The End of Banking Secrecy for Foreign Tax Purposes

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For most of its modern history, Singapore offered foreign clients a banking confidentiality that foreign tax authorities could not penetrate. The law did not describe it as a secret in the Swiss manner. It was a statutory duty of confidentiality imposed on banks, backed by criminal penalties and supported by a tax system that taxed on a territorial basis and had little interest in what non-residents owed to their own governments. Within less than a decade, between March 2009 and September 2018, that protection disappeared in every respect relevant to tax. Singapore accepted the international standard on exchange of information on request, concluded an intergovernmental agreement with the United States under FATCA, designated serious tax crimes as predicate offences for money laundering and began to exchange financial account information automatically with dozens of jurisdictions under the Common Reporting Standard.

This chapter traces that transition. It begins with the commitment of 2009 to the standard of the Organisation for Economic Co-operation and Development and with the legislation that implemented it. It then examines the American FATCA regime and the agreements through which Singapore implemented it, the Common Reporting Standard and its later amendments, and the designation of tax crimes as

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predicate offences. A final section turns to the most delicate question of the whole period: what became of the assets that foreign clients had booked in Singapore before the rules changed, and how banks were expected to deal with them.

The parallel volume on Geneva devotes a chapter to the same transformation of Swiss private banking between 2008 and 2018, driven by the UBS affair, the American programme for Swiss banks and the introduction of automatic exchange.[1] The comparison is instructive. Singapore moved along the same path at almost the same time. It did so with fewer penalties, fewer prosecutions of its bankers and a stronger emphasis on preventive supervision. The reasons for that difference, and its limits, are discussed at the end of this chapter. The regulatory architecture as a whole is described in Chapter I of this part, and the money laundering regime in Chapter III of Part H.

Essentials

Singapore endorsed the OECD standard for exchange of information on request on 7 March 2009, after the threat of a grey list, and implemented it through the Income Tax (Amendment) (Exchange of Information) Act 2009, which opened access to bank information through a court process with notice to the taxpayer. Reforms announced on 14 May 2013 removed the need for a court order, extended assistance to all treaty partners and led to the signing of the multilateral Convention on Mutual Administrative Assistance in Tax Matters. Singapore signed a Model 1 FATCA agreement with the United States on 9 December 2014, replaced by a reciprocal agreement signed on 13 November 2018 and in force since 1 January 2021. Under the Common Reporting Standard, Singapore financial institutions have applied due diligence since 1 January 2017, and Singapore has exchanged financial account information since September 2018. Since 1 July 2013, serious tax offences have been predicate offences for money laundering, and MAS expects financial institutions to refuse or review clients whose assets they suspect are the proceeds of wilful or fraudulent tax evasion, including foreign tax evasion.

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Notes

1. Ressos, *Genève, place financière internationale*, Part E, Chapter III, « La fin du secret bancaire à l'égard des autorités fiscales étrangères (2008-2018) », which traces the UBS affair, the adoption of the OECD standard, the US programme for Swiss banks, FATCA and the automatic exchange of information. ↩

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