Mutual agreement and exchange of information

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The mutual agreement procedure is open to a taxpayer who considers that the actions of one or both states result in taxation not in accordance with the agreement. He may present the case to the competent authority of his state of residence within three years of the first notification. The competent authorities then endeavour to resolve the case. The 2017 protocol added the commitment to implement any agreement notwithstanding domestic time limits that the BEPS minimum standard requires.[1] Switzerland and Singapore both have active competent authorities. A dual-residence or permanent-establishment dispute involving a digital-asset business can be taken to them, though the process takes two to four years and does not suspend collection in either state.

The exchange of information article follows Article 26 of the OECD model as it stood after 2009. It allows exchange on request of information foreseeably relevant to the administration of the taxes covered, overrides bank secrecy and does not permit fishing expeditions. The Swiss implementing rules in the Tax Administrative Assistance Act require the request to identify the taxpayer, the information sought and the tax purpose, and permit group requests that describe a pattern of conduct without naming the persons.[2] IRAS may therefore ask the Swiss Federal Tax

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Administration for the account records of a Singapore resident at a Swiss exchange or bank. The Federal Tax Administration may in turn ask IRAS for the records of a Swiss resident at a Singapore DPT service provider. The automatic channels of CRS and CARF (Chapter VII of this Part) have made requests less necessary for account balances but not for the detailed transaction histories and correspondence that an investigation needs.

Cross-border perspective

The treaty is the floor of the relationship between the two hubs. It prevents double taxation of ordinary income and confirms residence taxation of gains. It does nothing about Swiss wealth tax, nothing about Singapore GST and nothing about the classification of a token, which each state decides for itself. A client who plans a life or a business across Zug and Singapore should decide residence first, substance second and the treaty third. The treaty will then do what it is designed to do, which is to make the chosen allocation stick.

Notes

1. Singapore–Switzerland DTA 2011, Art. 24 (mutual agreement procedure), as amended by the 2017 protocol. ↩
2. Singapore–Switzerland DTA 2011, Art. 25 (exchange of information), as amended by the 2017 protocol; Federal Act on International Administrative Assistance in Tax Matters (TAAA; StAhiG), SR 651.1, Arts 6 and 14a (requirements for requests; group requests). ↩

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