

Rating Liechtenstein as a Tax Haven

Today the tax-conscious investor is wooed by more than 50 tax havens or offshore finance centers worldwide. Their principle purpose is to secretly and securely hold assets in a tax-free environment in a variety of investment structures thereby minimizing taxation, ensuring asset protection and providing access to investment opportunities which may not be available onshore. Offshore structures may also be used in order to transact such business as must not be tied to a particular jurisdiction, thereby permitting active business income to be earned and accumulated in a zero tax environment.

Faced with a myriad of potential offshore finance centers, it is difficult for the investor to make a choice. The tax laws/tax treaty network of the investor's home country are the first and foremost factor when choosing a tax haven.

Further considerations which will rapidly narrow the range of possibilities are:

Political Stability

The jurisdiction must be politically stable and free of social or racial tensions enjoying a history of a well supported, democratic government. Otherwise it should be kept in mind that the current regime which is encouraging foreign investment, may suddenly be overthrown by radicals who may confiscate foreign assets.

Geography

Not only must the chosen tax haven be politically stable, but the

stability of its neighbouring countries must in no way be threatened. The tax haven should not be in a strategically sensitive part of the world, nor should it be under the military umbrella of a major power who could exert pressure on local authorities.

The tax haven should be easily accessible from land via autoroutes or rail.

Stable Currency

The chosen offshore center must have a hard currency with absolutely no history of exchange controls. It must be possible to transfer funds in and out of the country easily without official interference. If the local currency is not linked to hard currency, then the investor may be required to maintain holdings in a foreign currency thereby incurring the risk that the state may confiscate foreign currency accounts in order to stabilize its trade deficit.

Linked to a stable currency and political environment is the public debt. Switzerland and Liechtenstein have kept their public spending in control without resorting to draconian measures, in particular in the area of social welfare.

Island of Tranquility in a Troubled Sea

Liechtenstein is the last German Monarchy. Liechtenstein together with Switzerland are the most politically stable countries in the world. The basis of Liechtenstein's political stability is a combination of direct and parliamentary democracy rooted in a traditional, constitutional monarchy which has given the tiny Principality a degree of flexibility sufficient to survive the 20th century without any political upheaval. Almost every other state with the exception of Switzerland has experienced a political upheaval or state of war since 1900. Liechtenstein remained politically neutral throughout both of the wars.

As the Austro-Hungarian monarchy crumbled, Liechtenstein severed its close traditional ties with Austria and looked to a stable, democratic and neutral state as a new economic partner. It dissolved its monetary/customs union with Austria in order to enter into parallel arrangements with Switzerland.

The establishment, the foundation and the trust enterprise which are significant offshore corporate forms are not effected by the adherence to the EEA.

Secrecy

Confidentiality is of the essence in tax havens, most of all bank secrecy laws. However, depending upon the political factors, in particular if the tax haven has a history of being under the political sphere of influence of a major onshore country, it is questionable if the offshore finance center can really enforce the laws under extreme pressure.

Liechtenstein not only has tough bank secrecy laws, but also the political independence necessary to resist external pressures to abrogate such laws.

Investor Anonymity

The absolute political independence and the historical as well as constitutionally entrenched neutrality of the Swiss-Liechtenstein constellation ensure that absolute investor anonymity can be absolutely guaranteed.

With the exception of Austria and Switzerland there are no bilateral tax treaties and thus no obligation to transmit information to foreign tax-authorities.

Guaranteed Asset Protection

Asset Protection can only be guaranteed if the tax haven in question neither recognizes nor enforces foreign judgements and declines legal assistance in civil

matters. With the exception of Austrian and Swiss judgements, foreign judgements aren't recognized or enforced in Liechtenstein. Moreover, legal assistance is only granted in criminal matters.

Minimum Regulation of Commercial and Financial Transactions

Business can only be effected efficiently if it is subject to minimum official supervision as regards authorizations and regulations.

With few exceptions international business transacted through a Liechtenstein company is not subjected to any official regulation whatsoever. Liechtenstein Holding companies who do not effect commercial transactions are not required to keep books or to submit financial statements.

Freedom of Confiscation

The traditional neutrality of the Swiss-Liechtenstein constellation is

a sure guarantee for freedom from confiscation. Assets held by Liechtenstein companies or trusts have never been confiscated through foreign authorities for political reasons.

Switzerland and Liechtenstein, which is mainly diplomatically represented through Switzerland, have traditionally been viewed as absolutely neutral. No matter what political crisis develops anywhere in the world, the assets held by Liechtenstein companies will never, for political reasons, be frozen.

The ultimate ownership of the Liechtenstein Company will never be disclosed to any authority.

Legal System

The chosen tax haven should have a tradition of the rule of law in which the trust as well as other types of offshore companies are familiar legal forms. The investor

The Most Stable Currency Worldwide

Liechtenstein is the only country which has a monetary union with Switzerland and its currency is still backed by gold. The Swiss Franc is the most stable currency in the world having survived the entire century without ever experiencing a major devaluation such has been the case with the German Mark, the British Pound Sterling, the American Dollar and now even the Yen.

The Swiss Franc has never been subject to any currency exchange controls which prohibited the sale of this currency.

In the EEA professional and bank secrecy as well as tax secrecy and the tax privileges for offshore companies will remain.

should be confident that tax and commercial laws will not change radically overnight.

The rule of law and the belief in a democratic, humane, equalitarian and liberal society is deeply entrenched in the Liechtenstein mentality. It is the only entirely germanic country which successfully resisted Nazism.

Liechtenstein has adopted the Anglo-Saxon trust as well as the business trust, being an incorporated trust with limited liability which may pursue commercial purposes, into its law. The Liechtenstein company law is over 70 years old. It is a liberal law with very few mandatory requirements. The tax code has been in force, essentially unchanged, for over 70 years, the civil code for over 150 years and the general commercial code for over 125 years.

Corporate Mobility

Offshore specialists have increasingly come to recognize the importance of corporate mobility. It must be possible for a company or trust to emigrate from one offshore jurisdiction and to immigrate to another and even to merge with a company in another jurisdiction.

The Liechtenstein company law has since its inception over 70 years

ago, provided for corporate mobility which has now just recently become highly fashionable in other international business company jurisdictions.

Infrastructure

It is absolutely essential that the offshore financial center have well-trained accountants, lawyers and other experts who can assist in structuring and adapting offshore arrangements. A sophisticated banking/finance, legal and administrative infrastructure must also be in place. Lawyers and fiduciaries must be adequately insured for professional liability.

Any Liechtenstein trust or offshore company must have at least one director/trustee who is licensed as a trustee or a lawyer in the Principality of Liechtenstein and resident in Liechtenstein in order to ensure that he or she is at all times subject to the control of the Liechtenstein Courts.

The professional aptitude required of a trustee is unusually high as compared to international standards. A professional fiduciary must also have professional experience in the financial services sector prior to being licensed. Both attorneys-at-law and professional trustees are required to have liability insurance.

The Liechtenstein Banking system can be considered as complementary to the Swiss Banking system, the only difference being that Liechtenstein Bank Secrecy laws are far more rigorous than the Swiss laws.

Liechtenstein Banks are supervised purely at the state level.

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Liechtenstein Lawyers and Trustees must comply with high professional standards.

Judicial System

It is extremely important that adequate mechanisms for dispute resolution be in place. The chosen haven must have a competent judicial system. Procedural law should permit a wide range of matters to be decided by binding arbitration thereby avoiding the publicity of a trial. Such arbitration awards should be enforceable.

As one of the oldest offshore jurisdictions, Liechtenstein has a judiciary which has, for more than half a century, competently adjudicated upon litigation concerning offshore structures. Liechtenstein law permits virtually all matters concerning company/com-

mercial law to be determined by binding arbitration.

Ready Access to Important Markets

Such offshore companies as trade or carry on commercial activities should have access to important markets. Liechtenstein's EEA membership ensures such access.

Conclusions

The increased tendency of high net worth individuals to transfer their wealth offshore as well as for multinationals to channel certain transactions through offshore structures is, as a global phenomenon, a reaction to postwar geo-

politics, which have fuelled confiscatory onshore taxation and unpredictable world markets. The trend has been technically supported by the computer/communication revolution.

The human propensity to seek certainty, shelter and stability in an increasingly volatile world is incorrigible and thus the offshore trend is irreversible. The offshore industry will continue to flourish. Increasingly more offshore centres will compete for a greater share of the ever growing market so that the potential offshore user is well advised to seek specialised professional advice in selecting a jurisdiction.

Summary of Services

- International Tax Planning;
- Estate Planning, Portfolio Counselling and Management; Structuring and Administration of Asset-Protection Trusts and Vehicles;
- Incorporation, Domiciling and Administration of Liechtenstein and Foreign Companies.
- Counselling in Business, Commercial, Fiscal and Financial Matters. International Business Transactions
- Intellectual Property, Licensing and Franchising;
- Bookkeeping and Auditing
- Civil, Criminal and Administrative Litigation;
- Legal Opinions.

ADVOKATURBÜRO

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F.L. BULLETIN

Liechtenstein wishes to promote its financial services sector with the help of new legislation. The new law concerning investment enterprises is geared at attracting the establishment of investment funds and the new law concerning the supervision of insurance companies should encourage insurance companies to establish captives in the Principality.

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The Liechtenstein banks had total assets of 24,3 billion Swiss Francs in 1995. The net-income of the bank was 209,4 million Swiss Francs, being a new record (193,6 million Swiss francs in the previous year). The banking sector employed 1.350 persons.