

Latest Tax Information Exchange Agreements with Germany-Jersey, Germany-Gibraltar, Germany-Liechtenstein according the OECD-TIEA

Jersey, Gibraltar and Liechtenstein consented with Germany new TIEA in order to exchange taxation information. The banking secret which prohibited the information delivery to tax authorities and tax prosecution authorities is hereby abolished. Also the prerequisite of mutual punishability is abandoned. Therefore from now on information for tax evasion prosecution is delivered to Germany. The discontinuation of these two obstacles is conform with the OECD-TIEA modell (tax information exchange agreement) and will be continued in all current tax information treaties. From now on tax and tax evasion relevant information can be delivered for the tax years starting in 2010. In case of Jersey information can be delivered even for tax evasion purposes before 2010. All persons and cases are endangered to be prosecuted as soon as the authorities find any track of suspicion.

The information obtained by TIEA *can* be subjected to a *stronger tax secret*, than that tax secret of Art. 26 OECD double tax treaties. A tax secret shields information against the change of usage concerning new purposes. This stronger tax secret in the TIEA is inter alia generated by the adaption of the principle of a single case related mutual assistance which comes from the mutual assistance in criminal matters into the TIEA. Whereas the mutual international assistance in tax matters permits more freely the change of purpose in using the obtained information.

Anyone concered by information exchange should early take legal claims and measurements into account in order to avoid the exchange and/ or minimize the scope of usability of exchanged information. You should insist on a limitation of the usability according to public international law by the source jurisdiction (tax haven). Today it is uncertain to what extent the authories of the requested state will limit and grant conditions in the information use. According to public international law they could. In case of untaxed assets you should consider a self-indictment.

The OECD urges all states to agree in an information exchange according to the OECD standard. A state is listed as an uncooperative states as long as such a state (1.) hasn't signed at least 12 TIEA with the OECD standard with OECD states, (2.) as long as the state hasn't implemented the OECD standard into national law, and/ or (3.) as long as such a state refused further negotiations about tax information exchange.

In all of the known tax havens and offshore centers investors are endangered by the TIEA. Evaluating the banking secrecy or a tax optimized location or state you have to regard the TIEA development. Anyone who wants to use a banking secrecy, which grants anonymity, within the options of a legal frame, has to look for new locations or states and/ or new business modells. A expatriation, a interposition of another state, which does comply with the OECD standard, or the complete processing of the business in a new constellation in new states are the remaining options.