

The New Disclosure Opportunity

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The UK tax authority ('HMRC') has announced an extension to the deadline for registration under its general disclosure facility for UK taxpayers with undeclared tax liabilities (the New Disclosure Opportunity) from 30 November 2009 to 4 January 2010. This follows pressure from UK financial institutions which had requested more time to contact their customers regarding information they are being forced to hand over to HMRC and about the disclosure facility.

The New Disclosure Opportunity ('NDO')

The NDO offers taxpayers the opportunity to make full disclosure and payment of any undeclared taxes, interest and a fixed penalty on the unpaid taxes over the last 20 years. HMRC has stated that it will be the last opportunity of its kind.

A penalty of 10% will be applied where the taxpayer did not have an opportunity to disclose under the previous disclosure facility in 2007. Those taxpayers who had the opportunity to disclose previously (i.e. those taxpayers to whom HMRC wrote in 2007 in relation to the previous disclosure opportunity) will suffer a penalty of 20%.

Taxpayers who register for the NDO will have until 12 March 2010 to complete their disclosure.

The Liechtenstein Disclosure Facility ('LDF')

HMRC has, since 1 September 2009, also been operating the LDF, a special disclosure facility for taxpayers with interests in relevant assets in Liechtenstein. The LDF is currently open to persons who had interests in relevant assets in Liechtenstein as at 1 September 2009. From 1 December 2009 onwards, the LDF will be open to taxpayers who acquired interests in relevant assets in Liechtenstein after 1 September 2009. The deadline for disclosure under the LDF has been stated to be 2015, but HMRC may shorten this in due course.

The LDF offers more favourable terms than the NDO; in most cases a penalty of 10% will be applied (in addition to the unpaid tax and interest) for a period of up to 10 years. HMRC has agreed that a person who makes a full disclosure under the LDF will not be subject to criminal investigation by HMRC, unless the source of the funds constitutes criminal property (other than from illegal tax evasion).

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