

Mutual legal assistance, asset recovery and tax information exchange — overview and summary

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A financial centre that holds a large share of the world's cross-border private wealth will sooner or later be asked where a particular part of that wealth came from. The request may come from a prosecutor in Frankfurt investigating a bribery scheme, from a tax inspector in Paris who holds a list of account numbers, from a new government in Kyiv or Caracas seeking the fortune of a fallen ruler, or from a liquidator in London tracing the assets of a collapsed trading house. Each of these requests reaches Zurich through a different channel and under different rules. Criminal matters follow the Federal Act on International Mutual Assistance in Criminal Matters of 1981 and a web of treaties. Tax matters follow the Tax Administrative Assistance Act of 2012 and the double taxation agreements concluded on the model of Article 26 of the OECD Model Convention. The assets of foreign politically exposed persons are governed by a special statute of 2015, while private claimants must assemble their own toolbox from criminal procedure, debt enforcement, insolvency and private international law.

For most of the twentieth century the reputation of Zurich as a discreet place for money rested on the narrowness of these channels. Assistance in fiscal matters was excluded, the political and fiscal offence exceptions were construed broadly, and a bank customer could fight every step of a foreign request through several instances. The chapters of Part F describe how that model came under pressure, from the Chiasso affair and the first money laundering rules to the return of the Marcos and Abacha funds. Part G traces the end of banking secrecy for foreign taxpayers after 2008. The present chapter takes up the result as it stands in September 2026. Its subject is the law and practice of cross-border cooperation seen from the canton and city of Zurich, which executes more foreign requests for mutual assistance than any other Swiss canton and in which most of the country's

large banks, many of its asset managers and a large part of its specialised bar are located.

The chapter begins with the Mutual Assistance Act, its principles and its procedure, including spontaneous transmission and the handing over of assets. It then turns to administrative assistance in tax matters, in which the Federal Supreme Court has developed an extensive body of case law on group requests, stolen data and the rights of the persons concerned, and to the automatic exchange of financial account information. A third group of sections deals with asset recovery, first in its public form under the Foreign Illicit Assets Act and the constitutional powers of the Federal Council, then in its private form, where Swiss law lacks some of the instruments that common law practitioners take for granted. The last sections address the blocking statutes of the Swiss Criminal Code and direct cooperation with foreign supervisors, the practitioner's perspective on defence and asset tracing, and the outlook. Money laundering compliance, sanctions and the domestic prosecution of economic crime are treated in the preceding chapters of Part I and appear here only where they meet the international channels.

1 Conclusion

Cross-border cooperation from Zurich rests on three distinct channels. Criminal mutual assistance under the Mutual Assistance Act of 1981 remains a judicial procedure with strong safeguards: dual criminality for coercive measures, the speciality principle and the fiscal exception, which since 2009 admits tax fraud and qualified tax fraud. The execution of requests lies largely with the Staatsanwaltschaft III of the canton of Zurich, which handles more requests than any other Swiss authority. Appeals go to the Federal Criminal Court, which for most cases is the last instance, since the Federal Supreme Court admits appeals only in particularly important cases.

Administrative assistance in tax matters has changed more fundamentally. Since the adoption of the OECD standard in 2009 and the Tax Administrative Assistance Act of 2012, Switzerland exchanges information on request for tax evasion as well as fraud, admits group and list requests and has accepted, with some limits, requests based on stolen data. The Federal Supreme Court, in cases such as the UBS France request and the Indian Falciani requests, has shaped a body of case law that balances good faith towards the requesting state with protection against its abuse. The automatic exchange of information with more than one hundred states has

made the question whether a foreign authority knows about an account largely obsolete.

In asset recovery, the Foreign Illicit Assets Act provides a statutory framework for freezing, forfeiture and restitution of the assets of foreign politically exposed persons. Switzerland has returned at least USD 2 billion under this policy, including the Montesinos assets traced through Zurich proceedings. Private claimants lack the discovery tools of common law systems and must combine criminal complaints, attachments, insolvency recognition and foreign discovery. The blocking statutes of the Criminal Code keep all these flows within official channels, subject to the exception for direct transmission to foreign supervisors. Together these rules define the legal frame within which Zurich today presents itself as a financial centre that cooperates without abandoning the rule of law.

2 In five sentences

1. Foreign prosecutors obtain evidence and assets from Zurich under the Mutual Assistance Act of 1981, which requires dual criminality for coercive measures, protects the speciality principle and admits tax matters only for tax fraud and qualified tax fraud.
2. Most requests are executed by the Staatsanwaltschaft III of the canton of Zurich, and the Federal Criminal Court is usually the last instance, because the Federal Supreme Court hears appeals only in particularly important cases under Article 84 of the Federal Supreme Court Act.
3. Since 2009 Switzerland grants administrative assistance in tax matters under the OECD standard, including group and list requests such as the French request concerning some 40,000 UBS accounts, and accepts requests based on stolen data unless the requesting state bought the data or promised not to use it.
4. The Foreign Illicit Assets Act of 2015 allows the freezing, forfeiture and restitution of assets of foreign politically exposed persons, and Switzerland has returned more than USD 2 billion to countries such as the Philippines, Nigeria, Peru, Kazakhstan and Uzbekistan.

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5. Private claimants must combine criminal complaints, attachments, recognition of foreign insolvencies and discovery abroad, because Swiss law lacks common law disclosure orders and its blocking statutes require all cooperation with foreign authorities to pass through official channels.

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