

Exchange of info agreement with Switzerland comes in force

ISLAMABAD: The Federal Board of Revenue (FBR) has placed the revised Convention on Avoidance of Double Taxation with Switzerland, enabling both sides for access of information on banking and financial details.

The FBR has amended Article 25 (exchange of information) to access banking/ financial information. One top official of FBR confirmed to The News on Monday that the avoidance of double taxation and exchange of information with Switzerland had become operational as the federal cabinet granted approval to this effect to the FBR in its last meeting.

The FBR on Monday issued the Statutory Regulatory Order (SRO) 187 (1) 2019 under which the revised Convention on Avoidance of Double Taxation between Pakistan and Switzerland contains amended Article 25 (exchange of information) having more elaborated procedure for accessing information between the two countries.

According to the revised notification, in no case shall the provisions of agreement be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

It said the competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, their political subdivisions or local authorities, insofar as the taxation there under is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to, or the oversight of the above.

Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorizes such use, it said.

In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (order public).

If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations, but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information, it said.

In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person, revised Article 25 (exchange of information) of the convention added.

The protocol signed between Pakistan and the Swiss Federal Council notified under SRO 187(I)/2019 issued by the FBR revealed with reference to Article 25, it is understood that an exchange of information will only be requested once the requesting Contracting State has exhausted all regular sources of information available under the internal taxation procedure.

It is understood that the tax authorities of the requesting State shall provide the following information to the tax authorities of the requested State when making a request for information under Article 25: (i) the identity of the person under examination or investigation; (ii) the period of time for which the information is requested; (iii) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State; FBR, government of Pakistan; (iv) the tax purpose for which the information is sought; (v) to the extent known, the name and address of any person believed to be in possession of the requested information.

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