



Liechtenstein Disclosure Facility (“LDF”) update - July 2015

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Key Points

- **Disclosure facility closes 31 December 2015**
- **Probably last chance to close UK tax matters on a favourable basis**
- **Increased exchange of information from 2016**
- **Deal with any non-disclosures now**
- **Review all non UK assets/structures to check no accidental non-disclosure**

Introduction

The UK Government recently announced that the deadline for new LDF registrations has been brought forward to 31 December 2015 which means that time is rapidly running out for UK taxpayers to make a disclosure of any UK tax irregularities to HM Revenue & Customs under the LDF.

What is the LDF?

The LDF covers all UK taxes and is a beneficial arrangement which can be used by UK taxpayers to inform HMRC about non-declarations, in prior period tax returns, of taxable funds. The under-declarations are then assessed to tax and penalties under the available LDF terms.

How can a taxpayer qualify for the full terms of the LDF?

It is not a pre-requisite that the taxpayer had assets in Liechtenstein in 2009 but, if not and the full terms are sought, it is the case that the taxpayer will be required now to arrange for a relevant relationship with a qualifying Liechtenstein financial institution for a period of time and prior to 31 December 2015. In doing so, it will enable the Liechtenstein financial institution to provide HMRC with the appropriate certificate confirming the relevant relationship under the terms of the LDF. There will also need to be a significant connection between the offshore assets held as at 1 September 2009 and the tax liabilities being disclosed.

Persons who are already being investigated by HMRC are unlikely to qualify as are those who have been subject to an investigation in the past when the undeclared funds should have been disclosed at that time.

Benefits of qualifying for LDF's full terms

The key benefits are:

- No liability for any period before 6 April 1999
- A fixed penalty of 10% up to 2008/09
- A 40% composite rate of tax (“CRT”) election can be made for periods up to 2008/09 rather than performing a separate calculation for each period for each head of tax.
- Likelihood of immunity from prosecution
- Disclosure to HMRC within a fixed timescale
- Inheritance tax liabilities accounted for in composite rate calculation

Not Using LDF

The above benefits compare very favourably to settlements made outside the LDF which may have the following consequences.

- HMRC can go back 20 years
- Penalties should be levied at a much higher rate than 10%
- No assurance that the taxpayer will not be prosecuted
- Complex tax calculations
- Possible lengthy investigation with no fixed end date

Act Sooner Rather than Later

There are less than six months left to register for the LDF. There is nothing to be gained from delaying any decision because HMRC continues to receive, on a regular basis, new information on UK taxpayers from many sources. This provision of information will only increase once the automatic information-sharing agreements with other nations start to bear fruit in 2016. Therefore it is only a matter of time before an undisclosed taxpayer is discovered by HMRC from the new information being provided, leading to an increased likelihood of criminal prosecution.

If, in the first instance, HMRC contact the taxpayer about incorrect tax return disclosures, rather than vice-versa, the full terms of the LDF cannot be used and the penalties will be much higher. Additionally the tax due will be higher, in most cases, because HMRC can go back further and the CRT will not be available.

A further "last chance" disclosure arrangement has been proposed once the LDF deadline has passed but this is expected to have a minimum penalty rate of 30% and no immunity from prosecution.

Conclusion

The LDF is a very beneficial arrangement for a UK taxpayer with tax irregularities. It may not be suitable in all circumstances but it is beyond doubt that a UK taxpayer who volunteers information about irregularities to HMRC will be treated to a much better reception from HMRC.

Should you or your client have any UK tax liabilities that are, at this point, undisclosed to HMRC, please contact the persons below for a consultation to identify the relevant issues and whether the LDF or another arrangement with HMRC, such as the IOM disclosure facility, will be suitable.

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 Adviser if you have any general queries in relation to the LDF. For specific potential LDF cases in the first instance please contact one of the following specialists below.

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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