Newsletter

Liechtenstein Disclosure Facility (LDF)

General information

On 11 August 2009 the **Government of Liechtenstein** and the **Government of the United Kingdom of Great Britain and Northern Ireland** have signed a Tax Information Exchange Agreement (TIEA).The TIEA calls for an exchange of information upon request and in clearly justified cases according to the OECD standard. However, this TIEA foresees a unique protection from tax information exchange for UK tax periods until 31 March 2015 for Liechtenstein's clients (certain exceptions). On the same date (11 August 2009) the Government of Liechtenstein and the UK Tax Authority, HMRC (Her Majesty's Revenue & Customs) have signed a Memorandum of Understanding (MoU) and a Joint Declaration.
The MoU sets out the terms of a five-year taxpayer assistance and compliance programme and a special disclosure facility known as the Liechtenstein Disclosure Facility (LDF).
The Joint Declaration sets out the context and development opportunities (Double Taxation Convention in the future).

Information about the LDF

The LDF is a bespoke service to support the reviews to be carried out by the Financial Intermediaries in Liechtenstein to identify those who may have liability to UK tax. The LDF offers UK residents with unpaid tax and existing or newly established Liechtenstein accounts and structures the possibility to regularize their UK tax affairs very quickly and with particularly favorable conditions. The LDF will run from 1 September 2009 to 31 March 2015.

Who is affected by the agreement between UK and Liechtenstein?

The agreement affects all natural and legal persons with assets or interests in assets in Liechtenstein from whom the Financial Intermediary knows that he has its residence or its tax domicile in the United Kingdom of Great Britain and Northern Ireland and therefore may have liability to UK tax.
Assets in scope are: bank or financial (portfolio) accounts, companies, partnerships, foundations, establishments, trusts, trust enterprises or other fiduciary entities, estate and insurance policies issued, formed, founded, settled, incorporated, administered or managed in Liechtenstein, entities that possess assets in Liechtenstein or that were founded, are registered, administered or managed in Liechtenstein, regardless of their domicile.

Who is eligible to participate?

Therefore not only existing clients of Liechtenstein financial intermediaries can make use of the special disclosure arrangements agreed with the UK in the LDF but also new clients who establish relevant connections with Liechtenstein. A meaningful relation to Liechtenstein financial intermediaries is required at the time of the LDF application.

Who can benefit from the LDF?

UK taxpayers with assets or interests in assets in Liechtenstein existing as at 1 September 2009 can benefit from the disclosure program. For assets or interest of assets in Liechtenstein aquired after this date, UK taxpayers can benefit from the disclosure program after 1 December 2009.
UK taxpayers previously contacted by HMRC under the terms of the Offshore Disclosure Facility or the New Disclosure Opportunity will be able to participate in the disclosure facility but will not be able to benefit from the limited penalty provided for in the disclosure facility.
UK taxpayers who participate in the disclosure facility and have a bank account, including a financial (portfolio) account, outside the UK or Liechtenstein which is in his name and was opened through a UK branch or agency of that bank, will not, in relation to this account, be eligible for the shorter limitation period, the fixed penalty and the composite rate.
UK taxpayers for whom formal proceedings regarding suspected serious tax fraud are pending as of August 11, 2009 are excluded from participating in the disclosure program granted to Liechtenstein.

What are the benefits of the LDF?

The facility has been introduced to help UK taxpayers with undeclared investments in Liechtenstein to regularize their past and future tax affairs. By coming forward under the LDF, they will be able to take advantage of a number of special terms:

- tax liability under the LDF is limited to April 06, 1999 as opposed to the normal 20-year rule

- a 10% fixed penalty on the underpaid liabilities for the tax years until April 2009 (no penalty in the case of innocent error); afterwords ordinary penalty applicable
- under the LDF, inheritance tax will also be limited to 10 years, which is a significant concession in relation to inherited wealth
- option to choose:
  - payment of a single composite rate of 40% on all income, earnings and gains for each tax year until April 2009 with the potential for significant inheritance tax savings or
  - to calculate actual or reasonably estimated tax liability on an annual basis
- tax already withheld in accordance with the EU directive on the taxation of savings income will be credited
- as a rule assurance against criminal investigations in cases of full, accurate and unprompted disclosures
- ability to conduct initial "no names" discussions with HMRC (Her Majesty's Revenue & Customs), prior to making a disclosure
- HMRC will accept reasonable offers for the payment of the tax based on estimated liability;
- exclusion of the UK taxpayer from the "naming and shaming" procedure announced by HMRC in April 2009 (applicable where the deliberately unpaid tax is more than £25,000)
- peace of mind for a person who participates fully, since his or her tax affairs will be put in order

Can clients wait until 2015 to take action?

Although the facility is available until March 31, 2015, it is important to take action now. There is a misconception that those with undisclosed liabilities will be able to wait until 2015 and submit a disclosure for the ten years prior to that date. If the disclosure is delayed until 2015, the period that would have to be included in the disclosure is April 06, 1999, to April 05, 2015 – it is not a rolling ten-year window.

Additionally, some of the key aspects of the LDF (the composite rate and the guaranteed 10% penalty) are only available for the tax period April 06, 1999, to April 05, 2009. Thereafter, standard tax rules will apply including, from April 06, 2010, an increase in the top rate of tax from 40 to 50%. Furthermore the current penalty regime in the UK is much more stringent, particularly in respect of undisclosed offshore assets.
Those with undisclosed UK tax liabilities should consider making an LDF disclosure now for all years up to and including April 05, 2009. It follows that the self-assessment tax return for 2009/10, which is not due to be submitted until January 31, 2011, can be filed on a correct basis thereby avoiding penalties altogether.

What are the consequences of a participation in the LDF?

UK taxpayer has:

1. to disclose to HMRC,
2. to declare all assets invested worldwide to the UK tax authorities, and
3. to pay all outstanding tax obligations and the appropriate interest and penalty.

How can VP Bank help?

VP Bank is pleased to support those clients who wish to take advantage of the LDF and looking for a dedicated, professional and sustainable service.
VP Bank's client advisors will be delighted to hear from you.

Contact details

Verwaltungs- und Privat-Bank Aktiengesellschaft
Aeulestrasse 6 - 9490 Vaduz - Liechtenstein
Tel +423 235 66 55 - Fax +423 235 65 00
ukldf@vpbank.com

More information

www.vpbank.com, www.liechtenstein.li, www.hmrc.gov.uk