

The US - Swiss tax dispute, and why the US is sure the ...

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From [Reuters](#) and [Bloomberg](#):

The United States has written to Switzerland to demand it hands over detailed information this week on its citizens using Swiss accounts to dodge tax or see Credit Suisse and nine other banks face charges, newspapers reported on Sunday.

and

Banks may be required to pay up to 2 billion Swiss francs (\$2.5 billion) in fines, SonntagsZeitung reported, citing a separate, unidentified person with knowledge of the situation. The U.S. may also seek client details from Swiss wealth managers in addition to the 10 banks, according to the newspaper.

The [Financial Times](#) adds:

Switzerland and the US are gearing up for another bruising confrontation over bank secrecy . . . The letter would represent a significant increasing of the pressure on Switzerland to again bend its once watertight bank secrecy rules and deliver further client names to the US.

Here is a description of details added by Switzerland's [Sonntagszeitung newspaper](#), which is one of the two to have broken the story, courtesy of TJN correspondent Steven Eichenberger:

"The Swiss German weekly newspaper, the SonntagsZeitung, has published an article yesterday revealing a correspondence between Michael Ambühl, Swiss state secretary, and James Cole, US Deputy Attorney General.

Ambühl has apparently approached Cole with the idea of introducing a "new" instrument to the 2009 DTA [Double Tax Agreement] between the US and Switzerland, an agreement which has not yet been ratified. This "new" instrument foresees enabling

the US authorities to submit group requests without receiving individual names in return. This sounds a lot like the withholding tax solution, except that it is sliced up into several requests. AmbÃ¼hl must have been guided by the recent success encountered in negotiations with Germany and the UK.

Cole answered that this solution could be tested, but only under the following conditions (listed by the SonntagsZeitung)

- * He wants comprehensive statistical information about US citizens and their assets in ten Swiss banks (amongst which of course CrÃ©dit Suisse, and furthermore the Bank Wegelin (Konrad Hummeler), Julius BÃ¤r and the ZÃ¼cher and Basler Kantonalbank).*
- * The Swiss authorities have to reveal a quantity structure of US assets in Swiss banks*
- * Simultaneously, Cole wants to make use of judicial orders (Grand Jury Subpoena, John Doe Summons) in order to enforce disclosure of customer information with regards to the ten banks*
- * Individual deals will be sought with the ten banks*
- * An agreement for all remaining (not the ten) shall be reached, disclosing "certain account information"*

According to the SonntagsZeitung, there is a sense of alarm amongst the Swiss banking community. When reading the article one gets the impression that this is because they will be forced to reveal some information and will have to pay fines as was the case with the UBS. Could this, however, be a concerted plan, by the Swiss government and financial institutions, to sell some names and pay some fines in order to enshrine a DTA very much in favour of Swiss Banks?

We think that the United States, unlike [the UK and Germany](#), is unlikely to be railroaded by too-clever-by-half Swiss proposals. The U.S. has taken the aggressive (and correct) approach: obtaining initial data, then making tax evaders and their pinstripe intermediaries feel the heat, do deals with a few of them in exchange for more data, then spread the investigation further. There's no telling where this might stop.

Another TJN correspondent, this time based in the U.S., said this:

"The Swiss banking community should prepare for the worst, at least with respect to US clients, either direct or indirect. There is surprisingly widespread consensus here that the UK treaty approach is completely unacceptable."

Why have Germany and the UK been so feeble, and damaged so much progress?