

Banking secrecy under strain: the first pressures

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During this period, banking secrecy was a major commercial argument for the financial centre. It protected clients from their tax authorities, which could obtain information on their assets in Switzerland only in very limited cases. Tax evasion (*soustraction fiscale*), that is to say the failure to declare income or elements of wealth, was not regarded under Swiss law as an offence giving rise to international mutual assistance, unlike tax fraud, which presupposes the use of false documents.¹

The first international pressures appeared in the 1960s and 1970s. The United States, in particular, sought to obtain information on Swiss accounts used by criminals and fraudsters. A treaty on mutual assistance in criminal matters was concluded between Switzerland and the United States in the mid-1970s.² Switzerland also adopted a law on international mutual assistance in criminal matters at the beginning of the 1980s.³

These instruments enabled foreign authorities to obtain banking information in criminal cases, subject to certain conditions, in particular dual criminality. They did not call into question the protection afforded to foreign taxpayers who merely failed to declare their assets. This distinction, which was to form the core of the Swiss model until 2009, drew growing criticism from neighbouring countries and international organisations.

During this period the Geneva financial centre developed a substantial business in wealth structuring: domiciliary companies, foundations and foreign trusts, which made it possible to organise the holding of assets and, in some cases, to conceal the identity of the beneficiaries. Geneva's fiduciaries, lawyers and asset managers took part in this business. Some structures met legitimate needs of estate planning and asset protection; others served to hide assets from the tax authorities or to cover tracks. The Due Diligence Agreement of 1977 would seek to regulate these practices, as the second part of the chapter shows.

1 Notes

1. Art. 175 of the Federal Act on Direct Federal Taxation (LIFD; droit-bilingue.ch): completed tax evasion — causing an assessment not to be made or a final assessment to be incomplete — is punished by a fine generally fixed at the amount of the tax evaded, which may be reduced to one third or trebled according to the degree of fault; para. 3: voluntary disclosure is not punishable (wording according to the Act of 20 March 2008, in force since 1 January 2010). Art. 186 LIFD: the use of forged documents — false, falsified or inaccurate documents such as accounting books, balance sheets, profit and loss accounts or salary certificates, used with the intention of deceiving the tax authority — is punished by a custodial sentence of up to three years or a monetary penalty, without prejudice to the punishment of tax evasion (wording according to the Act of 26 September 2014, in force since 1 January 2017). ↩
2. Treaty of 25 May 1973 between the Swiss Confederation and the United States of America on Mutual Assistance in Criminal Matters (SR 0.351.933.6), in force since 23 January 1977, and federal implementing act of 3 October 1975 (SR 351.93); Federal Office of Justice, “Traité d’entraide judiciaire Suisse – USA”, rhf.admin.ch (accessed September 2026). ↩
3. Federal Act of 20 March 1981 on International Mutual Assistance in Criminal Matters (Mutual Assistance Act, IMAC; EIMP, SR 351.1); bilingual table of contents on droit-bilingue.ch (accessed September 2026). ↩

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