

**Communication  
de l'Administration fédérale des contributions (AFC)  
concernant la demande d'assistance administrative de l'Internal  
Revenue Service (IRS) des Etats-Unis d'Amérique du 27 mars 2013  
relative aux relations entretenues par la banque Wegelin & Co.  
avec certains de ses clients**

Conformément à l'art. 14, al. 5, de la Loi fédérale du 28 septembre 2012 sur l'assistance administrative internationale en matière fiscale (LAAF; RS 672.5), l'AFC indique ce qui suit:

1. En vertu de la Convention du 2 octobre 1996 entre la Confédération suisse et les Etats-Unis d'Amérique en vue d'éviter les doubles impositions en matière d'impôts sur le revenu (CDI-US; RS 0.672.933.61), l'IRS a adressé à l'AFC, par courrier du 27 mars 2013, une demande d'assistance administrative relative aux relations entretenues par la banque Wegelin & Co. avec certains de ses clients. Simultanément à l'ordonnance de production de documents, l'AFC a invité la banque Wegelin & Co. à informer individuellement les personnes concernées par ladite demande et à leur faire désigner, dans les 20 jours, une personne en Suisse habilitée à recevoir des notifications. Afin de s'assurer que toutes les personnes concernées en aient connaissance, cette invitation est également publiée dans la Feuille fédérale.
2. Avec la présente publication, l'AFC attire l'attention sur l'exécution simplifiée de la procédure consistant en la remise des informations sur la base du consentement irrévocable de la personne concernée, conformément à l'article 16 LAAF, ainsi que sur le fait que l'AFC notifiera sa décision finale à la personne habilitée à recevoir des notifications désignée par elle-même, si la personne concernée n'en a désignée aucune dans le délai de 20 jours.
3. L'AFC informe les personnes concernées qu'elles peuvent obtenir des renseignements supplémentaires sur la procédure auprès de la personne habilitée à recevoir des notifications qu'elle a désignée: Zaehringen Anwälte, Effingerstrasse 45, 3008 Berne, Suisse.
4. La majorité des personnes concernées étant de langue maternelle anglaise, la communication a également lieu en anglais selon les annexes.

2 juillet 2013

Administration fédérale des contributions

## **NOTICE TO UNITED STATES BENEFICIAL OWNERS OF ACCOUNTS WITH BANK WEGELIN & CO.**

The United States Internal Revenue Service (the IRS) has submitted a request for administrative assistance to the Swiss Federal Tax Administration (the FTA) pursuant to Article 26 of the Convention of 2 October 1996 between the Swiss Confederation and the United States of America with respect to Taxes on Income (the 1996 Convention). The IRS is seeking *information with regard to Bank Wegelin & Co. accounts owned by U.S. persons and held by domiciliary companies (a «DC»)* – as applicable in a given case in the IRS Treaty Request – *within the time period from 1 January 2002 to 31 December 2012.*

The identifying characteristics are as follows:

- The account is held by a domiciliary company (a «DC account») with a U.S. beneficial owner;
- The account includes U.S. securities;
- The account had, at any point in time during the tax period defined in the request, an aggregate balance in excess of US \$ 50,000;
- Wegelin & Co. has no record of the timely filing of accurate Forms 1099 naming the account's U.S. beneficial owners and reporting to the IRS all payments made to such U.S. beneficial owners;
- A contradiction between Form A and Form W-8BEN exists (or other equivalent documentary evidence), or a Form W-8 or W-9 is not associated with the account; and
- There is evidence that the U.S. beneficial owner exercised control over the account in violation of corporate governance, for instance by giving investment instructions to the bank regarding the DC account without being an authorized officer, trustee, or director of the DC or without the express written authorization of the DC, or by withdrawing funds from the DC account for personal use.

**This notice informs you that the Bank Wegelin & Co. account of which you might have or had the beneficial ownership (your Bank Wegelin & Co. account) appears to be within the abovementioned scope of the IRS Treaty Request.**

This notice also provides certain information on the Treaty Request Procedure opened by the FTA and the courses of action available to you in connection with that procedure, which are the following:

- Appoint within 20 days from 2 July 2013 an agent authorized to receive service and/or a lawyer in Switzerland to receive all official notifications by the FTA. Should you not act upon this notice, your account will nevertheless stay in the Treaty Request Procedure and the FTA will proceed as described under #1 below.
- You may choose to consent to the FTA sending the account information directly to the IRS, see # 2 below.

### **1. Appointment of an agent authorized to receive service and/or a lawyer in Switzerland**

In connection with the IRS Treaty Request, the FTA has issued a disclosure order directing Bank Wegelin & Co. to submit corresponding account information to the FTA.

If, after a preliminary examination of the bank documents, the FTA comes to the conclusion that information relating to your Bank Wegelin & Co. account is required to be transferred to the IRS pursuant to the 1996 Convention, the FTA will issue a final order to that effect. The final order is subject to appeal to the Swiss Federal Administrative Court. Should no appeal be lodged, the relevant account information will be transferred to the IRS.

If you wish to follow this procedure, the FTA requests that you:

- appoint a person authorized to receive service and/or a lawyer in Switzerland to receive all official notifications, and
- provide the FTA with the details of the person you appointed (agent or lawyer) including his/her address in Switzerland within *20 days* from 2 July 2013. Please send this information to:
  - Federal Tax Administration  
Service for Exchange of Information in Tax Matters (SEI)  
Eigerstrasse 65  
CH-3003 Bern  
Switzerland

Should you need assistance in identifying a person to serve as your agent authorized to receive service and/or as a/your lawyer in Switzerland or be in need of advice in Swiss legal matters, you may contact the Swiss Bar Association at:

Swiss Bar Association  
Marktgasse 4  
CH-3001 Bern  
Switzerland

Telephone +41 31 313 06 15  
infousa@swisslawyers.com / info@sav-fsa.ch  
<http://www.swisslawyers.com>

The Swiss Bar Association will refer you to Swiss lawyers with the appropriate specialization.

Should you neglect to inform the FTA of the agent authorized to receive service and/or the lawyer in Switzerland within 20 days from 2 July 2013, the FTA will appoint the following law firm as your agent authorized to receive service and subsequently direct all notification and orders to:

Zaehringen Anwälte, Attorneys at Law  
Effingerstrasse 45  
CH-3008 Bern  
Switzerland  
Telephone +41 31 382 37 39  
[asg-avocats@gmx.ch](mailto:asg-avocats@gmx.ch)

You can contact the abovementioned agent authorized to receive service in Switzerland with regard to any questions concerning the Treaty Procedure during the following opening hours (except on weekends and local public holidays):

- until 28 June 2013: Monday to Friday from 08:00 AM to 12:00 AM and from 01:30 PM to 04:30 PM (Swiss time)
- from 1 July 2013 to 31 January 2014: Monday to Friday from 02:30 PM to 04:30 PM (Swiss time)

### **Information regarding the option to appeal to the court**

If the FTA comes to the conclusion that information concerning your Bank Wegelein & Co. account requested on the basis of the 1996 Convention must be transferred to the IRS, the FTA issues a final order. The order contains the instruction on the right to appeal to the Swiss Federal Administrative Court and will be sent to your agent authorized to receive service and/or a/your lawyer in Switzerland.

It is important to note that if you choose to appeal against a final order, you should be aware that Title 18 United States Code Section 3506 applies, where Section (a) states that «any national or resident of the United States who submits, or causes to be submitted, a pleading or other document to a court or other authority in opposition to an official request for evidence of an offense shall serve such pleading or other document on the Attorney General [of the United States] at the time such pleading or other document is submitted.»

## **2. Information regarding the option to consent to transmission**

You may consent to the transfer of information by the FTA to the IRS. In order to do so you can authorize the FTA beforehand to send your Bank Wegelin & Co. account information to the IRS directly in accordance with Article 16 of the Federal Act of 28 September 2012 on International Administrative Assistance in Tax Matters (Tax Administrative Assistance Act, TAAA).

You can find a standard form for this authorization under:

<http://www.estv.admin.ch/aktuell/00978/index.html?lang=en>

The appropriately completed and duly signed original is to be sent to the FTA at the address specified above. The FTA will transfer the account information in question to the IRS. Such authorization is irrevocable and results in the completion of the Treaty Procedure concerning your Bank Wegelin & Co. account.

**WEGELIN & CO.**

**Reference No. (Account No):**

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Name and address of the Domiciliary Company (Accountholder):

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Name and address of the Beneficial Owner:

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To:

Swiss Federal Tax Administration  
Service for Exchange of Information in Tax Matters (SEI)  
Eigerstrasse 65  
CH-3003 Bern  
Switzerland

Re: Consent to Transmission of Information by the FTA

Dear Sir/Madam,

By publication the FTA informed me that the IRS has submitted a request for the exchange of information based on Art. 26 of the Double Taxation Convention between the Swiss Confederation and the United States of America of 2 October 1996 and the FTA has thereby opened the administrative assistance procedure (the Treaty Procedure). The IRS is seeking information with regard to Bank Wegelin & Co. accounts owned by U.S. persons and held by domiciliary companies within the time period from 1 January 2002 to 31 December 2012.

*Based on point 2 of the notice, I hereby formally and irrevocably give my consent to the FTA that all information and documents requested in the Treaty Procedure concerning my aforementioned bank account with Wegelin & Co., Switzerland, be transmitted to the IRS.*

I note that after receiving this declaration of consent to transmit the required information and documents to the IRS, the FTA will conclude the Treaty Procedure with regard to this account.

Yours faithfully,

.....  
(Signature of the Beneficial Owner)

Place, Date: .....

.....  
(Signatures of all Authorized Signatories for the Domiciliary Company)

Place, Date: .....