

Holding in Liechtenstein

- I. Concept of the holding**
- II. Holding company in Liechtenstein**
- III. Forms of holding companies**
 - 1. Operative holding or parent company as holding company
 - 2. Management holding or strategy holding
 - 3. Financial holding or asset holding
 - 4. Organisational or structural holding
- IV. Advantages in terms of the founding of a holding company in Liechtenstein**
 - 1. Tax advantages in Liechtenstein
 - 1.1. Participation deduction*
 - 1.2. Income tax flat rate*
 - 1.3. Tax exemption*
 - 1.4. Group taxation and unlimited loss carried forward*
 - 1.5. Privileged taxation of income from intellectual property rights*
 - 1.6. Privileged taxing of companies with the tax status of a personal wealth structure (PVS, Privatvermögensstruktur)*
 - 2. Asset protection by dint of a Liechtenstein holding
 - 3. Other advantages of Liechtenstein
- V. Formation of a holding in Liechtenstein**
 - 1. Founding model
 - 2. Contribution model
 - 3. Divestment model
- VI. Prevention of illegal intermediate companies in Liechtenstein**

Holding in Liechtenstein

This publication is provided for information purposes only and should not be treated as a substitute for a tax or legal consultation or for the reading of Liechtenstein's legislation or public statements in relation to a holding. The reader should not act on the basis of the information contained in this publication without having obtained individual, expert advice. In particular, individual advice from tax consultants or lawyers should be sought with regard to the information on the tax treatment of foreign investments. LCG Treuhand AG does not assume responsibility for any damage resulting from decisions made by the reader on the basis of this publication.

The following text is an excerpt from the LCG-brochure "Business Liechtenstein Company Formation".

May 2013

Your LCG Team

Holding in Liechtenstein

I. Concept of the holding

The term holding describes the umbrella organisation of a company. It is less a distinct legal form but rather the organisational form of the parent company with its associated companies.

II. Holding company in Liechtenstein

A Liechtenstein holding company is a juridical person domiciled in Liechtenstein, whose purpose is exclusively or predominantly in the area of the holding and management of investments. Thus the activities of a Liechtenstein holding company may include, among others: capital investments of all kinds, holding of investments (parent function), holding of intellectual property rights (IP), holding of real estate properties, objects of art and suchlike. In Liechtenstein practice, the foundation, the establishment as well as the trust enterprise are especially suitable to the assumption of holding functions.

III. Forms of holding companies

The organisational combination of investments in holding companies can serve various purposes. In terms of the function assumed by the holding company in Liechtenstein, the individual forms of holdings are differentiated.

1. Operative holding or parent company as holding company

The operative holding is the traditional organisational form of large concerns. The parent company itself conducts essential activities necessary for the service rendering process, i.e. it is active directly on the market and thus is active operatively. As a supplement or for support, subsidiaries are founded or purchased, e.g. foreign branches. The corporate head office exerts a strong influence on the subsidiaries.

2. Management holding or strategy holding

The management holding, by contrast, conducts no proprietary operative business. Other than the financial holding, the management holding not only has investments in the subsidiaries but manages them as well. These management tasks typically include the determination of strategic

business areas, strategic steering, manning of executive positions and the control of the capital flow within the group.

3. Financial holding or asset holding

The financial holding is the counterpart of the operative holding. It manages primarily the assets of the entire group and does not carry out the operative or strategic management of its subsidiaries.

4. Organisational or structural holding

In the case of the organisational holding, the holding company is used, alongside company take-overs and start-ups, for purposes of internal organisation as well.

IV. Advantages in terms of the founding of a holding company in Liechtenstein

1. Tax advantages in Liechtenstein

The new Liechtenstein tax law that became effective as at 1 January 2011 contains many changes in the area of business taxes. The advantages in terms of the founding of a holding company in Liechtenstein are described below.

1.1. Participation deduction

Liechtenstein's legislators have allowed a complete participation deduction, independent of the amount and holding period of the participation. Pure participation proceeds are not taxed. Therefore dividends as well as capital gains from the sale of investments in domestic or foreign juridical persons are exempt from taxation in Liechtenstein.

1.2. Income tax flat rate

Active income in holding companies is taxed by the proportional tax rate of 12.5%, at least however with CHF 1,200 annually. Taxation is limited to the taxable net income. The net income under commercial law is to be reduced by earnings from foreign permanent operations, rental profits from foreign real estate, dividends, capital gains as well as the so-called equity return deduction of presently 4% on modified equity. This equity return deduction reduces the taxable base and lowers the effective tax rate.

A three-year transition period, as of 1 January 2011, applies to all domicile and holding companies existent as at 31 December 2010. During this transition period, they are subject only to the minimum income tax of CHF 1,200 annually.

1.3. Tax exemption

The capital tax was abolished through the Liechtenstein tax reform. The distribution surcharge as part of the income tax and 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.

1.4. Group taxation and unlimited loss carried forward

With regard to group taxation, the losses arising within one year can be offset by gains in the same year from other domestic and foreign group companies. The prerequisite, however, is that the applicant juridical person is subject to unlimited taxation at home and holds a controlling interest in domestic or foreign juridical persons. For juridical persons with limited tax liability, it is possible under the condition that the investments can be allocated to a branch in Liechtenstein. If interests are not 100% controlling, a pro-rata loss allocation is allowed. The right to group taxation, however, is given upon application.

The loss carried forward is unlimited in time in Liechtenstein. The consequence is that losses can be offset by later taxable gains for an unlimited period of time.

1.5. Privileged taxation of income from intellectual property rights

The new Liechtenstein tax law has fixed the privileged taxation of intellectual property rights (IP). With the aid of the so-called Intellectual Property Box (IP-Box), 80% of the proceeds from intellectual property rights, created or acquired as of 1 January 2011, are exempt from taxation. Patents, brands, models and registered designs are considered intellectual property rights in Liechtenstein, provided that they are protected by entry into a domestic, foreign or international registry. Other rights, such as copyrights, know-how or trade relationships, are not considered intellectual property rights; therefore they do not enjoy privileged treatment in Liechtenstein.

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

For 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.

2. Asset protection by dint of a Liechtenstein holding

If assets that are intended exclusively for personal purposes are held by Liechtenstein holding companies, which as a rule are Liechtenstein foundations, these assets are not at risk if losses and liabilities are created over the course of business activities conducted by the beneficiary.

3. Other advantages of Liechtenstein

Provided that the business premises are within the EU, the EU freedom of establishment applies and thus the legal protection of the EU.

Moreover, exchange of shares as well as partner borrowing are possible in Liechtenstein. Hence a tax-neutral transfer of the subsidiaries' assets to the holding can be effected. The shares do not have to be valued nor purchased in the process.

In addition, Liechtenstein has excellent bank secrecy.

V. Formation of a holding in Liechtenstein

With regard to the formation of a Liechtenstein holding, a differentiation is made between the founding model, the contribution model and the divestment model.

1. Founding model

The formation of a Liechtenstein holding can be effected through the founding and acquisition of investments, through payment of the cash contribution by the investors or buyers.

2. Contribution model

Furthermore, the Liechtenstein holding can be formed through founding and contribution of existing investments. Here the investment becomes a contribution in kind.

3. Divestment model

Finally, the Liechtenstein holding can be formed through divestment and the transfer of assets to new subsidiaries.

VI. Prevention of illegal intermediate companies in Liechtenstein

To achieve tax advantages, intermediate companies (intermediate holdings) are often formed with the founding of a holding in Liechtenstein. The impression of an illegal intermediate company

must be prevented in this context. This impression arises in the case of pure letter box companies without sufficient tax basis in Liechtenstein; or when it is assumed that the company is operated by remote control from abroad.

.....
LCG Treuhand AG

You can contact the author at:

Tel.: 00423 371 12 12

office@lcg-liechtenstein.li

.....