

SWISS GOVERNMENT SEEKS TO SALVAGE THE SETTLEMENT AGREEMENT BETWEEN THE U.S. AND UBS

In the wake of a recent ruling by a Swiss Federal Administrative Court (the “Court”) stating that the 2009 Settlement agreement between the U.S. and UBS (the “Settlement”) violated Swiss law, the Swiss government is proposing a new law aimed at enabling UBS to comply with the Settlement.

The Settlement requires UBS to disclose the names of Four Thousand Four Hundred Fifty (4,450) UBS account holders that have engaged in certain acts of tax fraud, which are 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 One Million Swiss Francs without filing the necessary W-9 tax form.

The Court ruling 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 15 Billion Dollars in assets from the IRS.

If approved by the Swiss Parliament, the proposed law would legalize the Settlement and allow UBS to turn over names of U.S. taxpayers that have committed tax evasion as well as tax fraud.

However, although there is broad support in Switzerland to assist the U.S. government’s attempts to chase down tax evaders, it is presently unclear whether the Swiss political parties will support the proposed law.

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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