UK TIEA Ordinance

of 31 August 2010

Pursuant to article 8 paragraphs 1 and 5, article 9 paragraph 2, article 10 paragraph 5, article 17 paragraph 1, and article 23 paragraph 1(e) of the Law of 30 June 2010 on Administrative Assistance in Tax Matters with the United Kingdom of Great Britain and Northern Island (UK TIEA Act), LGBl. 2010 No. 248, the Government enacts the following Ordinance:

Article 1

Object and designations

1) This Ordinance provides details concerning:

a) the identification requirement;

b) the confirmation of relevance;

c) the requirements concerning documents that may be provided as evidence in lieu of the registration or disclosure certificate;

d) the organisation and procedures of the review panel;

e) the requirements concerning the auditor.

2) The designations used in this Ordinance to denote persons, functions and professions include persons of male and female gender alike.

Article 2

Identification requirement

1) A financial intermediary is required to identify the relevant persons to whom the financial intermediary provides relevant services.

2) The identification must take place within 30 days of taking up of the business relationship. In the case of business relationships established prior to 1 September 2011, the identification must take place prior to 1 October 2011.

3) If, in the course of an ongoing business relationship, a financial intermediary gains knowledge that a person concerned has become liable to taxation in the United Kingdom, the identification shall take place immediately.

Article 3

Confirmation of relevance

1) The financial intermediary shall issue the confirmation of relevance required for participation in the disclosure procedure to the relevant person.

2) The confirmation of relevance may be issued when the financial intermediary deems the business relationship with the relevant person to be material. Materiality shall be assumed where:

a) personal contact exists between the financial intermediary and the relevant person, the client relationship is long-term, and the services provided are not merely of secondary importance; or

b) a substantial part of the assets affected by the disclosure is invested or managed in Liechtenstein.

3) After consulting the affected business associations, the Government may by ordinance set out further details concerning the criteria referred to in paragraph 2, to the extent called for in the interest of the financial centre.

Article 4

Other documents in lieu of the registration or disclosure certificate

1) As an alternative to providing the registration or disclosure certificate, evidence may also be provided to the financial intermediary that the person concerned is not liable to UK taxation or is compliant with his UK tax obligations in respect of the relevant property by means of the following documents:

a) a written confirmation (or a certified or notarised copy thereof) by a legal, tax or accounting adviser duly qualified in the United Kingdom and admitted to the Law Society, the Institute of Chartered Accountants in England and Wales, or other similar professional body in the United Kingdom:

   1. that the relevant person concerned is compliant with his tax obligations in the UK in respect of the relevant property; or

   2. that the relevant person concerned has submitted an application to disclose the relevant property under a tax disclosure facility of the competent authority of the United Kingdom (Her Majesty's Revenue and Customs, HMRC);

b) a form identifying the relevant person and evidencing compliance in respect of his tax obligations in the UK in respect of the relevant property, in a format approved by HMRC;

c) a certified or notarised copy of the tax filing, in part or in whole, filed by the person concerned with HMRC, provided that such filed copy shows that the relevant property at issue has been declared to HMRC; or

d) a written waiver and identification form by the person concerned, authorising the respective financial intermediary to forward such waiver to HMRC and subsequently provide the HMRC a copy of tax information foreseeably relevant to the person's tax obligations with respect to the relevant property.

2) After consulting the affected business associations, the Government may periodically publish updated templates for the confirmation (paragraph 1(a)), the form approved by HMRC (paragraph 1(b)), the tax filing (paragraph 1(c)) and the waiver and identification form (paragraph 1(d)).

Review panel

Article 5

a) Composition

1) The Government shall appoint a review panel composed of three to five members. The Government shall determine the chairperson.

2) From among its members, the review panel shall elect a deputy chairperson.

3) The chairperson and the deputy chairperson must be legally trained.

4) If a member resigns during the term of office, a replacement member shall be elected for the remainder of the term.

Article 6

b) Decision-making procedure

1) If the review panel has four or five members, it shall constitute a quorum when at least three members are present; if the review panel has three members, it shall constitute a quorum when at least two members are present. In any event, the chairperson or the deputy chairperson must be present.

2) The review panel shall make its decisions with the majority of votes of the members present. The chairperson, and in the chairperson's absence the deputy chairperson, shall have the casting vote. Voting shall be compulsory.

Article 7

c) Minutes and confidentiality

1) Minutes shall be kept of the review panel's decisions.

2) The members of the review panel shall be required to maintain confidentiality in respect of all matters which, by their nature or according to express decision of the review panel, must be kept confidential.

Article 8

Requirements concerning the auditor

1) An auditor may only be appointed for audit procedure A who:

a) is a member of the Liechtenstein Chamber of Lawyers, the Liechtenstein Association of Professional Trustees, or the Liechtenstein Association of Auditors;

b) has a licence issued by the FMA as an auditor or auditing company and is a member of a relevant foreign professional body; or

c) is a member of the Law Society, the Institute of Chartered Accountants in England and Wales, or other similar professional body in the UK.

2) Additionally, an auditor may only be appointed for audit procedure A who is legally, economically, and personally independent of the financial intermediary to be audited. In particular, the auditor may not:

a) be an employee of the financial intermediary to be audited or of an undertaking with legal, economic, or personal ties to the financial intermediary;

b) participate directly or indirectly in the profit of the financial intermediary to be audited or of an undertaking with legal, economic or personal ties to the financial intermediary.

Article 9

Penal provision

Violations of article 2 shall be punished in accordance with article 23 of the UK TIEA Act.

Article 10

Entry into force

This Ordinance shall enter into force on the day of its promulgation.