Liechtenstein Tax Law – Overview 2019

LEGAL PERSONS

Tax liability – unrestricted on the basis of Liechtenstein domicile or place of effective management or restricted on the basis of Liechtenstein real estate ownership or domestic permanent establishment.

Tax base of corporate income – The tax base is the annual corporate income based on the annual financial statement pursuant to the Persons and Companies Act [PGR] or the principles of the Tax Ordinance (inventory of assets, liabilities, profits and losses), where commercially justified expenses are tax-deductible. Profits and losses must be defined in the same way as would be the case for a relationship between independent third parties (dealing at arm's length principle). Tax expenses are not tax-deductible. The taxable net income is calculated as follows:

\[
\text{Balance of profit and loss statement} + \text{losses on participations in legal entities} + / - \text{tax corrections} - \text{tax-exempt income} - \text{notional interest deduction} - \text{losses from foreign permanent establishments} - \text{losses from group taxation} - \text{loss carryforward} = \text{taxable net income}
\]

Tax-exempt income – Dividends, capital gains and unrealized increases of value from participations in legal persons, distributions of foundations, establishments similar to foundations and trusts with personality under consideration of anti-avoidance provisions;\(^1\) income from foreign permanent establishments, rental income and capital gains from foreign real estate, capital gains on Liechtenstein real estate subject to real estate capital gains tax. Capital brought in by shareholders/settlers/beneficiaries are not included in the taxable net income. The anti-avoidance provisions cover dividends and capital gains from participations with more than 50% passive income and low taxation (< 6.25% or < 50% of the effective Liechtenstein taxes), hence these income are taxable (switch-over). There is a transitional period with the first application in 2022 for participations acquired before the end of 2018. In addition, dividends which are tax deductible at the paying entity are not tax exempt (hybrid-mismatch).

Notional interest deduction – a deduction of 4% on the modified equity poses a commercially justified expense. The modified equity is calculated as follows:

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\text{equity at the beginning of the tax year} + \text{equity increases} - \text{equity decreases} - \text{own shares} - \text{participations in legal entities} - \text{assets not required for business operations} - \text{6% of the assets that have not already been deducted} = \text{modified equity}
\]

The corrections of equity as at the beginning of the tax year (see above) are weighted and deducted pro rata temporis, aggregated per quarter and considered to have occurred in the middle of the quarter. If the modified equity is negative, the notional interest deduction is CHF 0. The notional interest deduction must not lead to a loss or increase an existing loss. A double-dip through interest expenses at the parent company and notional interest deduction at the subsidiary is not possible (see anti-avoidance provisions).\(^1\)

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\(^1\) For further information see CONFIDA Info: "Amendments to the Tax Act in Liechtenstein".

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**Lossges from foreign permanent establishments** – can be offset in Liechtenstein, if they have not already been taken into account abroad. As soon as the foreign permanent establishment makes profits again, the foreign losses previously offset are taxed retrospectively. After 5 years, tax is recovered retrospectively irrespective of profits in the foreign permanent establishment.

**Group taxation** – on application, connected companies may, under certain conditions, form a group and compensate losses within the group with profits in the same year. Losses are allocated on a pro-rata basis according to the participation held. The allocated losses are taxed retrospectively, inter alia, when the loss-making company makes profits again or leaves the group. After 5 years, tax is recovered retrospectively irrespective of profits in the group company. This is only a temporary tax suspension.

**Losses** – can be carried forward without restriction. On a yearly basis, however, losses from previous years may only be offset up to a maximum of 70% of the taxable net income.

**Tax rate** – 12.5% of taxable net income.

**Minimum income tax** – CHF 1’800 per year and irrespective of the duration of the tax year.

**Foreign tax credit** – is given up to the maximum of the Liechtenstein income tax on the income affected by foreign taxes.

**Real estate capital gains tax** – The seller of a property located in Liechtenstein has to pay a tax on real estate capital gains. The real estate capital gains correspond to the difference between the sales proceeds and the investment costs (purchase price and value increasing expenses). The tax rate is 0% - 24%. The reinvested depreciation is subject to corporate income tax.

**Privileged tax status** – Taxation as a Private Asset Structure (PAS) is possible on application. The tax burden corresponds to the minimum corporate income tax of CHF 1’800 per year irrespective of the annual results. Crucial requirement: no economic activity.

**Trusts** – From the tax perspective trusts are considered to be transparent and capital and income are attributed either to the settlor or the beneficiary. As a result, trusts are subject to the minimum corporate income tax of CHF 1’800 per year.

**Anti-avoidance provisions** – There is a general anti-avoidance provision regarding inadequate legal constructions, but no minimum capitalization rules and no Controlled Foreign Company (CFC) rules. Specific anti-avoidance provisions exist in connection with the tax exemption of dividends, capital gains and distributions, as well as the notional interest deduction.

**Withholding taxes** – No withholding taxes on dividends, licenses and interests are levied. Remunerations to members of foundation boards/boards of directors of Liechtenstein companies may be subject to a withholding tax.

**Issuance stamp tax** – corporations, limited liability companies and establishments with divided capital are subject to the Swiss issuance stamp tax. Issuance stamp tax of 1% is due in the case of capital increases, with a tax allowance of CHF 1 million. Deposits without capital increase cannot benefit from the CHF 1 million tax allowance.

**Formation tax** – Legal entities that are not subject to Swiss stamp law are subject to the formation tax of 1% of the statutory capital (not applicable to contributions to the reserves). The formation tax is reduced to 0.5% above CHF 5 million and to 0.3% above CHF 10 million. Foundations and trusts pay 0.2% of the statutory capital, but at least CHF 200.

**Securities Transfer Tax** – corporations, limited liability companies and establishments with divided capital are subject to the Swiss transfer tax. The transfer of securities by securities dealers is subject to a tax of 0.15% (domestic securities) and 0.3% (foreign securities). All other Liechtenstein legal entities cannot be subject to the Swiss transfer tax as securities dealers. However, these companies may be subject to VAT as agent/broker.

**Transfer prices** – Transfer prices for transactions with related parties and permanent establishments must be documented. Documentation requirements vary according to the size of the companies or the associated group. Taxpayers that are part of a group of companies with a consolidated turnover of more than CHF 900 mio are required to document the appropriateness of transfer prices by means of a master file and local file according to the OECD transfer pricing guidelines. Taxpayers who are not required to prepare master files and local files must document the appropriateness of transfer prices in accordance with the provisions of the Tax Ordinance (much less documentation than according to OECD transfer pricing guidelines) if the taxpayer is exceeding three criteria (total assets > CHF 25.9 mio; net turnover of the previous year > CHF 51.8 mio and > 250 employees in average). Taxpayers which do not meet the above thresholds have to document compliance with the arm’s length principle by suitable documents.

**Administration** – The tax year is the accounting year. The tax return must be filed within 6 months after the closing date. Extensions of the deadline up to 12 months after the closing date are generally possible. Tax rulings can be obtained.

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2 For further information see CONFIDA Info: "Transfer Pricing Documentation - Implementation in Liechtenstein".

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**Natural Persons**

**Personal tax liability** – unrestricted on the basis of residence or habitual abode in Liechtenstein or restricted on the basis of Liechtenstein real estate ownership or permanent establishment.

**Residence** – the place where a person is permanently resident.

**Habitual abode** – the place where a person does not stay just temporarily. A stay for more than 6 months is deemed to be a habitual abode.

**Material tax liability** – unrestricted with income and assets attributed to Liechtenstein at the tax rate of the world-wide income and assets or restricted to Liechtenstein income and assets.

**Taxable income** – total income, in particular, income from self-employed/employed activity, institution fees, annuities and capital contributions, replacement income as well as nominal income from assets (see wealth tax).

**Tax-exempt income** – all effective income from assets subject to wealth tax. In particular, dividends and capital gains from participations in legal entities and rental income are tax-exempt. For participations in business assets, anti-avoidance provisions must be observed.¹

**Wealth tax** – total assets (movable and immovable) less debts at the beginning of the tax year is the base of wealth tax. However, foreign immovable assets and assets of foreign permanent establishments (less prorata debts) are to be taken into account only with regard to the tax rate. The assets are included in the taxable income with a nominal yield of 4% and subject to income tax.

**Tax deductions** – work-related costs and social insurance fees, lump sums for private personal insurance (e.g. health insurance), other personal deductions (for example, contributions to subsistence, child allowance, donations) are deductible. A tax allowance of 70% is granted for pensions arising from old age, survivors’ and disability insurance [AHV/IV]. Contributions to the occupational pension scheme can be deducted up to a maximum of 18% of the income (among others without nominal yield).

**Tax rate** – 0% to 24% on taxable income (depending on income and municipality affiliation). There are different tax rates for single parents, married couples and other taxpayers.

**Foreign tax credit** – is given up to the maximum of the Liechtenstein income tax on the income affected by foreign taxes.

**Real estate capital gains tax** – The seller of a property located in Liechtenstein has to pay a tax on real estate capital gains. The real estate capital gains correspond to the difference between the sales proceeds and the investment costs (purchase price and value increasing expenses). The tax rate is 0% - 24%.

**Inheritance/gift tax** – none. In special situations, an endowment tax of 10.5% may apply.

**Lump sum taxation** – possible instead of wealth and income tax for persons who reside or habitually abode in Liechtenstein for the first time or after at least 10 years of absence from Liechtenstein, are not Liechtenstein citizens and do not work in Liechtenstein. For EU/EEA citizens the minimum tax per year is CHF 300'000 and for non-EU/EEA citizens it is CHF 350'000.

**Administration** – Regarding domestic income, tax is usually deducted directly on disbursement. If the domestic gross income exceeds CHF 200'000, persons with restricted tax liability have to file a tax return: the domestic income is taxed at the rate of the worldwide assets and income. Generally, unrestricted taxpayers have to file a tax return, which is used to assess the tax on capital and income. The tax year corresponds to the calendar year. Spouses are generally taxed jointly, but can be taxed separately on application (until 31 December of the respective tax year).

**Value Added Tax**

**Basis** – Liechtenstein and Switzerland form a customs union, which is why the Swiss Value Added Tax Act generally applies.

**Taxable transactions** – The supply of goods and the provision of services in Liechtenstein and the import of goods and services to Liechtenstein are subject to VAT. Exports of goods and services are not subject to VAT.

**Tax rates** – standard 7.7%, certain goods (e.g. food) 2.5%, accommodation 3.7% and various VAT-free transactions (e.g. banking and insurance).

**Registration** – Companies with worldwide turnovers from taxable services of more than CHF 100,000 are compulsorily subject to VAT in Liechtenstein starting with the first Swiss franc turnover. An exception to the VAT requirement applies to Liechtenstein companies that provide services abroad only. Everyone has a VAT liability for service imports of more than CHF 10'000 per calendar year. As of 1 January 2019, foreign online retailers with an annual Liechtenstein turnover of CHF 100'000 or more will also be subject to compulsory taxation.

**Administration** – In general VAT returns must be filed per quarter and paid within two months after the end of the quarter. For service imports billing and payment must occur within 2 months after the end of the year.
**INTERNATIONAL TAX AGREEMENTS**

**Double Taxation Agreements (DTAs)** – Andorra, Austria, Bahrain (initialed), Czech Republic, Germany, Hungary, Iceland, Israel, Lithuania (initialed), Luxembourg, Malta, Monaco, San Marino, Singapore, Switzerland, Uruguay, United Arab Emirates, United Kingdom.

**FATCA** – Liechtenstein financial institutions are required to report information on accounts of US persons to the Liechtenstein Tax Administration, which forwards this information to the US tax authority (IRS).

**Automatic Exchange of Information (AEoI)** – Liechtenstein financial institutions are obliged to report information on financial accounts to the Liechtenstein Tax Administration, which forwards this information to the competent authorities of the partner states. The relevant date for the distinction between an "existing account" and a "new account" is 31 December 2015 or 1 January 2016 for EU Member States and 31 December 2016 or 1 January 2017 for all other AEoI partner countries. There are different reporting years depending on the partner state:

- **2016** (first reporting in 2017): Austria (first reporting period 2017), Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark (excluding Faroe Islands and Greenland), Estonia, Finland (including Åland), France (including Guadeloupe, Martinique, French Guiana, Mayotte and La Réunion, excluding Saint-Barthélemy and St Martin), Germany, Gibraltar, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands (excluding Aruba, Bonaire, Curacao, Saba, Sint Eustatius and Sint Maarten), Poland, Portugal (including Azores and Madeira), Romania, Slovakia, Slovenia, Spain (including the Canary Islands), Sweden, United Kingdom (excluding Anguilla, British Virgin Islands, Cayman Islands, Gibraltar, Guernsey, Isle of Man, Jersey, Montserrat, Turks and Caicos Islands);
- **2017** (first reporting in 2018): Andorra, Anguilla, Argentina, Belize, Bermuda, British Virgin Islands, Canada, Cayman Islands, Chile, China, Costa Rica, Croatia, Curacao, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Guernsey, Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Israel, Italy, Japan, Jersey, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mexico, the Netherlands, New Zealand, Nigeria, Norway, Poland, Portugal, Qatar, Republic of Korea (South), Romania, Senegal, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, United Kingdom, Uruguay;
- **2018** (first reporting in 2019): Belize, Cayman Islands, Mauritius, Pakistan, Russia, Turks and Caicos Islands;
- **2019** (first reporting in 2020): Monaco, USA.

**Country-by-Country-Reporting (CbCR)** – automatic exchange of country-specific information from multinational corporations with an annual consolidated turnover of more than CHF 900 mio. Reporting legal entities are subject to mandatory registration for tax years since 2017 till 31 December, 2017 and mandatory reporting till December 31, 2018. Voluntary reporting for tax years since 2016 is possible.

CbCR partner states of Liechtenstein are:

- **2017** (first reporting in 2018): Argentina, Austria, Australia, Belgium, Bermuda, Brazil, Bulgaria, Canada, Chile, China, Columbia, Costa Rica, Croatia, Curacao, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Guernsey, Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Israel, Italy, Japan, Jersey, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mexico, the Netherlands, New Zealand, Nigeria, Norway, Poland, Portugal, Qatar, Republic of Korea (South), Romania, Senegal, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, United Kingdom, Uruguay;
- **2018** (first reporting in 2019): Belize, Cayman Islands, Mauritius, Pakistan, Russia, Turks and Caicos Islands;
- **2019** (first reporting in 2020): Monaco, USA.

**Multilateral Convention (MLI)** – Liechtenstein has signed the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. Accordingly, the BEPS minimum standards to prevent treaty abuse and improve dispute resolution are incorporated into existing double taxation agreements through the MLI.

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3 For further information see CONFIDA Info: “Liechtenstein Double Taxation Agreements – Overview (November 2018)”.
4 Non-reciprocal AEoI member states, to which no AEoI reporting is made in the reporting periods 2017 and 2018, are crossed out.
6 For further information see CONFIDA Info: “Implementation of the Spontaneous Exchange of Information in Liechtenstein”.
7 For further information see CONFIDA Info: "Country-by-Country Reporting (CbCR) - Implementation in Liechtenstein".
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