

ish anonymous trusts. She demands a foundation register for countries with British law like the Channel Islands, Cayman Islands, Virgin Islands or Gibraltar.¹⁰²

1.6 Potential Solutions for Liechtenstein and Switzerland

Despite similar preconditions, the approaches applied by Liechtenstein and Switzerland to handle the pressure from abroad are markedly different. First, the states negotiated new double tax treaties according to the OECD standard, which includes an exchange of tax information on request under article 26.¹⁰³ Automatic exchange of tax information or “fishing expeditions”¹⁰⁴ are not elements of the standard.¹⁰⁵

Second, agreements to regularise past tax issues were negotiated. However, this approach cannot be enforced unilaterally. Thus, Liechtenstein and Switzerland are dependent on the willingness of other states to cooperate. The UK was, after Austria, the only country willing to accept the method proposed by Liechtenstein and Switzerland.¹⁰⁶ The LDF focuses on a full disclosure at lowest cost for clients. Switzerland tried another approach to become a tax compliant financial centre.¹⁰⁷ The Swiss government expects to reduce pressure and to handle untaxed assets through tax cooperation agreements with, inter alia, the United Kingdom.¹⁰⁸ The Swiss solution focuses on maintaining the anonymity of clients. Therefore, the Swiss-UK tax agreement regulates the historical tax liabilities of UK individuals with bankable assets in Switzerland anonymously with a one-off deduction and future tax liabilities with a withholding tax.¹⁰⁹

2 Liechtenstein Disclosure Facility

2.1 Current State of Research

Although the LDF has been in force since 2009, scientific research is still lacking. The reason is that the LDF is a unique agreement and its relevance is limited outside Liechtenstein and the United Kingdom. Nevertheless, several articles were published in the STEP Journal (Society of Trust and Estate

¹⁰² El-Sharif, 2013.

¹⁰³ Weidemann, 2010, p. 724.

¹⁰⁴ Non-specific search for tax information

¹⁰⁵ Moritz, 2009, p. 223.

¹⁰⁶ Patkòs & Gräfe, 2012, p. 34.

¹⁰⁷ Götzenberger, 2010, p. 2544.

¹⁰⁸ HMRC, 2012 (2).

¹⁰⁹ Agreement between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on cooperation in the area of taxation [Swiss-UK Tax Agreement], 2011, Art. 41, para. 1.