

Intellectual Property Box (IP-box) Liechtenstein

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Your LCG Team

Intellectual Property Box (IP-box) Liechtenstein

I. Intellectual Property Box (IP box) in Liechtenstein

The tax law that became effective as at 1 January 2011 also had the purpose of strengthening Liechtenstein as a research and development centre. An internationally acknowledged and already widespread instrument for the fiscal promotion of research and development are the so-called IP box systems. They entail the privileged taxation of income from intellectual property rights (IP). Such an IP box system was introduced in Liechtenstein with the new Liechtenstein tax law. The law provides a special deduction for income from intellectual property rights.

II. Intellectual property rights (IP) in Liechtenstein

Patents, brands, models and registered designs are considered intellectual property rights in the meaning of this Liechtenstein IP deduction, provided that they are protected by entry into a domestic (Liechtenstein), foreign or international registry and have been created or acquired as of 1 January 2011. Authoritative for this is the entry into the Commercial Registry, whose existence has to be proven by the person paying the tax. The deduction is not possible if a priority claim before 1 January 2011 is on hand.

Other rights, such as copyrights, know-how or trade relationships are not considered intellectual property rights in the meaning of the Liechtenstein special deduction; therefore they do not enjoy privileged treatment in Liechtenstein.

III. IP company in Liechtenstein

Intellectual property rights (IP) increasingly constitute a vital factor of success in international competition. The value of intellectual property rights (IP) can be additionally enhanced by dint of a tax-efficient structure. Since intellectual property rights (IP) are not tied to a definite location, they can, in principle, be relatively easily transferred to an IP company. The IP companies are subsidiaries that have been established especially in a country with an advantageous tax system such as Liechtenstein; they concentrate the IP of the company. In addition, the IP company is responsible for the establishment or advancement, protection, management and exploitation of intellectual property rights (IP), subsequently licensing them to group subsidiaries or third parties.

This way, the Liechtenstein IP company can generate gains in Liechtenstein by means of the intellectual property rights assigned to it, profiting from the privileged taxation.

In order to realise tax minimisations for proceeds from the use and exploitation of proprietary or third-party intellectual property rights (IP), a number of business models have developed

over the course of the years that draw upon the use of IP companies. Thus the organisation and administration of the intellectual property rights can be ensured through a Liechtenstein IP holding company belonging to the group.

Intermediate companies (intermediate holdings) are often formed with the founding of such an IP holding company 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.

IV. Advantages of an IP company in Liechtenstein

1. Privileged taxation of income from intellectual property rights (IP)

1.1. *Income tax flat rate*

Active income is taxed in Liechtenstein 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 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.

1.2. *Tax shelter in Liechtenstein for income from 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, since they are declared as business-related expenses. Positive income from intellectual property rights, after being offset by the corresponding expenditures, are taxed by merely 2.5% (instead of 12.5%) income tax.

1.3. *Assessment basis for the Liechtenstein special deduction*

The assessment basis for the Liechtenstein special deduction of 80% are the proceeds from the use, exploitation or disposal of intellectual property rights (IP) minus the tax-relevant expenditures entailed therein. Write-offs on intellectual property rights are even effective when the expenditures have accrued across several assessment periods.

If intellectual property rights (IP) are used by a juridical person or operation itself within the scope of their production or by third parties who act as contractors for it or are used within the scope of services, the deduction is to be applied to such proceeds from intellectual property rights that would have been achieved with a surrender of use to third parties for payment. If remunerations for intellectual property rights have been agreed that are above the compensations usual on the market, the Liechtenstein 80% special deduction is calculated on the basis of the price usual on the market (arm's length principle).

2. Other fiscal benefits

2.1. 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 reserves not settled reserves will be 4% again.

In addition, there's no withholding tax in Liechtenstein on interest, dividends or licence fees flowing from Liechtenstein.

2.2. Participation deduction

Liechtenstein's legislators have allowed a complete participation deduction, independent of the amount and holding period of the participation. Pure participation proceeds (holding companies) 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.

2.3. Group taxation and unlimited loss carried forward

Liechtenstein now allows for a loss carried forward that is unlimited in time, meaning that losses can be offset by later taxable gains for an unlimited period of time.

With regard to losses carried forward, a group taxation for domestic and foreign companies associated with the group was introduced, which makes it possible to offset losses within a Liechtenstein group worldwide within the same period.

2.4. 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.

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