

Liechtenstein in international tax cooperation with the United States and the United Kingdom

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 1 October 2011 Liechtenstein had signed tax information agreements with 24 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.

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In the “Liechtenstein Declaration“ of 12 March 2009 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 tax information exchange agreements (TIEA) with a series of other countries, after which the OECD removed 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 marketplace. Connected to the finalisation of the TIEA agreements 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 United States

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 matters.

By the summer of 2006, the United States had already proposed an agreement on tax information which was linked to the extension of the QI-status (qualified intermediary) for Liechten-

stein banks, valid to the end of 2008. The TIEA agreement was signed in Vaduz on 8 December 2008 and came into force after national law was revised on 1 January 2010, becoming applicable for the tax year 2009. Consequently, the United States extended the qualified intermediary status of Liechtenstein banks for a further 6 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 U.S. law, even if the offence does not contravene Liechtenstein tax laws.

In the U.S. 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 U.S. taxpayer, the underlying facts and the nature and form as well as the time period of the requested information. In addition, Liechtenstein can demand a declaration stating that the United States 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 with the UK

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 the summer of 2009, has at its core a pragmatic solution giving tax legitimacy to British clients in the Liechtenstein financial marketplace. 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 marketplace framework offers British clients the possibility of attaining tax conformity by means of a “self-declaration” at attractive conditions. The UK committed itself to providing British clients in Liechtenstein with a “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 UK.

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