



PRESS RELEASE

Internal Revenue Service - Criminal Investigation *Chief Richard Weber*

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Contact: *CI-HQ-COMMUNICATIONSEDUCATION@ci.irs.gov
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BBVA Suiza S.A. Reaches Resolution under Swiss Bank Program

Bank Will Pay Penalty of More than \$10 Million and Continue to Cooperate with Department

The Department of Justice announced today that BBVA Suiza S.A. has reached a resolution under the department's [Swiss Bank Program](#).

“The multiplier effect that these agreements have on tax compliance cannot be underestimated,” said Chief Richard Weber of IRS-Criminal Investigation (CI). “The magnitude of the data provided by each of these agreements leads us to more—more banks, more countries and more individuals. IRS-CI will continue to use all of the information we gather from these agreements to vigorously pursue individual U.S. taxpayers who illegally conceal assets offshore and to develop innovative strategies to combat international tax evasion worldwide.”

“Swiss banks such as BBVA Suiza S.A. are providing detailed information regarding their efforts to conceal U.S.-related accounts, and are turning over the names of individuals and entities that facilitated this criminal conduct,” said Acting Assistant Attorney General Caroline D. Ciruolo of the Justice Department’s Tax Division. “With each agreement, we are lifting the veil of secrecy shrouding those that assist accountholders in the evasion of their U.S. tax obligations.”

The Swiss Bank Program, which was announced on Aug. 29, 2013, provides a path for Swiss banks to resolve potential criminal liabilities in the United States. Swiss banks eligible to enter the program were required to advise the department by Dec. 31, 2013, that they had reason to believe that they had committed tax-related criminal offenses in connection with undeclared U.S.-related accounts. Banks already under criminal investigation related to their Swiss-banking activities and all individuals were expressly excluded from the program.

Under the program, banks are required to:

- Make a complete disclosure of their cross-border activities;
- Provide detailed information on an account-by-account basis for accounts in which U.S. taxpayers have a direct or indirect interest;
- Cooperate in treaty requests for account information;
- Provide detailed information as to other banks that transferred funds into secret accounts or that accepted funds when secret accounts were closed;
- Agree to close accounts of accountholders who fail to come into compliance with U.S. reporting obligations; and
- Pay appropriate penalties.

Swiss banks meeting all of the above requirements are eligible for a non-prosecution agreement.

According to the terms of the non-prosecution agreement signed today, BBVA Suiza agrees to cooperate in any related criminal or civil proceedings, demonstrate its implementation of controls to stop misconduct involving undeclared U.S. accounts and pay penalties in return for the department's agreement not to prosecute this bank for tax-related criminal offenses.

BBVA Suiza is a Swiss private bank with one office in Zurich, where it provided private banking and asset management services through private bankers. BBVA Suiza is wholly owned by Banco Bilbao Vizcaya Argentaria S.A. and is part of the BBVA Group. BBVA, the flagship of the BBVA Group, is a major global financial institution based in Spain. In 1984, a predecessor of BBVA entered the Swiss market by purchasing a Swiss bank that later became BBVA Suiza.

BBVA Suiza was aware that U.S. taxpayers had a legal duty to report their assets and income to the Internal Revenue Service (IRS) and to pay taxes on the basis of all their income, including income earned from accounts that BBVA Suiza maintained on their behalf. Despite being aware of this legal duty, BBVA Suiza maintained undeclared accounts for clients that it knew, or should have known, were U.S. taxpayers.

BBVA Suiza offered a variety of traditional Swiss banking services that assisted and enabled certain of its U.S. taxpayer clients to conceal their account assets and income, file false federal tax returns with the IRS and evade their U.S. tax obligations. These services included opening and maintaining undeclared accounts for U.S. taxpayers, offering the option to hold mail at BBVA Suiza and providing Swiss travel-cash cards, which enabled one U.S. client to access funds from undeclared accounts to spend in the United States.

BBVA Suiza permitted four groups of U.S. taxpayers to maintain six accounts, which held U.S. securities in the name of six offshore structures, specifically Panama corporations and British Virgin Islands companies. The U.S. taxpayer's interest in each of these accounts was not reported to the IRS even though BBVA Suiza knew, or had reason to know, that such offshore-structure accounts were operated without strict adherence to corporate formalities and, in effect, were operated by the U.S. taxpayer beneficial owners as sham, conduit or nominee entities. BBVA Suiza relationship managers associated with these six accounts:

- met with or took instructions from the U.S. taxpayer beneficial owners of these offshore-structure accounts, instead of the directors or other authorized parties of the account;
- acted on instructions to transfer funds to a U.S. beneficial owner, including to accounts located within the United States or to a third-party designated by the U.S. beneficial owner; and/or
- effected transfers from certain of the offshore-structure accounts to pay for personal expenses incurred in connection with the use of credit cards issued in favor of the U.S. beneficial owners of the structures.

BBVA Suiza accepted certifications from the directors of these entities that falsely declared that the entity was the beneficial owner of the assets deposited in the accounts. In these instances, BBVA Suiza was in violation of the terms of its Qualified Intermediary Agreement with the IRS by failing to obtain IRS Forms W-9 from the U.S. beneficial owners of accounts that held U.S. securities, undertake IRS Form 1099 reporting or impose backup tax withholding when it had knew, or had reason to know, that an offshore structure was acting as a nominee for its U.S. beneficial owners.

BBVA Suiza also transferred the assets of U.S.-related accounts belonging to certain U.S. taxpayer clients in ways that concealed the U.S. nature of those accounts, such as through cash or check withdrawals, wire transfers and sham transfers to non-U.S. relatives or their nominal accountholders. In addition, BBVA Suiza removed some of its U.S. taxpayer clients' names as joint-acountholders, leaving only non-U.S. persons as accountholders, or moved their assets into new accounts that were held in the names of non-U.S. persons, including non-U.S. relatives. BBVA Suiza thereafter treated such accounts as non-U.S.-related accounts, despite some relationship managers continuing to take and execute instructions given directly from the U.S. taxpayers formerly associated with the accounts, or the U.S. taxpayer clients retaining effective beneficial ownership of the accounts. BBVA Suiza followed instructions from U.S. beneficial owners, or their external asset managers, to transfer undeclared assets

from U.S.-related accounts to locations throughout the world without knowing or first confirming whether the U.S. beneficial owners were compliant with their U.S. tax obligations.

Since Aug. 1, 2008, BBVA Suiza maintained 138 U.S.-related accounts with a maximum aggregate dollar value of more than \$157 million. BBVA Suiza will pay a penalty of \$10.390 million.

While U.S. accountholders at BBVA Suiza who have not yet declared their accounts to the IRS may still be eligible to participate in the [IRS Offshore Voluntary Disclosure Program](#), the price of such disclosure has increased.

Most U.S. taxpayers who enter the IRS Offshore Voluntary Disclosure Program to resolve undeclared offshore accounts will pay a penalty equal to 27.5 percent of the high value of the accounts. On Aug. 4, 2014, the IRS increased the penalty to 50 percent if, at the time the taxpayer initiated their disclosure, either a foreign financial institution at which the taxpayer had an account or a facilitator who helped the taxpayer establish or maintain an offshore arrangement had been publicly identified as being under investigation, the recipient of a John Doe summons or cooperating with a government investigation, including the execution of a deferred prosecution agreement or non-prosecution agreement. With today's announcement of this non-prosecution agreement, noncompliant U.S. accountholders at BBVA Suiza must now pay that 50 percent penalty to the IRS if they wish to enter the IRS Offshore Voluntary Disclosure Program.

"Today's resolution with BBVA Suiza S.A. marks another step forward in DOJ's Swiss Bank Program," said Acting Deputy Commissioner International David Horton of the IRS Large Business & International Division (LB&I). "U.S. taxpayers who hid their money in this and other Swiss banks need to come forward to report their foreign accounts and pay taxes on the income they earned. Working with DOJ, we continue to uncover both those who hid offshore accounts and those who aided this illegal activity."

Acting Assistant Attorney General Ciraolo thanked the IRS, and in particular, IRS-CI and IRS LB&I for their substantial assistance. Ciraolo also thanked Paul G. Galindo, who served as counsel on this matter, as well as Senior Counsel for International Tax Matters and Coordinator of the Swiss Bank Program Thomas J. Sawyer, Senior Litigation Counsel Nanette L. Davis and Attorney Kimberle E. Dodd of the Tax Division.

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