

# General Corporate — Commentary — Articles — English — Vern Krishna —, 2010-07-14 -- Bank secrecy under scrutiny

2010-10-27

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Date: January 8, 2019 at 3:15 p.m.

Delivered By: VERN KRISHNA

Client File: GAAR

-- Vern Krishna ... -- With a twitch of its economic muscle, the United States brought an end to centuries of Swiss banking secrecy. In an historic move, the Swiss Parliament has amended its banking secrecy laws to reveal the names of some 4,500 account holders—politely referred to as “relationships”—suspected of income tax evasion. ... -- If the Internal Revenue Service can bully Switzerland into changing its domestic laws with threats of economic reprisals against Swiss banks in the United States, it will not be long before it exerts its muscle against other less reputable tax havens. ... -- Canada is also stepping up its Exchange of Information treaties with several havens, and we can expect to see the number

## Bank secrecy under scrutiny

*Vern Krishna*

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Canada is also stepping up its Exchange of Information treaties with several havens, and we can expect to see the number of such treaties escalate.

Unlike many tax havens, Switzerland is actually a full-tax jurisdiction but with famously developed banking secrecy laws. Hence its popularity with the Nazis, African, Asian and South American dictators and Russian oligarchs. Indeed, without its secrecy, it would be difficult for organized crime to conceal large sums of money with no questions asked. Now, however, the climate of concealment has changed with Americans leading the charge.

In early 2009, the United States Justice Department deferred criminal prosecution of the largest Swiss bank—UBS AG—in exchange for the bank revealing the identity of approximately 300 of its American customers.

UBS acknowledged its participation in violating U.S. law and in a scheme to defraud the United States.

The next step for the U.S. was to enlarge the scope of the investigation to 4,500 names. The 4,500 account holders are merely the tip of the iceberg. The IRS has issued “John Doe Summonses” invoking the U.S.-Swiss Treaty asking for information on 52,000 accounts that UBS AG holds. The estimated value of assets in the accounts is US\$14.8-billion.

The Swiss government initially refused to comply with the summonses, arguing that income tax “evasion,” which need not be disclosed under the Treaty is not the same as tax “fraud,” which must be disclosed.

Under the old Swiss rules, officials had to provide the authorities with the names of alleged tax offenders and evidence of their tax misdeeds.

Under the new rules, furnishing a name is sufficient. A rogue bank employee who steals the names of all relationships can

sell the information to the tax authorities of another country and start a string of investigative requests for account information.

The United States has also set up a “Global High Wealth Initiative” with offices in Hong Kong, Beijing and Panama City to look into offshore tax evasion.

Canada is not as far advanced in battling tax evasion, but we can expect to see increasing interest in it as global trade and finance makes it easier and attractive to hide money from the tax collector. Canadians should consider no-names “voluntary disclosure” to avoid criminal prosecutions and severe civil penalties.

Because of the changes in Swiss law we may never discover the difference between tax evasion and fraud. However, we will see significant changes in the tax haven business that will make the distinction between evasion and fraud moot.

Economic muscle can change banking rules a lot quicker than military power can change a country, as the United States is discovering in Afghanistan.

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