

## *Liechtenstein – The Place for Asset Protection*

# Securing Assets for Generations to Come

Liechtenstein, as a financial marketplace and economic centre, is supported by a stable economic and legal system. Allied to the Swiss economy, with the Swiss franc as currency, it is also a member of the European Economic Area, having the advantage of belonging simultaneously to two economic and monetary systems. In addition, Liechtenstein has successfully undergone transformation of its financial marketplace, thus fulfilling the demands of the global tax debate.



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Security and protection are a fundamental aspect of human needs. The current world map shows places all around the globe, where these basic needs are no longer guaranteed. These threats are not only in places of war and crisis or through terror or attacks, but are evident in many other places where there is recognisable social and economic unrest. Correspondingly, security and protection of personal property becomes an increasing focal point. The need to preserve and protect assets is prevalent – even away from war and unrest. There is a distinctive desire for asset protection especially in countries which, in

comparison, offer relatively low political, economic and legal stability or where unfavourable conditions exist for the sustainment and transfer of wealth. Even in countries with stable legal and economic systems, there are still diverse and differing motives influencing the desire for asset protection: preservation of assets within the family, safeguarding parts of the estate for certain members of the family and their welfare for generations to come, the continuation of the business after the death of the founder. Although in each case the starting point may vary, there is a common denominator: Where wealth is at

hand, it should be protected. This gains special meaning when endeavouring to safeguard assets in the succession of a company. When planning succession, the focus can be placed on long-term preservation, the future management of the company in accordance with the wishes of the founder or protecting the company from an “unfriendly takeover”.

### **Decades of Experience in Managing Asset Friendly Structures**

For decades, Liechtenstein has belonged to the group of safe countries which offer diverse possibilities for asset protection. Asset protection was already a focal point when drafting the Person and Company Law in 1926 and has been systematically developed through the vast experience gained over decades in dealing with the assets of overseas clients. The adoption of international standards in the field of automatic exchange of information on tax matters as well as combatting money laundering and financing of terrorism, has made Liechtenstein a recognised partner in the global world of nations. Overseas clients of Liechtenstein’s financial marketplace continue to have at their disposal various legal entities for asset protection that guarantee security, privacy and confidentiality in accordance with global standards.

### **Determining Succession to Sustain Family Assets**

Wealthy individuals often search for possibilities to sustain and protect family assets. Entrepreneurs contemplate appointing a suitable successor for their

company and to plan succession so that, after their demise, the successor will not be confronted with financial claims which could jeopardise the continued existence of the company. Others wish to prevent a splitting up of the company among several heirs, thereby alleviating the risk of the company becoming inoperable or having its existence endangered. Liechtenstein's company law offers suitable legal structures with different design possibilities for such challenges. Above all, foundations and trusts, appropriately designed, are exceptionally well suited for the protection of assets. The common denominator of all models is that assets can be designated for a specific purpose.

### **Private Foundations for Secure Asset Protection**

In 2009, Liechtenstein Foundation Law underwent a complete revision during which special emphasis was placed on the protection of foundation assets. The current foundation law differentiates between charitable and private foundations created, in particular, to safeguard and protect private wealth. A Liechtenstein foundation can be set up to follow several concurrent goals, pursuing both private as well as charitable purposes. A foundation can, in the form of a company foundation, participate in another company.

A declared goal of the foundation law reform was that a Liechtenstein foundation should be preserved as an instrument for succession planning and as a means for asset protection. By bringing their assets into a foundation, a settlor can achieve the goal of maintaining the estate for generations to come. When structuring the foundation, the settlor has the possibility to bind successors to certain conditions over many generations. This also facilitates the transfer of company shares to an appropriately constituted foundation, allowing the company to continue in the sense of its founder.

The advantages of asset protection in Liechtenstein foundation law became even more attractive with the new tax law of 2011. Foundations qualify as Private Asset Structures, if they solely administer the assets of private persons and do not undertake any commercial

activities. The tax laws, which follow the OECD and EU law guidelines, require that companies are subject to a comparatively low 12.5% income tax or a minimum tax of merely 1,800 Swiss Francs per annum.

Certain types of income are tax-free, e.g. dividends, independent of the amount or time, profits from the sale of participations, operating results abroad or foreign rent and leasing payments.

### **The Trust for the Protection of Assets**

As early as 1926, the trust, although less known, was incorporated together with the Liechtenstein foundation into the Person and Company Law. Trust law also permits a large amount of flexibility in order to protect assets from potential risks, which is of particular importance for wealthy individuals who reside in instable political or economic countries. When a Liechtenstein trust is set up, a specially devised contract is signed between the settlor and the trustee. The assets are transferred to the trustee in favour of the beneficiaries.

As with the foundation, a trust can also protect a family enterprise from being fragmented. Because of its flexibility and diversity, the trust is currently gaining internationally more and more significance. The Liechtenstein trust is of particular interest due to its low taxation rate: If the administrative seat is based in Liechtenstein, the trust is only subject to a minimum tax of 1,800 Swiss francs per annum.

### **Regulatory Basis in Accordance with International OECD-Standards**

Liechtenstein has seized the opportunity to transform its financial marketplace in the light of international demands to fight money laundering and terrorism as well as to achieve taxation transparency and information exchange. In the "Liechtenstein Declaration" of 2009, Liechtenstein emphasised the high value placed on the protection of justified claims to the right of privacy of its international clientele. At the same time, guarantees were given to cooperate more intensively with international efforts and to strengthen the role of the financial marketplace as a tax-conform location. In the meantime,

the OECD-standards on transparency and information exchange in tax matters have been implemented. A tax agreement as well as an accord on the implementation of FATCA have been concluded with the United States. An agreement on the Automatic Exchange of Information (AEOI) followed the anti-fraud agreement at EU level; this information exchange in tax matters is based on the agreement on the Automatic Exchange of Financial Account Information and the Multilateral Competent Authority Agreement (MCAA). In addition, OECD-conform tax agreements have been concluded with various other countries, and the network of bilateral double-taxation agreements steadily increases. The implementation law on the AEOI came into force on 1st January 2016, allowing the automatic exchange on tax matters to commence at the beginning of 2017.

### **AAA Rating after the Transformation of the Financial Marketplace**

Liechtenstein has proved itself in the implementation of the OECD-standards not only as a trustworthy partner in the international community, but also by offering its clients the necessary legal and planning security. Through the measures taken in the transformation of the financial marketplace and the adoption of global standards, Liechtenstein provides its customers with an attractive environment that is based on legal certainty and stability, a wealth of experience developed over decades and a high quality of service. In addition to liberal company law, of great diversity, when compared internationally, there is also a very competitive tax system. Furthermore, Liechtenstein benefits from being integrated into the Swiss economic and financial system with the Swiss franc as a common currency and membership of the European Economic Area (EEA). In 2016, the international rating agency Standard & Poor's awarded Liechtenstein – because of the implementation of transparency and legal standards, in addition to the stability of the country – a AAA rating with a stable outlook.

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