

Translation of Liechtenstein Law

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Law
of 30 June 2010
**on International Administrative Assistance in
Tax Matters (Tax Administrative Assistance
Act, SteAHG)**

I hereby grant My consent to the following resolution adopted by Parliament:¹

I. General provisions

Article 1²

Purpose

1) This Act serves the implementation of administrative assistance in accordance with international agreements which provide for an exchange of information upon request and a spontaneous exchange of information in tax matters (hereinafter “agreement”).³

2) Differing provisions of the agreement applicable in individual cases remain reserved.

1 Report and Motion, together with Comments from the Government No. 29/2010 and 71/2010

2 Art. 1 amended by LGBl. 2015 No. 365.

3 Art. 1 (1) amended by LGBl. 2017 No. 414.

Article 2

Object and scope

1) This Act regulates international administrative assistance in tax matters with an exchange of information upon request and a spontaneous exchange of information, unless the implementation is regulated otherwise in a separate law.⁴

2) Administrative assistance as defined in (1) shall be provided in relation to information that:

- a) is foreseeably relevant for the determination, assessment, enforcement or collection of tax in relation to persons who are subject to these taxes, or for the investigation and prosecution of criminal tax matters; and
- b) is held by domestic authorities themselves or is in the possession or under the control of persons located within the jurisdiction of the requested state.

Article 3

Definitions and designations

1) The following definitions are established for the purposes of this Act:

- a) “person”: a natural or legal person, including an establishment or foundation, an estate, a trust or other special endowment of assets, a partnership, a company or any other body of persons;
- b) “information”: any fact, statement, document or record in whatever form;
- c) “information holder”: a person who is in possession of information which is the subject of a request;
- d) “person concerned”:
 1. the client of an information holder;
 2. the person whose tax or criminal tax liability is affected by a request; or
 3. a person who is personally and directly affected by the request or by the spontaneous exchange of information;⁵

⁴ Art. 2 (1) amended by LGBl. 2017 No. 414.

⁵ Art. 3 (1) d) 3 amended by LGBl. 2017 No. 414.

- e) “entitled party”: an information holder or a person concerned.
- f) “exchange of information upon request”: exchange of information based on a request for administrative assistance;⁶
- g) “spontaneous exchange of information”: unrequested exchange of information available to the Fiscal Authority which is expected to be foreseeably relevant for the competent foreign authority;⁷
- h) “tax ruling”: a binding statement or commitment in accordance with Art. 93a of the Tax Act.⁸

2) The designations used in this Act to denote persons, functions and professional titles include persons of the male and female gender.

Article 4

Competent authority

1) The competent authority for the provision of international administrative assistance pursuant to an agreement shall be the Fiscal Authority.⁹

2) The Fiscal Authority shall deal directly with the competent foreign authorities.

Article 5

Imperative of expeditious handling

Administrative assistance procedures shall be handled expeditiously.

⁶ Art. 3 (1) f) inserted by LGBL 2017 No. 414.

⁷ Art. 3 (1) g) inserted by LGBL 2017 No. 414.

⁸ Art. 3 (1) h) inserted by LGBL 2017 No. 414.

⁹ Art. 4 (1) amended by LGBL 2015 No. 365.

II. Exchange of information upon request¹⁰

A. Provision of administrative assistance¹¹

1. Ordinary procedure¹²

Article 6

Receipt and forwarding of requests

- 1) The Fiscal Authority shall be the recipient of requests from competent foreign authorities.
- 2) Any requests received by other domestic authorities shall be forwarded to the Fiscal Authority.

Article 7

Form and content of the request

- 1) The competent foreign authority shall submit requests in writing.
- 2) The request shall be framed with the greatest degree of specificity possible and shall specify the following:
 - a) the identity of the individual taxpayer whose tax or criminal tax liability is affected;
 - b) the period of time for which the information is being requested;
 - c) the nature of the information requested and the form in which the competent foreign authority would prefer to receive it;
 - d) the matter according to the tax law of the competent foreign authority in relation to which information is being requested;
 - e) the reasons for believing that the requested information is foreseeably relevant for the application and enforcement of tax liability of the competent foreign authority in respect of the person designated in a);
 - f) the grounds for presuming that the information being requested is held by the Fiscal Authority or is in the possession of or under the control of a person within the Principality of Liechtenstein;

¹⁰ Heading before Art. 6 amended by LGBL 2017 No. 414.

¹¹ Heading before Art. 6 amended by LGBL 2017 No. 414.

¹² Heading before Art. 6 inserted by LGBL 2017 No. 414.

- g) where known, the name and address of each person of whom it is assumed that the requested information is in their possession or under their control;
- h) a declaration that the competent foreign authority is in a position to gather and provide the requested information if a similar request was made by the Fiscal Authority; and
- i) a declaration that the competent foreign authority has exhausted all appropriate means at its disposal within its jurisdiction to gather the information, except where this would give rise to disproportionate difficulty.

3) A request that concerns a group of taxpayers who are not identified by name (hereinafter “group request”) is permissible if it contains the following information to identify the taxpayers in addition to that indicated in (2):¹³

- a) a detailed description of the group, the behaviour pattern, and the facts of the case which have led to the inquiry being made;
- b) clear, fact-based grounds for believing that the taxpayers in the group have infringed the tax laws, including an explanation of the applicable provisions;
- c) the grounds for believing that the information requested is foreseeably relevant for the assessment of the tax compliance of the taxpayers belonging to the group;
- d) a declaration that the request complies with the legal and regulatory requirements and administrative practice of the requesting state, so that the requesting authority could receive this information if it were in their own jurisdiction, when applying their own law or in the ordinary course of their administrative practice.

Article 8

Grounds for refusal

1) Where no other grounds for refusal are set out in an agreement, a request shall be denied if:

- a) it does not comply with the provisions of this Act, and specifically does not satisfy the requirements pursuant to Article 7;
- b) the sovereignty, the security or the public order of the Principality of Liechtenstein is compromised; or

¹³ Art. 7 (3) amended by LGBL 2015 No. 365.

c) the statute of limitations has taken effect in respect of the subject matter of the request pursuant to the laws of the requesting state.

2) A request based on information that has been obtained by way of an act that is judicially punishable in Liechtenstein shall be denied by way of reference to (1) b).

Article 9

Examination of admissibility

1) The Fiscal Authority examines whether a request satisfies the requirements of Article 7 or whether grounds for refusal pursuant to Article 8 exist. A request that constitutes an impermissible fishing expedition does not meet the conditions under Art. 7 (2) or (3).¹⁴

2) If a request cannot be granted or granted only in part because the requirements of Article 7 are not satisfied or grounds for refusal exist according to Article 8, the Fiscal Authority shall inform the competent foreign authority of this immediately.

3) Where the request or parts of the request are found to be admissible, the Fiscal Authority shall take all the necessary actions and measures according to this Act to comply with the request.

4) No separate decree will be issued concerning the finding of admissibility.

Article 10

Gathering of information

1) Where the review of a request shows it to be admissible:

- a) The Fiscal Authority shall notify the information holder about the receipt of the request and the information requested in it;
- b) The Fiscal Authority shall at the same time instruct the information holder to provide it with the requested information within fourteen days provided that such information is not already known to the Fiscal Authority or is in its possession;
- c) The Fiscal Authority shall mandate the information holder to advise any persons concerned who are resident or domiciled abroad of its receipt of the request, the information requested in it and of the do-

¹⁴ Art. 9 (1) amended by LGBL 2015 No. 365.

mestic procedure that has been initiated, and also to inform these persons to the effect that they have the right to participate in the domestic procedure and in such case to designate a domestic agent for service of communications.

- d) The Fiscal Authority shall inform any persons concerned who are resident or domiciled in Liechtenstein and are known to the Fiscal Authority, of its receipt of the request, the information requested in it and of the domestic procedure that has been initiated, and also to inform these persons to the effect that they have the right to participate in the domestic procedure.¹⁵

2) The time-limit referred to in (1) b) may be extended in justified circumstances.

Article 11

Cooperation with domestic administrative authorities

1) The domestic administrative authorities – with the exception of the Financial Intelligence Unit (FIU) – are obligated to provide to the Fiscal Authority all of the information necessary for implementing this Act.

2) The Financial Market Authority (FMA) is exempted from the obligation to forward information that is exclusively collected by it for the purposes of financial market supervision.

Article 12

Classified and confidential information

1) Statutory provisions on professional or commercial secrecy shall not constitute an obstacle to the gathering of information, save for the cases set out in (2) and (3).

2) A lawyer bound by legal privilege need not divulge to the Fiscal Authority information that has been entrusted to him in his capacity of legal counsel for the purpose of providing legal advice or for the purpose of use in ongoing or contemplated legal procedures. The lawyer shall be obliged to disclose any and all information that does not fall under this category to the Fiscal Authority.

¹⁵ Art. 10 (1) d) inserted by LGBL 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBL 2015 No. 192).

3) The information holder shall not divulge trade, business, industrial, commercial or professional secrets, or trade processes, provided that this information is not considered to merit confidentiality merely because it is held by banks, other financial institutions, and persons acting in an agency or fiduciary capacity.

Article 13

Scope of information

The Fiscal Authority shall gather the following information in particular, where specified in a request:

- a) information held by banks, other financial institutions, and persons, including nominees and trustees, acting in an agency or fiduciary capacity;
- b) ownership information pertaining to legal entities, including information on all persons in an ownership chain;
- c) in the case of partnerships, information relating to the personal identity of the members of partnerships;
- d) in the case of trusts, information relating to settlors, trustees and beneficiaries;
- e) in the case of foundations, information relating to founders, the members of the board of foundation and beneficiaries.

Article 14

Ordering of coercive measures

1) Where a request issued by the Fiscal Authority pursuant to Article 10 (1) b) is not complied with voluntarily by an information holder within the time-limit set, it shall immediately decree the necessary coercive measures.

2) The decree pursuant to (1) shall set out the facts on which the request is based and the necessary coercive measures.

3) To be valid, the decree pursuant to (1) shall be subject to approval by way of a decision of a judge of the Administrative Court. The judge may charge the Fiscal Authority with supplementing the decree prior to or upon handing down his decision.

4) The judge responsible for approving the decree pursuant to (1) shall be established in the rules of procedure of the Administrative Court.

5) In cases of imminent danger, the issuing of a decree pursuant to (1) shall also be permissible without a prior instruction as set out in Article 10 (1) b).

Article 15

Coercive measures

The following coercive measures may be ordered:

- a) Search of premises and personal searches (§§ 92 et seq. Code of Criminal Procedure (StPO));
- b) Seizure (§ 96 (1) to (2a) and (4), and §§ 97 and 98 Code of Criminal Procedure (StPO)); § 98a StPO shall apply accordingly for the purposes of this Act;¹⁶
- c) Coercive and contempt measures against witnesses except for imposing detention for contempt (§§ 113 and 114 Code of Criminal Procedure (StPO)).

Article 16

Carrying out coercive measures

- 1) Coercive measures shall be carried out by the Fiscal Authority.
- 2) The Fiscal Authority may request assistance from the National Police in carrying out coercive measures.

Article 17

Admission of representatives of a competent foreign authority to procedural actions

1) Representatives of a competent foreign authority may not carry out procedural actions under this Act in the territory of the Principality of Liechtenstein, save as provided for by (2) to (4).

¹⁶ Art. 15 b) amended by LGBL 2015 No. 365.

2) The government official responsible for the Ministry for General Government Affairs and Finance may authorise the presence of representatives of a competent foreign authority, in order to question an information holder or person concerned and to examine documents, while observing the provisions of the law, provided that:¹⁷

- a) this is necessary for proper execution with the request; and
- b) the information holder or the person concerned have given their advance consent in writing.

3) The Fiscal Authority shall be free to take part in a meeting pursuant to (2) between the representatives of a competent foreign authority and an information holder or person concerned.

4) Where it appears necessary for proper compliance with the request, the government official responsible for the Ministry for General Government Affairs and Finance, subject to the conditions set out in (2), may authorise the presence of representatives of a competent foreign authority to take part in the relevant part of a tax audit conducted or commissioned by the Fiscal Authority. The tax audit shall always be conducted by the Fiscal Authority or a person commissioned by it. Representatives of the competent foreign authority itself may not conduct any enquiries. However, they shall be permitted access to the same premises and documents as the Fiscal Authority.¹⁸

Article 18

Admission of other persons to procedural actions

1) The government official responsible for the Ministry for General Government Affairs and Finance may authorise the presence of persons designated by competent foreign authorities, where these persons are involved in handling the request or are affected by it, including the accused, the accused's legal counsel and the persons who are responsible for the administration and enforcement of the domestic laws of the requesting state covered by the respective agreement, so that the Fiscal Authority may question the person who gives testimony, or surrenders business accounts, documents, records and other items of property.¹⁹

2) Authorisation according to (1) may not be given unless the applicable agreement contains such a provision or unless the persons affected

¹⁷ Art. 17 (2) introductory sentence amended by LGBL 2012 No. 348.

¹⁸ Art. 17 (4) amended by LGBL 2012 No. 348.

¹⁹ Art. 18 (1) amended by LGBL 2012 No. 348.

by the foreign procedure (accused or taxpayer) gives their express consent.²⁰

Article 19

Absence of information

If a request cannot be granted or granted only in part because the information being requested is neither held by the domestic authorities nor in the possession or under the control of a person in the territory of the Principality of Liechtenstein, the Fiscal Authority shall inform the competent foreign authority of this immediately.

Article 20

Simplified procedure

1) The entitled parties may give their consent in writing to the transmission of information until such time that the procedure is concluded. Consent so given shall be irrevocable.

2) If all entitled parties give their consent, the Fiscal Authority shall record their consent in writing and transmit the information to the competent foreign authority.

3) If the consent covers only some of the information, the ordinary procedure shall be conducted for the remaining part.

Article 21

Final decree

1) If, upon examining the information, the Fiscal Authority comes to the conclusion that the request can be granted, it shall issue a final decree on the admissibility of the request and setting out which information may be transmitted to the competent foreign authority.

2) Information that is not foreseeably relevant may not be transmitted and shall be removed or redacted as necessary.

3) When the final decree has force and effect, the Fiscal Authority shall transmit the information to the competent foreign authority.

²⁰ Art. 18 (2) amended by LGBl. 2015 No. 365.

4) Information that is not transmitted to the competent foreign authority shall be returned to the entitled parties.

Article 22

Confidentiality

1) All information received by the requesting authority shall be treated as confidential and may – where required for fulfilling designated tasks – be used only by persons or authorities (including supervisory authorities and courts) in the jurisdiction of the requesting authority concerned with the assessment or collection of, enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the request.

2) The information transmitted may only be used for the purposes stipulated in Article 2 (2) a).

3) This information may be disclosed in public court procedures or judicial decisions.

Article 23

Ban on transmission of information to third countries

Information may not be passed on to third countries. The Fiscal Authority shall ensure that the competent authorities of the requesting state are aware of this.

Article 24

Rights of entitled parties

1) Entitled parties may participate in the procedure and assert their rights where this is necessary for safeguarding their legitimate interests.

2) Entitled parties may inspect the extracts of the request, which are decision relevant. Beyond that, inspection of case documents or participation in the procedure may only be restricted and only be denied for case documents and procedural actions:²¹

²¹ Art. 24 (2) introductory sentence amended by LGBL 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBL 2015 No. 192).

- a) in the interests of the foreign procedure;
- b) to protect an essential interest, where the competent foreign authority so requests;
- c) due to the nature or urgency of the administrative assistance action to be performed;
- d) to protect essential private interests; or
- e) in the interests of a procedure in Liechtenstein.

Article 25

Service

1) The Fiscal Authority and the appellate authorities shall serve their notices, summons and decisions to:

- a) the entitled parties who are resident or domiciled in Liechtenstein and are known to the Fiscal Authority; and
- b) the domestic agent for service of communications of the persons concerned who are resident or domiciled abroad, where these persons are involved in the procedure and have designated a domestic agent for service of communications.

2) If the person concerned who is resident or domiciled abroad does not designate a domestic agent for service of communications, service shall be effected to the information holder.

3) Service shall be effected to the information holder where entitled parties who are resident or domiciled in Liechtenstein are not known to the Fiscal Authority.

4) In the case of legal persons and companies without any legal personality that no longer have governing bodies, service shall be effected to the governing body or representative that most recently performed this function.

Appeals

Article 26

a) Decrees of the Fiscal Authority

Final decrees pursuant to Article 21 may be contested within fourteen days from the day of service by lodging an appeal with the Administrative Court.

Article 27

b) Decisions concerning coercive measures

1) Decisions pursuant to Article 14 (3) may be enforced immediately; they may be contested only together with the final decree.

2) Decisions by which an approval pursuant to Article 14 (3) is denied may be contested by the Fiscal Authority within seven days of service by lodging an appeal with the Administrative Court.

Article 28

Applicable law and reimbursement of costs²²

1) Where not otherwise stipulated in this Act, the procedure shall be conducted in accordance with the provisions of the National Administration Act (LVG), and the provisions of the Code of Criminal Procedure (StPO) shall apply to the ordering of coercive measures and the examination and swearing-in of persons.

2) The costs incurred in gathering the information will not be reimbursed.²³

2. Exceptional procedure with subsequent notification of the persons concerned²⁴Art. 28a²⁵*Principle*

1) An exceptional procedure with subsequent notification of the persons concerned (“exceptional procedure”) is to be carried out if the competent foreign authority:

- a) requires the Fiscal Authority to keep facts or transactions connected with the request secret from persons affected by the request; and

²² Art. 28 heading amended by LGBL 2015 No. 365.

²³ Art. 28 (2) inserted by LGBL 2015 No. 365.

²⁴ Heading before Art. 28a amended by LGBL 2017 No. 414.

²⁵ Art. 28a inserted by LGBL 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBL 2015 No. 192).

b) provides credible evidence that the notification of any persons concerned would impede the success of the foreign investigation procedure.

2) The Fiscal Authority, after establishing that the request is admissible under Art. 9, shall examine whether the conditions for an exceptional procedure are met in a particular case.

3) If the conditions for an exceptional procedure are not met, the Fiscal Authority shall inform the competent foreign authority of this immediately. At the same time the Fiscal Authority shall ask the competent foreign authority whether it is withdrawing the request because of this fact or whether the domestic procedure should be continued after first notifying the persons concerned.

Art. 28b²⁶

Gathering of information

If a request is permissible under Art. 9, and the conditions for an exceptional procedure are met, the Fiscal Authority shall:

- a) notify the information holder about the receipt of the request and the information requested in it;
- b) at the same time instruct the information holder to provide it with the requested information within fourteen days, provided that such information is not already known to the Fiscal Authority or is in its possession; Art. 10 (2) shall apply accordingly;
- c) inform the information holder that the request and transactions connected with it are to be kept secret from the persons concerned or third parties (prohibition of disclosure), and this prohibition of disclosure shall apply until the Fiscal Authority announces that it has been repealed pursuant to Art. 28h;
- d) inform the information holder about the possibility to comment the request in writing, within the period specified in b), in particular regarding the admissibility of the request, the requested information, the scope of the information that is to be transmitted, and the need for the prohibition of disclosure. Art. 24 shall apply accordingly to the information holder.

²⁶ Art. 28b inserted by LGBL 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBL 2015 No. 192).

Art. 28c²⁷*Judicial review*

1) After the deadline specified in Art. 28b b) expires the Fiscal Authority shall:

- a) examine again whether the request is admissible, and whether the conditions for an exceptional procedure are met; and
- b) forward the request, the information that is to be transmitted, and the comment of the information holder immediately to the competent judge of the Administrative Court and apply for approval of administrative assistance with subsequent notification of the persons concerned.

2) The competent judge of the Administrative Court shall examine:

- a) whether the request is admissible under Art. 9;
- b) whether the conditions for an exceptional procedure are met;
- c) the scope of the information to be transmitted.

3) The competent judge of the Administrative Court, as single presiding judge, will decide on the application of the Fiscal Authority within five working days. No separate decree will be issued regarding this.

Art. 28d²⁸*Transmission of information*

1) If the competent judge of the Administrative Court approves the administrative assistance, the Fiscal Authority shall transmit the information to the competent foreign authority. The Fiscal Authority shall issue a final decree regarding this; subject to Art. 28i.

2) If the competent judge of the Administrative Court does not approve the administrative assistance, because the requirements of Article 7 are not satisfied or grounds for refusal exist according to Article 8, the Fiscal Authority shall inform the competent foreign authority of this immediately.

²⁷ Art. 28c inserted by LGBl. 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBl. 2015 No. 192).

²⁸ Art. 28d inserted by LGBl. 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBl. 2015 No. 192).

3) If the competent judge of the Administrative Court does not approve the administrative assistance, because the conditions for an exceptional procedure are not met, the Fiscal Authority shall inform the competent foreign authority of this immediately, and at the same time ask whether it is withdrawing the request because of this fact or whether the domestic procedure should be continued after first notifying the persons concerned.

Art. 28e²⁹

Rights of entitled parties

1) The entitled parties may only assert their rights under Art. 24 (1) in the exceptional procedure after the repeal of the prohibition of disclosure. Subject to Art. 28b d).

2) Art. 24 (2) shall apply accordingly.

Repeal of the prohibition of disclosure³⁰

Art. 28f³¹

a) Principle

1) The Fiscal Authority must repeal the prohibition of disclosure under Art. 28b without delay as soon as the purpose of the foreign investigation permits it.

2) The prohibition of disclosure must be repealed at the latest:

- a) after a period of twelve months from the date of service of the notification about the prohibition of disclosure pursuant to Art. 28b c);
- b) in the case where an extension of the prohibition of disclosure pursuant to Art. 28g is granted, after the end of the period set by the judge.

²⁹ Art. 28e inserted by LGBL 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBL 2015 No. 192).

³⁰ Heading before Art. 28f inserted by LGBL 2015 No. 192.

³¹ Art. 28f inserted by LGBL 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBL 2015 No. 192).

Art. 28g³²*b) Extension of the prohibition of disclosure*

1) If the competent foreign authority declares that the repeal of the prohibition of disclosure under Art. 28f (2) a) would impede the success of the foreign investigation procedure, the Fiscal Authority shall apply to the competent judge of the Administrative Court for an extension of the prohibition of disclosure by another twelve months at the most.

2) The competent judge of the Administrative Court shall examine whether the conditions for an extension of the prohibition of disclosure are met. The said judge, as single presiding judge, will decide on the application of the Fiscal Authority within five working days. No separate decree will be issued regarding this.

3) If the competent judge of the Administrative Court approves the extension of the prohibition of disclosure, the Fiscal Authority shall notify the information holder of this. The Fiscal Authority shall issue a decree regarding this; subject to Art. 28i.

Art. 28h³³*c) Duties of notification*

After the repeal of the prohibition of disclosure in accordance with Art. 28f, the Fiscal Authority shall:

- a) notify the information holder without delay of the repeal of the prohibition of disclosure;
- b) instruct the information holder to advise any persons concerned who are resident or domiciled abroad of its receipt of the request, the information requested in it and of the domestic procedure that has been initiated, and about the transmission of information to the competent foreign authorities that has already taken place, and also to inform these persons to the effect that they have the right to participate in the domestic procedure and in such case to designate a domestic agent for service of communications;
- c) inform any persons concerned who are resident or domiciled in Liechtenstein and are known to the Fiscal Authority, of its receipt of

³² Art. 28g inserted by LGBl. 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBl. 2015 No. 192).

³³ Art. 28h inserted by LGBl. 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBl. 2015 No. 192).

the request, the information requested in it and of the domestic procedure that has been initiated, and about the transmission of information to the competent foreign authorities that has already taken place, and also to inform these persons to the effect that they have the right to participate in domestic procedure.

Art. 28i³⁴

Delivering the final decree and the decision about extending the prohibition of disclosure

Entitled persons may submit a request to the Fiscal Authority, within two months from delivery of the information under Art. 28h, to deliver to them the final decree and the decision about extending the prohibition of disclosure.

Art. 28k³⁵

Finding of unlawfulness

If an appeal pursuant to Art. 26 is lodged against the final decree and the decision about extending the prohibition of disclosure, only a finding of unlawfulness of the transmission of information may be petitioned.

Art. 28l³⁶

Infringement of the prohibition of disclosure

Whoever wilfully infringes against the prohibition of disclosure under Art. 28b (1) shall be penalised by the Regional Court (*Landgericht*) for the misdemeanour by imprisonment for up to six months or a fine of up to 360 daily income units.

³⁴ Art. 28i inserted by LGBL 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBL 2015 No. 192).

³⁵ Art. 28k inserted by LGBL 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBL 2015 No. 192).

³⁶ Art. 28l inserted by LGBL 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBL 2015 No. 192).

Art. 28m³⁷

Supplementary law

For the rest, Art. 6, 11 to 19, 21 (1), (2) and (4), Art. 22, 23 and 25 to 28 shall apply to the exceptional procedure accordingly.

B. Obtaining of administrative assistance³⁸

Art. 29

Conditions and procedures

- 1) Requests of the Fiscal Authority shall be addressed to the competent foreign authority.
- 2) Requests shall set out the facts on which the procedure is based and the required details according to the applicable agreement.

III. Spontaneous exchange of information³⁹

Art. 29a⁴⁰

Information to be exchanged

- 1) The Fiscal Authority will spontaneously exchange information in cases indicated in Art. 7 (1) of the Agreement on International Administrative Assistance in Tax Matters.
- 2) Where a tax ruling has been issued, the Fiscal Authority will spontaneously exchange information when the tax ruling:
 - a) is concerned with a preferential arrangement;
 - b) is concerned, in a cross-border context, with transfer prices between associated companies or a transfer pricing method which was decided

³⁷ Art. 28m inserted by LGBL 2015 No. 192. It shall apply for the first time to requests made from the date of its entry into force (1 August 2015) (LGBL 2015 No. 192).

³⁸ Heading before Art. 29 amended by LGBL 2017 No. 414.

³⁹ Heading before Art. 29a inserted by LGBL 2017 No. 414.

⁴⁰ Art. 29a inserted by LGBL 2017 No. 414.

by the Fiscal Authority without consulting the competent authorities of other states;

- c) provides, in a cross-border context, a downward adjustment to the taxable income which is not directly reflected in the annual financial statement and consolidated accounts;
- d) establishes that a permanent establishment exists or does not exist, or what profit is to be allocated to a permanent establishment;
- e) is concerned with the structure of cross-border flows of income or funds through entities to associated companies in other countries.

3) The government shall regulate the details by means of an ordinance, in particular:

- a) the recipient states;
- b) the manner and form of the transfer of the information which is to be exchanged.

Art. 29b⁴¹

Notification of persons concerned

1) Before transmitting the information, the Fiscal Authority shall notify any persons concerned, whose involvement is to be inferred on the basis of the documents, about the planned spontaneous exchange of information and about their right to participate in the domestic procedure; subject to Art. 29c.

2) If one of the persons concerned cannot be reached, the Fiscal Authority shall notify that person by publishing an announcement in the official gazette about the planned transfer of information, their right to participate in the domestic procedure and to designate in such case a domestic agent for service of communications. The deadline for this is 10 days.

⁴¹ Art. 29b inserted by LGBL 2017 No. 414.

Exceptional procedure with subsequent notification of the persons concerned

Art. 29c⁴²

a) Principle

An exceptional procedure with subsequent notification of the persons concerned ("Exceptional procedure") is to be carried out if it is to be assumed that the notification of any persons concerned would impede the success of the foreign investigation procedure.

Art. 29d⁴³

b) Judicial review and transmission of information

1) If the Fiscal Authority finds that the conditions for an exceptional procedure are met, it shall immediately forward to the competent judge of the Administrative Court the information which is to be transmitted, and apply for approval of administrative assistance with subsequent notification of the persons concerned.

2) The competent judge of the Administrative Court shall examine:

- a) whether the conditions for an exceptional procedure are met;
- b) the scope of the information to be transmitted.

3) The competent judge of the Administrative Court, as single presiding judge, will decide on the application of the Fiscal Authority within five working days. No separate decree will be issued regarding this.

4) If the competent judge of the Administrative Court approves the administrative assistance, the Fiscal Authority shall transmit the information to the competent foreign authority. The Fiscal Authority shall issue a final decree regarding this; subject to Art. 29g (1).

5) If the competent judge of the Administrative Court does not approve the administrative assistance, because the conditions for an exceptional procedure are not met, the domestic procedure shall be carried out after first notifying the persons concerned.

⁴² Art. 29c inserted by LGBl. 2017 No. 414.

⁴³ Art. 29d inserted by LGBl. 2017 No. 414.

Art. 29e⁴⁴*c) Rights of the persons concerned*

1) The persons concerned may only assert their rights under Art. 24 (1) in the exceptional procedure after they have been notified in accordance with Art. 29f.

2) Art. 24 (2) shall apply accordingly.

Art. 29f⁴⁵*d) Notification of the persons concerned*

1) The Fiscal Authority shall inform the persons concerned about the exchange of information:

- a) without delay, as soon as the purpose of the foreign investigation procedure permits it;
- b) at the latest:
 1. after a period of twelve months from the time of approval of administrative assistance issued by the single judge in accordance with Art. 29d (4);
 2. in the case where an extension of this deferral of disclosure is granted in accordance with (2), after the end of the deadline period set by the judge.

2) If the competent foreign authority declares that the notification of the persons concerned would impede the success of the foreign investigation, the Fiscal Authority shall apply to the competent judge of the Administrative Court for an extension of the deferral of disclosure by another twelve months at the most. The said judge, as single presiding judge, will decide on the application of the Fiscal Authority within five working days; no separate decree will be issued regarding this. If the judge grants the extension of the deferral of disclosure, the Fiscal Authority shall issue a decree regarding this; subject to Art. 29g (1).

3) After repealing the deferral of disclosure, the Fiscal Authority must notify any persons concerned, whose involvement is to be inferred on the basis of the documents, and of the domestic procedure that has been initiated, and about the transmission of information to the competent foreign authorities that has already taken place, and also to inform

⁴⁴ Art. 29e inserted by LGBl. 2017 No. 414.

⁴⁵ Art. 29f inserted by LGBl. 2017 No. 414.

these persons to the effect that they have the right to participate in the domestic procedure and in such case to designate a domestic agent for service of communications. Art. 29b (2) shall apply accordingly.

Art. 29g⁴⁶

e) Delivery the final decree and the decision about extending the deferral of disclosure; finding of unlawfulness

1) Persons concerned may submit a request to the Fiscal Authority, within two months from delivery of the information under Art. 29f (3), to deliver to them the final decree and the decision about extending the deferral of disclosure.

2) If an appeal pursuant to Art. 26 is lodged against the final decree or the decision about extending the deferral of disclosure, only a finding of unlawfulness of the transmission of information may be petitioned.

Art. 29h⁴⁷

Supplementary law

For the rest, Art. 20, 21 (1) to (3), Art. 22 to 24, 25 (1) and (4), Art. 26 and 28 (1) shall apply to the spontaneous exchange of information accordingly.

IV. Transitional and final provisions

Article 30

Implementing regulations

The Government shall enact the regulations required for the implementation of this Act.

⁴⁶ Art. 29g inserted by LGBL 2017 No. 414.

⁴⁷ Art. 29h inserted by LGBL 2017 No. 414.

Article 31

Scope of application

Unless provided for otherwise by the respective applicable agreement, requests for administrative assistance shall be in reference to tax years beginning after the entry into force of the respective agreement.

Art. 31a⁴⁸*Transitional provision for the amendment on 5 November 2015*

1) Group requests are also permitted in relation to agreements concluded before 1 January 2016.

2) Group requests that relate to tax years that started before 1 January 2016 are not permitted.

Article 32

Entry into force

Provided that the referendum deadline expires unutilised, this Act shall enter into force on 1 September 2010, otherwise on the day of its promulgation.

By proxy for the Prince of Liechtenstein: signed
Alois Hereditary Prince

signed *Dr. Klaus Tschütscher*
Head of the Princely
Government

⁴⁸ Art. 31a inserted by LGBl. 2015 No. 365.

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...

II.**General provisions**

The Provisions on the spontaneous exchange of information apply to tax rulings, which:

- a) have been issued after 1 January 2012 and are still valid for the tax assessment as of 1 January 2017;
- b) have been issued after 1 January 2017

...