

Voluntary Disclosure, Going Forward (UK version)

17 January 12

On 9 January 2012 HM Revenue & Customs (“HMRC”) announced major changes to the way voluntary disclosures will now operate. The new Contractual Disclosure Facility (“CDF”) provides, for the first time, that taxpayers who come forward and disclose all irregularities in their tax affairs (including tax frauds) will receive an HMRC undertaking not to pursue a criminal investigation into disclosed tax frauds.

Meanwhile, the Liechtenstein Disclosure Facility (“LDF”) which opened in 2009 still operates and may offer an even better route for all UK taxpayers with irregularities to disclose. The LDF terms available to eligible persons include an amnesty against prosecution, the payment of liabilities going back to April 1999 only instead of the usual 20 years and a penalty rate which can be as low as 10% of the unpaid taxes.

Individuals who are considering participating in either facility should seek advice from a qualified solicitor so that Legal Professional Privilege applies. A detailed review of an individual taxpayer’s circumstances is required in order to advise which of the options available is better suited to each client and the likely financial impact.

It should also be borne in mind that the UK – Swiss Treaty which was published in October 2011 may already impact on a client’s options in making a voluntary disclosure. Decisions need to be taken as soon as possible. Individuals notified by HMRC (before coming forward) that they have been selected for a CDF enquiry immediately become ineligible for the LDF and anyone notified of a criminal investigation immediately becomes ineligible for either the CFD or LDF.

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