

Liechtenstein

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1 Pre-entry Tax Planning

1.1 In your jurisdiction, what pre-entry estate and gift tax planning can be undertaken?

In Liechtenstein, no estate and gift taxes are levied. Hence, no pre-estate and gift tax planning needs to be undertaken.

1.2 In your jurisdiction, what pre-entry income and capital gains tax planning can be undertaken?

While choosing where to live and therefore where to pay taxes, Liechtenstein should be taken into account while undertaking pre-entry tax planning with regards to income and capital gains taxes.

Liechtenstein offers an appealing flat tax based on expenditure for natural persons (Art. 30 *et seq.* Tax Act, *Steuergesetz, SteG, Aufwandbesteuerung* or *Pauschalbesteuerung*). This tax on expenditure is levied instead of wealth tax and personal income tax. Individuals considering this tax regime must meet the following requirements:

- foreign citizenship;
- taking up residence or habitual abode inland for the first time or after a period of 10 years of absence;
- no engagement in any gainful activity in Liechtenstein;
- living off the gain of global personal property; and
- application approved by the tax authority.

The taxable base is the overall and global expenditure for maintaining the individual's living standard. The following expenses are typically taken into account: housing; wages for employees; further education; and leisure activities, including ownership or special expenses for holiday residences, yachts and airplanes, respectively. The effective tax rate applied to the overall sum is 25%.

A further advantage of the tax on expenditure is that the tax can be fixed for several years in advance, therefore an individual does not have to meet any other reporting obligations except considerable alterations on the expenditures themselves.

1.3 In your jurisdiction, can pre-entry planning be undertaken for any other taxes?

Pre-entry planning cannot be undertaken for any other taxes.

Still, the tax regime of Liechtenstein provides a thoroughly prepared individual with some gadgets that could lower their tax burden. Depending on one's personal and professional occupations, the

following instruments can be of good use for a natural person considering moving to Liechtenstein or any moral person set up and incorporated in the Principality. Some Liechtenstein entities will secure your succession planning (*cf.* section 7) and might be ideal for realising tax optimisation (*cf.* section 8) and asset protection in general.

The following two institutions might be of interest for forward looking individuals. In order to foster an innovative and future-oriented entrepreneurial sector, Liechtenstein motivates research and development. 80% of all of the income stemming from intellectual property is tax deductible (Art. 55 Tax Act; Intellectual Property Box, IP-Box). Further, qualified as a private investment structure (*Privatvermögensstruktur*), according to Art. 64 Tax Act any legal person will pay just the flat tax of CHF 1,200.00 per year (*cf.* question 5.2).

If someone is planning their future in Liechtenstein, they are well-advised to keep these possibilities in mind to establish a suitable legal entity as a first step in realising any pre-entry planning.

2 Connection Factors

2.1 To what extent is domicile or habitual residence relevant in determining liability to taxation in your jurisdiction?

The notion of habitual residence is decisive for establishing tax liabilities in Liechtenstein. Anyone with his habitual residence inland becomes unlimited tax liable in Liechtenstein.

2.2 If domicile or habitual residence is relevant, how is it defined for taxation purposes?

Domicile is defined as the place where someone remains with the intention to stay there permanently (Art. 2 Abs. 1 lit. b Tax Act). Habitual residence or synonymously usual place of abode, is the place or the region where someone is staying not just temporarily. The law deems someone habitually resident with a sojourn of at least six months (Art. 2 Abs. 1 lit. c Tax Act).

2.3 To what extent is residence relevant in determining liability to taxation in your jurisdiction?

As outlined in the answers to questions 2.1 and 2.2, domicile, habitual residence or usual place of abode trigger tax liability in Liechtenstein. If so, unlimited tax liability is applied. Unlimited tax liability means that taxation in Liechtenstein encompasses worldwide income and assets.

2.4 If residence is relevant, how is it defined for taxation purposes?

Cf. question 2.3.

2.5 To what extent is nationality relevant in determining liability to taxation in your jurisdiction?

Nationality is not a relevant criterion in determining liability to taxation in Liechtenstein. Residence and habitual abode are relevant in determining liability to taxation in Liechtenstein.

2.6 If nationality is relevant, how is it defined for taxation purposes?

Nationality is not relevant for taxation purposes (*cf.* question 2.5).

To satisfy any further interest in this matter, note that Liechtenstein follows the legal principle of the *ius sanguinis* for granting citizenship. The *ius sanguinis* differs crucially from the concept of the *ius soli*, which is applied, e.g. in certain jurisdictions of the Anglo-Saxon legal sphere. Generally, any child born to a mother or father holding Liechtenstein citizenship becomes by law a citizen of the Principality of Liechtenstein (§ 3 *et seq.* Citizenship Act, *Bürgerrechtsgesetz*, *BüG*; for further details *cf.* question 10.3).

2.7 What other connecting factors (if any) are relevant in determining a person's liability to tax in your jurisdiction?

Inland wealth and income is another connecting factor in determining a person's liability to tax in Liechtenstein. Natural persons not residing in Liechtenstein and not having their general abode in Liechtenstein can become limited tax liable. They are limited tax liable in Liechtenstein with their inland wealth and income (Art. 6 Abs. 2 Tax Act). A double taxation agreement must be considered because to the profit of the tax payer it still might determine otherwise (*cf.* section 6).

3 General Taxation Regime

3.1 What gift or estate taxes apply that are relevant to persons becoming established in your jurisdiction?

In Liechtenstein no gift or estate taxes are levied.

3.2 How and to what extent are persons who become established in your jurisdiction liable to income tax?

Natural persons residing in Liechtenstein have unlimited tax liability with their global wealth and income to both income and wealth tax. According to Art. 7 Tax Act, liability takes effect at the very day of taking up residence or general abode in Liechtenstein (unlimited liability) or owning of inland fortune or generating income in Liechtenstein when living abroad (limited liability).

Tax-free income encompasses any income from foreign branches, single premiums and re-purchasable endowment insurance, capital gains and shares in profit as e.g. dividends. While assessing the effective tax duty, a variety of expenditures are tax deductible. Beside a deduction for certain donations we highlight the one for private assurances (*cf.* exhaustive list of exemptions under Art. 15 Tax Act).

The wealth tax encompasses all mobile and immobile wealth of the taxable person. According to Art. 10 Tax Act, foreign real estate and branches *et al.* are not included in Liechtenstein wealth tax. Debts and duties are deductible (Art. 11 Tax Act). The total amount of wealth is subject to a tax rate fixed every year with the Finance Law Act (*Finanzgesetz*). 4% is the usual tax rate.

The outcome is integrated into income tax and finally subsumed under the corresponding tariff. The effective tax rates range from 1% to 8% (Art. 19 Tax Act).

Further, in Liechtenstein taxes are levied on two levels. To the first national level a second municipal level is added. The municipal tax burden depends on the elaborated tax duty on the national level, as described above. In addition to this result on the national level, 150% to 250% is added on the municipal level. The municipal surcharge rate is fixed annually by the council of the respective municipality (Art. 75 *et seq.* Tax Act). The resulting tax rates range from 3.5% to 28.5% levied on wealth and income combined, whereas up to CHF 12,200.00 can still be deducted.

3.3 What other direct taxes (if any) apply to persons who become established in your jurisdiction?

In principle, no other direct taxes apply to persons who become established in Liechtenstein. Still, the following two activities trigger tax liability.

Any profit from selling real estate is taxable according to Art. 35 *et seq.* Tax Act (real estate profit tax, *Grundstücksgewinnsteuer*, *cf.* question 4.3). The dedication of assets to a moral person triggers a dedication tax of 3.5% if the dedication is then except from wealth tax (Art. 13 Tax Act, Dedication Tax, *Widmungsbesteuerung*).

3.4 What indirect taxes (sales taxes/VAT and customs & excise duties) apply to persons becoming established in your jurisdiction?

Liechtenstein levies value added tax (VAT). A peculiarity with the VAT tax is, that based on the Customs Union Agreement of 29 March 1923 with Switzerland, the territory of Liechtenstein is part of the Swiss customs territory and thus Liechtenstein is obliged to implement Swiss VAT legislation (*cf.* Treaty between Switzerland and Liechtenstein, 28 October 1994; Agreement between Switzerland and Liechtenstein, 12 July 2012). Therefore, consulting the Swiss chapter on VAT matters may be of additional interest.

The tax rates are 8% as a general rate of taxation, 2.5% as the reduced rate of taxation for certain goods as e.g. medicaments and food, and 3.8% as a special rate of taxation for accommodation services (Art. 25 VAT Tax Act, *Mehrwertsteuergesetz*, *MWStG*).

3.5 Are there any anti-avoidance taxation provisions that apply to the offshore arrangements of persons who have become established in your jurisdiction?

Offshore arrangements of persons established in Liechtenstein are accepted. With regards to recognition of trusts and legal entities, Liechtenstein applies the incorporation theory for any entity worldwide. Liechtenstein does not have any provisions for controlled foreign companies (CFC) but deems any corporate vehicle controlled from, and managed in Liechtenstein worthy of being taxed in Liechtenstein. As mentioned above, persons, physical and moral, who have become established in Liechtenstein have unlimited tax liability in Liechtenstein.

3.6 Is there any general anti-avoidance or anti-abuse rule to counteract tax advantages?

Generally speaking, misuse of the scope and possibilities the Liechtenstein jurisdiction provides is not tolerated. Any creation that *de iure* or *de facto* is not set up appropriately according to the economic circumstances and whose only purpose is achieving non-legitimate tax advantages is abusive. If misuse is proven, tax is levied according to the effective facts (Art. 3 Tax Act). This explicit realisation of the general principle of good faith and trust in the Tax Act applies to all subjects to the Liechtenstein jurisdiction.

Sanctions are stipulated against violations of procedures and imperilment of contribution, tax dodging and other offences (Art. 135 *et seq.* Tax Act).

4 Taxation Issues on Inward Investment

4.1 What liabilities are there to tax on the acquisition, holding or disposal of, or receipt of income from investments in your jurisdiction?

The acquisition, holding or disposal of investments is not liable to tax. We highlight that Liechtenstein does not levy a capital gains tax. According to Art. 48 Tax Act, the following sorts of income among others are not reliable to tax if generated by unlimited taxable moral persons: profit shares stemming from participations of both domestic and foreign companies (lit. e leg. cit.); capital gains stemming from the selling or liquidation plus unrealised increase of the value of participations of both domestic and foreign companies (lit. f leg. cit.); and yields stemming from managed assets under the Undertakings for Collective Investments in Transferable Securities Act, from investment enterprises or alternative investment funds (lit. g leg. cit.).

4.2 What taxes are there on the importation of assets into your jurisdiction, including excise taxes?

Any importation of goods and services for private use is subject to VAT (for further information concerning VAT *cf.* question 3.4). Certain goods, such as mineral oil, alcoholic beverages, meat, tobacco and automobiles, are subject to special custom and excise duty. They are exempt from customs under the so-called *de minimis* exemption of CHF 300.00.

Liechtenstein is part of the European Free Trade Association (EFTA) and the European Economic Area (EEA). Within a global perspective, it is noteworthy that Liechtenstein is a member of the World Trade Organisation (WTO) as well as the General Agreement on Tariffs and Trade (GATT). Therefore customs duties are mostly negligible and trespassing of borders from the neighbouring countries, both Austria and Switzerland, is hassle free.

4.3 Are there any particular tax issues in relation to the purchase of residential properties?

There are no particular tax issues in relation to the purchase of residential properties.

Please note that, due to the small size of the country, the purchase of residential property is very restrictively administered by the authorities. Buying any real estate is allowed only under the condition that the potential purchaser can prove a legitimate interest in doing so (Art. 6 Act on Land Transfer, *Gundverkehrsgesetz*,

GVG). If buying is approved, negligible charges are levied and some fees are paid in order to adjust the land register.

Any selling party of real estate is submitted to the so-called real estate profit tax (*Grundstücksgewinnsteuer*) according to Art. 35 *et seq.* Tax Act.

5 Taxation of Corporate Vehicles

5.1 What is the test for a corporation to be taxable in your jurisdiction?

A corporation becomes a taxable entity in Liechtenstein if its registered seat or place of effective management is in Liechtenstein. These corporations have unlimited tax liability with their global income in Liechtenstein (Art. 44 Abs. 1 Tax Act).

5.2 What are the main tax liabilities payable by a corporation which is subject to tax in your jurisdiction?

Moral persons, i.e. any legal entities and trusts, must pay corporate income tax. Such legal entities have unlimited liability if their seat or location of effective management is inland (Art. 44 Abs. 1 Tax Act). If they have their seat or location of effective management abroad they are limited tax liable only with their income generated in Liechtenstein (Art. 44 Abs. 2 Tax Act). Corporate income tax is measured by the net income that is calculated in accordance with international standards (Art. 47 Tax Act in connection with Art. 1045 *et seq.* Company Law, *Personen- und Gesellschaftsrecht, PGR*). Noteworthy is the so-called equity interest deduction of 4%. These interests on equity qualify by legal definition as justified business expenditure. The basis of assessment is lowered accordingly. We explicitly highlight that no tax on capital itself is levied.

The tax rate is set at competitive 12.5% (Art. 61 Tax Act).

Upon request, entities that pursue charitable purposes might be freed from any corporate tax (Art. 4 Abs. 2 in connection with Art. 45 Tax Act). Income stemming from any foreign source, distributions from foundations and trusts, and quotas of profits from foreign corporations and investment funds, *et al.* are not included for the calculation of the basis of the income tax (Art. 48 Tax Act).

With the aim of taking up a leading role in terms of attracting companies, Liechtenstein grants the following advantages to corporate entities: an Intellectual-Property Box may be installed in order to deduct income from intellectual property (Art. 55 Tax Act); losses reduce the taxable net income (Art. 57 Tax Act); under the group taxation scheme losses can be offset against profits among a group of corporations (group relief, *Gruppenbesteuerung*, Art. 58 Tax Act); and Private Investment Structures on approved request can follow a tax regime of paying CHF 1,200.00 annually. Any corporate vehicle not engaged in economic activity can qualify as a PVS (*Privatvermögensstrukturen, PVS*, Art. 64 Tax Act).

5.3 How are branches of foreign corporations taxed in your jurisdiction?

Branches of foreign corporations are per legal definition business premises (Art. 2 Abs. 1 lit. a Tax Act). These do trigger tax liability if they are incorporated in the Liechtenstein Register or when actual business activity is carried out inland. Results of foreign branches are not tax liable in Liechtenstein (Art. 48 Abs. 1 lit. b Tax Act).

Moral persons not being incorporated or effectively managed in Liechtenstein have limited liability to Liechtenstein tax authorities

with their inland income. Inland income according to this section is by explicit nomination the net income from inland branches. Net income of an inland branch is legally defined as Liechtenstein taxable inland income (Art. 44 Abs. 2 in connection with Abs. 3 lit. c Tax Act). Therefore any institution that can be subsumed to these definitions undergoes a tax regime limited to their inland net income (for further details *cf.* question 3.2).

6 Tax Treaties

6.1 Has your jurisdiction entered into income tax and capital gains tax treaties and, if so, what is their impact?

Liechtenstein has turned itself into a trustworthy and forward-looking global player in tax matters. It recognises the legitimate tax claims of partner states and jurisdictions but at the same time it protects the legitimate interests of its financial centre's clients. On 1 January 2011 the new user-friendly and streamlined Tax Act entered into force. With its modern Tax Act and the unfolding number of agreements Liechtenstein stands firm as a leader among modern and state-of-the-art tax jurisdictions.

Liechtenstein addresses the global issue of tax fraud and tax evasion as well as double taxation very actively. It has enhanced participation in international efforts in order to counteract non-compliance with foreign tax laws. With the Liechtenstein Declaration dating 12 March 2009, the Principality committed itself to and started to implement global standards of transparency and exchange of information as developed by the OECD. With the Government Declaration of 4 November 2013 Liechtenstein reaffirmed its commitment to the applicable OECD standards of cooperation on tax matters. With respect to the Automatic Information in Tax Matters, Liechtenstein belongs to the Early Adopters Group, professes transparency and fairness and will apply the new global OECD standard from 2017. Above all, the Principality is a signatory state to the OECD Convention on Mutual Administrative Assistance in Tax Matters.

Liechtenstein agreed to a number of Double Taxation Agreements (DTA) and Tax Information Exchange Agreements (TIEA). Liechtenstein concluded these contracts with the following states.

Andorra: TIEA 1 January 2010, DTA initialled 9 June 2015; Antigua and Barbuda: TIEA 1 January 2010; Australia: TIEA 1 July 2011, DTA initialled 20 November 2012; Belgium: TIEA 1 January 2015; China: TIEA 1 January 2015; Denmark: TIEA 1 January 2011; Germany: TIEA 1 January 2010, DTA 1 March 2013; Faeroe Islands: TIEA 1 January 2011; Finland: TIEA 1 January 2011; France: TIEA 1 January 2010; Georgia: DTA initialled 13 May 2015; Greenland: TIEA 1 January 2010; Guernsey: DTA 1 January 2016; Hong Kong-China: DTA 1 January 2012; India: TIEA 1 April 2013; Iceland: TIEA 1 January 2011; Ireland: TIEA 1 January 2010; Italy: TIEA 26 February 2015, Amendment Protocol 26 February 2015; Japan: TIEA 1 January 2013; Canada: TIEA 1 January 2015; Luxemburg: DTA 1 January 2011; Malta: DTA 1 January 2015; Mexico: TIEA 1 January 2015; Monaco: TIEA 1 January 2010; Netherlands: TIEA 1 January 2010; Norway: TIEA 1 January 2011; Austria: DTA 1 January 1969, compensation agreement 1 January 2014; San Marino: DTA 1 January 2012; Sweden: TIEA 1 January 2011; Switzerland: DTA 1 January 1995, amendment DTA initialled 10 July 2015; Singapore: DTA 1 January 2015; St. Kitts and Nevis: TIEA 1 January 2010; St. Vincent and Grenadines: TIEA 1 January 2010; South Africa: TIEA 1 January 2014; Czech Republic: DTA initialled 25 September 2014; Hungary: DTA initialled 29 June 2015; Uruguay: DTA 1 January 2013; United Arab Emirates: DTA initialled 27 February 2015; United Kingdom:

TIEA 1 January 2010, Liechtenstein Disclosure Facility 1 January 2010, DTA 1 January 2013; and the United States of America: TIEA 1 January 2009, FATCA 31 December 2014.

The prominent advantage of any DTA is to avoid double taxation by allocating the object of taxation to one of the jurisdictions of the contracting partners. As shopping tools Liechtenstein engages in setting forth the best suitable to the profit of its financial centre's clients. In order to avoid any double taxation Liechtenstein tax authorities must pay respect to any respective agreement (Art. 63 in connection with Art. 22 Tax Act).

6.2 Do the income tax and capital gains tax treaties generally follow the OECD or another model?

Any treaty concluded by Liechtenstein follows the OECD model.

6.3 Has your jurisdiction entered into estate and gift tax treaties and, if so, what is their impact?

As estate and gift taxes have been abolished in Liechtenstein, no special treaty has been entered into regarding these two forms of tax.

6.4 Do the estate or gift tax treaties generally follow the OECD or another model?

No special estate or gift tax treaties have been entered as there is no such tax in Liechtenstein.

7 Succession Planning

7.1 What are the relevant private international law (conflict of law) rules on succession and wills, including tests of essential validity and formal validity in your jurisdiction?

The crucial stipulations in private international law or conflict of law rules can be found in Art. 29 and Art. 30 International Private Law Act (*Internationales Privatrecht, IPRG*).

The nationality of the deceased defines the law applicable to the succession. As a general rule, any heritage procedure treated in the Princely Court will be done so with respect to Liechtenstein law. Still, a foreign testator and a domestic testator living abroad are entitled to choose their national law or the law of their last residence or general abode as applicable for their succession procedures. This has to be done within the will or a contract of succession (Art. 29 IPRG).

Art. 30 IPRG sets the framework for the validity of any provision *mortis causa*. The testamentary capacity is given and the formal requirements are fulfilled when the legal requirements of one of the following jurisdictions are met: the national law of the testator; the law of the residence or general abode at the time of death of the testator; or the law of Liechtenstein, if the succession is being handled in Liechtenstein.

With regard to valid wills, under Liechtenstein Law the Civil Code provides a testator with the following options. The testator can declare his last will privately with a certain number of witnesses, or declare it at the court, where it is recorded, sealed and preserved. Married couples can install each other or a third party as their heir. Another option is to conclude an inheritance contract (§ 577 et seq. Civil Code, *Allgemeines Bürgerliches Gesetzbuch, ABGB*).

7.2 Are there particular rules that apply to real estate held in your jurisdiction or elsewhere?

In accordance with the general legal principle *lex rei situs*, any right *in rem* to domestic immovable property is governed by Liechtenstein law (Art. 32 IPRG). Conversely, Liechtenstein authorities might not be competent in matters of real estate situated abroad even though the testator would have so chosen.

8 Trusts and Foundations

8.1 Are trusts recognised in your jurisdiction?

Liechtenstein is a signatory state to the Hague Convention on the Law Applicable to Trusts and on their Recognition. Hence, trusts are recognised in Liechtenstein. Further, Liechtenstein is one of the very few continental European jurisdictions that not only recognises trusts but also regulates trusts in its Company Act. The Act regulates the trust as commonly known (Art. 897 *et seq.* PGR) and additionally provides with the trust enterprise, i.e. a special form of trust with legal personality (Art. 932a § 1-170 PGR).

Trust settlements are very common in Liechtenstein. Stemming from the long tradition of trusts being set up in the jurisdiction, we can consider ourselves specialists dealing with trusts. The advantage of a Liechtenstein Trust is that there are no restrictions on its use or on its terms of purpose but the *ordre public*. There is no rule against perpetuities or accumulations.

8.2 How are trusts taxed in your jurisdiction?

Taxation of trust settlements is very favourable. Tax levied on trusts is CHF 1,200.00 (Art. 65 in connection with Art. 62 Tax Act). As they are not assessed annually the administrative burden is light.

Please note that a trust enterprise with legal personality is subject to income tax (Art. 44 Abs. 1 lit. c Tax Act).

8.3 How are trusts affected by succession and forced heirship rules in your jurisdiction?

There is a tense relationship between the inheritance law and the trust law. Whereas the former aims to distribute the deceased's wealth among his heirs, the later intends to keep the estate together and to organise it in the long run in order to fulfil a special purpose as defined by the settlor. There is no rule against perpetuities in force in Liechtenstein. Therefore trust settlements or the fortune governed by them are not *per se* affected by succession.

Attention has got to be paid to forced heirship rules (§ 762 *et seq.* Civil Code). Close relatives, children and parents, as well as the spouse or a civil partnership partner, are entitled to a statutory share of the estate of the deceased settlor. The statutory share of the estate can amount to half of the intestate portion. Any testator may avoid this compulsory portion by expressly disinheriting these persons for serious reasons.

Another strategy for avoiding forced heirship can be realised by concluding an irrevocable trust settlement. This strategy bears one risk. The dedication of assets to the trust is treated as a gift to it. Any transfer of assets realised more than two years prior to the death of the settlor cannot be claimed by anybody entitled to a statutory share of the estate (§ 785 Abs. 3 Civil Code).

8.4 Are foundations recognised in your jurisdiction?

Foundations are recognised in Liechtenstein. They form an essential part of the business location in Liechtenstein and receive foremost appreciation. The new Foundations Act (Art. 552 § 1-41 PGR) has been in force since 1 April 2009. The Act has been remodelled and streamlined for modern use. Ever since, a Liechtenstein foundation is a trademark for any global player looking for solutions encompassing asset protection, wealth organisation, family office and legal tax optimisation.

Without going in-depth, out of any jurisdiction it is the Liechtenstein foundation that offers the widest scope for application. The jurisdiction admits foundations for common, private and mixed purposes (Art. 552 § 2 PGR) but – and this is unique – you might use a Liechtenstein foundation for holding shares of and hence running businesses as well. This is the so-called Entrepreneurial Foundation (*Unternehmensstiftung*).

8.5 How are foundations taxed in your jurisdiction?

Foundations are legal persons and therefore subject to the corporate income tax (Art. 44 Abs. 1 Tax Act). They are subject to the minimum corporate income tax of CHF 1,200.00. It is fully allowable against income tax (Art. 62 Tax Act). The net income is subject to a rate of 12.5% (Art. 61 SteG).

Foundations that exclusively serve charitable purposes and do not endeavour any business activity are exempt from any tax duties (Art. 45 Abs. 1 lit. c Tax Act).

8.6 How are foundations affected by succession and forced heirship rules in your jurisdiction?

Foundations are autonomous legal entities. Naturally, they do not perish but serve a purpose without any time limit. Therefore, they are not subject to succession.

Special attention has got to be paid to forced heirship rules in Liechtenstein (for further details please *cf.* to question 8.3).

9 Matrimonial Issues

9.1 Are civil partnerships/same sex marriages permitted/recognised in your jurisdiction?

As of 1 September 2011 the Act on the registered partnership for same-sex couples entered into force. Hence same sex partnerships are permitted and recognised in Liechtenstein.

9.2 What matrimonial property regimes are permitted/recognised in your jurisdiction?

De lege lata the property of the spouses stays separated. Marriage alone does not found common property and ownership (Art. 1233 Civil Code). Still, the law provides a legal presumption of common property *causa mortis*. Upon the death of one spouse, the other is supposed to be entitled to retain half of all property in common use (Art. 1234 Civil Code).

9.3 Are pre-/post-marital agreements/marriage contracts permitted/recognised in your jurisdiction?

As the mentioned stipulations with regards to separation of property are so-called *ius dispositivum*, the spouses are free to organise their common fortune *ad libitum*. They could establish a comprehensive community of past and future property as well as the community comprising certain goods in common use and even extend this agreement to a property regime of the community of accrued gains.

9.4 What are the main principles which will apply in your jurisdiction in relation to financial provision on divorce?

The divorce of the marriage leads to the separation of the common property and fortune and further will in most cases entitle one partner to the financial support provided by the other. If no common agreement is found and if for one of the spouses it is not possible or reasonable to cope with ongoing expenditure, the other is obliged to support him in order to maintain the previously common standard of living (Art. 68 Marriage Act, Ehegesetz, EheG). The division of any property used commonly by the separated partners is subject to judicial equity and fairness (Art. 78 Marriage Act, Ehegesetz, EheG).

10 Immigration Issues

10.1 What restrictions or qualifications does your jurisdiction impose for entry into the country?

No restrictions or qualifications whatsoever are applied on visiting persons staying for no longer than three months without the intention to work.

Granting of residence permits falls within the exclusive sphere of competence of the government. Permits for staying longer than three months for or without work within Liechtenstein are granted, due to the small size of the country, very selectively.

Regulations for individuals from the European Economic Area (EEA) and Swiss Citizens are fixed in the Act on the Freedom of Movement of Persons (*Personenfreizügigkeitsgesetz, PFZG*), which implements the EU directive 2004/38. Third party citizens are regulated by the Act on Foreigners (*Ausländergesetz, AuG*). With respect to the PFZG, please note that apart from the legal stipulations, Liechtenstein grants permits on an annual base of a quota of 56 economically active persons and a quota of 16 economically non-active persons. Special annual quotas of 12 economically active persons and 5 economically non-active persons are applied for Swiss citizens. Relating to the AuG, please note that permits are granted under consideration of national interest only. Awarded residence allows for family reunions (Art. 40 *et seq.* PFZG; Art. 32 *et seq.* AuG).

As our private clients mostly qualify for an allowance for residence for non-economic activity or are distinguished professionals needed by the industry, permits are usually obtained.

Please note that for individuals with no economic activity the convenient tax on expenditure is levied. Applications are submitted directly with the government and treated independently from the mentioned quotas or any other restrictions (*cf.* question 1.2).

10.2 Does your jurisdiction have any investor and/or other special categories for entry?

Liechtenstein does not provide any investor or other special categories for entry.

10.3 What are the requirements in your jurisdiction in order to qualify for nationality?

The provisions in order to qualify for nationality are to be found in the Act on the Right to Citizenship (BüG). As mentioned above, Liechtenstein follows the *ius sanguinis* (*cf.* question 2.6). Any child of a mother or father with citizenship of the Principality becomes a Liechtensteiner.

Still, special procedures are provided by the BüG in order to qualify for nationality by admission. The simplified procedure is applied on marriage or civil partnership, long-term residence or statelessness. The ordinary procedure has got to be followed by any other foreigner. It is rather outdated and not very recommended.

10.4 Are there any taxation implications in obtaining nationality in your jurisdiction?

Obtaining nationality in Liechtenstein is not linked to tax matters.

10.5 Are there any special tax/immigration/citizenship programmes designed to attract foreigners to become resident in your jurisdiction?

The only special tax regime that the Liechtenstein Jurisdiction provides is the tax on expenditure (Art. 30 *et seq.* Tax Act). Foreigners taking up residence for the first time in Liechtenstein with no professional occupation can apply for being taxed exclusively on their overall expenditure to maintain their standard of living. As the tax rate of 25% is set very high, tax regime on expenditure is profitable for wealthy individuals (*cf.* question 1.2).

11 Reporting Requirements/Privacy

11.1 What automatic exchange of information agreements has your jurisdiction entered into with other countries?

Liechtenstein has committed itself to OECD standards and endorses the global Common Reporting Standard for the automatic exchange of tax information. As a member of the early adopters group Liechtenstein will start sharing information starting in 2017 with effect dating back to 1 January 2016 exclusively with equally interested and apt partners. Further, Liechtenstein complies with the US FATCA provisions (*cf.* section 6).

11.2 What reporting requirements are imposed by domestic law in your jurisdiction in respect of structures outside your jurisdiction with which a person in your jurisdiction is involved?

No specific reporting requirements are imposed by domestic law in respect of structures outside our jurisdiction. Still, as anybody liable to taxation in Liechtenstein is so with his global income and wealth, he is supposed to make an honest declaration of all assets worldwide (*cf.* questions 3.5 and 3.6).

11.3 Are there any public registers of owners/beneficial owners/trustees/board members of, or of other persons with significant control or influence over companies, foundations or trusts established or resident in your jurisdiction?

Liechtenstein does not have any public registers with regards to the above mentioned information.



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Dr. Alexander Ospelt established the law firm Ospelt & Partners Attorneys at Law Ltd. in 1997. His main areas of activity are: European Law; Business and Commercial Law; Corporate Law; Arbitration; National and International Tax Law; Energy and Telecommunications Law; Health Law; Intellectual Property Law (Copyright, Trademark, Design and Patent Law); Sport, Entertainment and Art; Criminal Law; Bankruptcy Administration; and Out-of-court Settlements (Mediation).

From 1987 to 1993 he studied at the Faculty of Law at St. Gallen University, Switzerland, before he went on to take a degree in European Law at ULB in Brussels, Belgium, where he completed the Master of Laws programme (LL.M.).

In 1993, he worked as a staff member of Liechtenstein's Permanent Representation at the United Nations (UN) in New York. Dr. Alexander Ospelt passed the Liechtenstein Bar Examination in 1997 and gained the doctorate in law from St. Gallen University, Switzerland, in 1999.

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