

INTERNATIONAL TAX COOPERATION

Information Exchange 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. In exchange, the OECD removed Liechtenstein from the “Grey List” of non-compliant countries. By 1st April 2011 twenty-three states had already signed the tax information agreement. Further signings of double tax agreements are planned. Information exchange on tax matters is not automatic but follows a precisely worded request.

In the „Liechtenstein Declaration“ of 12th March 2009 the Principality of Liechtenstein 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. The signing of the TIEA-Agreements is an important step for Liechtenstein’s export economy and is closely tied to the intention of negotiating double taxation agreements (DTA) with individual European and other foreign contract partners.

Obligation to Act Responsibly

The Government regards the “Liechtenstein Declaration” of 12th March 2009 as an obligation to act as a responsible and reliable global partner. Within the terms of the declaration, Liechtenstein with its international financial market, is determined, through high-regulatory standards and high quality of service, to uphold its reputation as a leading wealth administration and investment location within the global community.

Bearing in mind the legitimate interests of its clients and its industrial sector, Liechtenstein declared, it is now prepared to conclude bilateral agreements on tax information exchange, as well as further agreements which could go well beyond the OECD standards. In the Declaration, Liechtenstein further announced its willingness to develop procedures, with its contractual partners, to support investors who are resident in those states and who wish to fulfil their previous, current and future tax obligations..

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 of only reacting to matters of taxation under foreign pressure. The Liechtenstein-USA Agreement in 2008 was the first compromise to Liechtenstein’s principle of not providing other countries with information on tax matters. In 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 National 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 with the United States 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 judicial assistance between the tax authorities of both countries. Judicial 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 double 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 judicial 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 parameter of the requested information. In addition, Liechtenstein 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 expeditions” or “fact finding missions”.

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 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 judicial assistance to Germany if the precisely defined conditions are met. 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 judicial assistance, the agreement, reached in 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. According to the Liechtenstein Government this is a tailor-made approach which creates legal certainty and takes into account current structures and mutual interests.

The new rules for the financial market place offer attractive conditions to British clients wishing to gain tax conformity by means of a “self-declaration”. The United Kingdom committed itself to providing British clients in Liechtenstein with an attractive “Liechtenstein Disclosure Facility” while Liechtenstein entered a commitment to establish, under national law, a Judicial 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.

Status of Tax Information and Double Taxation Agreements

Liechtenstein has, as of 1st April 2011, finalised the OECD-conform double taxation and tax information exchange agreements with 23 states.

Information: www.liechtenstein.li/International Tax Agreements.