

foreign banks . in switzerland .

Federal Councillor Ueli Maurer
Federal Department of Finance

vernehmlassungen@estv.admin.ch

Zürich, 8. Juli 2020

Reform Withholding Tax – AFBS Comments

Dear Federal Councillor Maurer

We thank you for submitting the draft reform of the withholding tax scheme to public consultation. The AFBS cooperated with the Swiss Bankers' Association where it provided input and whose comments it fully endorses.

The AFBS would in particular underline the fact that the withholding tax scheme is unique in its form and very complex in its implementation. It coexists with the automatic exchange of information which is in force worldwide precisely with the aim of assuring income tax due is paid. Banks in Switzerland need to maintain two operating mechanisms in parallel to comply with the Swiss and the international standards. This imposes an additional burden upon the banks with the risk of impacting attractiveness of the financial centre in the international comparison.

Please find below the AFBS' answers to the questions raised:

Do you recognise the need for action as outlined by the Federal Council; do you agree with the goals of the proposal?

The AFBS welcomes the Federal Council's proposal to reform the withholding tax scheme in view of strengthening attractiveness of the Swiss financial centre. However, the proposal shall avoid to become excessively complex from an operational perspective.

The present scheme of withholding by the issuer is excessively burdensome both for foreign investors who face complex procedures for refund of the tax and for issuers that need to set up the specific operational procedures.

Do you agree with the partial shift to the paying agent principle for withholding tax?

The paying agent scheme is the only means to implement withholding tax as outlined in the proposal.

However, the scheme as proposed in the draft is complex. A simple solution needs to be adopted.

Mechanisms should be in place to make available information which is the same for all so as to assure coherent identification, assessment and calculation of interest to be withheld. Ideally a central data repository should be created for that purpose. Such a mechanism would help mutualising cost and lead to standardised information being used by all intermediaries.

In the same sense and to avoid excessive burden on financial institutes it should be possible to outsource the processing of determining, calculating, and levying withholding tax.

Interest payments from foreign securities should be exempt from the withholding tax. Foreign countries do not apply the withholding tax scheme and therefore, the concept of calculating the flow of interest

payments cannot be assured. It is impossible to require foreign issuers to perform such calculations merely for the Swiss market. It is impossible for Swiss intermediaries to do so as they lack the necessary information. There is the risk of foreign products being withdrawn from the Swiss market which leads to a loss of attractiveness and invites investors to shift their banking relations abroad. Business activity and trade volume and the related income would be lost for Switzerland.

For these reasons the AFBS aligns to the suggestion of the SBA to restrict the scope of the withholding tax scheme to Swiss financial products.

Do you agree with the proposal for equal treatment for withholding tax purposes of direct and indirect investment? Which one of the proposed alternatives do you prefer?

Same treatment of different categories of interest-generating investment products makes sense and avoids evasion through product selection. However, the administrative burden imposed upon the paying agent needs to be commensurate with the potential return.

The AFBS aligns with the proposals outlined by the Swiss Bankers' Association with respect to possible solutions for the withholding on Swiss source interest. The coexistence of different mechanisms for interest collection (issuer principle, paying agent principle, exchange of information) needs to be avoided as each one imposes special operational measures upon the banks. Such operational complexity imposes excessive cost and bears the risk of processing errors.

Solutions should be found for special cases such as manufactured products which do not have liquidity available for the immediate payment of the tax withheld. Such products must not be obliged to hold liquidity reserves merely for the payment of Swiss withholding tax.

Do you agree to maintain the existing exemptions for withholding tax purposes of TBTF instruments beyond 1.1.2022 if the reform of the withholding tax does not enter into force by then?

The AFBS agrees with the proposal to extend exemption for TBTF titles as long as necessary.

Do you agree to the abolition of the transaction tax on domestic bonds?

In order to increase attractiveness of the Swiss financial centre, stamp duty tax on transaction should be abolished. This can contribute to increase trading and thus liquidity.

Do you agree to relinquish reform of tax on earnings (in particular participation deductions)?

In view of strengthening the attractiveness of the Swiss financial centre, reform of taxation on earnings should be pursued.

We thank you for your attention.

Best Regards

ASSOCIATION OF FOREIGN BANKS IN SWITZERLAND



Raoul Würzler
Secretary General



Florian Specht
Member of the General Secretariat