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News Analysis: Austria's Tax Crackdown and the Swiss Agreement

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COUNTRY DIGEST

News Analysis: Austria's Tax Crackdown and the Swiss Agreement

Austrian Minister of Finance Maria Fekter recently announced plans to fight tax fraud by doubling the number of financial police officers over time and implementing a large-scale tax reform, but she is pushing for a tax agreement with Switzerland as a more immediate way to capture hidden tax revenue.

The Austrian budget forecast, on which the latest tax law changes are based, already takes into account an Austria-Switzerland tax agreement along the lines of the Switzerland-U.K. agreement and the Germany-Switzerland agreement under negotiation. (For prior coverage of the Switzerland-U.K. agreement, see *Tax Notes Int'l*, Mar. 16, 2012, p. 986, *Doc 2012-5844*, or *2012 WTD 55-1*; for related coverage of the Germany-Switzerland agreement, see p. 216

Austria-Switzerland Tax Agreement

Despite substantial criticism from scholars and opposition parties, Fekter expects the Austria-Switzerland agreement to enter into force on January 1, 2013, and has already taken it into account in the five-year austerity plan for the years 2012 through 2016. (For prior coverage, see *Tax Notes Int'l*, Feb. 20, 2012, p. 568, *Doc 2012-2867*, or *2012 WTD 30-4*.) The Austrian government estimates that there is between €12 billion and €20 billion in untaxed Austrian funds in Swiss bank accounts and hopes to raise about €1 billion through the tax agreement.

Under the proposed agreement, Switzerland would pay Austria a lump sum for past tax liabilities on unreported Austrian income that is believed to be held in Swiss bank accounts, and a withholding tax would be imposed on future interest income or other earnings generated by the funds deposited (or, as the government would say, hidden) in Switzerland.

The Germany-Switzerland agreement provides for the future taxation of German investors, by Switzerland, in the same amount as would be imposed in Germany (26.375 percent). Based on the lump sum payment for past unreported taxable income, Germany predicts that between 21 and 42 percent of the amount of untaxed German funds in Swiss bank accounts should flow back to Germany, while the account holders' anonymity — and Swiss bank secrecy — would remain protected.

There has been loud criticism of the Austrian plan, however. First, the EU has challenged the German and U.K. agreements, objecting to bilateral agreements between Switzerland and other EU member states. (For prior coverage, see *Tax Notes Int'l*, Dec. 5, 2011, p. 683, *Doc 2011-24782*, or *2011 WTD 229-1*.)

Tax law professor Werner Doralt said he is surprised by the Austrian government's optimism about the agreement. Germany is in a much stronger negotiating position than Austria, and therefore it is not clear that an Austria-Switzerland agreement would parallel the Germany-Switzerland agreement, he said. Doralt also argued that presumably many more Germans than Austrians sent their untaxed funds to Switzerland, in proportion to the number of taxpayers, because there was much less incentive for Austrians to conceal their income.

Also, Austria's two main opposition parties oppose the tax agreement, with Eva Glawischnig of the Green Party estimating that one-third of the tax revenue projections in the austerity package will not be met.

Quite significantly, Mario Tuor, a spokesman for the Swiss State Secretariat for Economic Affairs, calls Fekter's proposed Austrian agreement with Switzerland a ''very ambitious plan from Vienna,'' emphasizing that for official negotiations to start, the Swiss government must issue a mandate. Switzerland also must reach mutual consent with Germany before the start of negotiations with another state, Tuor said.

Although the Germany-Switzerland tax agreement was signed by Michael Ambühl, Switzerland's state secretary for international financial and tax matters, on April 5 based on a mandate by the Swiss Federal Council (the legislature), it is highly doubtful that the German opposition will agree to its ratification.

According to the Swiss newspaper *Ein Schweizer Blatt*, an agreement with Austria is less than half as important as an agreement with Germany. On the other hand, the Austrian government is more optimistic and wants to move ahead quickly.

Other Measures

Fekter also wants to implement a large-scale tax reform to simplify the tax law and lower the tax burden. Overall, the proposed tax reform would raise an estimated €3.5 billion in additional tax revenues. One way to reach that number, Fekter said, is to abolish many of the tax privileges won by lobbyists over the decades. She said the ''privileges for guilds'' number is as high as 560.

To ensure the support of the public, Fekter has an explicit goal of reducing the highest personal income tax rate to 45 percent (the same as in Germany) and to increase the amount of income at which it starts to apply from the current €60,000 to €250,000; any income above that threshold is currently taxed at 50 percent.

While taxpayers might welcome the reduction, they do not see the whole picture. Currently, salaries are paid 14 times a year in Austria with a flat rate of only 6 percent applying to one-sixth of the annual salary — specifically, ''additional'' payments made in June (vacation money) and December (Christmas money). The effect is that employees have a personal income tax rate of between 42 and 44 percent, less than the rate Fekter is aiming for.

The self-employed may welcome her plans, though a very high lump sum deduction could achieve an effect similar to the benefit of taxing one-sixth of the annual salary at only 6 percent.

Nevertheless, the finance minister summarizes her goal as ''less taxation, simpler taxation, and more equitable taxation.''

Fekter has also proposed doubling the Finance Ministry's 430-member financial police task force within the next few years.

She said fraudulent social benefits are easily obtained, particularly in Vienna, because authorities in the capital are more generous with social benefit payments than in other parts of Austria. For example, Fekter said, Lower Austria has only one-tenth of the number of minimum insurance cases in Vienna. She argues that less scrutiny is applied in Vienna. That view appears to be unsubstantiated and is in fact very surprising because Vienna and Lower Austria are not comparable; many people who do not live in Vienna work and stay in the city part of the time, and the number of households with single mothers is disproportionately higher in Vienna than outside the city.

Another focus of attention for Fekter are large construction sites with prominent developers, which often engage illegal subcontractors and foreign workers without work permits. That practice not only ensures low wages, but also gets around social charges because the workers are not registered with the social authorities.

The financial police are also dealing with tax fraud involving the standard fuel consumption tax and import charges for motor vehicles, as well as with illegal gambling, especially in Lower Austria (maybe that is the reason for less social benefit fraud in that region). Two hundred illegal gambling places were detected during the most recent concentrated check.

Currently the financial police have one thing in common with teachers and other police force members: They are excluded from the general hiring freeze in the public service sector.

Conclusion

It is striking how the finance minister wants to lower the taxation of those in the highest tax brackets and fight what she refers to as social benefit fraud, which is based solely on numbers and not on verified evidence. If she really wants to reduce the tax burden on taxpayers and enhance consumption in order to spur the economy, she would reduce the very high consumption taxes (for example, the 20 percent VAT), which place a higher burden on those with lower incomes than on those with higher incomes. ◆

♦ *Stefanie Steiner and Christian Wimpissinger, Binder Grösswang, Vienna*