



Liechtenstein is "largely compliant" with international tax standards

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Liechtenstein is rated "largely compliant" with international tax standards in the second round of peer reviews conducted by the Global Forum. The report¹ concludes that Liechtenstein has made progress in addressing those deficiencies which were identified in the previous assessment. The Global Forum also provides recommendations, which Liechtenstein will most likely implement.

Monitoring and review process

The Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) monitors and reviews the implementation of the international standard of transparency and exchange of information for tax purposes (the standard), both on request and automatically. The EOIR standard (international standard of exchange of information on request) provides for the international exchange of information which is foreseeably relevant for the administration or enforcement of the domestic tax laws of a requesting jurisdiction, on request.

All Global Forum members (over 150 jurisdictions) as well as relevant non-members are assessed in a peer review process. The first round of reviews was conducted from 2010 to 2016. The second round of reviews started in 2016 and was based on the updated standard including information on beneficial ownership of all relevant legal entities and arrangements. The reports of the Global Forum give recommendations to the reviewed jurisdictions which they are expected to follow. The goal is to ensure that jurisdictions around the

world comply with and effectively implement the standard of transparency and exchange of information.

Report on Liechtenstein

The peer review report on the exchange of information on request (second round) assesses the legal and regulatory framework of Liechtenstein as at 14 December 2018 and its operation in practice, in particular, with regard to requests for information received and sent during the review period from 1 October 2014 to 30 September 2017.

In the report Liechtenstein receives an overall rating of "largely compliant" with the international standard of exchange of information on request. Accordingly, the Liechtenstein's legal framework and its implementation in practice are compliant with the standard to a large extent. Liechtenstein has notably achieved the same rating as Austria, Germany, Belgium, Denmark, the Netherlands and the United States.

The report states that in Liechtenstein relevant ownership, accounting and banking information as well as newly covered information on beneficial ownership is generally available in accordance with the standard. Liechtenstein's competent authorities are able to collect all types of relevant information which is the subject of a request in line with international requirements. Rights and safeguards (e.g. notification, appeal rights of affected persons) in Liechtenstein's law seem compatible with the effective exchange of information. Liechtenstein has a broad network of 125 EOI relationships, including major trading partners and the G20 and OECD members, all of which are in line with the standard.

The Global Forum recognizes that Liechtenstein has implemented necessary reforms to fix the shortcomings identified in the previous report published in 2015. The most notable improvements include the adjustment to the definition of the beneficial owner, the availability of information on holders of bearer shares, the access to

¹ OECD (2019), Global Forum on Transparency and Exchange of Information for Tax Purposes: Peer Review Report on the Exchange of Information on Request: Liechtenstein 2019 (Second Round), retrieved from https://read.oecd-ilibrary.org/taxation/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-liechtenstein-2019-second-round_299793c5-en#page1, on 21 March 2019.

information on legal ownership of foreign companies, and the notification of persons concerned by a request.

However, some deficiencies have been identified and recommendations made in order to further improve the compliance with the standard. With regard to entities and arrangements which do not carry out commercial activities and qualify as special asset deductions without personality or entities subject to the PAS² regime (which make up one third of entities and arrangements in Liechtenstein), it is stated that they are not required to file annual accounting records, which raises concerns about the scope of accounting information available. Liechtenstein is recommended to strengthen the supervision of these entities and arrangements in order to ensure that all accounting records as defined under the standard are available.

Furthermore, according to the report, Liechtenstein has changed its restrictive interpretation of "foreseeable relevance" and introduced the possible identification of a specific taxpayer through belonging to a defined group. Group requests (requests concerning a group of taxpayers who are not identified individually, e.g. by name) are permissible, if they provide a detailed description of the group, in particular, of the behavior pattern of taxpayers (e.g. participation in an entity or arrangement). The amendment seems to be in line with the standard. As the amendment has been untested in practice so far, it is recommended to monitor the practical interpretation of "foreseeable relevance" and, if necessary, take further measures to ensure that all foreseeably relevant information is provided in all cases.

Another noteworthy issue is the application of the concept of "ordre public". Liechtenstein's law contains an exception to the requirement to provide information, if a request is solely based on stolen data. In practice, an EOI request will be completed where the requesting competent authority has proved that it conducted its own independent investigations. Of over 60 requests initially identified as based on stolen data, the majority (two thirds) of requests were completed by Liechtenstein after the requesting authority provided additional information from its own investigations. It is not clear how larger volumes of such requests would be efficiently handled, especially if challenged in court. Liechtenstein is therefore recommended to monitor the application of the "ordre public" concept so that it does not prevent effective exchange of information, and, if necessary, take measures to correct it.

There is further room for improvement primarily in relation to the timeliness of responses to EOI requests, and several less relevant concerns still remain. On the whole, Liechtenstein is a reliable partner for exchange of information whose practical efficiency was confirmed by the peers.

² Private Asset Structure (Privatvermögensstruktur, PVS) according to Article 64 of the Liechtenstein Tax Act.

Impact on Liechtenstein

The "largely compliant" rating of Liechtenstein indicates a high level of compliance with the OECD's EOI standard. Prime Minister Adrian Hasler stated with satisfaction: "The Global Forum's assessment is a great success for Liechtenstein and its financial center strategy. It is of surpassing importance for the business location". "Compliance with international and European regulatory standards is a prerequisite for market access and the competitiveness of the Liechtenstein financial centre. We have clearly stated this in our financial centre strategy presented in February 2019. It is gratifying that once again today, this strategic orientation has been confirmed as absolutely correct." The Liechtenstein Government expressed its readiness to appropriately deal with the recommendations and take measures to implement them. Hence, it is likely that Liechtenstein will change its law in order to eliminate the above-mentioned deficiencies.

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