

## Tax offences and voluntary disclosure in Switzerland

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Undeclared assets are a liability on every balance sheet, and the automatic exchange of information makes them visible sooner or later. Swiss law offers a way back that costs the tax and interest, but no penalty.

### 1 Evasion and fraud

Swiss tax law distinguishes tax evasion, the failure to declare income or assets, which is punished with a fine usually equal to the tax evaded (Art. 175 para. 2 DBG), from tax fraud, the use of forged or false documents such as accounts or salary certificates, which is a criminal offence punishable by imprisonment of up to three years or a monetary penalty (Art. 186 para. 1 DBG).

### 2 The penalty-free voluntary disclosure

Once in a lifetime, a taxpayer who reports undeclared income or assets on his own initiative is not fined (Art. 175 para. 3 DBG; Art. 56 para. 1<sup>bis</sup> StHG). Three conditions must be met: the tax authorities must not yet know of the evasion, the taxpayer must cooperate fully in establishing the tax, and he must endeavour to pay the tax due. The tax and default interest are recovered for up to ten years. Legal entities can make a penalty-free disclosure as well (Art. 181a DBG).

### 3 Heirs

Heirs who disclose undeclared assets of the deceased pay the back taxes for only the last three tax periods before death, with default interest, and no fine (Art. 153a DBG; Art. 53a StHG).

## 4 The automatic exchange of information

Switzerland exchanges financial account information automatically with more than one hundred states, including China and Hong Kong. A disclosure is only voluntary as long as the tax authorities do not already know; once the data has arrived, the opportunity is gone.

## 5 What pays off in practice

- **Act before the authorities do**, and reconstruct the figures for the full period with the bank's help.
- **Coordinate Swiss and foreign disclosures**; a Swiss disclosure does not protect you in your home country.

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