



Liechtenstein Disclosure Facility (“LDF”) update

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## Liechtenstein Disclosure Facility (“LDF”) update

The LDF was first made available in 2009 and remains one of the most effective methods for UK residents to resolve historic tax issues with HM Revenue and Customs (“HMRC”). The LDF is a bespoke service that allows UK resident individuals with unpaid tax on overseas investments or assets to settle their tax liability with HMRC. We have seen a marked increase in the number of clients who are looking to benefit under the terms of the LDF.

The unique advantages of the LDF are:

- limited look back to 6 April 1999 (including inheritance tax)
- limited 10% penalty for periods from 6 April 1999 up to 5 April 2009
- it is available until 31 March 2015
- the ability to have a no-names discussion with HMRC
- guaranteed immunity from prosecution for tax related offences
- the Composite Rate Option (“CRO”) covering all taxes which can result in significant tax savings

### Who can benefit from the LDF?

The LDF can be used by UK residents to disclose undeclared assets held anywhere in the world. For example a UK resident client with a Swiss bank account will generally be able to benefit under the LDF if the correct steps are followed.

UK residents with undeclared assets can benefit from the LDF until 31 March 2015 if:

- They had investments held in Liechtenstein from 1 September 2009
- They had investments outside of Liechtenstein but acquired an asset or an interest in a Liechtenstein asset after 1 September 2009

It is important to note that it is not necessary for all of the overseas investments to be transferred to Liechtenstein to benefit from the LDF and in practice it has been possible to qualify for the terms of the LDF by opening a Liechtenstein bank account and only transferring a portion of assets to the Liechtenstein bank. Where there is no existing Liechtenstein asset or connection then we can advise on the necessary steps to benefit from the LDF.

The LDF is not limited to individuals and it can also apply to Trustees and Directors of offshore structures.

### What happens when assets are already in Liechtenstein?

At any time up to 31 March 2015, the Liechtenstein Financial Intermediary (“LFI”) will identify and then contact any persons who the LFI feels may be liable to taxation in the UK in relation to Liechtenstein based investments.

If a person is contacted by a LFI they then have up to 18 months to prove that they are compliant with their UK tax obligations. Where the required documentation cannot be provided the LFI will cease to provide services and the person will be required to move their investments out of Liechtenstein and could face financial sanctions.

Under Liechtenstein Law, LFIs have a legal requirement to identify all UK persons that are connected to assets in Liechtenstein by 1 October 2011. Therefore LFIs should have either written to, or be in the process of writing to, all of their UK resident clients. If a letter has been received from a LFI or if there are investments, or an interest in an asset, in Liechtenstein then SMP Accounting & Tax would be pleased to advise of the reporting obligations and the next steps that should be followed.

## Why should clients with undeclared assets act now?

Over the past few years HMRC have been gathering information on UK residents with undeclared assets from a variety of sources including double tax treaties, exchange of information agreements, courts orders, the EU Savings Directive and buying data obtained from overseas banks. HMRC have now started processing this information and they are writing to people who they believe have undeclared assets and in some cases they have opened serious fraud investigations (Code of Practice 9). Where an individual is contacted by HMRC they will not be able to benefit from the favourable terms of the LDF and will risk criminal prosecution and large penalties.

We note that the Swiss and the UK authorities signed a joint declaration on 23 October 2010 and entered into exploratory talks on how to tax UK residents with Swiss bank accounts. However, we do not expect this or any future disclosure facilities to be more favourable than the LDF therefore if clients have undeclared assets they should take this opportunity to regularise their affairs as soon as possible and before they are contacted by HMRC.

## Time limits for the LDF

If a person is contacted by an LFI they will have up to 18 months from the date they receive notification to satisfy the LFI that they have complied with their UK tax obligations. Where a person receives a notification from a LFI it is essential that they take professional tax advice and SMP Accounting & Tax would be pleased to advise at this stage. If, after discussing their position with their tax adviser, the person chooses to participate in the LDF then within this 18 month period they:

- Must tell HMRC they have received a notice from the LFI and that they intend to apply to take part in the LDF. HMRC will issue the client with a registration certificate within 60 days
- Should send this certificate to the LFI within 30 days of receiving it
- Should send their full LDF disclosure to HMRC within seven months (if they are using the Composite Rate Option) or ten months (if they are going to calculate their liability on an actual basis) of the registration certificate date. HMRC will send them a disclosure certificate within 30 days of receiving their disclosure providing it is complete
- Should send the disclosure certificate to the LFI within 30 days of receiving it
- It is essential that the correct advice is taken at each and every stage up to and including the submission of the LDF

## SMP comment

If you or your clients have undeclared assets, based anywhere in the world, but are unsure whether it would be beneficial to use the LDF then you should immediately contact your usual SMP Accounting & Tax or SMP Partners advisor to discuss the next steps. We would be delighted to assist and, where necessary, we can help prepare and submit the LDF. If clients have undeclared assets and do not act now then they risk criminal prosecution and substantial penalties.

SMP Accounting & Tax Ltd has one the largest dedicated tax teams on the Isle of Man. The senior members of our tax staff are experienced former employees of the Big 4 and mid-tier accountancy firms. Our tax staff have many years experience of UK and Offshore tax matters. As well as submitting LDF disclosures we have submitted many disclosures under the Offshore Disclosure Facility, and we can provide high level tax advice to clients with complex tax affairs.

Please feel free to contact your usual SMP Accounting & Tax or SMP Partners Advisor if you have any general queries in relation to the LDF. For specific potential LDF cases in the first instance please contact either John Watterson or Georgina Bell-Scott from our in-house legal department.

**Our initial discussions are free of charge and we are happy to agree fixed fees in advance of incurring any time charges.**

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