

Liechtenstein in International Tax Cooperation

Tax information and double taxation agreements

After adopting the OECD standards on taxation, Liechtenstein completed the first phase of the transition process for the Liechtenstein financial market for the future. In exchange, the OECD removed Liechtenstein from the "Grey List" of non-compliant countries on tax matters. By 1st October 2011 Liechtenstein had signed tax information agreements with twenty-four countries. Information exchange on tax matters is not automatic but follows a precisely worded request. It is planned to reach double taxation agreements especially with those countries which are important to the Liechtenstein export industry.

In the "Liechtenstein Declaration" of 12th March 2009 the Principality of Liechtenstein has committed itself to the OECD standards on tax matters. In the declaration the Government emphasised "Liechtenstein's commitment to implement the OECD global standards of transparency and information exchange on tax matters". As a result, Liechtenstein signed TIEA-Agreements (Tax Information Exchange Agreement) with a series of other countries after which the OECD removed the Principality of Liechtenstein from the "Grey List" of non-compliant states on tax matters. The Liechtenstein Government considered the removal from the "Grey List" as an important intermediary step in the re-alignment of the economic and financial market place. Connected to the finalisation of the TIEA-Agreement is the intention to reach double taxation agreements (DTA) with contract partners which are important to

Liechtenstein's export economy in and outside Europe.

Information Exchange on Tax Matters with the USA

Even before the "Liechtenstein Declaration" the Liechtenstein Government in its project «Futuro» had introduced a new strategy for the financial market. Liechtenstein set aside its previously defensive policy. The Liechtenstein-USA Agreement in 2008 was the first deviation from the principle of not providing other countries with information on tax

High Protection for Privacy and Private Assets

Liechtenstein is an attractive financial centre in the heart of Europe. Various factors contribute to the attractiveness of the financial centre, especially the high protection of private property and privacy. Asset protection is one of the most essential elements of the renewed Foundation Law of 2010, which focuses on the protection of private property, from access by creditors of the founder or of the beneficiaries, as well as the provisions for family members. Political continuity, the stability of the Swiss Franc as legal tender, a sound legal system and a traditionally liberal economic order are among the quintessential Liechtenstein location factors. Through the "Liechtenstein Declaration" of 12th March 2009, Liechtenstein accepted the international rules on information exchange in tax matters. Nevertheless, there is no automatic information exchange with foreign tax authorities. In fact, Liechtenstein has committed itself on the basis of the OECD agreement with other states to grant information exchange in well-founded cases. Legal and administrative assistance will only be provided in precise requests, "fishing expeditions" are not permissible.

The Principality of Liechtenstein traditionally maintains a high protection of privacy and personal property

matters. By the summer of 2006, the USA had already proposed an agreement on tax information which was linked to the extension of the QI-Status (Qualified Intermediary) for Liechtenstein banks, valid to the end of 2008. The TIEA Agreement was signed in Vaduz on 8th December 2008 and came into force after Na-

tional Law was revised on 1st January 2010, becoming applicable for the tax year 2009. Consequently, the USA extended the Qualified Intermediary-Status of Liechtenstein banks for a further six years to December 2015.

The TIEA Agreement is based on mutual assistance through the exchange of information that is relevant for the application of tax laws in the requesting state.

Information exchange is in the form of administrative assistance between the tax authorities of both countries. Administrative assistance must be provided in cases of fraudulent tax offences according to US Law, even if the offence does not contravene Liechtenstein tax laws. In the US agreement, Liechtenstein abandoned the principle of mutual criminality - where the offence is punishable in both states.

Information is not exchanged automatically but only on the basis of a precisely worded request. Liechtenstein must only provide administrative assistance within the terms of the agreement, when the clearly prescribed conditions are fulfilled. These conditions contain detailed information on the identity of the US tax payer, the underlying facts and the nature and form as well as the time period of the requested information. In addition, Liechtenstein

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Address of Publisher, Editor and all Responsible Persons

P. O. Box 1618, FL-9490 Vaduz
Am Schraegen Weg 14
Telephone: +423 232 08 08
Facsimile: +423 232 06 30
E-mail: admin@seeger.li
Homepage: www.seeger.li

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can demand a declaration stating that the USA has exhausted all possible means to acquire the information within its territories. The information request presented to Liechtenstein requires extreme detail, thereby preventing mere "fishing" or "fact finding expeditions".

Tax Cooperation between Liechtenstein and Germany

Information exchange on tax matters with Germany is of particular importance to Liechtenstein. Over the past few years Germany had applied considerable pressure on the so-called "Liechtenstein Tax Haven". As early as the summer of 2008, Liechtenstein offered the EU States a bilateral agreement, as part of the implementation of the OECD standards on the exchange of tax information. The Finance Ministry of the German Government regarded this type of agreement between Liechtenstein and Germany as unnecessary but placed emphasis, at the talks in Brussels, on an agreement to combat fraud. The Finance Ministry first showed its willingness to negotiate a TIEA

Liechtenstein will only provide administrative assistance to foreign states on the basis of a precise request and justified suspicion

Agreement at the beginning of 2009 and it was finally signed on 2nd September 2009 in Vaduz.

The agreement contains time and material limitations on the exchange of tax information. The time limitation stipulates that information must only be provided as of the tax year beginning 1st January 2010. In addition, information exchange is not automatic but on the basis of a precisely worded request. Liechtenstein must only provide administrative assistance to Germany if the precisely defined conditions are met.

Liechtenstein must only grant a request from Germany if the exact requirements are fulfilled as set out in the agreement with the USA. The exchange of tax information is already foreseen in assessment and levying procedures whereby it is irrelevant whether criminal action has been taken in Germany or if, according to Liechtenstein Law, tax fraud or tax evasion has been committed whereby, in Liechtenstein, this would only entail administrative sanctions.

Tax Administrative Assistance with the United Kingdom

Liechtenstein has taken a new and worldwide unique path on tax cooperation with the United Kingdom. In addition to fulfilling the OECD standards on providing administrative assistance, the agreement, reached in

No Administrative Assistance on Stolen Data

The Principality of Liechtenstein has finalised agreements on information exchange on tax matters (Tax Information Exchange Agreement – TIEA) as well as double taxation agreements (DTA) with a number of states. The partners are, according to the agreements, to provide administrative assistance, even if the tax offence does not constitute a punishable offence in Liechtenstein. In order to execute the bilateral administrative assistance, as set out in the TIEA und DTA agreements, it was necessary for Liechtenstein to pass a Tax Administrative Assistance Law in 2010. In accordance with this law, information is not provided automatically but on the basis of a precisely worded request. Liechtenstein must only grant a request when certain conditions are fulfilled e.g. detailed information on the identity of the tax payer and the matter. A request for administrative assistance can be refused if it contradicts the «ordre public», which is, according to international law, a violation of fundamental national legal principles. This particularly applies in a case where a foreign state has procured the information in a manner which would constitute a criminal action in Liechtenstein. Liechtenstein specifically included this clause in the law in order to avoid administrative assistance if the information has been acquired by theft.

the summer of 2009, has at its core, a pragmatic solution giving tax legitimation to British clients in the Liechtenstein financial market place. The agreement on the exchange of information on tax matters, signed with the British Tax Authorities, contains a “Memorandum of Understanding” and a “Mutual Declaration” on the future development of cooperation

in tax matters. This is a tailor-made approach which creates legal certainty and takes into account established structures and mutual interests. The new financial market place framework offers British clients the possibility of attaining tax conformity by means of a “self-declaration” at attractive conditions. The United Kingdom committed itself to providing

Liechtenstein upholds its bank secrecy which provides privacy for the customers and protects their personal data against unjustified access

British clients in Liechtenstein with an attractive "Liechtenstein Disclosure Facility" while Liechtenstein entered a commitment to establish, under national law, an Administrative Assistance and Compliance Programme so that British clients can, up to the end of the programme in 2015, fulfil their tax commitments in the UK. In the "Mutual Declaration",

the contractual parties addressed the subject of tax treatment of Liechtenstein legal entities (companies) whereby, as a basis, it was agreed that Foundations and English Trusts are, for tax purposes, to be treated equally. This legal certainty now makes Liechtenstein Foundations particularly attractive to customers from the United Kingdom.

F.L.BULLETIN

In 2011 the economic climate in Liechtenstein is good. 99% of industry and commerce describe the general conditions as good or satisfactory.

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The three major banks reported a growth of new money to the value of 6.5 billion Swiss Francs in the first half of 2011.

*

Export of goods (excluding deliveries to Switzerland) rose by 3% in the first half of 2011.

*

Turnover of 25 major companies in Liechtenstein increased, according to VAT data, by 7% in the first half year. Turnover in the industrial sector increased by 12% in the same period compared to the previous year. At the same time, employment in industry and production had risen by 1.5% by the middle of 2011. In June 2011 approximately 35'000 people were employed in Liechtenstein. This corresponds to an increase of 3% compared to the previous year.

*

The second half of the year saw a slight slowing down of the economic recovery. The global economic downturn had a negative influence. The highly-rated Swiss Franc dampened demand for Liechtenstein's exports while low interest rates and turbulence caused by the European debt crisis influenced the results of the financial service providers.

(Source: Office of Statistics)

Summary of Services

- International financial, tax and business consulting
- Incorporation, domiciling and administration of domestic and foreign companies
- Consulting in international trade and financial transactions
- Legal representation in civil, administrative and criminal matters
- Investment consulting and investment management
- Trust administration
- Family office services
- Bookkeeping and auditing
- Intellectual property, licensing and franchising
- Legal opinions

ADVOKATURBÜRO

Dr. iur. et lic. oec. Norbert Seeger · Attorney-at-Law
Vaduz · Principality of Liechtenstein