INDUSTRIE-UND FINANZKONTOR
WEALTH PRESERVATION EXPERTS

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Contents

SPELLBOUND BY REAL FEARS OF THE FUTURE

There is a widely held opinion that Brexit and the rise of Donald Trump are evidence that people have enough of the globalisation they feel has been forced upon them, and the purportedly negative consequences thereof. But: Are these happenings in fact the reflection of a prevailing desire for deglobalisation and a return to national identity? Or are they rather a venting of the real fears about the future which people in the West have been plagued by in recent years? A look back in time suggests that the latter is closer to the mark.

With the end of the Second World War, there emerged in the Western world an ardent desire for social togetherness and common wellbeing. The economic upswing during the '50s and '60s led to remarkable prosperity and hence the wish to preserve that prosperity. The notion of a strong state as guarantor for safety and abundance took hold and subsequently spawned political promises that were predestined to be unfinanceable over the long run.

The West stands at a crucial crossroads.

In the wake of the 2008 financial crisis, the ramifications of those decades of welfare policies became evident. Fuelled by waves of refugees and the threat of terror, a collective awareness has arisen in recent years that there is in fact no state guarantor of safety and abundance. This has engendered in the populace a debilitating angst about the future.

The West stands at a crucial crossroads. The breakneck pace of technological progress, as well as the overall demographic developments and persistent migratory flows will change not only the social systems as we know them, but also our ways of life. The decisive factor will be how we as individuals, along with the politicians and businessmen of the world, deal with these changes.

Generally speaking, Western society has witnessed and benefitted from a remarkably long phase of peace, economic prosperity and favourable openness to internationality. Unfortunately, though, today's politicians are merely beating the same old drum by continuing to keep alive the ruinous notion of an almighty state that can ensure the commonweal. Rules and regulations that hark back to an earlier century are not being adapted to today's circumstances, and measures such as the AEOI simply evince policymakers' own inability to embrace reforms.

The age-old envy of another man's fortune will never die out. That makes the staunch defence of ownership rights and the protection of private wealth so much more important.

Michael von und zu Liechtenstein
Chairman of the Board

THE AUTOMATIC EXCHANGE OF INFORMATION

Within the scope of the automatic exchange of information in tax matters (AEOI), the Liechtenstein Tax Administration in the second half of 2017 will start to exchange taxrelated information for the first time with the 27 member states of the European Union. The following provides an overview of the information required under the AEOI and what this process means for Liechtenstein asset structures.

Brief review:
On 21 November 2013, the Liechtenstein Government acknowledged the general trend towards the automatic exchange of information by signing the Convention on Mutual Administrative Assistance in Tax Matters (CMAA) as adopted by the OECD and the Council of Europe. This multilateral convention, in conjunction with Article 26 of the OECD Model Tax Convention, now forms the basis for all means of taxrelated information exchange. On 22 August 2016, the Liechtenstein Parliament ratified the CMAA – which to date has been signed by some 108 states and jurisdictions – and with that, it has entered into force.

On 29 October 2014, Liechtenstein and 50 other states signed a multilateral agreement (known in its final version as the Multilateral Competent Authority Agreement) which lays down the basic principles for uniform implementation of the AEOI. Also geared to this agreement is the Common Reporting Standard, which is aimed at ensuring that the tax authorities of the relevant partner states exchange information in a consistent manner and format.

In October 2015, Liechtenstein also finally signed the change protocol for amending the EU Savings Tax Agreement, which expired at the end of December 2015.

What will happen in the second half of 2017?
By 31 July 2017, those asset structures which are classified as a *Financial Institution* must supply the Liechtenstein Tax Administration with all AEOI-related information of relevance to them. Reports for asset structures classified as *Non-Financial Entity (NFE)* need to be submitted only as of next year.

The reports will be made via data upload to a specially designed platform of the Liechtenstein Tax Administration.

By 30 September 2017, the Liechtenstein Tax Administration will automatically forward the received information to the European Commission in Brussels. From there, the individual EU member states can obtain their countryspecific information.

The information to be exchanged in 2017 relates exclusively to the 2016 calendar year and only to tax events of relevance to one of the 27 EU member states. An exceptional regulation applies in the case of EU member state Austria.

What exception exists with regard to Austria?
For asset structures which were established prior to or on 31 December 2016 and have tax circumstances of relevance to Austria, the withholding tax agreement between Liechtenstein and Austria in force since 01 January 2014 shall continue to apply. In other words, for the time being, for these asset structures there is no obligation to submit reports under the AEOI.

For transparent asset structures which were established on or after 01 January 2017 and have tax circumstances of relevance to Austria, the reporting party in Liechtenstein will have to submit the AEOI-related information to the Liechtenstein Tax Administration – however, not until 2018 and only with regard to the 2017 calendar year. In this sense, Austrian tax situations are exempted from the reports that need to be made in 2017.

How does the AEOI situation look in 2018?
During its November 2016 session, the Liechtenstein Parliament agreed to the exchange of information with a further 32 states and sovereign territories, as shown below:

Andorra	Faroe Islands	Mauritius
Anguilla	Greenland	Mexico
Argentina	Guernsey	Monaco
Australia	Iceland	New Zealand
Belize	India	Norway
Bermuda	Isle of Man	St. Vincent and the Grenadines
British Virgin Islands	Japan	San Marino
Canada	Jersey	Seychelles
Cayman Islands	Korea	South Africa
Chile	Kuwait	Turks and Caicos Islands
China	Malaysia	

In 2018, the first reports under the AEOI will be exchanged with these states and sovereign territories, whereas the data will pertain only to the 2017 calendar year. In addition, the AEOI will be conducted annually with the EU member states.

Already foreseeable is that in 2019 further countries will be added to the list of those with which Liechtenstein exchanges information in connection with the AEOI. Amongst them are the Bahamas, Hong Kong, Israel, Macau, Panama, Russia, Singapore and Switzerland.

By 30 September 2017, the Liechtenstein Tax Administration will forward the received information to the European Commission in Brussels.

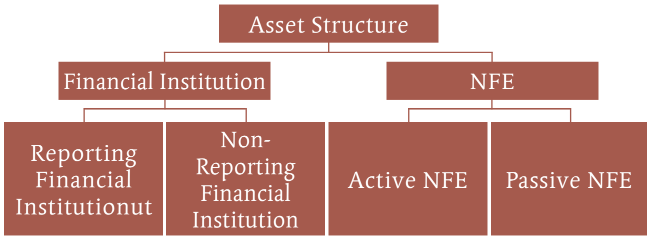
Which expressions are of particular significance in regard to the AEOI?
There are numerous terms of relevance to the AEOI, and it would go beyond the scope of this newsletter to explain each one of them. The three most basic terms *Financial Institution, NFE* and *Reportable Persons* are elucidated in the following passages.

The following are liable for reporting relevant information to the Liechtenstein Tax Administration:

- on the one hand asset structures that have been classified as *Financial Institutions,* which themselves are responsible for drawing up and submitting the report;
- on the other hand asset structures that have been classified as *NFEs*, for which the report is made by the bank.

This means that, in order for reports to be filed with the Liechtenstein Tax Administration, it first had to be determined whether a given Liechtenstein asset structure is classified as a *Financial Institution* or an *NFE*. Under the AEOI, all traditional legal persons (for example foundations, establishments and jointstock corporations) are deemed to be asset structures; however, legal constructions like trusts and personal holding companies are also included in that definition. Hence, all asset structures needed to be allocated specifically to one of the two primary classes.

In certain instances, foundations or trusts can be classified as either a *Financial Institution* or a *NFE*, depending on their particular characteristics. Within the two classifications, further differentiations are made, as can be seen in the following diagram:



In a further step, it was necessary to indicate under the AEOI which persons exercise a controlling function for the asset structure and are therefore subject to reporting. In this regard, it was decisive how the asset structure is designed. The following can be considered controlling, reportable persons:

- Settlors
- Trustees
- Protectors
- Entitled beneficiaries
- Discretionary beneficiaries, provided they are recipients of a distribution(s)
- Other natural persons who exercise a controlling influence on the asset structure

The persons determined to be in a controlling position for an asset structure form the basis for the information which actually needs to be reported; in other words, the share of the asset structure's equity or debt capital, as well as its distributions, that is allocable to the AEOI-relevant total assets or total income of a given reportable person.

What information needs to be reported?
The following information must be reported to the Liechtenstein Tax Administration, who will then forward that information by 30 September 2017 to the European Commission in Brussels:

- Personal identification information
- Account-related information
- Financial information

The *personal identification information* includes name, address and country of residence, the tax identification number in that country, as well as the birth date (in the case of natural persons). The reportable *account-related information* comprises the account number or some other adequate identifier (e.g. a policy number), as well as the name and possibly the identification number of the reporting *financial institution*. The *financial information* can extend to the following:

- the total balance or total value of an account or, as it were, a financial interest;
- information on the closing of an account, in which case the account status is to be reported as zero;
- the total gross income from interest and dividends as well as other income that was paid in or credited to the account; and
- the total gross proceeds paid in or credited to the account from the sale or redemption of financial assets.
- Furthermore, also included in the relevant financial information are distributions for instance from discretionary foundations, other foundations or trusts.

The consequences for asset structures:
The goal of the AEOI is to ensure that national tax authorities receive sufficient information to collect the appropriate amount of revenue from their taxpayers. To that end, they need to receive comprehensive details on the asset and income status of all persons who are not just liable for taxes in the given state, but also have an economic interest in foreign financial holdings or foreign asset structures. Thus the AEOI is the means to achieve a comprehensive tax substrate.

> The AEOI is unrelated to the actual purpose of asset structures.

The AEOI has consequences for asset structures to the extent that it chips away at the foundation of the financial private sphere and leads to a considerable increase in administrative activity. However, the AEOI is unrelated to the actual purpose of asset structures, which is namely to diversify risks of a private, economic, political and/or social nature, to facilitate the longterm planning for a certain portion of one's wealth, and to determine in advance and ensure the purposeful deployment of assets.

For the necessary security to be maintained, it is vital that the persons of relevance to an asset structure be in compliance with applicable tax laws. Therefore, it can be of benefit to occasionally reexamine one's actual tax status in order to verify this conformity. Also crucial is the proper and purposeconsistent design of an asset structure, given the extent of information required under the AEOI.

The AEOI provisions are multifaceted; thus it is advisable to obtain more detailed information in a personal discussion which will enable us to parse those provisions in light of a specific asset structure.

Outlook:
The AEOI is a process that is still in its infancy. Of essential importance will be the way in which the individual partner states interpret and apply the AEOI rules. Only after the initial experiences have been gained will it become clear where any need for adaptation exists. Presumably in the fall of 2017 the Organisation for Economic Cooperation and Development (OECD) will issue its first position statement in this regard, once the initial information has been exchanged between the so-called *early adopter* states.

Summary:
At this point, it should be stressed once again that tax compliance, wealth protection and wealth planning represent different standpoints, but they are in no way at odds with each other. The AEOI is a matter of obtaining data that verifies and ensures tax conformity. Wealth preservation is a matter of people and their assets, which ultimately should safeguard the future of both individual and family values. However, this is not at all in conflict with tax compliance.

Asset structures are an important means of cementing a firm fundament for farsighted wealth and succession planning. Because a fortune which should remain intact for decades and generations to come needs such a solid fundament, especially in uncertain times, such as these.

The legal foundations for the AEOI can be accessed (in German language only) on the website of the Liechtenstein Tax Administration (www.llv.li > Amsstellen > Steuerverwaltung > internationales Steuerrecht > AIA). The I&F News appear on an irregular basis, but always then when a commentary on matters of relevance and interest is called for. Previous I&F News can be accessed on www.iuf.li > Publication (choose relevant year).

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