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U.S.-Liechtenstein Pact Will Dim Tax Haven's Allure to Wealthy

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By Ryan J. Donmoyer and David Voreacos

Dec. 3 (Bloomberg) -- The United States and Liechtenstein plan to sign an agreement to share information on banking clients that will erode the principality's allure to rich Americans trying to hide assets behind impenetrable bank-secrecy laws.

The accord culminates two years of negotiations, and follows a U.S. Senate committee probe this year of tax avoidance by clients of Swiss and Liechtenstein banks, including LGT Group, which is controlled by the principality's ruling family.

The agreement will be signed Dec. 8 in Liechtenstein's capital of Vaduz, Matthew Keller, an official at the principality's Washington embassy, said in an interview. That will leave only Monaco and Andorra as havens without formal procedures for exchanging information with the U.S. Internal Revenue Service, according to the Paris-based Organization of Economic Cooperation and Development.

"People who'd hide assets or income from the IRS are running out of places to move it to," said **Pamela Olson**, a former Treasury Department tax official who is now a lawyer at Skadden, Arps, Slate, Meagher & Flom in Washington.

The **Liechtenstein** accord takes effect in 2010, according to a statement from the principality's embassy in Washington. It covers financial information for 2009 and later tax years. Americans are required to disclose most offshore assets to the IRS, although some take advantage of bank-secrecy standards in places such as Liechtenstein and Switzerland to hide money from tax collectors.

UBS Probe

The U.S. Justice Department is investigating possible tax evasion by as many as 17,000 American clients of UBS AG in neighboring Switzerland. A Switzerland-based UBS executive was indicted last month in Florida on a charge that he helped rich Americans evade taxes, and a former UBS banker pleaded guilty in a related case earlier this year.

In July, Zurich-based UBS said it would stop providing cross-border banking services to American clients through units that aren't licensed in the U.S.

Because the Liechtenstein agreement doesn't apply to information from 2008 and previous years, American clients of UBS's Swiss banking operations may have a brief window to move assets to Liechtenstein before Jan. 1 without exposing earlier transactions to U.S. authorities, said **Asher Rubinstein**, a lawyer in New York with nearly 100 clients who have accounts in the principality.

Before 2009

"Clients with non-compliant accounts with UBS and elsewhere have a month to set up a tax-compliant strategy in Liechtenstein," Rubinstein said. "Anything before 2009 won't be revealed to the IRS."

The delayed implementation of the U.S.-Liechtenstein agreement may undermine the accord's immediate deterrent effect on tax evasion, said **John Christensen**, director of the London- based **Tax Justice Network**, an advocacy group that tracks tax havens and supports global cooperation to combat them.

"It creates a situation where people might be able to get in before the deadline," he said.

Treasury Department spokesman **Andrew DeSouza** declined to comment on the possible loophole or the timing of the agreement, saying only that the pact would be signed "in the near future."

Even with its 2010 effective date, the Liechtenstein agreement won't protect taxpayers from penalties for earlier misdeeds, said **Bryan Skarlatos**, a lawyer with New York-based Kostelanetz & Fink. "It's not as if this is going to be a magic bullet and everything will be OK," Skarlatos said.

'Implicate the Taxpayer'

"The IRS is simply going to go to the person and say 'Did you have any foreign financial arrangements before 2009?'" Skarlatos said. "A truthful answer would implicate the taxpayer if they didn't file the necessary returns and report the income."

Skarlatos said he won't help clients move accounts to Liechtenstein unless they voluntarily disclose assets that haven't been properly reported to the IRS.

Cono Namorato, a lawyer at Caplin & Drysdale in Washington, said Americans facing tax liability for offshore accounts should take advantage of an IRS leniency policy, which typically lets taxpayers avoid criminal prosecution if they voluntarily report assets.

"Given the new agreement, it would be very short-sighted to move into Liechtenstein if the objective is to keep it in a secret jurisdiction," Namorato said.

Under the accord, Liechtenstein in some cases will provide information about how corporations use the principality's banks to reduce their tax bills. The embassy said the accord will be delayed until 2010 to give the principality time to enact enabling legislation.

'Good Relations'

"With this negotiation result, we are expanding our good relations with the United States, creating stability for the financial center and legal certainty for bank clients," Liechtenstein Prime Minister **Otmar Hasler** said in the statement.

Liechtenstein, a 62-square mile principality bordered by Switzerland and Austria, found itself at the center of an international scandal in February when a former LGT employee sold data on customer accounts to German authorities. Germany raided hundreds of businesses and the homes of wealthy citizens to collect back taxes and shared the data worldwide.

UBS spokesman **Mark Arena** said the bank continues to work "on an orderly wind-down" of Swiss banking services for U.S. clients. Arena said he doesn't know whether any clients are moving to Liechtenstein banks.

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