
Nearly a Year into Bank Secrecy Crack Down, Little Progress Seen

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By [Colby Adams](#)

International efforts to crack down on bank secrecy abuse remain stymied, with few tax evaders opting to move their money out of traditional European and offshore tax havens, according to analysts.

The stasis is in spite of an April statement by Group of 20 leaders that “the era of banking secrecy is over” and the high-profile wrangling between the U.S. Justice Department and UBS AG to turn over the names of at least 52,000 possible tax evaders. The Swiss bank agreed in August to turn over the information on 4,450 of the suspect accounts.

The United States is one among many countries ratcheting up pressure on tax havens. Last week, Canadian tax authorities threatened to sue UBS should the Swiss bank fail to turn over the names of suspected Canadian tax evaders and U.K. officials said last week that they have launched investigations into British tax cheats who failed to make use of an amnesty program.

But despite the increased pressure and unprecedented disclosure, the UBS case won't have a lasting impact on bank secrecy havens because Switzerland's concession ultimately remain minor, according to former IRS special agent Michael McDonald. “I don't think the big money is going to leave Switzerland,” he said.

Ninety percent of U.S. taxpayers suspected of hiding their assets with UBS will likely continue to work with the bank, said McDonald, adding that he knew of UBS account holders who “took the risk” by not reporting their UBS accounts to United States during an IRS tax amnesty program that ended in October.

“[Tax evaders] want stability, they want governments that will support secrecy, and I believe Switzerland remains at the top of the list,” he said.

Tax evaders with Swiss bank accounts don't see a reason to move their money and will likely stick to holding their money in Switzerland because of the Swiss financial industry's “high degree of professionalism,” according to Kelly Phillips Erb, an international tax attorney at Philadelphia-based Erb Law Firm.

The problem of continued tax evasion isn't isolated to Switzerland, however, said

Edwin Truman, a senior fellow at the Washington, D.C.-based Peterson Institute for International Economics and a former assistant secretary of the U.S. Treasury for International Affairs.

"In Luxembourg, Belgium and Austria, as well as in parts of the U.K., there is still not complete transparency," said Truman.

The Justice Department's suit of UBS AG remains the most visible crackdown on a financial institution offering services to tax evaders. But it sets a weak standard because the bank avoided disclosing information on the accounts under the John Doe summons served on the bank in July 2008, according to Fred Abrams, a New York-based attorney and asset recovery specialist.

Instead, UBS and the Swiss government agreed to give up the names under existing tax treaties that preserve general bank secrecy protections, he said, adding that the precedent may be followed as other jurisdictions attempt to wrest data from Swiss financial institutions.

If the John Doe summons had stood, the tax evaders could have been criminally prosecuted on multiple counts for filing false tax returns and for failing to file FBARs, said Abrams. The IRS requires a Report of Foreign Bank and Financial Account (FBAR) from any U.S. citizen maintaining an offshore account in excess of \$10,000.

The agreement was made outside the John Doe summons to facilitate a faster resolution, said IRS commissioner Doug Shulman, in an August statement. "We short-circuited a protracted summons and litigation process by culling the accounts that were of the greatest interest to us," said Shulman, in the statement.

The limited results thus far signify that the process is far from over, according to Jack Blum, chairman of the Tax Justice Network, a London-based advocacy group with offices in the United States. The IRS may be focusing now on tax advisors who advertised tax evasion schemes to wealthy clients, he said.

"Those people will be faced with the option of turning over a very long list of clients or a long stay in prison," said Blum.

In some instances, banks may be unaware they are helping hide money from the taxman, said Abrams. In cases when U.S. tax payers falsify beneficial ownership data or use foreign nominees to open Swiss bank accounts, financial institutions may have no clear means to discern tax evasion.

The lack of progress in the crackdown is not accompanied by a lack of rhetoric, however. In April, the Paris-based intergovernmental Organisation for Economic

Cooperation and Development published a "grey list" of 38 countries with poor tax regulations following the Group of 20's announcement.

All major financial centers have since pledged to implement a minimum level of transparency by agreeing to sign special tax information exchange treaties with at least 12 other countries.

Switzerland was removed from the list in September after signing a tax agreement with Qatar. But the "minimum standard doesn't necessarily mean tax evaders can't put their money" in tax havens because the agreements obligate countries to respond to foreign tax authorities upon specific request only, said Truman.

In its April statement, the Group of 20 called on the Paris-based Financial Action Task Force to reinstate a blacklist of jurisdictions deemed non-cooperative in combating tax evasion. The intergovernmental group is expected to name non-cooperative jurisdictions this year.

After posting losses throughout 2009 following its agreement to pay the IRS \$780 million for aiding U.S. tax evaders, UBS will likely post fourth quarter profits in February, according to a Jan. 11 report by *Reuters*.