

# Trust in Liechtenstein

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

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*Your LCG Team*

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# Trust in Liechtenstein

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## I. Legal structure of the trust in Liechtenstein

### 1. Concept

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In Liechtenstein, the trust plays the role of the “trust settlement” or “family trust” of the Anglo-Saxon law.

With regard to the Liechtenstein trust, the settlor transfers to the trustee moveable or immovable assets or a right with the obligation to hold and use the trust assets for the benefit of one or more beneficiaries in one’s own name and as an independent legal entity with effect toward third parties. The Liechtenstein trust is not a juridical person but a legal relationship of a contractual nature.

Other than the English trust, Liechtenstein law does not know the principles of “rule against accumulations” or “rule against perpetuities” with regard to the trust. Hence it is possible in Liechtenstein to accumulate the proceeds from a trust as well as form a trust for an unlimited period of time.

### 2. Purpose

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As long as the purpose of a Liechtenstein trust is not illegal or immoral, it may provide for the pursuit of commercial or non-commercial activities.

### 3. Formation

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The Liechtenstein trust comes into being by means of a written agreement (trust deed) between the settlor and the trustee or else through a unilateral trust declaration and its acceptance. A trust deed regulates the relationships between the settlor, the trustee and the beneficiary and can be used by the settlor as an instrument for safekeeping of the interests of the beneficiary. The settlor of a Liechtenstein trust can, for instance, rule that creditors shall not have any access to the beneficial interest, neither through court order nor foreclosure or bankruptcy proceedings.

The Liechtenstein trust can be entered into the Commercial Registry (Public Registry) or just registered with the District Court. In the case of the registration with the District Court, however, the existence of a trust cannot be seen from any registry and will be disclosed only if a legitimate interest has been established. The entry into the Commercial Registry is optional, since the trust in Liechtenstein comes into being already upon the signing of the trust deed.

Letters of wishes have to be distinguished from the trust deed of a Liechtenstein trust. The settlor may enter his intentions into his own document in terms of the formation of the Liechtenstein trust, the exercise of the mandate by the trustee, the behaviour of the beneficiary and such like.

This letters of wishes are not legally binding; rather, they help the trustee to interpret the trust deed along the lines of the wishes of the Liechtenstein settlor. Both the trust deed and the letter of wishes are in principle to be disclosed to the beneficiary of a Liechtenstein trust provided that they have legal relevance.

Trusts can be formed in Liechtenstein under foreign law; only Liechtenstein law, however, applies in relation to third parties.

#### **4. Minimum assets**

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There are no minimum assets (asset contribution) prescribed for the Liechtenstein trust.

#### **5. Organisation**

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##### *5.1. Settlor*

The settlor is the founder of a Liechtenstein trust, who facilitates the trust by the provision of assets. A settlor can be a natural person or a juridical person.

The Liechtenstein trust is modelled on the English trust also in that the settlor, after the formation of the trust, is not entitled to any administrative or control rights and a permanent influence of the settlor on the trustee(s) is precluded. According to the English idea of a trust, the settlor is not entitled to any administrative or control rights after the formation. The settlor of a Liechtenstein trust can exercise only such rights that have been expressly fixed in the trust deed.

##### *5.2. Administrative body*

The administration of the Liechtenstein trust is incumbent on the trustees. The trustee has the authorisation and obligation to manage, use or dispose of the trust assets of the Liechtenstein trust in compliance with the trust regulations and the special obligations imposed on him by the law. In addition, he is obligated to give an account of his work. The trustee of a Liechtenstein trust has to keep the assets of the trust separate from his own assets. In the event that the trust assets perish or the trustee loses them, the beneficiary can, under certain conditions, demand the return of equivalent assets to the trust.

The Liechtenstein trust does not perish through the loss of all trustees if the settlor has not expressly determined in the trust deed that only a certain trustee can be deployed.

##### *5.3. Auditors or control agency*

An auditing firm, a protector, guardian or collator can be appointed so as to examine the compliance with the obligations written down in the trust deed of the Liechtenstein trust. The powers of the protector are to be elaborated in the trust deed. He might be granted extensive administrative powers; he will never, however, assume the legal position of the owner of the trust assets and therefore can never be urged to disclose the assets of the Liechtenstein trust.

#### *5.4. Representative*

The law does not prescribe a representative for Liechtenstein trusts.

#### *5.5. Beneficiary*

The beneficiary of a Liechtenstein trust is the person benefiting from the assets of the trust. As the founder, the settlor of a Liechtenstein trust has the right to designate either himself or any other natural or legal person as beneficiary. Moreover, the payment of the beneficial interest may begin with the transfer of the assets or else only after the death of the settlor. The rights of the beneficiary can be made dependent on the compliance with certain requirements. The rights may, for example, be limited or indefinite, transferable or non-transferable, inheritable or non-inheritable. The right of the beneficiary can be limited to the income of the trust or include the capital as well. Other than in English trust law, the rights of influence of beneficiaries of a Liechtenstein trust are considerably restricted. Thus the beneficiaries of a Liechtenstein trust only have a passive control function and are in principal not allowed to assume an active role.

### **6. Declaration**

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If the Liechtenstein trust is not a company engaged in commercial activities and its purpose as laid down in the articles of association does not provide for such a business, it shall draw up a statement of assets and liabilities every year.

### **7. Liquidation**

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The liquidation of the Liechtenstein trust can be initiated at any time after the conclusion of the liquidation process. Subsequently, the deregistration of the Liechtenstein trust can be effected within a few days.

## **II. Legal structure of the trust in Liechtenstein**

The assets held by the Liechtenstein trust are subject to an annual minimum income tax of CHF 1,200 annually, provided that the status of a private wealth structure (Privatvermögensstruktur, PVS), is given in accordance with the tax law that took effect on 1 January 2011 in Liechtenstein.

## **III. Effective structure of the trust in Liechtenstein**

The Liechtenstein trust is used in a similar way as the Liechtenstein foundation, because it is suitable for the long-term protection of assets or family assets as well as for estate planning.

The settlor of a Liechtenstein trust is free in the planning of his estate according to his wishes, for instance, so as to prevent family quarrels on account of the division of the estate or to ensure

basic needs of certain family members, such as sustenance, education or care. In the case of the protection of family assets, the settlor transfers to the trustee the power of disposition over the family assets through the establishment of the Liechtenstein trust. Thus it can be ensured that the family assets will be managed in a way that is beneficial to the entire family, ensuring its preservation over generations.

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