

# Family Office in Liechtenstein

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*Your LCG Team*

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# Family Office in Liechtenstein

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## I. The term Family Office

The term Family Office originates in the Anglo-Saxon region, designating organisational forms and services with regard to the management of large volume private assets and the services entailed therein.

Organisational forms are so-called “multi” Family Offices or “institutional” Family Offices, which take care of several families and are often companies or departments of banks as well as so-called “single” Family Offices or “private” Family Offices, which manage the assets of a single family. This structure entails a company founded by the asset owner(s), most often with the legal form of a limited liability company (LLC., Ltd.) or a public limited company (PLC., Corp.). Owing to the expenditure entailed in the creation and operation, this variant of the Family Office makes sense only for very large assets, however.

## II. Purpose of the Family Office

A Family Office has the purpose of the optimal management of private and corporate assets. The focus is less on an augmentation of the family assets but rather on its long-term preservation.

## III. Services of the Family Office in Liechtenstein

The areas of activities of Liechtenstein Family Offices include the provision or procurement of the following services:

portfolio management; investment advice; acceptance and forwarding of orders referring to one or several financial instruments; securities analysis and financial analysis or other forms of general recommendations referring to transactions with financial instruments; agency of legal advice as well as estate planning.

In the context of the services listed above, the following qualifications of the Family Offices in Liechtenstein are possible but not mandatory.

### 1. Qualification of a Family Office as Liechtenstein financial service provider or bank

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As soon as a Liechtenstein Family Office provides financial services in Liechtenstein, it has to be qualified as a financial service provider or bank and requires an authorisation by the Liechtenstein Finanzmarktaufsicht (FMA, Financial Market Authority).

The activities of a Liechtenstein bank include the acceptance of deposits and other repayable funds; lending third-party money to an indeterminate circle of borrowers; assumption of guarantees and other liabilities for third parties if they are denominated on cash; or the dealing with currencies for one's own or for another's account. However, banks are also allowed to provide securities services and ancillary services.

## **2. Qualification of a Family Office as Liechtenstein securities firm**

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A Liechtenstein Family Office that provides securities services on a commercial basis requires the authorisation by the Liechtenstein Finanzmarktaufsicht (FMA, Financial Market Authority).

Liechtenstein securities firms are companies that provide securities services and ancillary services under Appendix 2 of the Banking Act. Thus securities firms are allowed to carry out only a part of the transactions made by banks. Providing securities services means that one or several of the services listed in Appendix 2, Section A of the Banking Act, in the context of certain financial instruments, are publicly offered.

## **3. Qualification of a Family Office as Liechtenstein investment company**

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Finally, the qualification of a private Family Office as a Liechtenstein investment company suggests itself.

### *3.1. Investment fund for qualified investors*

The vehicle of an investment fund for qualified investors, as regulated in the Liechtenstein law on investment companies (IUG), is especially suitable as a "private" Family Office centre. This fund is subject to special restrictions in terms of the qualification of the investors; however, owing to low publicity regulations and simplified authorisation provisions, it can be launched very quickly. One can assume with a qualified investor that, on account of his experience, the legal form, assets and investment volume, he is aware of specific risks and has only a limited need of protection; hence this fund is exempt from certain provisions of the law on investment companies (IUG) and the ordinance on investment companies (IUV). The launch of this Liechtenstein fund type, for instance, does not require the prior material authorisation by the Liechtenstein Finanzmarktaufsicht (FMA, Financial Market Authority).

Liechtenstein funds for qualified investors enable the investor to combine his entire moveable and immovable property into assets of a single fund. Classic securities (e.g. stocks, bonds, real estate), alternative investments (e.g. raw materials, private equity, precious metals, venture capital, other fund shares) or closed investments, for instance, are admissible assets.

According to the unambiguous wording of the law and the ordinance, Liechtenstein funds for qualified investors can also be launched as true single-investor funds; for this reason, they are ideally suitable as the master centre for one's own Family Office. With regard to larger wealth in particular, it is advantageous to have the asset situation documented in a comprehensible manner, on the level of a uniform database and individually adjusted to the needs of the capital investor.

This results, more or less, in a great reduction of time, administrative and coordination expenditure, depending on the size of the investment assets.

The Liechtenstein investment fund for qualified investors has to have at its disposal assets of at least CHF 2 million (or the equivalent in another currency). This minimum capital has to be achieved at the latest 6 months after the first subscription and may not fall short of this sum afterwards.

### *3.2. Implementation of the AIFM Directive*

The implementation of the AIFM (Alternative Investment Fund Managers) Directive through the law on the managers of alternative investment funds (AIFMG) in Liechtenstein resulted in a complete overhaul of the Liechtenstein IUG. Although the provisions of the IUG referring to the Liechtenstein investment companies for qualified investors will remain in effect until the implementation of the AIFM Directive as at 22 July 2013, all funds that are not undertakings for collective investment in securities (UCITS) and therefore not regulated by the law on certain undertakings for collective investment in securities (UCITSG) will be regulated by the AIFMG as of that date. In conformance with the European requirements, this law for the securing of international competitiveness and the uniform protection of shareholders/investors—alongside the introduction of the EU passport for funds and managers of alternative investment funds (AIFM)—makes greater personal and organisational demands on managers, business partners, custodians and the Financial Market Authority (FMA). The AIFMG rules that the AIFMs are subject to a disclosure duty and are obligated to obtain a Liechtenstein FMA license.

## **IV. Tax benefits of the Liechtenstein Family Office**

### **1. Income tax flat rate**

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Investment companies with registered office or their actual administrative centre in Liechtenstein are fully subject to income tax with their entire company income in Liechtenstein. All Liechtenstein investment companies are correspondingly subject to income taxes. The income tax amounts to 12.5%, at least however CHF1,200 annually. Taxation is limited to the taxable net income. The net income under commercial law has to be reduced, among other things, by the so-called equity return deduction of currently 4% on the modified equity. This equity return deduction reduces the taxable base and lowers the effective tax rate. What has to be taken into account here is that dividends from the investment in juridical persons as well as capital gains from the sale or liquidation of investments in juridical persons are exempt from Liechtenstein income tax. The proceeds from the managed assets, by contrast, are non-taxable income.

## **2. Sales charge and property fee**

On the basis of the custom union agreement as well as the import law in the wake of the agreement, the Swiss federal law is applicable in Liechtenstein and the Swiss stamp duty also applies in Liechtenstein. Therefore the sales charge has to be kept in mind in the context of the Liechtenstein investment companies.

Liechtenstein funds are considered investors that are exempt from the stamp duty. Hence the stamp duty ascribed to the fund is dispensed with when domestic securities are bought or sold by a Liechtenstein fund. Provided that the Swiss regulations on the stamp duty are not applicable, the formation tax is levied according to Liechtenstein law.

## **3. Turnover tax**

The transfer of property in shares of the managed fund against payment is subject to the Liechtenstein turnover tax provided that a party or broker is a domestic securities dealer. The redemption and issuance of Liechtenstein fund shares are exempt from the turnover tax.

## **4. Tax exemption**

The property tax was abolished in the context of the Liechtenstein tax law coming into effect on 1 January 2011. The coupon tax is also omitted. Old reserves existing as at 31 December 2010 do not fall under the abolition of the coupon tax. Within the first two years, until 31 December 2012, the old reserves can be distributed at a lower tax rate of 2% or carried forward. As of 2013, the tax on old reserves not settled will be 4% again.

## **5. Privileged taxing of companies with the tax status of a personal wealth structure (PVS, Privatvermögensstruktur)**

For Liechtenstein juridical persons whose sole purpose rests in asset management and that are not active commercially, the legislator in Liechtenstein has intended new tax privileges that are entailed in their qualification as personal wealth structure (PVS). Companies with PVS tax status are allowed to acquire assets, own them, manage and dispose of them. This activity is limited to the passive attainment of income from the assets, excluding any form of commercial trading. A PVS is allowed to hold investments in other companies only if it does not exert any real influence on the management of the affiliate. In addition, the owner of a PVS is not allowed to be an entrepreneur himself. Rather, he has to be a natural person, a company with PVS tax status or a person who acts as intermediary for account of these two groups.

The PVS is only subject to the minimum income tax of CHF1,200. Beyond that, no income tax is levied.

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