Smaller firms must beware the lure of Liechtenstein

The tiny State of Liechtenstein has the distinction of bringing the tax man and the tax avoider together in - if not perfect harmony - then at least a pragmatic relationship. But smaller accountancy practices should be aware that the very nature of this marriage of convenience means that uninformed advisers could cause a very messy divorce.

From the tax avoider's point of view, the Liechtenstein Disclosure Facility (LDF) allows people with offshore accounts to pay tax on their undisclosed funds, which are limited to the past ten years with an impressively minor 10% penalty. Crucially, it also comes with an immunity to prosecution.

For HMRC, there have been around 1,500 people coming forward, contributing to a projected £1bn to the coffers. And, Andy Cole, HMRC's director of operations in special investigations, says figures to be released on 31 March, will be even more encouraging.

But the matchmaker in all this should be aware. A survey of 70 firms conducted by Crowe Clark Whitehill showed a stark lack of knowledge about the facility among small practitioners. It uncovered that 19% of firms were unaware of the existence of the LDF, and among others there was a reluctance to speak about it to clients.

There is an issue around telling clients about the facility - 40% of accountants are not prepared to mention it. The difficulty comes from saying to the client "I thought I would mention to this thing called the LDF. It is something that is around for people that have evaded tax". As Sean Wakeman, head of tax investigations at CCW puts it, "that guy would not be your client for much longer" after that particular conversation.

But even among those that are aware of it, there is not a huge amount of specific knowledge among smaller firms. The study shows that only 50% of firms have specific knowledge of the LDF. But this may not be a bad thing.

As Alan Boby, who heads up the taxation and trust services team at Ellacotts, says, "when we have a more serious matter we will always work with a specialist".

But will these firms really want to turn down clients that ask for help? Not doing so could be disastrous. Wakeman said that, in his 23 years of experience, a tax evader "will probably only give you 50% or 60% of his irregularity" during the first conversation. Only a specialist who can probe into the dark corners will get the full disclosure.

"The big danger is that untrained accountants lead their client down this route and end up with a half-baked disclosure," Wakeman said.

"That leaves a tremendous possibility that the clients can be revisited later on. If the accountant leaves something out, ultimately the client can be prosecuted and the accountant sued." But we will only find this out a few years down the line, he predicted.

According to Daniel Finegold, a barrister at Strategic Tax Planning, this has already been occurring. "The less experienced advisers that have come into this as a money making thing, the non-tax or investigation experts, are probably not aware that you have to do really strong due diligence on a client.

"If you look at firms offering LDF services, some of them are not players - not truly experts in this field. There are lots of small firms who say they are tax investigators who are dabbling in the LDF, I believe. There is no information about the criteria that Liechtenstein applies to the tax advisers that issue certification."

The general consensus is that the LDF is the best offer in town for people with undeclared tax (see box). But, unless small firms understand the intricacies of the facility, love - like the money involved - should remain undeclared in this marriage of convenience.

Swiss wake up to Liechtenstein threat

Liechtenstein has benefited greatly from Swiss business through its disclosure facility. The agreement allows anyone with offshore accounts anywhere in the world to open an account in Liechtenstein. According to Sean Wakeman, up to 90% of new accounts in Liechtenstein have transferred from Switzerland.
But Switzerland is hitting back. The announcement of an agreement with the UK is expected in the next few months. The party line from HMRC suggests that the terms will not be better than those in the LDF. Delegates from the Liechtenstein firm Kaiser Ritter, unsurprisingly, hammered this point home in a seminar in London this week.

The former prime minister of Liechtenstein told Accountancy Age that this agreement was unique, being the first so-called tax haven to embrace transparency.

The consensus among almost all experts is that tax evaders should not wait for a better amnesty as this is the best deal in town. This is certainly logical - for HMRC, it would be a disaster if there was a perception that better amnesties were coming along.

But, practical considerations should strike an element of caution. The market for undeclared tax in Switzerland is massive compared with Liechtenstein, and will incorporate the funds of many people who prioritise the risk of getting caught over the penalties they will face. With this in mind, we should not be too surprised if the Swiss deal is slightly better than expected.