

## Liechtenstein is impacted more than superficially envisaged



### Liechtenstein untaxed entities & legal arrangements

The following untaxed structures have to date avoided the scope of the EU savings tax -

- ◇ Gesellschaft mit beschrenker Haftung GmbH [*private limited company without shares*]
- ◇ Aktiengesellschaft A.G. [*company limited by shares*]
- ◇ Anstalt [*establishment, without shares*]
- ◇ Stiftung [*foundation*]
- ◇ Treuunternehmen [*registered trust*]
- ◇ Treuhandschaft [*trust*]
- ◇ Partnerships [*Limited, collective, simple, occasional & silent*]



### Liechtenstein's tax haven industry: is assailed

- i. Liechtenstein's untaxed entities and legal arrangements are mostly managed in Liechtenstein, and hence will be **Paying Agents Upon Receipt**, irrespective of where the bank account is held, e.g. an Anstalt with bank account in Vaduz or Foundation with account in Singapore.
- ii. Any non-Liechtenstein entity or legal arrangement managed from Liechtenstein will also be a Liechtenstein Paying Agent Upon Receipt, e.g. a BVI or Bahamas company owned by a Liechtenstein foundation.
- iii. Any non-Liechtenstein untaxed entity or legal arrangement with its bank account in Liechtenstein will be within scope, e.g. a Seychelles company with a bank account in Vaduz.
- iv. Any individual's bank account in the world managed by a Liechtenstein entity will be in scope. Therefore, it is not a fiscal solution for a Liechtenstein bank to move a client's discretionary managed account to their Singapore branch.
- v. All interest payments by Swiss banks to Liechtenstein entities and legal arrangements must be automatically reported to the Liechtenstein tax authorities, else incur a 35% withholding tax, **irrespective** of the beneficial owner being an EU resident. E.g. UBS Zurich must report on interest payments to a Liechtenstein Stiftung, even if founder and beneficiaries are, say Russian residents.

# EU Savings Tax Directive Amendments

## How the EU savings tax amendments tackle Liechtenstein structures

### Paying Agent Upon Receipt:



Responsibility for applying the savings tax is taken away from banks and given to entities & legal arrangements managed in Liechtenstein as **Paying Agents Upon Receipt**. Management of these structures can identify the beneficial owners because they established the structure at the behest of the client.

### The Beneficial Owner is :

- An immediate beneficiary, such as shareholder or named beneficiary. If not undentifiable, then...
- The principal contributor / settlor who initially funds the assets directly or indirectly. E.g. it is not the agent founder such as the lawyer who founds the foundation. If not undentifiable, then...
- The directors, council or trustee becomes a Paying Agent Upon Distribution and must apply the savings tax on any beneficiary who becomes entitled to the interest payment within 10 years.

### Charities:

The only structures exempt due to philanthropy, are those established for the **exclusive** benefit of **public** charities.



### Bank accounts anywhere in the world:

Liechtenstein Paying Agents Upon Receipt must apply the savings tax on bank accounts held anywhere in the world, including bank branches in Singapore, Bahamas, etc.



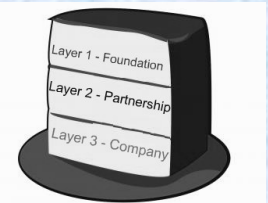
### No use fleeing beyond the savings tax territory:

A Liechtenstein structure re-establishing itself beyond the savings tax territory, e.g. to a Singapore trust or Bahamas company, will remain within the Paying Agent Upon Receipt if the trustee, council or directors are based in Liechtenstein, and consequently the new structure will be in scope.



### Pierce multi-layered holdings:

If the structure owns its assets through a subsidiary entity, then the management also controls the subsidiary and hence will be deemed the Paying Agent Upon Receipt for that entity. Consequently the Paying Agent Upon Receipt will have to apply the savings tax on the ultimate beneficial owner of the subsidiary.



## External Banks must report regarding payments to Liechtenstein structures

In order to notify Liechtenstein authorities of the existence of Paying Agents Upon Receipt, banks must report interest payments to untaxed entities or legal arrangements managed within **another** savings tax territory, **else** withhold 35% tax, irrespective of the eventual identity of beneficial owner. Clients of Swiss, Austrian and Luxembourg banks are the most prevalent users of Liechtenstein structures. This means banks in those countries must either :-



- disclose information on interest payments to Liechtenstein structures to Liechtenstein tax authorities, else...
- withhold 35% tax, irrespective if the beneficial owners are EU residents or not.

This means Swiss banks may have to report payments to, say, a foundation set up by a Russian. This may not be an issue because even though Swiss banks have never previously automatically reported on bank transactions, the receiving party of the information is the Liechtenstein tax authorities.