

Switzerland

Spontaneous exchange of tax rulings



René Schreiber and
Veronique Parmentier,
Deloitte

René Schreiber (rschreiber@deloitte.ch) and
Veronique Parmentier (vparmentier@deloitte.ch)
Deloitte
Tel: +41 58 279 7216 and +41 58 279 7856
Website: www.deloitte.ch

Could multinationals, in the future, see their Swiss tax rulings sent to foreign jurisdictions by the Swiss authorities?

In 2013 Switzerland signed the Convention on Multilateral Administrative Assistance in Tax Matters (the Convention), which provides for spontaneous exchange of information. In January 2015 the Swiss Federal Council initiated a decree allowing ratification of the Convention and the amendment of the Swiss law on administrative assistance to introduce spontaneous exchange of information into domestic law. A draft decree was submitted to the parliament in June 2015 and first exchanges of information are expected as from January 1 2018. The question remains as to whether these exchanges will also include Swiss advanced tax rulings.

Article 7, paragraph 1 of the Convention lists the cases in which a jurisdiction should spontaneously transmit information to another jurisdiction. The OECD Manual on the implementation of exchange of information for tax purposes provides additional guidance regarding such circumstances. However, none of these documents refer explicitly to tax rulings.

The Swiss Federal Council will issue a decree providing more details regarding the obligations resulting from the Convention, and the tax authorities will issue some practical directives that will take into account the practice in other jurisdictions as well as international standards. Based on the current parliamentary work, this includes the framework being developed by the Forum on Harmful Tax Practices under the BEPS umbrella for the spontaneous exchange of tax rulings.

Therefore, it has to be expected that any tax ruling relating to a cross-border transaction involving movable income, which benefits from a preferential regime and a low effective rate of taxation, would fall under the scope of the new spontaneous exchange of information. It is, at this stage, less clear for other tax rulings. Many current tax rulings including the taxation of mixed companies, holding companies or principal structures will most likely fall into the first category.