

**Fifth Joint Declaration**  
**by the government of the principality of Liechtenstein and HM Revenue and**  
**Customs concerning the Memorandum of Understanding relating to cooperation**  
**in tax matters**

The government of Liechtenstein and HM Revenue and Customs (HMRC) ('the parties') have previously agreed to issue periodic public statements on the progress of the Liechtenstein Disclosure Facility (LDF), the Taxpayer Assistance and Compliance Programme (TACP), the Double Taxation Agreement and other associated arrangements as appropriate.

This Fifth Joint Declaration recognises the continuing success of the unique historic arrangements that exist between the UK and the principality of Liechtenstein ('Liechtenstein') following the implementation of the groundbreaking Memorandum of Understanding (MoU) Relating to cooperation in tax matters signed in August 2009. Since then more than 6,400 people and companies have registered to participate in the LDF; more than 5,900 disclosures have been received and the LDF has raised more than £1.15 billion from settled cases and payments on account. These disclosures are estimated to have regularised more than £5 billion of previously concealed assets and investments for UK residents and will continue to regularise significant amounts before the facility closes, delivering benefits to both parties and legal certainty to UK clients of the Liechtenstein Financial Intermediaries (Liechtenstein FIs) as regards their UK tax compliance. The audit process in Liechtenstein reports a high level of compliance, and indicates that the TACP has been implemented to the agreed standard.

This declaration also supplements and further clarifies the MoU. Any terms used herein will have the meaning given to them in the MoU unless the context requires otherwise.

1) Final compliance date

The parties have agreed that the final compliance date under Schedule 1 paragraph 1(f) of the MoU is amended to 31 December 2015. The following are consequences of this change, and for the avoidance of doubt the procedures referred to in paragraphs 2 and 3 below do not apply to new business relationships formed between relevant persons and Liechtenstein FIs after the final compliance date:

1. The final date for any person to apply to register to participate in the LDF will be 31 December 2015.
2. Subject to 3. and 4. below the provisions of the TACP set out in the MoU and previous Joint Declarations shall expire on 31 December 2015.
3. The review procedure set out in Schedule 5 of the MoU and clarified in the Second Joint Declaration and the duty to submit audit reports set out at paragraphs 6 and 7 of Schedule 6 of the MoU and clarified in the Second Joint Declaration shall expire on 31 December 2017. Consequently Liechtenstein FIs will continue to follow the review procedure and the procedure for terminating services after 31 December 2015 until 31 December 2017.
4. The certification procedure set out at Schedule 4 to the MoU and clarified in the Third Joint Declaration, the requirement to issue a Confirmation of Relevance

(COR) pursuant to the Third Joint Declaration and, subject to 3. above, the audit procedure set out at Schedule 6 of the MoU and clarified in the Second and Third Joint Declarations shall expire on 30 September 2017. Consequently Liechtenstein FIs will continue to apply the certification procedure and to issue COR after 31 December 2015 until 30 September 2017.

5. The final audit under the aforementioned audit procedure shall take place between 1 January 2017 and 31 December 2017.
6. Any request made under Article 5 of the UK/Liechtenstein Tax Information Exchange Agreement (TIEA) signed 11 August 2009 before 1 January 2016 may be declined if:
  - (a) it does not relate to a criminal matter in respect of which the requesting state has formally commenced a criminal investigation, and
  - (b) the person concerned has not applied to disclose under a tax disclosure facility of the requesting state where he is eligible to do so.

In relation to Article 5 TIEA, the parties have also agreed that no request will be made during the period:

- a) after a person concerned has applied to register to participate in the LDF; and
- b) before that person has been notified by HMRC that either:
  - i) their application has been refused; or
  - ii) their disclosure has been accepted; or
  - iii) the terms of the LDF no longer apply to them

The parties agree that due diligence requirements under the new international standard of automatic exchange of financial account information (common reporting standard) should not duplicate the provisions of the TACP set out in the MoU and previous Joint Declarations. The parties will continue to review these provisions in order to harmonise the appropriate provisions of the TACP with a view to the effective implementation of the common reporting standard in Liechtenstein.

In addition, the parties will continue working together and will discuss the respective rights and duties that may apply after 31 December 2015, with the purpose of agreeing appropriate mechanisms not already in force at the time for identification and documenting of relevant persons and for UK clients to demonstrate that they are UK tax compliant.

## 2) Retention procedure

Appendix B to the Second Joint Declaration explains the retention procedure. The definition of 'retention year' contained at Appendix B to the Second Joint Declaration is amended to mean any one of the 17 consecutive UK tax years commencing in April 1999 (ie UK tax years 1999 to 2000, 2015 to 2016).

The retention rate as set out in the aforementioned Appendix B is amended as follows in cases where the retention interest did not exist as of 11 August 2009:

- 27% if applied prior to 6 April 2013, for any and all retention years up to and including 2012 to 2013, plus 1.5% per annum applicable for each whole or part of the remaining retention years of 2013 to 2014, 2014 to 2015 and 2015 to 2016, if the retention interest is still held by the relevant person and the relevant person has not yet complied with the certification procedure
- 28.5% if applied between 6 April 2013 and 5 April 2014, for any and all retention years up to and including 2013 to 2014, plus 1.5% for the whole or part of the remaining retention years of 2014 to 2015 and 2015 to 2016, if the retention interest is still held by the relevant person and the relevant person has not yet complied with the certification procedure
- 30% if applied between 6 April 2014 and 5 April 2015, for any and all retention years up to and including 2014 to 2015, plus 1.5% for the whole or part of the last retention year of 2015 to 2016, if the retention interest is still held by the relevant person and the relevant person has not yet complied with the certification procedure
- 31.5% if applied after 5 April 2015, for any and all retention years up to and including the last retention year of 2015 to 2016

### 3) COR

The Third Joint Declaration confirmed that with effect from 1 December 2011, HMRC has required sight of a COR before an LDF registration application can be accepted. The COR is evidence that the recipient has relevant property (in Liechtenstein) at the point of LDF registration.

The parties have agreed that with effect from 1 December 2015 HMRC will not require sight of a COR before an LDF registration application can be accepted as valid. Instead HMRC will, from that date, require sight of a COR within 30 days of receiving the application. The COR must confirm that the relevant property (in Liechtenstein) was held at the point the LDF application was made. Failure to provide the COR within the 30 day period will result in the application to the LDF being rejected by HMRC.

### 4) Future arrangements

The parties will continue to monitor the operation and effectiveness of their tax arrangements and intend to issue further joint declarations and/or press releases as necessary. Additional answers to frequently asked questions will be published on an ongoing basis to address the more technical issues that arise in relation to the operation of the LDF and the understanding and application of the TACP.

In particular, Appendix A to the Second Joint Declaration (Guidance on characterisation, recognition and treatment of Liechtenstein legal entities and fiduciary relationships) will remain in force and continue to apply in particular to disclosures made under the MoU. The parties will continue to discuss the extent to which this treatment should be extended to areas beyond the current application.

In line with the announcement made in the Fourth Joint Declaration HMRC is considering whether a Single Charge Rate will be made available as an alternative to the statutory basis of taxation for the year 2013 to 2014 and will announce a decision in a further Joint Declaration.

In respect of business relationships formed both before and after 31 December 2015, it is acknowledged that it is in the best interests of both parties to ensure that UK clients of Liechtenstein FIs are UK tax compliant. Based on their successful long-term relationship, the parties are assessing further opportunities for mutual cooperation to strengthen their ongoing and valued partnership. The parties aim to outline these in a further Joint Declaration before 31 December 2015.

Where it is necessary the government of Liechtenstein shall take the necessary measures to give effect to this Joint Declaration.

This Fifth Joint Declaration is signed in duplicate, one original for each party:

Jennie Granger, Commissioner

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For and on behalf of HM Revenue and Customs of the UK of Great Britain and Northern Ireland  
London, 1 July 2015

Prime Minister Adrian Hasler

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For and on behalf of the government of the Principality of Liechtenstein  
Vaduz, 30 June 2015