

- Main Justice - <http://www.mainjustice.com> -

Tax Evasion Investigations More Extensive Than Appear, DOJ's Keneally Says

Posted By [Jeffrey Benzing](#) On March 19, 2014 @ 11:29 am In [News](#) | [No Comments](#)

Lawmakers have been unimpressed with the slow pace of tax evasion prosecutions, but Assistant Attorney General **Kathryn Keneally** said the Justice Department is nowhere close to finished with targeting tax cheats and foreign bankers that hide their money.

"Just because you don't see it doesn't mean it's not happening," the leader of the DOJ's Tax Division said Tuesday at the 2nd Annual International Tax Enforcement conference in Washington, D.C. "Our investigations go pretty far beyond what you can see publicly."

A [scathing Senate report last month](#) ^[1] accused Credit Suisse of helping thousands of Americans hide their money behind Swiss bank secrecy laws and chastised the Justice Department for not pressuring banks to divulge account holders.

[At a related hearing](#) ^[2] before the Senate Permanent Subcommittee on Investigations on Feb. 26, Keneally defended the Tax Division's efforts to build cases, saying that a [recent cooperation program](#) ^[3] for Swiss banks has prompted 43,000 individuals to self-report their secret accounts.



Tax Division chief Kathryn Keneally with Deputy Attorney General Jim Cole (left) at a Feb. 26 Senate hearing on tax evasion. (Getty)

come in needs to wonder if any of the 43,000 people who have already come in have provided information that could lead to them," Keneally said.

The program – which is not available to 14 banks already publicly known to be under investigation — offers banks freedom from prosecution in exchange for information on account holders.

Since August, 106 banks have told the Justice Department that they intend to cooperate, prompting U.S. customers to come forward in droves to disclose information on secret accounts.

"I think anybody who is still out there and hasn't

The Justice Department has to date filed charges against 35 bankers and professionals accused of helping U.S. citizens evade taxes and secured six guilty pleas. Prosecutors have also charged 73 account holders and secured 61 guilty pleas. Seven account holders have been convicted at trial.

In a Tuesday letter, however, Sens. **Carl Levin** (D-Mich.) and **John McCain** (R-Ariz.) urged Deputy Attorney General **James Cole** to seek extradition of Swiss bankers who help U.S. customers avoid taxes.

Cole told the lawmakers last month that the Swiss government won't extradite Swiss citizens, but the senators said the extradition treaty between the U.S. and Switzerland allows for the extradition of Swiss nationals who help U.S. nationals commit tax evasion.

"[I]t is time to test the Swiss government's professed willingness to cooperate with international tax enforcement efforts and put an end to its nationals participating in criminal tax offenses," the March 18 letter said.

Even without extraditions, the Justice Department has secured guilty pleas.

Most recently, former Credit Suisse banker [Andreas Bachmann pleaded guilty](#) ^[4] to helping U.S. customers evade taxes. Last month, former UBS banker [Martin Lack pleaded guilty](#) ^[5] to similar charges.

Although Swiss nationals may be safe at home, they are effectively locked in the country unless they want to risk arrest. In November, former UBS banker Raoul Weil [agreed to be extradited](#) ^[6] after being arrested while on holiday in Italy. He was indicted in 2008, and an international arrest warrant was issued in early 2009.

Charges were filed against Lack and Bachmann in 2011, and Keneally said the pleas are only the public face of investigations she can't discuss.

"I would strongly suggest that what you've seen in the last couple weeks is not a recent trend," she said at the Tuesday event, hosted by the American Bar Association and Tax Executives Institute Inc.

Under the cooperation program, banks must agree to substantial penalties, disclose cross-border activities and give detailed information on an account-by-count basis.

Keneally said she expects cooperation to be thorough.

Scott D. Michel, a member of Caplin & Drysdale Chartered, told Keneally that banks hoping to cooperate still face the obstacle of Swiss data protection law which can limit just exactly what banks can tell a foreign government.

"They're certainly not trying to thwart the objectives of the program," said Michel, who was moderator of Keneally's talk.

Data protection laws have been cited by financial institutions and companies in a variety of circumstances as roadblocks to complying with data requests from the U.S. government. Keneally, however, said she doesn't expect problems, adding that a cooperation deal could be revoked for banks that don't fully disclose.

"Overwhelmingly, we expect no fight," she said. "We expect the documents to come over."

Michel, who counsels banks and individuals on tax compliance, also took issue with the Senate report, saying in particular that it had inaccurate information on the use of a treaty process with Switzerland to move investigations forward.

The report criticized the Justice Department for relying too much on negotiations with the Swiss government through a treaty process instead of using grand jury subpoenas and John Doe summonses to force banks to cooperate quickly.

The Justice Department in 2009 secured a \$790 million settlement from UBS which required the bank to name some U.S. clients. Since then, federal prosecutors have only secured a guilty plea from one more bank, Wegelin & Co., which agreed to a settlement in January 2013.

[In the February hearing](#) ^[2], Levin expressed frustration that the Justice Department hasn't leveled more penalties against banks and hasn't identified more tax evaders. "This is the heart of the matter – names, names, names," Levin said. "You've got to get names."

Keneally said Tuesday that U.S. evaders are on notice if they have yet to come forward to the Justice Department. "I simply can't imagine what they're thinking," she said. "We're going to be on this for a while."

RELATED POSTS:

- [United States and Switzerland's Joint Statement on Tax Evasion Investigations](#) ^[7]
- [Senators Unimpressed by Cole's Frustration in Tax Evasion Cases](#) ^[2]
- [In 'Frustrating' Tax Evasion Probe, DOJ Secures Plea](#) ^[8]
- [U.S. Banks at Risk After Agreement with Swiss on Tax Evasion, Ex-Prosecutor Says](#) ^[9]
- [Harsher Sentencing Guidelines Necessary in International Tax Evasion Cases, Justice Says](#) ^[10]

Article printed from Main Justice: <http://www.mainjustice.com>

URL to article: <http://www.mainjustice.com/2014/03/19/tax-evasion-investigations-more-extensive-than-appear-dojs-keneally-says/>

Copyright © 2009-2014 WDC Media LLC. All rights reserved.