

SWISS LOWER HOUSE REJECTS LAW AIMED AT CLEARING LEGAL HURDLES TO THE SETTLEMENT AGREEMENT BETWEEN THE U.S. AND UBS

In the wake of months of uncertainty regarding the 2009 Settlement Agreement between the U.S. and UBS (the "Settlement"), the Swiss Lower House rejected a new law aimed at facilitating the Swiss' government's ability to fulfill its obligations under the Settlement. Previously, the Swiss Senate had approved the law, fueling hopes of full Swiss compliance.

The Swiss Parliament's joint approval is a vital step in the process toward passing the law which will clear legal hurdles preventing UBS from disclosing the names of 4,450 UBS account holders that have engaged in certain acts of tax fraud, defined to include situations where U.S. taxpayers: (i) hid their ownership of the account through corporations, trusts and other similar entities; or (ii) maintained an account of over 1,000,000 Swiss Francs without filing the necessary W-9 tax form.

The proposed law was drafted as a response to the recent Swiss Administrative Court ruling which held that U.S. taxpayers who simply failed to file the appropriate tax forms with the IRS disclosing their Swiss accounts were merely guilty of tax evasion and not tax fraud. This ruling effectively precluded UBS from turning over the names of individuals guilty of tax evasion according to Swiss law. This distinction jeopardized UBS' ability to comply with the Settlement.

If UBS fails, or is prevented, from turning over these required names, it will force the U.S. to revive the lawsuit originally filed against UBS claiming that it aided taxpayers in hiding more than Fifteen Billion Dollars in assets from the IRS.

While there is broad popular support in Switzerland to assist the U.S. government's attempts to chase down tax evaders, this action by the Swiss Lower House, which rejected the bill 104-76, with 16 abstentions, is indicative that there is still political contention over the issue.

While this version of the bill was defeated, there is reason to believe a revised bill may soon be voted on again, as the debate in parliament regarding this bill was marred by a contentious, yet tangential issue involving bankers' bonuses. However, even with a re-vote, there is still the possibility that one or more political factions could put the bill to a popular referendum, which regardless of its outcome, would likely force Switzerland to miss the August deadline for compliance with the Settlement.

Our Firm is intimately involved in monitoring these events and will continue to provide you with pertinent updates as more information becomes available. If you have any questions about the matters covered in this Client Alert, or wish to schedule a private consultation, please call Terrence A. Oved, Esq. of Oved & Oved LLP by telephone at 212.226.2376 or contact by email at terry@ovedlaw.com.

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