

Penalty-free voluntary disclosure?!

Facts on the automatic exchange of information (AEOI)

States are losing billions in tax revenue every year because of "hidden" assets abroad. To change this, more than 100 countries, including all 28 EU member states and Switzerland, have adopted the automatic exchange of information (AEOI).

The legal basis for the implementation of the AEOI entered into force in Switzerland on 1 January 2017. As a result, **data was collected for the first time in 2017 and this data will be exchanged with 38 states and territories for the first time in 2018.**

This is how it works:

Banks, collective investment schemes and insurance companies must report all types of investment income and account balances of foreign clients (legal entities and natural persons) to the government, which forwards this information to the client's home country.

In Switzerland, this task falls to the Federal Tax Administration (FTA). The FTA forwards reports from Swiss financial institutions to other countries and sends foreign information on Swiss assets to the cantonal tax offices, which then compare this information to the tax returns submitted to them.

What does this mean for you?

If you have assets abroad that you have hidden from the tax authorities, then **2018** is the right and only time to rectify the situation without punishment. The provisions on individual tax amnesty have been in force in Switzerland since 2010.

In most cantons, **penalty-free voluntary disclosures** for the **38 states and territories** for which the **AEOI entered into force on 1 January 2017** can be submitted until **30 September 2018**.

For the **41 states and territories** for which the **AEOI entered into force on 1 January 2018**, **penalty-free voluntary disclosures** can be submitted in most cantons until **30 September 2019**.

A **current list of Switzerland's AEOI partner countries** can be found at <https://www.sif.admin.ch/sif/en/home.html>.

If you own any assets abroad (or even in Switzerland) that have not been included in your tax return, it is a good idea to consider submitting a penalty-free voluntary disclosure in order to rectify your tax situation.

Although back taxes and interest on arrears will be levied if a voluntary disclosure is submitted, the otherwise very substantial fine will be waived. In this way, taxpayers who submit a voluntary disclosure are treated in the same manner as honest taxpayers and not better.

The rules are clear:

There will be no sanctions under criminal law if the following conditions are met:

- The tax evasion is not known to any tax authority.
- The taxpayer provides the tax administration with unconditional support in calculating the back tax.
- The taxpayer makes a serious effort to pay the back taxes.

Amnesty has applied since 1 January 2010 (penalty-free voluntary disclosure), but this amnesty may only be claimed once!

It can get expensive!

The taxpayer (natural person or legal entity) is punished with a fine amounting to one-fifth of the evaded tax for every additional voluntary disclosure and for every voluntary disclosure that does not meet these conditions.

If NO voluntary disclosure is submitted and the tax administration finds out about the evasion on its own, it can get really expensive for the taxpayer:

- Payment of the evaded tax.
- Payment of the interest on arrears.
- Payment of the costs of the proceedings.
- Payment of the fine: As a rule, 100% of the evaded tax (i.e. back tax of 100% plus fine of 100% = 200% of the evaded tax). In a very few cases, the tax is reduced to one-third of the evaded tax. In very serious cases, the taxpayer has to pay up to 300% of the evaded tax.
- In a worst case scenario, the evaded tax can thus multiply by four to five times.

Sound advice is needed.

If you are affected by the AEOI or are uncertain if this is the case, please obtain advice. An in-depth analysis of your situation can save you much aggravation and possibly also a lot of money.

Call us, Mr Strittmatter will be happy to advise you:

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Yours sincerely
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