

August 13, 2009

# Client Alert

## The Days of Private Swiss Accounts are Numbered

### THE UBS SETTLEMENT

The days of secret Swiss Bank accounts may be numbered on the heels of a historic settlement agreement between Swiss Banking giant UBS AG, and the United States and Swiss Governments, the preliminary details of which were agreed to on Wednesday August 12, 2009. The underlying litigation, *U.S. v. UBS AG*, Case No. 20423/09, presently pending in the U.S. District Court, Southern District of Florida, arose in connection with the Internal Revenue Service's legal effort to obtain the identifications behind some 52,000 secret accounts tied to U.S. citizens, which the IRS claims are being used to evade taxes. While the exact details have yet to be disclosed, Wednesday's settlement may lead to the disclosure to U.S. authorities of 3,000 to perhaps more than 10,000 names of American citizens suspected of using Swiss accounts to evade taxes. These names would be in addition to the 250 account names which were recently disclosed by UBS AG to the IRS pursuant to a parallel criminal inquiry against UBS AG which was settled by UBS AG's payment to the U.S. Government of \$780 Million Dollars.

A key sticking point in the negotiations has been Switzerland's concerns that that the IRS's demands would force UBS bankers to violate Swiss criminal laws protecting account secrecy. The Swiss government threatened to forbid the disclosure of any information it deemed to

violate Swiss privacy laws, even if such disclosures were directly ordered by the U.S. District Court. The United States, concerned that such legal challenges would allow tax evaders to delay prosecutions for many years were able to reach a compromise by entering into a bilateral tax treaty with the Swiss Government, whereby UBS clients would be allowed to appeal to the Swiss Courts to block the IRS's request for information, but U.S. prosecutors could still pursue criminal charges against such clients if the Swiss court process dragged on indefinitely.

Until the exact details of the settlement are released sometime next week, it is uncertain exactly how UBS account holders will be affected, however it does seem clear that this case represents only the first chapter of the IRS's pursuit of U.S. citizens seeking to hide taxable income, which is likely to extend to other Swiss banks and similar offshore accounts.

Our Firm is intimately involved in monitoring these events and will continue to provide you with pertinent updates as more information becomes available. In the meantime, if you have any questions about the matters covered in this client alert, or wish to schedule a private consultation, please contact Terrence A. Oved, Esq. at Oved & Oved LLP, 212.226.2376 or [terry@ovedlaw.com](mailto:terry@ovedlaw.com).

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