

June 2017

## AUSTRIAN AUTHORITIES HAVE REQUESTED INFORMATION ON UBS ACCOUNT HOLDERS RESIDENT IN AUSTRIA

The Austrian authorities have requested information from the Swiss Federal Tax Administration on UBS account holders resident in Austria, to check if UBS clients fulfilled their tax obligations under Austrian law. According to a notice published yesterday 13 June 2017, any person holding an account or who was the beneficial owner of such an account between 2006 and 2008 shall contact UBS.

### BACKGROUND

In a letter dated 16 February 2017, the Austrian tax authorities requested information regarding UBS account holders resident in Austria who have/had UBS accounts or are/were beneficial owners of such UBS accounts based on article 26 of the Convention between the Swiss confederation and Austria for the avoidance of double taxation with respect to taxes on income and on capital. The lists of clients were reportedly obtained by Germany who shared this information with other countries. Similar requests were filed by other European countries last year and this year.

### PERSONS AFFECTED

The request relates to data on UBS accounts held by Austrian residents which are included in two lists of clients relating to the years 2006 and 2008. Persons who closed accounts prior to 1 January 2012 are not affected.

### ADMISSABILITY

The requests from last year have not yet been answered and Swiss courts have not yet ruled on the admissibility of such requests. The question whether Switzerland shall comply with this request or not will be governed by Swiss law. Group requests have been rejected in the past, but this does not have to be the case here, since clearly actual names were passed on by the German authorities.

### NEXT STEPS

Persons have been requested to contact UBS to check if they are in the list and to name a Swiss representative. Afterwards, the person may participate in the exchange of information procedure. If the person does not take action, the process will progress without his/her participation. If the person takes action, he/she will have several options.

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## VOLUNTARY SELF-DISCLOSURE

Any person who has/had an account with UBS and believes that he/she may be on the list of affected person and that the request may be answered positively by the Swiss tax authorities, may still make a voluntary self-disclosure according to Austrian law:

According to sec. 29 of the Austrian Fiscal Criminal Act, a person who has committed a criminal fiscal offence may obtain amnesty under the following cumulative conditions:

- The person discloses the offence;
- the person discloses the taxable base;
- the person pays the amount of taxes within the specified time; and
- the disclosure is timely.

"Timely" filing of the disclosure means that at the time when the disclosure is filed, among other things, the offence as such has not fully or partly been discovered.

The WOLF THEISS tax team is happy to advise you in this respect.

## About WOLF THEISS

Wolf Theiss is one of the leading law firms in Central, Eastern and Southeastern Europe (CEE/SEE). We have built our reputation on a combination of unrivalled local knowledge and strong international capability. We opened our first office in Vienna almost 60 years ago. Our team now brings together over 340 lawyers from a diverse range of backgrounds, working in offices in 13 countries throughout the CEE/SEE region.

For more information about our services, please contact:



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