

Tax Reform in Liechtenstein

The most important new points

On 23 September 2010, a new Tax Act was adopted by the Liechtenstein Parliament, involving a complete revision of the previous provisions dating from 1961. The aim was new regulations compatible with European law and a thorough modernization of the tax scenario in respect to transparency and competitiveness. The Act was published in the Official Gazette on 18 November 2010 and will come into force on 1 January 2011.

New regulations concerning legal entities

a) Principle:

- Profit tax at a rate of 12.5% (proportional tax rate, irrespective of intensity of profits and distribution); minimum tax CHF 1'200.00 per year, irrespective of legal form.
- Tax liability linked to an inland registered office or place of actual management (the result unconditional tax liability) or to the existence of a Liechtenstein place of business (conditional tax liability).
- Abolition of "Special company taxes" of domiciliary and holding companies (risk of incompatibility with EEA Treaty – they may be understood as prohibited State aid).
- Legal entities commercially active and subject to taxation within the country are only liable to an interest-adjusted profits tax.
- No capital tax.
- Abolition of coupon and capital tax with transitional arrangement for old reserves in existence at 31 December 2010 (which may be distributed or carried forward during the first two years after the Act comes into force at a lower tax rate of 2 per cent subject to a prior application to the Tax Administration). As from 2013, the tax on old reserves not accounted for by that date rises to 4 per cent. Without an application for tax relief, future profit distributions will be qualified as primarily originating from old reserves (old reserves will be reduced by future distributions). Without old reserves, no application of coupon tax.

- Equity capital interest deduction of 4% (expenditure justified for tax purposes for business reasons), leads to a reduction of the effective tax rate.
- New arrangements are made for restructuring: undisclosed reserves are not taxed provided the right of taxation continues in Liechtenstein after restructuring has been completed and book values continue to be listed unchanged (tax substrate is retained in Liechtenstein – tax deferral).
- Group taxation to make it possible to arrange the forming of groups across national frontiers to be fiscally neutral (compensation of losses of individual group companies against profits of other group companies). The precondition for an application to compensate losses is that the legal entity has its registered office or actual management within the country and holds a majority interest in other legal entities in Liechtenstein or abroad. This also applies to foreign companies without domestic registered office or actual management which have a domestic branch to which the shares are to be attributed.
- Possibility of unconditional loss adjustment (carry forward and accountability).
- Concession on income from incorporeal rights
- Tax exemption on charitable status for exclusively non-profit making foundations, establishments or trusts; civil law and tax law use an identical definition of charitable status. No tax exemption for net profits from gainful commercial activities by undertakings maintained by tax-exempt juridical persons if receipts totalling more than CHF 300'000 are achieved.

b) Special category: Private asset structure (PVS)

- Introduction of the new PVS which, however, still has to be finally assessed by the EFTA supervisory authority (arrangement compatible with European law in regard to the tax prohibition of State aid). To come into force only if compatible with European law (decision still pending).
- A minimum tax no longer dependent on the minimum capital prescribed by law and amounting to CHF 1'200.00 is planned for private asset structures, this being irrespective of the legal form.
- However, should the decision of the EFTA supervisory authority prove to be negative, normal taxation at the standard rate for legal entities (12.5%) is to be levied retrospectively with effect from 1.1.2011.

New regulations for individuals

- Continuation of the approach of combined asset and income tax in accordance with the internationally recognized principle of once-only taxation
- In all, only a moderate revision
- Abolition of taxes not forming part of the system (estate duty and gift tax since assets inherited or received as gifts are already taxed)
- Income acquired in the course of the life cycle to be taxed only once

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