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ADMINISTRATIVE ASSISTANCE PROCEEDINGS IN THE UBS CASE

By the end of October, the Federal Administrative Court has finished the review of almost all of the 380 proceedings filed by UBS clients in order to prevent the release of their account data to the Internal Revenue Service. Consequently, the contracts of the specially appointed judges respectively employed court clerks and chancellery staff are terminated as of October 31, 2011.

UBS clients had the right to file an appeal with the Federal Administrative Court against the final decisions issued by the Swiss Federal Tax Administration (SFTA) under the Agreement of August 19, 2009, on the request for information from the Internal Revenue Service regarding UBS AG (Agreement 09; AS 2009 5669), which was amended by the Protocol of March 31, 2010, and approved by the Federal Assembly on June 17, 2010 (now Treaty 10; SR 0.672.933.612). While the Treaty established deadlines for the issuance of the SFTA's final decisions (the SFTA had to complete at least 4450 final decisions by October 31, 2010), the Federal Administrative Court was not bound by such time limits. However, the Court aimed at finishing the proceeding within a year. Owing to a special budget allocation, additional judges, court clerks and chancellery staff were hired.

The Federal Administrative Court will have finished 379 (99.7 %) of the 380 proceedings by October 31, 2011. 100 appeals (26.3 %) against the final decisions issued by the SFTA were affirmed in full or in part, including 12 cases (3.1 %), which were remanded to the SFTA, primarily for violation of the right to be heard. 94 appeals (24.7 %) were dismissed. 111 proceedings (29.2 %) were withdrawn. 47 appeals (12.4 %) were refused consideration for procedural reasons. In 12 proceedings the final decision has been taken by a panel of five judges and in 190 proceedings by a panel of three judges.

A specially-organized project accelerated the handling of the cases from the moment they were delivered to the Court. To deal with the case-load, the Federal Administrative Court issued primary and secondary pilot decisions, serving as precedents to resolve step by step the questions of fundamental importance and additional issues of the individual categories according to the appendix of the Treaty 10. This method coordinated the Court's decisions and, as a result, decreased the number of pending proceedings, because – as a result of the publication of the leading decisions – the SFTA reconsidered some final decisions and numerous appeals were un-

conditionally withdrawn.

The Swiss Federal Administrative Court

The Swiss Federal Administrative Court rules on appeals against decisions issued by federal authorities in Switzerland. In certain areas, the court reviews cantonal decisions and furthermore judges on complaints. Where the Swiss Federal Administrative Court does not decide as the court of last instance, its judgments can be appealed to the Federal Supreme Court in Lausanne and Lucerne. The Swiss Federal Administrative Court, with locations in Berne and Zollikofen and, from 2012, in St Gallen, consists of five divisions and a general secretariat. With 75 judges and 320 staff members, it is the largest court in Switzerland.

Further Information

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