BRIEFING NOTE

October 2011

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UK/Swiss Tax Agreement Signed on 6 October 2011

Background

Following our earlier Briefing Note on the accord announced on 24 August 2011, the UK and Swiss Governments have now signed the agreement addressing the effective taxation of UK residents with accounts held in Switzerland. Subject to ratification by the two Governments, the agreement should come into force on 1 January 2013. It is understood that further guidance will be provided by HMRC before that date but the agreement has the following main features.

Application

Parties potentially caught are:

- UK resident individuals
- Individuals that hold a British passport and do not provide evidence to the bank of tax residence outside the UK
- Non-UK trust and company structures with UK resident beneficiaries/shareholders. It is worth noting however that the agreement does not state clearly how these clients should be identified and discretionary trusts could be outside the scope of the agreement.

Tax Liabilities

- The headline rate for the one-off payment is 34%, which can be reduced to 19% depending on how long the account has been held and the subsequent growth of the funds in the account. The precise formula is complex and has many variables. The one-off payment will clear any liability to tax, interest, penalties and surcharges in respect of the funds in the account.
- It is apparent that non-UK domiciled individuals who have claimed the remittance basis in either 2010/11 or 2011/12 can opt out of this regime entirely. Certification of their tax status will need to be produced from any appropriately qualified professional to the Swiss agent.

- Anonymity can be preserved if the taxpayer agrees for the Swiss paying agent to deduct the one-off charge and ongoing withholding taxes at rates of 40% for dividends, 48% for other income and 27% for capital gains.

- UK taxpayers' details will only be given to HMRC if there is a specific request from HMRC regarding an individual, but HMRC must have grounds for suspicion. Only 500

- specific requests can be made by HMRC in the first year. HMRC's further requests will depend on how successful the previous years' requests have been in detecting tax evasion.

Action

The Agreement has not yet become law but consideration should be given by relevant individuals to the potential implications of suffering tax at source on their Swiss accounts or exchanging information with HMRC.

The Liechtenstein Disclosure Facility ("**LDF**") may remain a more effective option in many instances. A significant distinction is that the LDF is a worldwide disclosure facility, whilst this agreement applies only to assets held with Swiss banks. It is worth noting also that tax liabilities pre 5 April 1999 under the LDF fall out of account.

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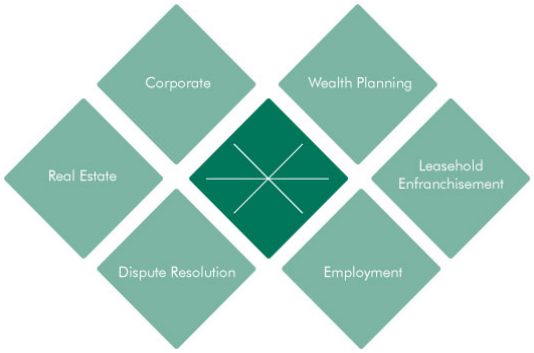

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