

THE LIECHTENSTEIN TAXATION SYSTEM

With the coming into force of the new tax law on 1.1.2011 (transitional period until 1.1.2014) Liechtenstein has in place a competitive, attractive and EU-compatible corporate tax law, which revokes the previous system that differentiated between domiciliary and holding companies with a foreign connection and legal entities having a domestic element.

From now on, the Liechtenstein domicile, the location of actual management activity and the existence of a Liechtenstein facility will be the decisive criteria.

TAXATION OF LEGAL ENTITIES IN LIECHTENSTEIN

___ A Corporate income tax _____

In Liechtenstein legal entities liable to tax, which do business in Liechtenstein or abroad and which do not qualify as so-called private asset structures (PVS), are subject to an interest-adjusted income tax of 12.5% (proportional income tax rate). This means that, at a return on equity of 20% taking into consideration the allowance for equity capital, the effective tax rate amounts to 10%, which is extremely attractive in international comparison.

In the case of restructuring, the principle applies that basically book values can be taken over, provided that the tax base remains in Liechtenstein (tax deferral).

___ B Tax-exempt earnings _____

The following earnings are exempt from taxation:

- Dividend revenues from domestic and foreign participations, whereby there are percentage minimum requirements for participations.
- Capital gains from the sale or liquidation of domestic and foreign participations;
- Revenues from rental and lease contracts from properties located abroad (subject to taxation at the location of the property).

___ C Income-reducing expenses/Off-setting _____

The following deductions can be made as substantiated business expenses:

- Interest deduction on equity capital of 4% (after an additional deduction of 6% of the assets).
- Losses from earlier business years, which can be carried forward for an unlimited period.

___ D Formation tax _____

The formation tax amounts to 2‰ of the statutory capital, but at least CHF 200.

___ E Endowment tax _____

This tax is incurred when endowing assets to a Liechtenstein legal entity or asset structure but only if there is a domestic aspect in regard to the donor (domestic tax liability).

___ F Tax exemption of distributions _____

Distributions from Liechtenstein legal entities are not liable to tax in Liechtenstein, provided (tax) treaty legal provisions do not obligate the domestic paying agent to impose a tax on distributions, as for example, with so-called intransparent structures from 1.1.2014 for structures having an Austrian element on account of the settlement tax agreement between Liechtenstein and Austria.

___ G International tax law _____

In accordance with the international standards of the OECD, in recent years Liechtenstein has concluded numerous agreements with respect to the exchange of tax information (TIEA's), the avoidance of double taxation and a cooperation agreement in tax matters with the UK (Liechtenstein Disclosure Facility, LDF). These agreements partly enable the regularisation of worldwide assets for parties liable to taxation in Liechtenstein.

These steps have significantly enhanced Liechtenstein's status as a competitive, EU-compatible location for international asset structuring.

___ H Tax exemption on account of common-benefit goals _____

From now on, the same common-benefit terms are to be used in civil and tax law. Common-benefit legal entities (foundations, establishments) and asset structures (trusts) are exempt from taxation, provided they are subject to supervision by the Liechtenstein Foundation Supervisory Authority.

The tax exemption does not apply to net income from business operations managed by the tax-exempt legal entities, provided that revenues of more than CHF 300'000 were earned by these business operations and indirect taxes (VAT/service import tax).

PRIVATE ASSET STRUCTURES (PVS)

1. PRINCIPLE

Private asset structures are EEA-compatible structures authorised by the EFTA Supervisory Authority (ESA), whether in the form of foundations, establishments, joint stock companies, limited liability companies (GmbH) or registered trusts, which are liable only to a minimum annual tax of currently CHF 1'800. No official tax assessment or taxation occurs in Liechtenstein if the status as a PVS has been granted by the tax administration upon request. Furthermore, the companies' bodies are exempted from the obligation of submitting an annual tax declaration.

2. REQUIREMENTS

The following requirements must be cumulatively fulfilled in order for the PVS status to be granted:

___ A No business activity/ no publicity _____

The asset structure may not carry out any business activity (such as trading with goods and services, direct or indirect influencing of participation companies, active, commercial trading of securities). The statutes and by-laws of the asset structure must conform to the status of a PVS, i.e. explicitly exclude any kind of business activity. Basically, the activity of the asset structure must be restricted to the attaining of earnings from the assets it holds.

The shares of the PVS may not be publicly placed, or listed and traded on a stock market. Furthermore, no advertising to attract shareholders or investors is permitted.

___ B Composition of the assets _____

Basically, the assets may consist only of passive investments and so-called bankable assets. Special care has to be taken with company participations and real estate.

- Bankable assets

The management of bank credit balances and securities (financial instruments) must be carried out by an external asset manager (e.g. a bank or third party), not however by a participant in the asset structure (e.g. a beneficiary of a foundation). If the managing body (foundation board or board of directors) carries out the asset management itself, the so-called «semi-rule» applies. This specifies that only a maximum of 50% of the financial instruments (securities) in the portfolio may be restructured per year, whereby the replacement of securities upon maturity is not regarded as restructuring. Emergency sales are also possible.

- Participations

Participations may be held on the condition that the shareholders or investors (beneficiaries) restrict themselves to exercising the rights arising from their shares (e.g. attending shareholders' meetings) and do not exert «effective», direct or indirect, influence on the management of these companies. Accordingly the involvement of a shareholder or investor in the executive management body of the participation is not permitted from the PVS perspective. If the participation company for its part possesses PVS status, the exertion of influence on the management is harmless. Any changes in the important participation percentages are to be reported in Liechtenstein (see below).

- Real estate

If the decisions regarding concrete real estate investments are the responsibility of the executive management body, a commercial business activity is therefore being undertaken and the company's PVS status will be at risk. The PVS can only specify general asset percentages for investment in real estate. In the case of the rent-

ing of real estate, the criterion of no payment becomes the focus. Revenues from the use of real estate usually represent an economic activity. In contrast, the free of charge use of real estate by the PVS itself or by a shareholder/beneficiary is unproblematic and permitted.

- Other assets

The same no payment criteria for use also apply for example to art collections, or collections of any type, motor vehicles, etc.

___ C Loans _____

The granting of interest-free loans to shareholders or beneficiaries is regarded as a permissible appropriation of net income and is possible within the scope of a PVS, as also is the free use of works of art, motor vehicles or equipment by shareholders or beneficiaries.

___ D Change of status _____

The possibility exists at any time of changing the PVS status to that of being subject to ordinary taxation of income and vice versa. In the latter case, however, the existing loss carry forwards in the accounts are relinquished.

___ E Miscellaneous _____

From a Liechtenstein perspective, donations to and distributions from a PVS are exempt from tax, provided no Liechtensteiners are involved or legal provisions oppose this (double taxation agreement with Austria). Changes in business activity (e.g. change from non-commercial to commercial activity, change in participation percentages in the case of participations (up to 20%, 20% to 50%, over 50%) are to be notified to the tax administration.

3. TRUSTS

Special dedications of assets without personality (Trust) are only subject to the minimum annual Tax of currently CHF 1'800 and do not have a liability for filling annual tax return.

4. SIGNIFICANCE IN PRACTICE

In practice, PVS are generally used for the holding and administration of bankable assets by independent third parties at banks having asset management services. In the case of the holding of participations, ordinary taxation seems more practical because it offers more advantages (utilization of double treaty agreement, tax exemption of capital gains on participations and dividends, possibility of influencing the management of underlying companies).

___ Status December 2016 _____

In the interest of clarity, this brochure is a simplified presentation provided purely for information purposes.