# EU List of Non-Cooperative Jurisdictions

**December 2017**

On 5 December 2017, the first EU list of non-cooperative jurisdictions in tax matters was published, naming 17 jurisdictions. Liechtenstein is **not** on the "EU blacklist of tax havens". Liechtenstein belongs to the jurisdictions that have committed to amend or abolish identified harmful tax regimes, therefore amendments to the Liechtenstein tax law for 2019 onwards are to be expected in 2018.

The EU's list was established following a screening and a dialogue conducted with a large number of jurisdictions during 2017. The jurisdictions were encouraged to present their position, commit to address the identified concerns and deepen their cooperation with the EU on tax matters. Those jurisdictions which appear on the blacklist failed to take meaningful action to address identified deficiencies. The large majority of jurisdictions, including Liechtenstein, decided to introduce relevant changes in their tax legislation to comply with the EU screening criteria. These jurisdictions have therefore been regarded as co-operative, subject to the successful delivery of their commitments.

The following tax good governance **criteria** were used for screening:

- **Tax Transparency**: the country should comply with international standards on Automatic Exchange of Information (AEOI) and Exchange of Information on Request (EOIR). It should also have ratified the OECD Multilateral Convention on Mutual Administrative Assistance or signed bilateral agreements with all Member States to facilitate information exchange. The jurisdiction should possess at least a "Largely Compliant" rating by the Global Forum with respect to EOIR standards and as from 2018 a "Largely Compliant" rating with respect to AEOI standards. The exchange of beneficial ownership information is expected to be included as a fourth criterion in the near future. Liechtenstein meets all of the transparency criteria so far required.
- **Fair Tax Competition**: the country should not have harmful tax regimes, which violate the principles of the EU's Code of Conduct or OECD's Forum on Harmful Tax Practices. Furthermore, the jurisdiction should not facilitate establishing artificial offshore structures without real economic activity. Liechtenstein was identified to have harmful tax regimes. Together with 22 other jurisdictions, Liechtenstein has committed to amend the identified regimes. Amendments to the Liechtenstein tax law for 2019 onwards are to be expected in 2018.
- **BEPS implementation:** the country must have committed to implement the OECD's Base Erosion and Profit Shifting (BEPS) minimum standards. The reception of a positive assessment for the effective implementation of the anti-BEPS minimum standards will become a future criterion. Liechtenstein has already implemented most of the BEPS minimum standards, including the correspondence principle for dividends, the abolition of the IP-Box, country-by-country reporting and spontaneous information exchange. Tax treaty related measures will be implemented through the ratification of the Multilateral Convention (MLI) which Liechtenstein signed on 7 June 2017.

The Member States have agreed on a set of defensive measures which they can choose to apply against the listed jurisdictions. Countermeasures, including both taxation measures and non-taxation measures are aimed, on the one hand, to encourage blacklisted jurisdictions to comply with the criteria and, on the other hand, to prevent the erosion of the EU member states' tax bases. Taxation measures include increased monitorings and audits, non-deductibility of costs, controlled foreign company (CFC) rules, withholding taxes, special documentation requirements and anti-abuse provisions.

The implementation of these measures is left to the competence of the Member States. Any defensive measures should be without prejudice to the respective spheres of competence of the Member States to apply additional measures or maintain blacklists with a broader scope at the national level. A more binding and definitive approach to sanctions for the EU list can be expected in the near future.

The Commission and the Member States will continue to monitor all jurisdictions to ensure that commitments are fulfilled and to determine whether any other countries should be blacklisted in the future. The EU's list will be updated at least once a year. A first interim progress report is scheduled for publication by mid-2018.

The EU list of non-cooperative jurisdictions for tax purposes currently includes American Samoa, Bahrain, Barbados, Grenada, Guam, (the Republic of) Korea, Macao SAR, the Marshall Islands, Mongolia, Namibia, Palau, Panama, Saint Lucia, Samoa, Trinidad and Tobago, Tunisia, and the United Arab Emirates.

Sources:
http://www.consilium.europa.eu/media/31945/st15429en17.pdf
https://ec.europa.eu/taxation_customs/tax-common-eu-list_en

Please directly contact our experts for further information:

Heinz Hanselmann
Swiss Certified Tax Expert and
Public Accountant
LL.M. International Taxation
Mail: heinz.hanselmann@confida.li
Tel: +423 235 84 45

Iryna Gartlacher, MSc
LL.M. International Taxation
Mail: iryna.gartlacher@confida.li
Tel: +423 235 84 49

Elia Sozzi
Swiss Certified Specialist for Finance and Accounting
Mail: elia.sozzi@confida.li
Tel: +423 235 84 14

Sascha Bonderer
lic.oec. HSG
Swiss Certified Public Accountant
Mail: sascha.bonderer@confida.li
Tel: +423 235 84 15

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