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Roger Federer, Swiss Banking Will Both Come Back

By Peter Viktor Kunz - Apr 30, 2012

Why is it, many Swiss are asking today, that the whole world seems to be out to get us?

A recent Swiss court decision blocking Credit Suisse Group AG from handing confidential banking data on American clients to the Internal Revenue Service, and a continuing tax struggle with Germany have brought what Swiss call the "tax wars" against us roaring back into the public debate.

Switzerland gave the world many wonderful things, in addition to our controversial banking-secrecy laws: world-class watches and chocolate, the fictional heroine Heidi and tennis great Roger Federer, to name a few. But a series of setbacks have triggered something of an identity crisis in my country.

Federer is now ranked as only the third-best player in the world, and Switzerland's bank-secrecy laws are cracking under the weight of pressure from abroad. Unlike our tennis champion, they may not be able to bounce back.

We Swiss are used to getting belittled as alphorn tooting, yodeling, simple mountain folk, or demonized in Hollywood movies as the banker accomplice to the bad guy, helping him to stash ill-gotten assets in Zurich or Geneva. But lately, we've had to recognize that we have genuine reputational issues abroad.

Swiss Bad Guys

The importance of this hit home hard a few years ago, when then Libyan leader Muammar Qaddafi reacted to the arrest of one of his sons in Geneva by taking two Swiss businessmen hostage and asking the United Nations to split Switzerland between Germany, France and Italy. There was no international outcry in Switzerland's defense. Nobody seemed to care.

Fortunately, Switzerland has survived better than Qaddafi. But are we really the new global bad guys?

Swiss banking remains a world-class brand, for reasons of legal, political and currency stability, as well as the high level of training and language fluency among staff at the country's more than 300 banks. These strengths remain, regardless of secrecy laws. The country is also a world leader when it comes to education, government health insurance and safeguarding human rights as an intermediary between nations (Switzerland has mediated between the U.S. and Iran since 1980).

Yet, nowadays, all anyone wants to talk about is our alleged facilitation of tax fraud and evasion.

In a world where citizens' privacy is being diminished daily, the idea of banking with the assurance that your details are private may seem almost quaint, but these laws have deep roots in Switzerland's history as a haven. Many people came to the country seeking refuge for themselves and their money, particularly before and during World War II.

As a result, the Swiss don't see banking secrecy as something to be ashamed of. They see it as just one form of protection, together with the right to nondisclosure of one's religious beliefs, sexual orientation or health status. These are rights that anybody coming to the country should enjoy, regardless of what their home government demands. It's our strong belief that what you do with your legally gained money should be nobody's business but your own.

Like every other right, banking secrecy can be abused. Many tax evaders from abroad have tried to hide behind numbered Swiss bank accounts. However, criminal activities such as money laundering by terrorists and organized crime, or tax fraud, don't find refuge in Switzerland.

Cleaned Up Act

Our country cleaned up its act years before many others. In particular, Switzerland in recent years has been a leader in tightening controls on money laundering and has returned large sums of so-called dictators' money to their countries since passing the "Duvalier Law," named after the former Haitian leader Jean-Claude Duvalier, to ease the process.

Switzerland's status as a haven for tax evaders, meanwhile, has largely been gone since 2009, when the government accepted international standards set out by the Organization for Economic Cooperation and Development, agreeing to eliminate the distinction between tax fraud and evasion for non-Swiss residents.

The Swiss government has also signed a series of double-taxation treaties with other countries that provide for information exchange to prevent tax evasion. Surely it's time for other governments to relax their continued assault on the Swiss banking industry and accept that privacy is not a crime.

What the U.S. Justice Department did in 2009, threatening Zurich-based UBS AG with criminal prosecution for alleged facilitation of tax evasion (which is not a crime in Switzerland), was no better than extortion. The U.S. had at its disposal a legal process based on an international agremententered into with Switzerland in 1996, but the U.S. chose instead to employ the intimidation available to a superpower. Unfortunately, the Swiss government didn't stand up for itself and the sovereignty of Switzerland or for Swiss-banking clients, opening the floodgates to further pressure from abroad.

U.S. legal assaults now under way against 11 more Swiss banks, including Credit Suisse and Julius Baer Group Ltd., are equally wrong. Switzerland's Supreme Administrative Court earlier this month blocked Credit Suisse from handing over client data to the U.S. tax authorities, on grounds that the IRS failed to provide evidence of tax fraud. Switzerland's existing double-taxation treaty with the U.S. covers tax fraud, but not evasion. A new one that has been agreed would extend to tax evasion, as well, and has been approved by the Swiss parliament-- but not yet by the U.S. Senate. It's up to the U.S. to agree to the new law, not to pressure Switzerland into breaking the existing one.

German Refusal

We thought and hoped that relations with our neighbors also were stronger than has proved the case. Last year, Switzerland signed a groundbreaking taxation treaty with Germany that would maintain banking privacy for German clients of Swiss banks, but at the same time apply a 26.4 percent withholding tax, and a tax rate of as much as 41 percent (estimated worth about 10 billion euros, or $13 billion), for past deposits. Yet Germany's political opposition is now refusing to ratify this treaty, demanding more concessions from Switzerland.

These tax wars are very much on people's minds. Many Swiss believe their politicians and diplomats have been blackmailed, and that the country is no longer respected as independent and sovereign. Others feel that Switzerland and its banking industry are being approached every time other countries face a budget shortfall, seeing a perpetual deep and nonresistant pocket in Switzerland.

Many see hypocrisy on the part of countries, especially the U.S. and the U.K., that aggressively pick on Switzerland, while ignoring their own tax havens, such as trust funds in the U.K. and its Channel Islands, or the U.S. shell-company factory epitomized by Delaware, which offers foreign-owned companies anonymity and a virtually tax-free home for profits booked abroad.

Switzerland shouldn't be treated as a pariah, or rogue state. Banking secrecy is not Switzerland's foundation. Whatever the future holds -- whether a tax retention concept like the ones in recent treaties signed with Germany, the U.K. andAustria, or an automatic information exchange such as demanded by the European Union -- Switzerland will remain an international banking center. And Roger Federer will reign again.

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