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Tax agreement between the Principality of Liechtenstein and the United Kingdom (UK): benefits of tax cooperation and of the so-called Liechtenstein Disclosure Facility (LDF)

Liechtenstein and the UK signed a Tax Information Exchange Agreement (TIEA-UK) and a Memorandum of Understanding (MoU) on 11 August 2009. We would now like to take the opportunity to provide you with an update on these agreements.

Whereas the TIEA basically corresponds to the OECD Model Tax Convention (covering the exchange of information upon request under specific conditions), the MoU represents a new approach in the area of tax cooperation. A specific disclosure programme (Liechtenstein Disclosure Facility, LDF) has been made available to UK taxpayers with assets in Liechtenstein. The corresponding enabling legislation, the "Administrative Assistance in Tax Matters Act" (*Steueramtshilfegesetz-UK*, AHG-UK), has been enacted and is expected to enter into force on 1 September 2010. Among other things, this will ensure that Liechtenstein-based entities will in the future no longer be discriminated against by the UK but will enjoy the same unrestricted recognition as entities located in other financial centres (legal certainty), which will make them additionally attractive for UK clients.

The LDF, which has been available to UK taxpayers since 1 September 2009, gives them a unique opportunity to disclose all non-declared assets and settle outstanding tax liabilities under advantageous conditions. The LDF is available not only to existing clients of the Liechtenstein financial centre but can also be taken advantage of by other UK taxpayers who intend to transfer assets held abroad to Liechtenstein and set up the requisite structures. It was also agreed that Liechtenstein would be under no obligation to respond to TIEA queries from the UK prior to expiration of the LDF at the end of March 2015 in order to give UK taxpayers time to regularise their tax situations.

This does not apply in respect of pending criminal proceedings against UK taxpayers. In such cases the LDF is not available, and no extensions for the provision of information will be granted. A further benefit for UK taxpayers who are permitted to use the LDF is that they can create a long-term, recognised and sustainable investment structure for all of their assets (estate planning and asset protection).

On the other hand, the LDF also entails far-reaching duties for Liechtenstein financial intermediaries who serve UK taxpayers. First of all, they must identify all UK taxpayers who fall under the “Administrative Assistance in Tax Matters Act”. They must then notify such UK taxpayers in writing of the possible options offered by the “Administrative Assistance in Tax Matters Act” and ask them to respond within a specific period. Thereafter the individuals identified as UK taxpayers must respond in writing and provide documentation to the Liechtenstein financial intermediary to the effect that they a) are not UK taxpayers within the meaning of the Act, b) are not subject to taxation in the UK, c) will participate in the LDF or d) are tax-compliant in respect of the assets at issue. In the event no such response with sufficient documentation is received within the two years following notification, the Liechtenstein financial intermediary will be legally required to terminate the business relationship. ATU is certain that the two-year time limit will allow it to work together with affected clients to find solutions in their best interest and in compliance with the law.

Finally, it should be mentioned that, despite the generous grace period extending up to the end of March 2015 under the TIEA, UK taxpayers interested in taking advantage of it would be well advised to take appropriate measures in this regard as soon as possible in order to be able to initiate the LDF procedure.

Thank you for taking the time to read this information. If you would like further information or have any questions, please feel free to contact your financial advisor or our UK Desk* by telephone (+423 237 34 34) or e-mail (ukdesk@atu.li) at any time.

Yours sincerely

Allgemeines Treuunternehmen

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