



## **Robert W. Wood** THE TAX LAWYER

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# As U.S. Settlement For 300 Swiss Banks Dawns, Prosecution Risks Remain

The Swiss and U.S. governments are evaluating a deal over Swiss banks accused of helping Americans avoid paying taxes. A deal isn't imminent but reports suggest that over 300 Swiss banks could be broken into tiers. More serious enablers of evasion may get more serious raps on the knuckles.



Swiss flag (Photo credit: malias)

As the UBS and Wegelin experiences have shown, enforcement can vary materially. So can the types of deals offered. Any way you slice it, though, the U.S. means business and wields a mighty club. Sometimes the U.S. government shakes it menacingly. See [With Indictments, IRS Will Get More Data From Swiss](#).

To avoid indictment UBS turned over client names and paid dearly. In 2009, it paid \$780 million and handed over the names of more than 4,000 clients. Such key moves helped U.S. authorities pursue other banks, like Wegelin & Co., Switzerland's oldest. Despite having no U.S. offices or personnel, Wegelin was indicted, pleaded guilty and announced its closure, ending a nearly 275 year run. See [Swiss Bank's Tax Evasion Sentence Is Really Death](#).

But there are many other banks facing U.S. investigations. The Swiss government would surely like to end it all more tidily than a seriatim parade of fines and prosecutions. Both Credit Suisse and Julius Baer remain in the crosshairs, as do some smaller banks.

For example, Zurich-based Bank Frey has been named in an indictment, along with its head of private banking Stefan Buck, charged with one count of conspiracy. Edgar Paltzer, a lawyer with the Swiss law firm of Niederer Kraft & Frey, was also charged with conspiracy. According to the indictment, they helped U.S. clients skirt taxes, working with other Swiss banks like Wegelin. See [Authorities Charge Swiss Banker, Attorney in Tax Probe](#).

The deal now under consideration could involve banks handing over data but perhaps only back to 2009. Switzerland and the U.S. signed a double tax pact in 2009 that allows such transfers. Since many may have moved money into other tax havens or institutions, it could portend more prosecutions of Americans who haven't come forward.

But it has long been clear that the time for coming forward is growing shorter and that the long arm of the U.S. is growing longer. The time for deals could be closing. Yet a deal for Swiss banks could help to close a long and difficult time for many of these institutions and the people working in them.

The Swiss banks already under investigation would presumably end up with deferred prosecution agreements. Some banks that aren't under investigation but that have U.S. clients could face fines and/or be required to turn over client information. But no matter what happens, it isn't possible to look at the picture without seeing the U.S. as having not only the upper hand, but a rather massive upper hand at that.

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