

Government investigates HSBC clients

NEW YORK — The Justice Department is conducting a criminal investigation of [HSBC Holdings PLC](#) clients who may have failed to disclose accounts in India or Singapore to the Internal Revenue Service, according to three people familiar with the matter.

One client got a letter from the Justice Department in late June that said prosecutors had “reason to believe that you had an interest in a financial account in India that was not reported to the IRS on either a tax return” or a Treasury Department report disclosing foreign accounts, according to copies read to Bloomberg News by lawyers who have seen the letters.

“This is a global initiative by IRS and the Department of Justice,” said Robert McKenzie, a lawyer at Arnstein & Lehr in Chicago who said he spoke to two people who got letters.

The probes show how the United States is expanding its crackdown on offshore tax evasion beyond Switzerland and [UBS AG](#), the largest Swiss bank, said Barbara Kaplan, a tax lawyer at Greenberg Traurig LLP in New York. London-based HSBC is Europe’s biggest lender by market value.

“It’s clear that the IRS and the Department of Justice are intending to pursue other depositors outside of Switzerland,” Kaplan said. “They’ve announced it before, and they are moving forward in that regard.”

The letters could mean that prosecutors got data on HSBC account holders from the bank, McKenzie said.

“My speculation is that there has to be some level of cooperation within HSBC, or someone within HSBC providing these names to the government,” McKenzie said. “I would bet, under pressure, HSBC cooperated.”

HSBC spokeswoman Diane Bergan declined to comment.

UBS avoided prosecution last year by admitting it aided tax evasion from 2000 to 2007, paying \$780 million, and agreeing to disclose secret account data on more than 250 clients. It later agreed to disclose data on another 4,450 clients.

Seventeen UBS clients, two bankers, and three alleged enablers of tax crimes have been prosecuted since the bank signed the deferred prosecution agreement. Another 15,000 US residents sought to avoid prosecutions last year by disclosing offshore accounts.

IRS Commissioner Douglas Shulman said last October his agency was scouring those disclosures “to identify financial institutions, advisers, and others” who helped taxpayers cheat on taxes. He said the IRS is hiring 800 people in the next year and increasing staff in eight overseas offices, including Hong Kong. It also will open offices in Beijing, Sydney, and Panama City.

The letters don’t mention HSBC by name, yet are all directed to people with accounts at the bank, according to lawyers who saw them. About a dozen HSBC clients got letters in late June from Kevin Downing, a senior attorney in the Justice Department’s tax division who led the UBS probe, according to the people.

“You are advised that you are a subject of a criminal investigation being conducted by the Tax Division,” according to one letter read to Bloomberg News.

Destroying or altering documents relating to the probe “constitutes a serious violation of federal law, including but not limited to obstruction of justice,” according to the letter.

Dallas tax lawyer Josh Ungerman, who saw a letter, said he spoke to an HSBC customer who was a “small fish” with an account valued at under \$1 million. This customer, he said, was born in India and now is retired on the East Coast of the United States.

“Many taxpayers in India had Indian tax withheld,” Ungerman said. “Those taxpayers believed they were entirely tax compliant and when faced with the realities of the IRS and Department of Justice view on undisclosed foreign accounts, they are devastated.”

By “going after the small fish, the US government risks driving underground entire populations of taxpayers who believed they were compliant,” said Ungerman of Meadows, Collier, Reed, Cousins, Crouch & Ungerman LLP.

Tax lawyer Larry Campagna said that prosecutors often give taxpayers a chance to explain their accounts to the Justice Department. Campagna represents clients of banks in the offshore tax investigation and hasn’t seen the letters.

Sometimes such letters lead to a guilty plea, and sometimes there's an explanation that causes a prosecution to drop the investigation, said Campagna of Chamberlain Hrdlicka in Houston.

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