

**AGREEMENT BETWEEN THE COMPETENT AUTHORITIES OF THE SWISS
CONFEDERATION AND ITALY ON EXCHANGE OF INFORMATION THROUGH
GROUP REQUESTS**

Whereas, the Competent Authorities of the Swiss Confederation and Italy desire to improve their relationship on mutual assistance in tax matters;

Whereas, Article 27 (“Exchange of Information”) of the Convention between the Swiss Confederation and the Italian Republic for the Avoidance of Double Taxation of 9 March 1976 (“the Convention”) has been modified by the amending Protocol signed on 23 February 2015, in accordance with Article 26 (“Exchange of Information”) of the OECD Model Tax Convention on Income and on Capital;

Whereas, Article II of the Protocol of 23 February 2015 has added letter *e-bis*) to the Additional Protocol of 9 March 1976 to the Convention, which allows, with reference to Article 27 of the Convention, *inter alia*, requests for information concerning a plurality of taxpayers whether identified by name or otherwise (*group requests*);

Whereas, the Competent Authorities, taking into consideration Paragraph 2.3.4 of the «Roadmap on the Way Forward in Fiscal and Financial Issues between Italy and Switzerland» signed on 23 February 2015, desire to enter into an agreement aimed at expressing a joint understanding as to a specific category of admissible *group requests* under Article 27 of the Convention;

Whereas, the Competent Authorities, taking into account the decision of the Swiss Federal Court 2C_276/2016 dated 12 September 2016 about the admissibility of a group request of a third country, have agreed that such agreement should be referred to *group requests* for “*recalcitrant account holders*”, and that they will continue discussions on how to operationalize, in conformity with the OECD standard, group requests on “closed accounts” and “substantially emptied accounts”;

Whereas, the information exchanged under this agreement remains confidential and is used solely for the purposes set out in Article 27 Paragraph 2 of the Convention;

Whereas, according to the Agreement between the European Union and the Swiss Confederation on the automatic exchange of financial account information to improve international tax compliance, which entered into force on 1 January 2017, automatic exchange of information on financial accounts based on the "Common Reporting Standard" will be effective between the Swiss Confederation and Italy as from 2018 with regard to financial accounts existing on 31 December 2016 and new accounts opened as from 1 January 2017;

the Competent Authorities have agreed as follows:

Article 1

The Competent Authority of the Swiss Confederation shall process, within the limits set by the Convention and by this Agreement, *group requests* concerning accounts held, at any time during the period between 23 February 2015 and 31 December 2016, by Italian resident account holders with financial institutions located in Switzerland.

Article 2

1. *Group requests* referred to in Article 1 shall concern "*recalcitrant account holders*".
2. "*Recalcitrant account holders*" are individuals who are taxpayers of Italy, whose names are unknown and that are identifiable through the following criteria during the time period between 23 February 2015 and 31 December 2016:
 - a. the individual is or was an account holder of one or more accounts with a financial institution located in Switzerland;
 - b. the account holder has or had a domicile or residence address in Italy (according to the bank documentation in possession of the financial institution located in Switzerland);
 - c. the account holder was sent a letter by the financial institution located in Switzerland in which it announced the forced closure of the bank account or accounts unless he/she provided the financial institution located in Switzerland with the signed form "EU savings tax - Authorization for the Voluntary Disclosure" or any other proof of his/her tax compliance for such account or accounts;
 - d. despite this letter the account holder did not provide the financial institution located in Switzerland with sufficient evidence of tax compliance.

Article 3

Out of scope of Article 2 are accounts:

- a. which have been disclosed within the framework of the agreement on the taxation of savings between the Swiss Confederation and the European Union; or
- b. for which an authorization regarding the specific account has been provided to the financial institution located in Switzerland within the framework of the Italian Voluntary Disclosure Program (VDP); or
- c. for which the overall amount of the account of the Italian taxpayer held with the financial institution located in Switzerland has been regularized within the framework of an Italian "*scudo fiscale*" and the account fulfils all of the following conditions (so called "*juridical repatriation*"):
 - the overall amount of the account maintained with the financial institution located in Switzerland at the time of the signature of the anonymous declaration (and its annexes, if any) was equivalent to the amount of the Swiss regularized assets indicated on the anonymous declaration; and
 - the anonymous declaration has been signed by the taxpayer and countersigned as well as stamped by a financial institution located in Italy; and
 - no new money was deposited into the account after the date of signature of the anonymous declaration. Proceeds of regularized assets do not qualify as new money; and
 - the mandate to the Italian financial institution to act as withholding agent and reporting intermediary has not been revoked, unless another mandate to another Italian financial institution has been given and such a mandate includes a delegation to perform withholding tax and reporting obligations to the Italian tax authorities;or
- d. for which the taxpayer has provided evidence to the Swiss Federal Tax Administration that the assets in the account at the end of the last tax year for which the deadline to hand in the tax return has passed were included in the appropriate tax return duly filed with the Italian tax administration, more specifically in the RW-form. If the amount declared as held with Swiss financial institutions is higher than the account balance at the end of the last tax year of the concerned account, the taxpayer has to submit to the Swiss Federal Tax

Administration the account statement(s) regarding the other assets with Swiss financial institutions in order to enable the Swiss Federal Tax Administration to examine if the assets declared are equivalent to the account balances. If the amount declared as held with Swiss financial institutions is lower than the account balance at the end of the last tax year of the concerned account, the exemption from the communication of the account provided for in this letter d) does not apply; or

- e. for which the requested information has already been transmitted to the Italian Competent Authority in a prior administrative assistance procedure.

Article 4

Group requests made under Article 2 will indicate the following:

- explanation of the selection criteria and the reason why they lead to the suspicion of tax evasion when combined altogether;
- person in Switzerland, which may be in possession of the requested information (name of the financial institution located in Switzerland);
- period under investigation;
- tax purpose, i.e. indication of the object of taxation (e.g. income, assets) and the concerned taxes;
- description of the facts and pursued objectives, including a statement explaining - based on statistical evidence (including from the Italian VDP) - that a considerable number of Italian taxpayers did not declare their accounts held with Swiss financial institutions, especially with the concerned Swiss financial institution;
- if applicable, other sources that show the non-compliance of Italian taxpayers with regard to their Swiss financial institution accounts (including specific numbers, if available);
- copy of a letter sent to one or more Italian taxpayer(s) by the concerned Swiss financial institution showing that the financial institution contacted Italian taxpayers for whom it was not clear to the financial institution if their accounts were tax-compliant, and with which they were informed about the forced closure of the financial institution account(s) unless evidence of tax compliance was provided;
- foreseeable relevance of the requested information to the administration and enforcement of domestic laws of Italy;
- any other information of use for the processing of the group requests.

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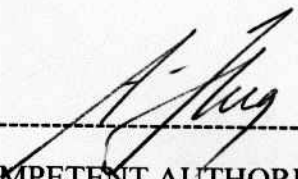
Article 5

In response to a group request made under Article 2 by the Italian Competent Authority, the Swiss Competent Authority will provide the following information:

- personal details on the presumed Italian taxpayer: surname, first name, date of birth, last known domiciliary address according to the bank documentation;
- account(s) number;
- account(s) balance per 28 February 2015 and 31 December 2016.

The above information shall be provided according to the form indicated by the Italian Competent Authority.

Done in duplicate in Rome on 27 February 2017 and in Bern on 2nd March 2017



COMPETENT AUTHORITY
FOR THE SWISS CONFEDERATION



COMPETENT AUTHORITY
FOR ITALY