

## Scott Michel Comments on DOJ's Latest Offshore Efforts Focusing on UBS Accounts in Singapore

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*Tax notes*

Scott D. Michel spoke with *Tax Notes* on recent filings in a federal district court indicating that Singapore is the Justice Department's next target in the latest phase of its offshore enforcement efforts. The DOJ filed an action in federal court to compel UBS's branch in Miami to produce bank records of a Singapore account purportedly owned by a taxpayer who lives in China and is under IRS audit. This reflects the government's pursuit of money transferred out of Switzerland, particularly into Singapore, and that the IRS and DOJ have additional ways to overcome foreign bank secrecy laws, whether or not the taxpayer under scrutiny lives in the U.S. For the full article, please visit *Tax Notes'* website (subscription required).

*Excerpt taken from the article "DOJ Eyes UBS Accounts in Singapore in Latest Offshore Effort" by Marie Sapirie for Tax Notes.*

"I suspect the reason for such forbearance is that this is an extraordinary power for the Department of Justice and the IRS to invoke, asking a federal court in Miami to compel a foreign institution's branch there to produce records held by one of its affiliate banks located in a country that still preserves bank secrecy," Scott D. Michel of Caplin & Drysdale Chtd. told Tax Analysts.

One of the key questions about the summons enforcement action is how vigorously UBS will defend Singapore's bank secrecy laws, Michel said. "This is an adversary proceeding, and if UBS is ordered to produce records out of Singapore and does not comply, the court in Miami could sanction UBS and fine them a substantial amount on a daily basis until the records are produced," he said.

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Michel noted that the summons enforcement route works only for financial institutions that have a U.S. presence and said the summons enforcement action heralds a new avenue of enforcement. "It is new not so much because this is a new type of step, but because this power has been out there and we've seen it used only very sparingly before," he said. "If this summons enforcement action is a harbinger of further actions involving banks with a U.S. presence, then what we're witnessing is the U.S. Department of Justice and the IRS opening a new track to compel production of foreign records."

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