

No. 47521

**Switzerland
and
United States of America**

Agreement between the Swiss Confederation and the United States of America on the request for information from the Internal Revenue Service of the United States of America regarding UBS AG, a corporation established under the laws of the Swiss Confederation (with annex and declarations). Washington, DC, 19 August 2009

Entry into force: *19 August 2009 by signature, in accordance with article 8*

Authentic text: *English*

Registration with the Secretariat of the United Nations: *Switzerland, 21 May 2010*

**Suisse
et
États-Unis d'Amérique**

Accord entre la Confédération suisse et les États-Unis d'Amérique concernant la demande de renseignements de l'Internal Revenue Service des États-Unis d'Amérique relative à la Société de droit suisse UBS SA, une corporation établie en vertu des lois de la Confédération suisse (avec annexe et déclarations). Washington, DC, 19 août 2009

Entrée en vigueur : *19 août 2009 par signature, conformément à l'article 8*

Texte authentique : *anglais*

Enregistrement auprès du Secrétariat des Nations Unies : *Suisse, 21 mai 2010*

[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

BETWEEN

THE SWISS CONFEDERATION

AND

THE UNITED STATES OF AMERICA

**on the request for information from the Internal Revenue Service of
the United States of America regarding UBS AG, a corporation
established under the laws of the Swiss Confederation**

THE SWISS CONFEDERATION

and

THE UNITED STATES OF AMERICA

hereinafter referred to as "the Contracting Parties",

WHEREAS,

the Contracting Parties seek to reaffirm and strengthen the long-standing and close friendship between their peoples and to continue and enrich the cooperative relationship which exists between the two countries;

the Contracting Parties share a mutual respect for each other's sovereignty and democratic traditions, and for the rule of law;

the Contracting Parties equally share a desire to amicably resolve disputes in a manner consistent with the laws of both nations;

Article 26 of the Convention between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with Respect to Taxes on Income of October 2, 1996 (the "Tax Treaty"), the Protocol accompanying and forming an integral part of the Tax Treaty (the "Protocol"), and the Mutual Agreement of January 23, 2003 regarding the administration of Article 26 of the Treaty (the "Mutual Agreement"), provide a mutually agreed-upon mechanism pursuant to which competent authorities of the Contracting Parties are able to exchange information, as is necessary for the prevention of "tax fraud or the like";

on July 21, 2008, the Internal Revenue Service ("IRS"), pursuant to its authority under 26 U.S.C. §7602(a), issued a "John Doe Summons" (the "JDS") to UBS AG seeking information concerning client accounts;

on or about the date of the signing of this Agreement, the IRS and UBS AG entered into a separate agreement; and

the Contracting Parties wish to establish understandings that will avoid future disputes regarding requests for information;

NOW, THEREFORE, pursuant to Articles 25 and 26 of the Tax Treaty, the Contracting Parties have agreed as follows:

Article 1 Treaty Request

1. The Swiss Confederation shall process, pursuant to the existing Tax Treaty, a request by the United States for information regarding US clients of UBS AG, incorporating the criteria set forth in the Annex to this Agreement (the "Treaty Request"). Based on the criteria set forth in the Annex, the Contracting Parties estimate and expect that the number of open or closed accounts falling under the Treaty Request is approximately 4'450.¹
2. The Swiss Confederation shall establish a special task force enabling the Swiss Federal Tax Administration ("SFTA") to render its final decisions (as described in Section 4.a., Art. 20j, of the Ordinance of the Swiss Federal Council of June 15, 1998) pursuant to the Treaty Request on an expedited basis according to the following time frames:
 - the first 500 decisions within 90 days from receipt of the Treaty Request; and
 - the remaining decisions on a continuing basis concluding no later than 360 days from receipt of the Treaty Request.
3. The SFTA shall notify UBS AG that it has received the Treaty Request immediately upon receipt of the Treaty Request by the SFTA and shall support the Treaty Request process according to this Article and the criteria set forth in the Annex with the highest priority, and is committed to discuss any issues that might arise in this regard according to the mechanism established in Article 5 of this Agreement.
4. With a view to accelerating the processing of the Treaty Request by the SFTA, the IRS will promptly request all UBS clients who enter into the voluntary disclosure program on or after the signing of this Agreement to give a waiver to UBS AG to provide account documentation to the IRS.
5. The Swiss Confederation is prepared to process additional requests for information by the IRS under Article 26 of the existing Tax Treaty regarding the UBS AG case if a future decision of the Swiss Federal Administrative Court broadens the criteria set forth in the Annex to this Agreement.

¹ For these accounts UBS will provide a notice to account holders under the Treaty Request. They will (i) be subject to a final decision of the SFTA under the treaty process, or (ii) be transmitted to the IRS as a result of the accountholder having provided UBS or the SFTA with a waiver to submit such account information directly, or (iii) fall out of the treaty process after the account holders have provided consent to the SFTA to request copies of the taxpayer's FBAR returns from the IRS for the relevant years as described in the Annex under paragraph 2.A.b. and 2.B.b.

Article 2 Revised Tax Treaty

The Contracting Parties are committed to the signing of the new protocol amending Article 26 (and certain other provisions) of the Tax Treaty, initialed on June 18, 2009, as soon as possible, but no later than September 30, 2009, and shall use their best efforts, consistent with their respective constitutional processes, to have the new protocol ratified promptly.

Article 3 Withdrawal of the John Doe Summons

1. Immediately after the signing of this Agreement, the United States and UBS AG shall file a stipulation of dismissal with the United States District Court for the Southern District of Florida with respect to the enforcement action concerning the JDS.
2. Subject to the terms of Article 5 of this Agreement, the United States shall not seek further enforcement of the JDS while this Agreement remains in force.
3. Subject to UBS AG's compliance with Article 4 of this Agreement, the United States shall withdraw the JDS with prejudice no later than December 31, 2009 with respect to accounts not covered by the Treaty Request.
4. The United States shall withdraw the JDS with prejudice with respect to the accounts covered by the Treaty Request on or after January 1, 2010 when it has received all relevant account information, submitted on or after February 18, 2009, concerning 10'000 open or closed undisclosed UBS AG accounts from any source.² The United States shall provide the SFTA with regular updates about the number of such disclosures.
5. Subject to UBS AG's compliance with Article 4 of this Agreement and subject to the terms of Article 5 of this Agreement, the United States shall withdraw the JDS with prejudice with respect to the accounts covered by the Treaty Request no later than 370 days from the signing of this Agreement.

² For purposes of this paragraph, the term "any source" means account information disclosed (i) under the Treaty Request, (ii) under the IRS's voluntary disclosure practice, (iii) as a result of waivers for UBS or the SFTA to submit account information to the IRS, or (iv) under the Deferred Prosecution Agreement between UBS AG and the United States of America, dated February 18, 2009. Furthermore, the IRS shall to the extent feasible, include account information disclosed through FBAR filings made after the signing of this Agreement and for which the IRS has determined that such filings are attributable to the fact that the Contracting Parties entered into this Agreement.