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Withholding tax hanging in the balance – in Switzerland and Germany

Interim solution, permanent solution or no solution at all? The tax agreements with Germany, the UK and Austria face a democratic test.

By René Lenzin

International pressure on Switzerland to abolish its banking confidentiality and to provide foreign governments with information on suspected tax evaders has increased enormously since the start of the economic and financial crises. Switzerland's response to this pressure is a withholding tax. A tax at source on the return on assets is intended both to resolve legacy issues and to regulate the future taxation of foreign assets deposited in Switzerland. Switzerland has reached agreements with Germany, the UK and Austria (see the article on page 18).

However, whether the agreements will enter into force on 1 January 2013 as planned is uncertain. Opposition to them is emerging on two fronts in Switzerland. The Campaign for an Independent and Neutral Switzerland (Auns) has called for a referendum because it believes the agreements go too far, that they would undermine banking confidentiality and weaken the financial centre. Auns argues that it is unacceptable for Swiss banks to collect taxes for foreign states.

The Young Socialists have called for a referendum because they believe the agreements do not go far enough. They fear that illicit untaxed assets will continue to be deposited with Swiss banks and advocate the automatic exchange of data between banks and foreign tax authorities as an alternative.

In Parliament, the Christian Democrats (CVP), Free Democrat-Liberals (FDP), Green Liberals (GLP) and Conservative Democrats (BDP) strongly backed the agreements. The Social Democrats (SP) and Greens were divided, and the Swiss People's Party (SVP) voted no. The SP and SVP did not support the referendum but still decided to back the no campaign. The banks are firmly in favour of the agreements. However, there are some figures within the financial centre who are primarily keen to resolve the legacy issues through the withholding tax and who would accept the automatic exchange of information after that. The exchange of information would provide tax authorities with the identity of persons holding accounts in Switzerland, but they would

have to examine, in every individual case, whether there are untaxed assets in these accounts.

German opposition says no

At the time of going to press, it was still unclear whether enough signatures had been collected for a referendum. But even if a referendum should take place or if this were to result in the approval of the agreements, the treaty with Germany at least would still not be secure. The German government has a majority to ratify this in the Bundestag, the lower chamber of the German parliament. However, it does not have a majority in the Bundesrat, the upper chamber. As the Social Democrats in opposition regard the agreement as insufficient to combat tax evasion effectively, they plan to reject it. The Bundestag will vote at the beginning of December. The mood is becoming increasingly heated in the build-up to these votes, both between government and opposition in Germany and between the two countries. This has also been influenced by the fact that German federal states governed by Social Democrats have purchased CDs containing stolen Swiss banking data on several occasions. This is illegal under Swiss law but was deemed permissible by German courts because combating tax evasion takes precedence over illegal data acquisition.

LAW ON EPIZOOTIC DISEASES

The Swiss people will also vote on the revised law on epizootic diseases on 25 November 2012. The Federal Council and Parliament are aiming to improve the prevention, early recognition and combating of epidemics among animals, such as bluetongue disease, through this bill. It governs cooperation between federal government and the cantons and gives federal government a stronger role in the coordination of joint measures. The law was largely unchallenged in Parliament. Groups opposed to vaccination have nevertheless successfully called for a referendum.

Referendum results

A federal referendum was held on three proposals on 23 September 2012. There were no shocks among the results. The taxation of home ownership will remain an issue.

A smoking ban has been in force in Switzerland since 1 May 2010, with the cantons entitled to grant exemptions for catering establishments. Two thirds of the electorate and all the cantons, except for Geneva, voted to uphold this federalist solution. They rejected a popular initiative by the Lungengliga (Lung League) calling for a strict smoking ban for the whole of Switzerland. Eight cantons have already introduced these strict regulations, while the remaining 18 can now maintain their less stringent provisions. These allow served smoking areas or smoking lounges in restaurants.

However, the "secure housing in old age" popular initiative, which aimed to exempt pensioners from paying tax on the imputed rental value of their owner-occupied properties, was only narrowly defeated. 52.6 % of the electorate and 16 cantons rejected the initiative. It was approved by ten cantons, primarily in central and eastern Switzerland. This was the third referendum this year called by homeowner groups. The two initiatives for tax breaks on home purchase savings were much more heavily defeated than the proposal to abolish the imputed rental value tax for pensioners. The tight outcome this time indicates that the imputed rental value tax is a source of annoyance to many citizens. Several attempts to abolish it have nevertheless failed in Parliament over recent years. There is consensus regarding the fact that, in return, homeowners would no longer be able to deduct debt interest from their taxes, but the level of maintenance costs that they ought to be allowed to enter in the tax declaration is a contentious issue.

Finally, 72.7 % of the electorate and all the cantons approved a constitutional article on promoting musical education for young people. Federal government must now ensure that every canton devotes sufficient time to the teaching of music and that all children have access to extracurricular musical tuition irrespective of parental income.

The turnout stood at 42.5 %.