

## Liechtenstein Disclosure Facility (LDF) - Frequently Asked Questions for tax agents and advisers

Here, we've provided some answers to commonly asked questions about the LDF. The answers given below are not a substitute for the Memorandum of Understanding (MOU) between the government of Liechtenstein and HM Revenue & Customs (HMRC). The MOU sets out the full terms of the agreement.

[Go to the Memorandum of Understanding \(PDF 108KB\) \(opens in new window\)](#)

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### 1. What is the Liechtenstein Disclosure Facility (LDF)?

The government of Liechtenstein has committed to introduce a five year taxpayer assistance and compliance programme under which financial intermediaries in Liechtenstein will need to be satisfied that, where appropriate, clients are declaring Liechtenstein investments to HMRC. If your client is a UK taxpayer – or if their Liechtenstein financial intermediary thinks they may be – they will be in touch with your client about this.

In conjunction with this, HMRC has launched the LDF to assist UK taxpayers in making a disclosure where appropriate. However, there is no need to wait for the financial intermediary to get in touch. You can contact HMRC, on behalf of your client, as explained at question 6 to make a disclosure under the LDF from 1 September 2009 and tell the financial intermediary that you have done this.

### 2. What is a financial intermediary?

A financial intermediary is a person subject to supervision by Liechtenstein's Financial Markets Authority who provides a service to those holding investments in Liechtenstein.

**3. What must I do when my client receives notification from the financial intermediary that they may be liable to UK tax?**

You must do **one** of the following:

- prove to the financial intermediary that your client does not have to pay tax in the UK
- prove to the financial intermediary that your client's UK tax affairs are in order prove to the financial intermediary that your client is not liable to UK tax
- register your client and make a full disclosure under LDF, providing the financial intermediary with the certification we will send to your client

**4. In what form should the proof be?**

Your client will have to provide the financial intermediary with one of the following:

- Written confirmation from a legal, tax or accounting adviser that your client has complied with UK tax obligations for their Liechtenstein investments or has applied to disclose under another HMRC tax disclosure facility.
- Evidence to prove your client has already met UK tax obligations for their Liechtenstein investments.
- A certified or notarised copy of your clients' Self Assessment tax return showing that your Liechtenstein investments have been declared to HMRC.
- Evidence that your client is not a UK taxpayer.
- Registration and disclosure certificates which we will send to you if you register your client and make a full disclosure to HMRC under LDF (see question 16).

Alternatively your client can provide permission for their Financial Intermediary to provide HMRC with all your clients' details that they hold.

**5. How will I know if my client needs to register?**

Financial intermediaries in Liechtenstein will write to your client. Alternatively your client may have already made you aware of investments in Liechtenstein which have not previously been disclosed to HMRC. In that case you should register your client (see question 6), and advise the financial intermediary of this.

**6. How do I register my client in the disclosure facility?**

By contacting the HMRC Liechtenstein desk (see question 13). You can do this by phone or in writing and you will need to tell us:

- your client's name and address
- National Insurance number (if your client has one)
- Unique Tax Reference (if your client has one)
- date of birth
- the name and address of the financial intermediary who provides services to your client
- your name, reference and contact details

**7. I have several clients ready to register - what should I do?**

Follow the advice in question 6 for each client you want to register.

**8. Will HMRC be providing information about my client to the financial intermediary?**

No, HMRC has a duty of confidentiality to customers and this is unaffected by the LDF.

**9. Who does the Disclosure Facility apply to?**

The facility has been introduced to help UK taxpayers with undeclared investments in Liechtenstein to come forward and get their past and future tax affairs on the right footing. By coming forward under LDF, they will be able to take advantage of a number of special terms:

- a 10 per cent fixed penalty on the underpaid liabilities (full interest will have to be paid)
- no penalty where an innocent error has been made
- assessment period limited to accounting periods/tax years commencing on or after 1 April 1999
- the option to choose whether to use a single composite rate of 40 per cent or to calculate actual liability on an annual basis
- assurance about criminal prosecution
- provision of a single point of contact to help you with issues such as residency and domicile and other matters arising from the complexity of their financial affairs

#### **10. What is the composite rate of tax?**

The composite rate is a single rate of 40 per cent which can be used as a means of calculating an amount which HMRC will accept in satisfaction of past tax liabilities. The amount will cover all UK taxes (including UK Inheritance Tax, Income Tax, Corporation Tax, Capital Gains Tax, Stamp Duty and Value Added Tax and, without limitation, National Insurance contributions). The rate will be applied to all income, profits, gains and other sums chargeable with no reliefs or other deductions to be allowed. Interest and penalties will be due in addition to the composite rate.

The only exception to this is that tax withheld under the European Union Savings Directive or under the Agreement on the Taxation of Savings between the EU and Liechtenstein may be offset. A person who discloses can choose whether to use the composite rate or to calculate the liability on the statutory basis, in which case they may take into account any reliefs due.

#### **11. Could my client be criminally investigated by HMRC if I take part in the LDF?**

HMRC will not start a criminal investigation for a tax-related offence if your client makes a full and accurate disclosure to us **and** the source of the funds is not from 'criminal activity'. Criminal activity in this respect does not include tax evasion.

#### **12. How will I know if LDF applies to my client?**

It will apply if your client:

- holds investments in Liechtenstein and has liability to UK tax in respect of those investments
- meets the eligibility criteria as defined in paragraphs two to four of Schedule 7 of the MOU
- is prepared to make a full disclosure under the terms of the disclosure facility

#### **13. What are my client's obligations under the facility?**

When your client receives notification from the financial intermediary, either your client or you on behalf of your client must notify HMRC of your client's intention to apply for disclosure under this facility by writing or telephoning HMRC using these contact details:

**Write to:**

HM Revenue & Customs

Liechtenstein Desk  
7<sup>th</sup> Floor  
The Triad  
Stanley Road  
Bootle  
Merseyside  
L75 2EE

**Telephone:**

Tel: 0845 600 4680

Tel: +44 151 300 2750 (for calls from outside the UK)

Lines are open 8:30 am to 5:00 pm (UK local time), Monday to Friday.

**Your client must then:**

- make the disclosure within the time limit
- provide any additional information in support of the disclosure that we may ask for in order to check accuracy and completeness

**14. What do I have to include in the disclosure?**

We will help by providing a disclosure form, complete with guidance. It will explain that your client will be required to show that they are properly reporting any UK liabilities payable under this facility.

The information needed may include but will not necessarily be limited to:

- Name, address and date of birth.
- Evidence of identity in the form of a copy passport and birth certificate or other certified copy documentation.
- National Insurance number or any other Unique Tax Reference number (if your client has one).
- Full information and documentation to prove your client is eligible to use this facility.
- Full details of all previously undisclosed tax liabilities for each tax year since 6 April 1999,(or earlier if applicable) for a natural person, or accounting period since 1 April 1999 (or earlier if applicable) for a legal person, and ending with the UK tax year covered by the disclosure **or** an offer for tax based on estimated figures where your client does not know the actual amounts together with evidence to justify such an estimate.
- Confirmation of whether composite rate or actual basis has been used to calculate liability.
- A computation of the overall tax liability.
- A declaration that the disclosure is correct and complete.
- Your contact details as professional adviser.
- Payment of all tax liabilities, interest and penalties or, if your client cannot pay, evidence of their inability to pay at that time together with your proposal for payment.

**15. What if my client cannot complete the disclosure within the time limits?**

In certain circumstances HMRC will provide a letter of extension of the time period. You must contact the Liechtenstein helpdesk immediately if your client will not be able to make the disclosure within the time limits. We will consider the reasons and, where appropriate, agree to give additional time to complete the disclosure. We will send you a

letter confirming the extended time period given and you will need to send this to the financial intermediary.

**16. What are the time limits?**

Once your client has been contacted by the financial intermediary you will have 18 months to satisfy them that your client has complied with their tax liabilities. If your client needs to make a disclosure to HMRC in order to satisfy the financial intermediary then within this period:

- You must register your client for LDF and within 60 days we will send you a registration certificate. If we do not accept your client into the disclosure facility we will write to you explaining why and tell you what you should do next.
- You must send your client's registration certificate or a certified copy to the financial intermediary within 30 days of receiving it.
- A full disclosure report should be sent to HMRC Liechtenstein desk within the agreed time period of either seven months (if your client opts for the composite rate) or ten months (if using actual rates) of the date of the registration certificate.
- We will issue a disclosure certificate within 30 days of the disclosure, providing it is complete, and this must be sent to the financial intermediary within 30 days of receipt.

**17. Does the Disclosure Certificate mean that the disclosure is agreed?**

No. The disclosure certificate allows you to satisfy the financial intermediary that your client has complied with LDF so investments can remain in Liechtenstein.

**18. When will I hear from HMRC that my client's disclosure has been accepted?**

We will issue a disclosure certificate within 30 days of receiving the disclosure, providing it is complete. This will enable you to provide the financial intermediary with the relevant certification. This does not mean the disclosure is agreed - we will aim to contact you within six months of receiving the disclosure to confirm agreement or ask for additional information in support of the disclosure.

**19. What happens if my client does not comply with the financial intermediary's notice?**

The financial intermediary will require your client to move the investments out of Liechtenstein or, exceptionally, the investments will remain but your client will face sanctions.

**20. What happens if my client takes part in this disclosure facility but later decides not to go through with it, or refuses to answer further questions from HMRC?**

- Your client will not be able to satisfy or benefit from the conditions of the LDF.
- Your client will have to move their investments out of Liechtenstein (or exceptionally, keep their investment but face sanctions).
- We are likely to conduct our own investigation which could include making an Exchange of Information request to the government of Liechtenstein for details of your client's investments.
- Our investigation may lead to your client's name being published as a deliberate tax defaulter as announced in the April 2009 Budget.