

Adliswil
December 2016



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Automatic exchange of information (AEI)

Dear customers and business partners
Dear Ladies and Gentlemen

On 1st January 2017 the agreements for the automatic exchange of information, which Switzerland entered with the EU and its 28 member states as well as 9 additional states (status as of 1st September 2016), come into force. But what is this automatic exchange of information and which consequences arise for you?

Hereinafter we are happy to provide you a summary of the most important facts:

What is the automatic exchange of information?

The AEI defines, how tax authorities of the individual participating countries can exchange data about bank-notes and safekeeping accounts of the taxpayers among each other. It is the aim to make tax evasion more difficult and to make it impossible for foreign taxpayers to "hide" their assets and thereby making also the misuse of the Swiss banking secrecy impossible.

Why the automatic exchange of information?

The Swiss banking location is of globally significant importance. In Switzerland about a fourth of the global transnationally invested assets is managed. In the last years Switzerland was globally criticised as the banking secrecy favoured the international tax evasion.

How is the automatic exchange of information working?

As of 1st January 2017 banks are obliged to collect data about foreign taxpayers. This affects the countries, which entered an agreement for AIA with Switzerland.

They transmit the following data to the Federal Tax Administration (FTA):

- | | |
|------------------|--|
| - Name | - Name and identification number of the bank |
| - Address | - Account / deposit number |
| - Place of birth | - Account balance at the end of the year |
| - Birth date | - Capital income of the year |

The FTA then forwards the data to the tax authorities of the respective countries. Additional data such as e.g. account movements are not forwarded. The bank is obliged to collect the data as of 1st January 2017 and in 2018 they have to be transmitted for the first time to the FTA.

What are the consequences of the automatic exchange of information for the banking secrecy?

In the negotiations of the individual agreements it was important for Switzerland to keep the banking secrecy. This means for Swiss banks that for the time being also after the introduction of the AEI a secrecy for information of customers and their accounts exists. On the basis of the current legal provisions no information of customers with domicile in Switzerland will be forwarded to the FTA. For persons with tax residence in Switzerland currently nothing changes.

If there are any questions concerning the automatic exchange of information you might have, Mrs. Patricia Handschin (patricia.handschin@abt.ch) and Mr. Lorenz Kaufmann (lorenz.kaufmann@abt.ch) will be pleased to assist you.

New transparency obligations for legal persons

Reporting obligation for bearer shareholders when purchasing bearer shares

Those purchasing bearer shares of a public limited company not listed on the stock exchange are since 1st July 2015 obliged to report their purchase within one month to the public limited company (or an authorised financial intermediary, e.g. trustee) (Art. 697i CO). The public limited company has to register the bearer shareholders in a register of bearer shareholders, which is accessible in Switzerland at any time. It has to be kept for at least 10 years.

Reporting obligations of bearer and registered shareholders concerning the economic beneficiaries

If a person is purchasing alone or in joint agreement with third parties bearer or registered shares of a public limited company not listed on the stock exchange and reaches or exceeds thereby the threshold of 25% of the share capital or voting rights, the purchaser is obliged to notify the public limited company (or an authorised financial intermediary) about the natural economic beneficiary/ies within one month. (Art. 697j CO).

The organisation is now obliged to keep a register of the economic beneficiaries, which is accessible in Switzerland at any time. It has to be kept for at least 10 years.

Consequences arising from the non-compliance with the reporting obligation

If a holder of bearer or registered shares is not complying with the stated reporting obligation within the specified period, the rights of membership (in particular the voting rights) and the property rights (in particular dividends rights) related to the affected shares are legally not exercisable until the reporting obligations have been made up (Art. 697m CO). The property rights even forfeit in case of neglected reporting obligations and can only be claimed after the reporting has been performed. This possibly leads to a forfeiture of dividends for the organisation's benefits.

In case of violated reporting obligations the passed resolutions of the General Meeting are contestable. This leads to the fact that dividend payments can be reclaimed for no more than 10 years, in case a shareholder carried no dividend rights due to violated reporting obligations! This in particular might lead to drastic financial, proprietary and fiscal consequences, if the shares are sold.

Reporting obligations and registration also for limited companies and cooperatives?

Analogously the defined regulations apply concerning the reporting obligation and registration of economic beneficiary/ies, including the legal consequences in case of neglect, also for limited companies. For cooperatives there is now the obligation to keep a cooperative register.

Obligations and responsibilities of the Board of Directors (plc) or the Managing Director (Ltd)

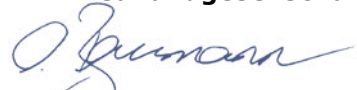
"The Board of Directors assures that no shareholders exercise rights while violating their reporting obligations." (Art. 697m Para. 4 CO). Referring to this in future obligation violations of the Board of Directors can lead to liability claims.

Transitional provisions

Provisions of the Articles of Association, which do not comply with the new requirements, have to be adjusted until at latest 30th June 2017.

In case you need help for the implementation of the new transparency obligations, Mrs. Daphne Sarlos (daphne.sarlos@abt.ch) and Mrs. Christine Good (christine.good@abt.ch) are happily at your disposal.

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