

TAX INFORMATION EXCHANGE AGREEMENT OF 28TH MARCH, 2013

AGREEMENT BETWEEN THE GOVERNMENT OF THE PRINCIPALITY OF LIECHTENSTEIN AND THE GOVERNMENT OF THE REPUBLIC OF INDIA ON THE EXCHANGE OF INFORMATION ON TAX MATTERS

Article 1

Object and Scope of the Agreement

The competent authorities of the Contracting Parties shall provide assistance through exchange of information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Contracting Parties concerning taxes covered by this Agreement. Such information shall include information that is foreseeably relevant to the determination, assessment and collection of such taxes with respect to persons subject to such taxes, the recovery and enforcement of tax claims, or the investigation or prosecution of tax matters in relation to such persons. Information shall be exchanged in accordance with the provisions of this Agreement and shall be treated as confidential in the manner provided in Article 8. The rights and safeguards secured to persons by the laws or administrative practice of the requested Party remain applicable to the extent that they do not unduly prevent or delay effective exchange of information.

Article 2

Jurisdiction

A requested Party is not obligated to provide information which is neither held by its authorities nor in the possession or control of persons who are within its territorial jurisdiction.

Article 3

Taxes Covered

1. This agreement shall apply to taxes of every kind and description imposed in the Contracting Parties.
2. This Agreement shall also apply to any identical or substantially similar taxes imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any substantial changes to the taxes covered by this Agreement and the related information gathering measures.

Article 4

Definitions

1. For the purposes of this Agreement, unless otherwise defined:
 - a) the term "India" means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law, including the U.N. Convention on the Law of the Sea;
 - b) the term "Liechtenstein" means, when used in a geographical sense, the area of the sovereign territory of the Principality of Liechtenstein;
 - c) the term "Contracting Party" means India or Liechtenstein as the context requires;
 - d) the term "competent authority" means

- (i) in the case of India, the Finance Minister, Government of India, or its authorized representative;
 - (ii) in the case of Liechtenstein, the Government of the Principality of Liechtenstein, or its authorised representative;
- e) the term “person” includes an individual, a company, a dormant inheritance and any other body of persons;
- f) the term “company” means any body corporate, as well as entities and special asset endowments that are treated as a body corporate for tax purposes;
- g) the term “publicly traded company” means any company whose principal class of shares is listed on a recognised stock exchange provided its listed shares can be readily purchased or sold by the public. Shares can be purchased or sold “by the public” if the purchase or sale of shares is not implicitly or explicitly restricted to a limited group of investors;
- h) the term “principal class of shares” means the class or classes of shares representing a majority of the voting power or of the statutory capital of the company;
- i) the term “recognised stock exchange” means
 - (i) in India, the National Stock Exchange, the Bombay Stock Exchange, and any other stock exchange recognised by the Securities and Exchange Board of India;
 - (ii) for Liechtenstein, any stock exchange that fulfils the material requirements of Article 4 of the directive 2004/39/EC of the European Parliament and the Council of 21 April 2004; and
 - (iii) any other stock exchange which the competent authorities agree to recognise for the purposes of this Agreement.
- j) the term “collective investment fund or scheme” means any pooled investment vehicle, irrespective of legal form;
- k) the term “public collective investment fund or scheme” means any collective investment fund or scheme provided the units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed by the public. Units, shares or other interests in the fund or scheme can be readily purchased, sold or redeemed “by the public” if the purchase, sale or redemption is not implicitly or explicitly restricted to a limited group of investors;
- l) the term “tax” means any tax to which this Agreement applies;
- m) the term “requesting Party” means the Contracting Party requesting information;
- n) the term “requested Party” means the Contracting Party requested to provide information;
- o) the term “information gathering measures” means laws and administrative or judicial procedures that enable a Contracting Party to obtain and provide the requested information;
- p) the term “information” means any fact, statement, document or record in whatever form.

2. As regards the application of this Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires or the competent authorities agree to a common meaning pursuant to the provisions of Article 10 of this Agreement, have the meaning that it has at that time under the law of that Party, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 5

Exchange of Information Upon Request

1. The competent authority of the requested Party shall provide upon request information for the purposes referred to in Article 1. Such information shall be exchanged without regard to whether the requested Party needs such information for its own tax purposes or whether the conduct being investigated would constitute a crime under the laws of the requested Party if such conduct occurred in the requested Party.

2. If the information in the possession of the competent authority of the requested Party is not sufficient to enable it to comply with the request for information, that Party shall use all relevant information gathering measures to provide the requesting Party with the information requested, notwithstanding that the requested Party may not need such information for its own tax purposes.

3. If specifically requested by the competent authority of the requesting Party, the competent authority of the requested Party shall provide information under this Article, to the extent allowable under its domestic laws, in the form of depositions of witnesses and authenticated copies of original records.

4. Each Contracting Party shall ensure that its competent authority, for the purposes of this Agreement, has the authority to obtain and provide upon request:

- a) information held by banks, other financial institutions, and any person, acting in an agency or fiduciary capacity including nominees and trustees;
- b) information regarding the ownership of companies, partnerships, collective investment funds or schemes, trusts, foundations and other persons, including, within the constraints of Article 2, ownership information on all such persons in an ownership chain; in the case of collective investment funds or schemes, information on shares, units and other interests; in the case of trusts, information on settlors, trustees and beneficiaries; in the case of foundations, information on founders, members of the foundation council and beneficiaries. Further, this Agreement does not create an obligation on the Contracting Parties to obtain or provide ownership information with respect to publicly traded companies or public collective investment funds or schemes unless such information can be obtained without giving rise to disproportionate difficulties.

5. The competent authority of the requesting Party shall provide the following information in writing to the competent authority of the requested Party when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information sought to the request:

- a) the identity of the person under examination or investigation;
- b) the taxable period for which information is requested;
- c) a statement of the information sought including its nature and the form in which the applicant Party wishes to receive the information from the requested Party;
- d) the tax purpose for which the information is sought;
- e) grounds for believing that the information requested is foreseeably relevant to the administration and enforcement of the domestic tax laws of the applicant Party with regard to the person specified in subparagraph (a);

- f) grounds for believing that the information requested is present in the requested Party or is in the possession or control of a person within the jurisdiction of the requested Party;
- g) to the extent known, the name and address of any person believed to be in possession or control of the requested information;
- h) a statement that the request is in conformity with the laws and administrative practices of the requesting Party, that if the requested information was within the jurisdiction of the requesting Party then the competent authority of the requesting Party would be able to obtain the information under the laws of the requesting Party or in the normal course of administrative practice and that it is in conformity with this Agreement;
- i) a statement that the requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

6. The competent authority of the requested Party shall forward the requested information as promptly as possible to the requesting Party. To ensure a prompt response, the competent authority of the requested Party shall:

- a) Confirm receipt of a request in writing to the competent authority of the requesting Party and shall notify the competent authority of the requesting Party of deficiencies in the request, if any, within 60 days of the receipt of the request.
- b) If the competent authority of the requested Party has been unable to obtain and provide the information within 90 days of receipt of the request, including if it encounters obstacles in furnishing the information or it refuses to furnish the information, it shall immediately inform the requesting Party, explaining the reason for its inability, the nature of the obstacles or the reasons for its refusal.

Article 6

Tax Examinations Abroad

1. By reasonable notice given in advance, the applicant Party may request that the requested Party allows representatives of the competent authority of the applicant Party to enter the territory of the requested Party, to the extent permitted under its laws, to interview individuals and examine records with the prior written consent of the individuals or other persons concerned. The competent authority of the requested Party shall notify the competent authority of the applicant Party of the time and place of the meeting with the individuals concerned.

2. At the request of the competent authority of the applicant Party, the competent authority of the requested Party may allow representatives of the competent authority of the applicant Party to be present at the appropriate part of a tax examination in the requested Party.

3. If the request referred to in paragraph 2 is acceded to, the competent authority of the requested Party conducting the examination shall, as soon as possible, notify the competent authority of the applicant Party about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the requested Party for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the requested Party conducting the examination.

Article 7

Possibility of Declining a Request for Information

1. The competent authority of the requested Party may decline to assist:

- a) where the request is not made in conformity with this Agreement and, in particular, where the requirements of Article 5 are not met; or
- b) where the requesting Party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulty; or
- c) where disclosure of the information would be contrary to public policy (*ordre public*) of the requested Party.

2. This Agreement shall not impose on a Contracting Party the obligation:

- (i) to provide information subject to legal privilege, or any trade, business, industrial, commercial or professional secret or trade process, provided that information described in paragraph 4 of Article 5 shall not by reason of that fact alone be treated as such a secret or trade process; or
- (ii) to carry out administrative measures at variance with its laws and administrative practices, provided nothing in this subparagraph shall affect the obligations of a Contracting Party under paragraph 4 of Article 5.

3. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.

4. The requested Party shall not be required to obtain and provide information which the requesting Party would be unable to obtain under its own laws made in similar circumstances from the requested Party under this Agreement.

5. The requested Party may decline a request for information if the information is requested by the applicant Party to administer or enforce a provision of the tax law of the applicant Party, or any requirement connected therewith, which discriminates against a national of the requested Party as compared with a national of the applicant Party in the same circumstances.

Article 8 Confidentiality

1. All information provided and received by the competent authorities of the Contracting Parties shall be kept confidential.

2. This information may be disclosed only to persons or authorities (including courts and administrative bodies) of the Contracting Parties concerned with the purposes specified in Article 1, and used by such persons or authorities only for such purposes. For these purposes information may be used in public court proceedings or in judicial decisions.

3. Such information may not be used for any purpose other than for the purposes stated in Article 1 without the expressed written consent of the competent authority of the requested Party.

4. Information received under this Agreement must not be disclosed to any other State or sovereign territory not party to this Agreement.

5. Personal data may be transmitted to the extent necessary for carrying out the provisions of this Agreement and subject to the provisions of the law of the supplying Party.

6. Information received by the requested Party in conjunction with a request for assistance under this Agreement shall likewise be treated as confidential in the requested Party.

Article 9
Costs

1. Unless the competent authorities of the Contracting Parties otherwise agree, ordinary costs incurred in providing assistance shall be borne by the requested Party, and, subject to the provisions of this Article, extraordinary costs incurred in providing assistance shall, if they exceed 500 US Dollars, be borne by the requesting Party.
2. The competent authorities will consult each other, in advance, in any particular case where extraordinary costs are likely to exceed 500 US Dollars to determine whether the requesting Party will continue to pursue the request and bear the cost.
3. The competent authorities shall consult from time to time with regard to this Article.
4. Ordinary costs include internal administration costs, any minor external costs and overhead expenses incurred by the requested Party in reviewing and responding to information requests submitted by the requested Party. Examples of extraordinary costs incurred in providing assistance include, but are not limited to the following:
 - a) reasonable fees charged by third parties for copying documents on behalf of the requested Party;
 - b) reasonable costs of engaging interpreters, translators or other agreed experts;
 - c) reasonable costs of conveying documents to the requesting Party;
 - d) reasonable litigation costs of the requested Party in relation to a specific request for information; and
 - e) reasonable costs for obtaining depositions or testimony.

Article 10
Mutual Agreement Procedure

1. Where difficulties or doubts arise between the Contracting Parties regarding the implementation or interpretation of this Agreement, the competent authorities shall endeavour to resolve the matter by mutual agreement.
2. In addition to the agreements referred to in paragraph 1, the competent authorities of the Contracting Parties may mutually agree on the procedures to be used under this agreement.
3. The competent authorities of the Contracting Parties may communicate with each other directly for purposes of reaching agreement under this Article.
4. The Contracting Parties may also agree on other forms of dispute resolution.

Article 11
Entry Into Force

1. This Agreement shall enter into force one month from the date on which the Contracting Parties have notified each other that their respective requirements for the entry into force of this Agreement have been fulfilled. The relevant date shall be the day on which the last notification is received.
2. Upon the date of entry into force, this Agreement shall have effect for all requests made but only in respect of taxable periods beginning on or after 1 April, 2013.

Article 12
Termination

1. This Agreement shall remain in force until terminated by either Contracting Party.
2. Either Contracting Party may terminate the Agreement by serving a written notice of termination to the other Contracting Party through diplomatic channels.
3. Such termination shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of notice of termination by the other Contracting Party. All requests received up to the effective date of termination shall be dealt with in accordance with the provisions of the Agreement.
4. After termination of this Agreement, both Contracting Parties shall remain bound by the provisions of Article 8 with respect to any information provided and received under this Agreement.