

Liechtenstein Companies and Trusts:

Minimal Taxes, Maximum Asset Protection

More than a dozen corporate forms and half as many unincorporated entities are the subject of the codifications contained in the Liechtenstein Persons and Companies Law. This wide variety of corporate forms was intended to respond to the needs of the domestic economy on the one hand and to encourage foreign investment as well as to make Liechtenstein attractive for the location of multi-nationals on the other hand. It is estimated that since, more than 70'000 off-shore companies have established their headquarters in Liechtenstein.

The Liechtenstein company law which was enacted in 1926, is very liberal and embodies the spirit of free enterprise. In order to in no way impair economic development, the drafters included every type of known corporate form in the Persons and Companies Law. Combined with the taxation regime, and the prevailing geo-political factors, the new law offered foreign investors three significant advantages:

- interesting tax-saving possibilities
- maximum asset protection particularly in view of the political stability of Liechtenstein, one of the few continental countries who survived the 20th century without any direct military involvement or internal political upheaval
- the possibility to channel transactions through a Liechtenstein off-shore company.

In addition to a wide choice of corporate forms, the entrepreneur has unlimited possibilities in structuring share-

holdings, equity participations as well as direct and indirect holdings.

Structuring possibilities for the company limited by shares

Shares in a company limited by shares may be registered or issued to bearer and, depending upon the articles

of incorporation, freely traded. Provided that relevant securities legislation is complied with, the company may be publicly listed. The minimal required capital is CHF. 50.000,-. There is no upward limit on authorized or issued capital or the number of shares or shareholders.

With the exception of the company limited by shares, the most commonly resorted to Liechtenstein corporate entities fall outside of the ambit of the European Community directives concerning company law. Nevertheless, certain of these forms such as the trust enterprise or the establishment may

From Abject Poverty to an Affluent Society

At the end of the first world war the Principality of Liechtenstein was the poor house of Europe. As a result of the monetary union with the Austro-Hungarian Empire, the total collapse of the Austrian monetary system brought Liechtenstein to the edge of ruin. The financial situation of the state was so desolate that a consortium consisting of four major Swiss banks was not prepared to give the country a long term loan in the amount of 1 million Swiss francs.

The economy only improved with the conclusion of a customs union and a monetary union with the Swiss Federation in 1924. Today Liechtenstein and Switzerland have one of the highest per capita incomes worldwide. In order to facilitate the economic recovery a new tax-law was introduced in 1923. This law which has been amended several times provides for special tax privileges for offshore-companies. Along with the new companies law contained in the Persons and Companies Law enacted in 1926, the government pursued a policy of attracting foreign investment.

Since, the financial services sector has become the most important sector. It employs almost 1/3 of all employees and creates directly or indirectly approximately 60 % of the state revenues.

Offshore-Companies pay practically no taxes in Liechtenstein and are not subject to official supervision

engage in the same industrial and commercial or trading activities as the private English “business corporation” or the German “Gesellschaft mit beschränkter Haftung”, which corporate forms are subject to the said directives.

Guaranteed Discretion

A principal feature of all corporate forms commonly resorted to is that it is always possible to maintain entrepreneur/investor anonymity. The identity of the entrepreneur/investor must not be recorded publicly. Nor are government or tax authorities entitled to such information. Thus, optimal asset protection can be guaranteed. Only one member of the board of directors of an offshore company must be a Liechtenstein attorney or licensed trustee who is subject to maintain absolute confidentiality with respect to the affairs of the corporation. The remaining board members may be nationals of any country thus allowing the corporation to be effectively managed from anywhere in the world.

Practically no Taxes

Such Liechtenstein legal entities which qualify as offshore companies, meaning that they manage offshore assets and/or offshore enterprises or basically conduct business abroad, pay practically no taxes in Liechtenstein and are free from any supervision, except for such companies which trade and therefore are required to file annual financial statements.

Custom-tailored companies

Company limited by shares (PGR 261 ff.)

The Liechtenstein company limited by shares is similar to the joint-stock companies found in other legal systems. The minimal capital which must be fully paid in, is Swiss francs 50.000,-. The members of the board of directors must be entered in the public register. The company limited by shares is obliged to keep books and file audited financial statements.

The Establishment (PGR 534 ff.)

The establishment is an independent legal person which can pursue commercial or other objects and which must be entered in the public register. The identity of the owners of the establishment can be kept absolutely confidential. The establishment must have a minimal capital of Swiss francs 30.000,- which is generally not divided into shares. In the case of an establishment which trades, audited financial statements must be filed annually.

The Trust Enterprise (The Business Trust, PGR 932a)

The above requirements concerning the establishment are also applicable for the business trust. The trustor may designate one or more beneficiaries who are entitled to the benefits of a business trust.

Foundation (PGR 552 ff.)

It is possible to form a foundation in such a manner as to permit the identity of the de facto founder and of the beneficiaries to remain anonymous. Such foundations are particularly qualified for the management of assets. By means of the implementation of a bylaw, which can be changed or varied at any time, the founder can make provision for the orderly devolution of his worldly goods.

Use of Liechtenstein Companies for Tax Planning

As opposed to resident companies which can have an effective tax rate of up to 23 %, offshore companies are virtually tax free. They are merely subject to an annual tax on their capital calculated as 0,1 % of their equity.

Offshore holding companies are widely used to shelter assets from taxes and to permit a maximum of discretion in the management of such assets. Liechtenstein companies are used to defer or avoid tax on corporate profits. Company profits are not subject to tax in the entrepreneur’s home country until they are repatriated in the form of dividends. Profits may be accumulated in Liechtenstein and remain entirely

unencumbered by taxation until they are repatriated.

Avoid Taxation of Capital Gains

Direct and indirect holdings in a Liechtenstein company may easily be transferred. Tangibles and intangibles can easily be transferred to a Liechtenstein company at cost (minus depreciation). Through a sale of the company shares (which sale is not registered or disclosed to any person or authority) profits realized upon a disposition may be made free of taxes in the Liechtenstein company.

International Trading / Service Companies

Offshore companies may maintain an office with employees in Liechtenstein.

Through the use of a Liechtenstein Offshore-Company it is possible to realize income and profits free of taxes

The offshore privilege is available to service companies who realize their turnover exclusively with clients, companies or operations residing outside of the Principality of Liechtenstein. Preferential tax treatment will be extended to the administrative activities carried out by coordination companies which offer their pooled services to a group of companies located abroad. Such companies are in fact resident multi-nationals whose corporate purposes are limited to administrative activities performed on behalf of foreign operations such as centralized organisational and secretarial services, advertising, the monitoring of international markets, marketing and market studies, supplies, collecting and processing of technical or administrative data, the responsibility for international business contacts and public relations work, centralized accounting, financial and administrative operations, research and development, computer aided data processing, as well as any services directly or indirectly related to the above activities. Such activities may however only be performed for the exclusive benefit of operations and enterprises abroad. Services billed by such companies to companies abroad are not subject to income, turnover or value-added taxes in Liechtenstein.

It is possible through principal and agency agreements to channel international trading activities over an offshore company.

Taxation

Offshore-companies are exempt from property, income or capital earnings taxes. They are merely required to remit an annual capital tax which is 0,1 % of the net worth of the company. However, the tax may not be less than Swiss francs 1.000,- in any year. Such companies the capital whereof is divided into shares must remit 4 % coupon tax upon all distributions.

The capital tax rate of 0,1 % is reduced for foundations which have considerable assets. The capital tax is reduced to 0,075 % for foundations with assets in excess of Swiss francs 2 million and to 0,05 % for those with assets in excess of Swiss francs 10 million.

Other purposes to which an offshore company may be put without incurring taxation as a domestic company in Liechtenstein or abroad (provided always that all activities originate from the Liechtenstein office) are the establishment and management of subsidiaries as well as film production and distribution provided that the filming occurs beyond Liechtenstein.

Some further interesting applications for the offshore company are the licensing of intellectual property, franchising, inter-company financing and inter-company transfer pricing.

Construction Companies

Interesting possibilities are available to the construction industry. In all those cases where considerable time (3 to 6 months) may be spent on a construction site installing equipment or a building,

the interposition of an offshore Liechtenstein company may be considered. Construction, installation and on-going service can be channelled through the company by way of sub-contracting. The offshore company employs directly or indirectly such employees as are necessary to effect the installation or construction. The company will continue to

IMPRINT

Publisher and Copyright Owner:
ArComm Trust Company Establishment

Responsible for Contents
Law Office of Dr.iur. et lic.oec.
Norbert Seeger

Editing and Arrangement
Dr.iur. et lic.oec. Norbert Seeger

Address for Publisher, Editor and all Responsible Persons
P. O. Box 1618, FL-9490 Vaduz
Am Schrägen Weg 14
Telephone: 0041-75-2320808
Facsimile: 0041-75-2320630
Telex: 889585 seeg fl

F.L.Trending is a registered trade mark. All rights are reserved. No part of this publication may be reproduced or stored in a retrieval system or transmitted in any form or by any means, whether electronic, mechanical, photocopying, recording or otherwise without the prior permission of the copyright owner.

DISCLAIMER

The material contained in this publication is not intended to be advice on any particular matter. No reader should act on the basis of any matter contained in this publication without considering appropriate professional advice. The publisher, the author and editor expressly disclaim all and any liability to any person in respect of anything and of the consequences of anything done or omitted to be done by any such person in reliance upon the contents of this publication.

© 1995

Liechtenstein Offshore-Companies may be used to preserve assets for the next generation

qualify for the preferential tax treatment accorded to an offshore company for so long as the construction sites are located abroad. Generally speaking, in most OECD countries a company which has no presence beyond a construction site for a limited period of time, which varies from country to country (3 to 12 months), is not subject to tax in the country where the construction occurs.

Lastly, it should be kept in mind that certain types of business transactions which have a multi-national aspect are not tied to any specific jurisdiction and it is thus possible to channel them through an offshore corporation.

Low-Tax limited Partnerships with High-Tax Entities

Interest in this tax structure has resulted from a resistance in many jurisdictions to allowing a tax deduction for payments made to tax-haven entities. Through the use of a limited partnership with a corporate entity in a high-tax jurisdiction the necessary commercial credibility can be given to business arrangements at the same time permitting 90% and more of the partnership profits to be exclusively taxed in Liechtenstein.

Judgement-Proof Pension Funds

In many jurisdictions problems arise when a beneficiary of a private employer pension plan files in bankruptcy. Often the fruits of many years hard toil – namely the vested interest in the pension

plan – devolve upon the trustee-in-bankruptcy for the benefit of the creditors.

With the use of a Liechtenstein Trust such hardship may drastically be mitigated or entirely avoided. Generally speaking through the exercise of a power of appointment it is possible to substitute the dependants of the beneficiary in lieu of the beneficiary. It is also possible to greatly restrict and in some cases entirely deny creditors of the beneficiary a right to realize upon pension fund assets. Moreover, such a pension plan trust must not be registered.

Double Tax-Treaties

Austria is the only country with which Liechtenstein has concluded a

double tax treaty. Whenever effective tax planning calls for maximum asset protection or the use of an offshore zero-tax jurisdiction which effectively has absolutely no double-treaty tax network, a Liechtenstein corporate vehicle should be considered.

Conclusion

As always the key to success in the effective use of Liechtenstein companies is the ability to design a corporate structure to meet individual needs taking into account estate planning, cross-border tax planning, commercial exigencies, geo-political risks and wealth transfers to the next generation.

Summary of Services

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

ADVOKATURBÜRO
Dr. iur. et lic. oec. Norbert Seeger · Attorney-at-Law
Vaduz · Principality of Liechtenstein