instruments for Swiss taxpayers. The reform applied to the direct federal tax and to the cantonal and communal taxes, since the Federal Act on the Harmonisation of Direct Taxes was amended at the same time. Its aim was to encourage the return of undeclared assets into the tax base without granting a general amnesty, which Swiss voters had rejected in earlier decades.¹

The first instrument concerns heirs. Persons who inherit undeclared assets and disclose them can have the subsequent taxation of the deceased limited to the last three tax periods before death, with interest, instead of the ordinary period of up to ten years. No penalty is imposed on the heirs, provided that they cooperate with the authorities and that the tax administration had no knowledge of the undeclared assets. The rule recognises that heirs are often confronted with a past for which they bear no responsibility and facilitates the regularisation of family wealth at the moment of succession.²

The second instrument is the penalty-free voluntary disclosure, available once in a lifetime. A taxpayer who discloses undeclared income or assets for the first time pays the evaded taxes for up to ten years together with interest on arrears, while no fine is imposed. The disclosure must be made before the authorities have any knowledge of the evasion, and the taxpayer must cooperate without reservation and make serious efforts to pay the taxes due. Any further disclosure after the first leads to a reduced fine, usually one fifth of the evaded tax. Legal entities can also benefit, in which case the exemption extends to the persons who acted for them.³

The two instruments were used extensively in the following years. In several cantons, the number of voluntary disclosures rose sharply after the

introduction of the automatic exchange of information abroad, since Swiss residents with accounts in other countries expected their data to reach the Swiss authorities. Reported figures from the cantons suggest that the disclosures brought many billions of francs of previously undeclared assets into the tax base. For the Basel banks, the domestic amnesty mattered less than the foreign programmes, although it helped to regularise the assets of Swiss clients who had held accounts abroad.⁴

1 Notes

1. On the Federal Act of 20 March 2008 on the Simplification of Subsequent Taxation in Cases of Succession and on the Introduction of Penalty-Free Voluntary Disclosure, in force since 1 January 2010 (amending the DBG and the StHG, including Art. 153a and Art. 175 para. 3 DBG), see the official compilation of federal law. To be verified. ↩
2. On the simplified subsequent taxation of heirs (Art. 153a DBG, Art. 53a StHG): limitation to the three tax periods preceding death, interest on arrears, no penalty, conditions of cooperation and non-discovery, see the standard commentaries. To be verified. ↩
3. On the penalty-free voluntary disclosure under Art. 175 para. 3 and Art. 181a DBG and Art. 56 para. 1bis StHG (once in a lifetime, conditions of non-discovery, unreserved cooperation and effort to pay, reduced fine of one fifth for further disclosures), see the standard commentaries and the circulars of the Federal Tax Administration. To be verified. ↩
4. On the number of penalty-free voluntary disclosures and the amounts of assets disclosed in the cantons since 2010, in particular the increase after the introduction of the automatic exchange of information (2017/2018), see the statistics published by individual cantonal tax administrations. Status to be verified. ↩

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