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New UBS Tax Evasion Probe, Again Over Americans

UBS AG got into trouble with the IRS and Justice Department, launched thousands of voluntary disclosures to the IRS, and changed bank secrecy forever. Eventually, the Swiss Parliament passed a measure enabling banks to hand over client identities to American authorities without violating Swiss bank-secrecy laws. After getting bruised in court battles with the IRS, in 2009, UBS [paid \\$780 million](#) to settle charges that it helped wealthy Americans evade taxes.

Now, UBS faces more of the same, this time over whether UBS helped Americans evade taxes through investments banned in the U.S. This déjà vu comes at an awkward time, as banks everywhere are reeling with FATCA compliance. Meanwhile, U.S. account holders the world over are scrambling to comply to their banks, and ultimately to the IRS.



The new probe is about bearer securities, which are just what they sound like, and were mostly outlawed decades ago. Since they are like money, they feature in crime movies like Die Hard (remember all those floating bearer bonds after the explosion?). There are now questions whether UBS employees helped facilitate tax evasion or securities fraud, or later covered up.

The feds are expected to look especially hard at UBS conduct since the landmark 2009 deal in which UBS paid \$780 million. Bearer securities can be used to cheat on taxes since there is no ownership trail, and no forms filed to the IRS. Today, bearer bonds can even be electronic. If bearer securities were marketed to American clients, did that enable tax evasion? If UBS employees discussed how to hide bearer securities from authorities, investigators will query the exact nature of any such discussions.

But not every investigation goes anywhere. Not even every prosecution does. One big loss for the feds was when Mr. Raoul Weil, the top UBS banker, [was found not guilty of tax evasion](#). The government accused Mr. Weil and his subordinates of using sham structures so U.S. clients could sidestep the IRS. Mr. Weil was indicted in 2008, and finally arrested in Italy in 2013, courtesy of Interpol. The indictment claimed that between 2002 and 2007, Mr. Weil's UBS unit helped 20,000 U.S. clients conceal approximately \$20 billion in assets from the IRS.

The IRS has indicted and prosecuted other foreign bankers and advisers, sending a chill through advisers everywhere. [Renzo Gadola](#), a UBS banker from 1995 to 2008, got five years' probation after turning over names of fellow bankers enabling Americans. Another was [Christos Bagios](#) of Credit Suisse, formerly with UBS. Mr. Bagios was accused of helping U.S. clients hide as much as \$500 million from the IRS while at UBS.

Many names and addresses are being added to the mountains of information collected from voluntary disclosures, whistleblowers and [FATCA](#). The granddaddy of disclosure laws, FATCA is a pervasive U.S. law that makes foreign banks and financial institutions report on Americans. In Switzerland, over 100 banks are participating in a [program](#) to disclose undeclared American accounts and pay penalties. See [Signed Joint Statement and Program](#).

Numerous U.S. taxpayers have disclosed their offshore accounts, and in June of 2014, the IRS revamped and expanded its programs. Meanwhile, Credit Suisse Group AG's main bank subsidiary [pleaded guilty and paid a \\$2.6 billion penalty](#). For depositors and banks alike, disclosure and penalties are vastly better than the alternative. Notably, [closing foreign accounts is not an alternative](#) to coming clean with the IRS. With around 120 prosecutions and tens of thousands of Americans stepping forward to pay taxes, penalties, and interest, the IRS has collected billions. Arguably, no offshore income, account or trust is still secret.

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