

# STRATEGIC TAX PLANNING

International & UK Tax Consultants

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## IMPORTANT TAX UPDATE

### GOAL POSTS MOVED ON LIECHTENSTEIN TAX AMNESTY

From 1<sup>st</sup> December 2011 individuals seeking to enter into the Liechtenstein Disclosure Facility (“LDF”) will require a “confirmation of relevance” before registering for the Facility.

This means that from that date it will be necessary to have a Certificate from a Liechtenstein Intermediary, either a Bank, Financial Advisor or Wealth Manager confirming that they have a “meaningful connection” to Liechtenstein to be able to enter the HMRC’s LDF Facility.

In February 2011 HMRC clarified this requirement of “meaningful connection” as being 5% of the assets of the individual being committed to Liechtenstein investment.

However, it is actually up to the individual Liechtenstein Institutions in question to set their own limits. Up until now, some Banks have been prepared to accept deposits as low as 10,000 Swiss francs to open an account with a similar amount as an annual maintenance fee.

This has been an easy requirement to fulfil as an average the accounts only need to be open for between 12 – 18 months. So, these Liechtenstein Institutions have found that money is merely placed in Liechtenstein for the period of the Disclosure Facility. Once the Disclosure has been paid and settled to HMRC, the money is moved out again.

In other words, from the Liechtenstein point of view, the Facility has not led to the planned long term investment in Liechtenstein and the growth in funds under management by their Financial Institutions. This was one of the main drivers for them to sign up to the ground-breaking LDF.

So, it is important to understand that this requirement is not being pushed by HMRC but really by Liechtenstein and that HMRC is obliged (under the terms of both Memorandums of Understanding signed with the Liechtenstein Government) to move forward on this aspect.

What are the practical effects?

Obviously, those with smaller Disclosures will not be able to take part in the LDF. That at least is what appears to be the initial view. The reality I suspect is that the more enterprising Liechtenstein Banks

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and Financial Institutions will still “*cut deals*” for lower amounts but will actually raise the amount of that deposit which they will want as a fee.

The main impact of this change will be on those I call the “*Waiverers*”. I am referring to those who seem to have held back entering into the LDF on the basis that the Swiss deal would somehow work out to be a better option.

Now, having found out that the LDF is the best deal (in most cases). They are now torn between continuing to *run the gauntlet* as a long term tax evader or whether to come clean within the LDF and actually face up to paying tax after years of not doing so!

For those with smaller amounts at stake, the LDF option may now be harder, but not impossible, to achieve.

For those hardened tax evaders the high fees charged in Liechtenstein and the lack of long term financial pedigree in terms of investment performance of many of their Institutions, will mean that they will continue to shun the LDF gambling that HMRC will never catch up with them.

The LDF has undoubtedly been a success for the UK HMRC. However, it is clear that Liechtenstein does not feel that it is getting the benefits it was seeking out of the agreement. This move may appear to redress the balance for Liechtenstein but the real way forward is for them to demonstrate that they can match the investment performance and administrative facilities of global leading fund managers and of world class Banks and a competitive fee structure!

If you have any clients who would like to consider entering the LDF, it is now more important than ever to obtain specialist advice. For most with outstanding tax liabilities above £100k, the LDF remains a very attractive option, when used correctly.

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