

Changes to the eligibility criteria for use of the Liechtenstein Disclosure Facility

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It has always been a requirement for using the Liechtenstein Disclosure Facility (LDF) that the taxpayer has a connection with Liechtenstein. This connection typically takes the form of a bank account there or an interest in a trust or foundation established there, and taxpayers who do not already have such a connection need to create one before they can register for the LDF.

However, many taxpayers making the new connection have no real interest in having their funds managed in Liechtenstein in the long term. This has resulted in the Liechtenstein authorities making a number of efforts to tie clients in, which in turn has led to uncertainty as to the value of a new connection required to enable a “material” relationship to be established. The most recent announcement provides that (with effect from 1 September 2012) the materiality of the relationship between a Liechtenstein intermediary and a UK taxpayer will be assumed if the taxpayer has assets of a certain value in Liechtenstein. The required values are different depending on the type of connection being made. In the case of a taxpayer wanting to make the connection using a Liechtenstein bank account, for example, he must transfer to that account 20% of his undeclared worldwide funds (or CHF 3 million, if less). Where a taxpayer makes his connection via a Liechtenstein trust or foundation, that entity will have to have at least 10% of its funds (or CHF 1 million, if less) held with a Liechtenstein bank. There is however still no general requirement to leave the funds in Liechtenstein for a specific period, though institutions may continue to impose their own conditions to this effect.

The new requirements may make establishing a connection slightly more difficult for some taxpayers in the future. It is important to note that registrations under the LDF cannot be made, and protection from more aggressive investigation by HMRC cannot be achieved, until a sufficient connection has been made.

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