

Liechtenstein Disclosure Facility (LDF)

What is the LDF?

The Liechtenstein Disclosure Facility ("LDF") is a consequence of a Memorandum of Understanding (MOU) between Liechtenstein and the United Kingdom and a Joint Declaration, which was signed together with a Tax Information Exchange Agreement ("TIEA") on 11th August 2009. It offers eligible tax payers in the UK an opportunity to disclose to HMRC so far undeclared assets with a favourable treatment. One of the attractions is that the HMRC assessment is limited to accounting periods or tax years commencing on or after 1 April, 1999, instead of 20 years period usually applied to a UK tax payer with undeclared assets and income. Therefore a lot of back taxes can be saved and an incentive is given to come forward. In calculating the back taxes for the 10 years, either a composite rate of 40% (commencing on or after 1 April 1999) or the actual tax rate can be used. While the composite tax rate might be quicker for calculating the missing amounts the actual tax rate might have a more favourable effect on the tax payer. However, the composite tax rate satisfies all UK tax liabilities including UK Inheritance Tax, Income Tax, Corporation Tax, Capital Gains Tax, Stamp Duty and VAT-Value Added Tax. The composite tax rate will be applied to all income, profits, gains and other sums chargeable with no reliefs or other deductions allowed. Interest and penalties will be due in addition to the composite tax rate. Interest charges are calculated from the date that the tax should have been paid at HMRC's published rate of interest. A 10% penalty will be levied on the underpaid liabilities. UK tax payers who have undeclared assets and income from before April 1999 are at an advantage over those who have assets for less than 10 years. Only income generated within the 10 year period is liable to tax i.e. the original capital balance before April 1999 is not taxed, but capital balances flowing in to the assets after April, 1999 will be treated as income. HMRC will not start criminal investigation for a tax related offence when making full disclosure under the LDF and the source of funds is not from a criminal activity.

Do I need to have all my assets in FL necessarily?

No, in order to qualify for the LDF a "relevant property" (as defined in the MOU) must have been acquired in Liechtenstein. This can be either a bank account and/or an entity/structure managed out of Liechtenstein. So in theory only very little money needs to be actually in Liechtenstein in order to declare and disclose assets to HMRC. There are certain restrictions but generally speaking a UK tax payer who has undeclared funds in another jurisdiction can take advantage of the LDF. The main exception is a person having at the date of signing of the MOU an offshore bank account that was opened through a UK branch or agency. They will not in relation to that account be eligible for the shorter limitation period, the fixed penalty and composite tax rate under the LDF.

Will the Liechtenstein authorities notify HMRC of UK Accounts?

No, this has been said by some so-called experts apparently, but this is absolutely NOT correct. Should a UK tax payer not wish to use the LDF, the consequences are that latest 2015, or 18 months after being notified of the LDF conditions by the Liechtenstein bank/fiduciary or similar, the client will be requested to close the account held in either the bank account in Liechtenstein or by a trustee/fiduciary in Liechtenstein. However, no information will be given to the UK when he chooses to do so. The banking secrecy is still in force and there is no automatic information exchange. While some jurisdictions might benefit from such movements away from Liechtenstein it is difficult to say that there will be a big advantage in doing so. Almost every relevant jurisdiction has signed a TIEA with the UK and therefore the risk of being caught is still there. In many cases becoming tax compliant can have several advantages to the client and care should be taken in carefully exploring those. Inheritance problems for successors in title are a real consideration.

Does the LDF detract from Liechtenstein?

No, on the contrary. Due to the fact that Liechtenstein has taken a bold step forward and made clear what the strategy is, the credibility and image of Liechtenstein is improving, particularly in the UK. This is a significant benefit when recommending tax neutral and legitimate succession planning and asset protection structures to clients. Having a family office or trusteeship and administration managed from Liechtenstein will no longer be a potentially "questionable", but merely a convenient and professional location for clients who believe that there is an advantage in having this in Liechtenstein. One of the many attractions is Liechtenstein's network with Switzerland and the global banking industry.

What are the advantages for Liechtenstein?

While Liechtenstein might lose some UK tax payers, who prefer not to have their income etc. disclosed and move to another jurisdiction, other clients who have had their assets elsewhere will be encouraged to move to Liechtenstein in order to use the LDF and its manifold advantages reputation. Therefore a new client group will be moving to Liechtenstein away from other jurisdictions. This can counteract for at least some of those who chose to move away. The future augers well as choice location for family offices and trusteeships for administering assets of wealthy clients and families.

Who shall I contact if I want to take advantage of the LDF?

Please feel free to contact us. Should you wish then to proceed with clarification we will co-operate with UK tax specialists in order to make sure you can make the best of the LDF. This includes an anonymous evaluation of your potential liability when making use of the LDF.

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