Liechtenstein as an alternative location for international shipping companies

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Special taxation regulations for international shipping are recognized worldwide and are particularly widespread in neighbouring European countries. This is evidenced in particular by corresponding special provisions in the OECD Model Tax Convention, the OECD GloBE Model Rules and in the European state aid law (e.g. for the so-called tonnage tax).

Liechtenstein has adopted this international regulations as a result of its high level of integrations into the European and international tax architecture and represents an attractive alternative location for international shipping companies.

Overview

While Switzerland, as a landlocked country without access to the sea, has one of the largest merchant fleets in the world, the shipping sector has not played a significant role for Liechtenstein to date. Nevertheless, shipping companies are already operating from Liechtenstein. However, Art. 56 of the Liechtenstein Tax Act contains the option, upon request, to deviate from the commercial balance sheet profit calculation for the determination of taxable net income (which is currently taxed at a nominal rate of 12.5%) for the taxation of income from international shipping.

Switzerland also recently considered the introduction of a tonnage tax, which is explicitly exempt from minimum taxation. However, the proposal failed due to political viability.

Liechtenstein Tax Act (SteG)

Art. 56 SteG contains a legal basis according to which, upon application, the determination of taxable net income, insofar as it is attributable to the operation of merchant ships, can be deviated from the general provisions of taxable net income, for example by means of a flat rate based on the gross registered tons of the ships operated (so-called tonnage tax) (BuA 2010/48). Contrary to what the term “tonnage tax” suggests, this is not a separate tax, but merely a special type of profit determination, comparable to the special provisions for determining agricultural income (Art. 16 para. 1 let. a SteG, Art. 10, Annex 1a SteV).

In addition, Art. 56 SteG contains an authorization to issue ordinances according to which the government can regulate the details of this taxation at any time.

Liechtenstein double taxation treaties

The Liechtenstein double taxation agreements (DTAs) also contain separate regulations for shipping and aviation in accordance with OECD requirements. Art. 8 of the DTAs conclusively regulates income from shipping and aviation.

The right to tax the operation of maritime vessels in international traffic is assigned exclusively to the contracting state in which the place of effective management of the company is located. This also regularly applies to income generated from the leasing of empty ships, sea containers and from participations in a pool, a joint venture or an international operating center.

Global Minimum Tax (GloBE)

Multinational groups of companies with international shipping income are not excluded from the scope of the Global Minimum Tax. However, each constituent entity's international shipping income and recognized ancillary income will be excluded from the calculation of its GloBE profit or loss for the tax jurisdiction in which that entity is located.

As a result, income from international shipping is not subject to an effective tax of 15%. Rather, the respective national taxation level remains, regardless of whether the income is subject to general ordinary taxation or a separate taxation regime (such as a tonnage tax).

Global competition

Internationally active shipping companies in the maritime industry are naturally very mobile in their choice of headquarters. Their taxation is essentially linked to the place of actual management. As a rule, direct access to the sea is also not required to manage the company.

In the European Union (EU), 21 out of 27 member states currently have a tonnage tax. However, the concept of tonnage taxation is also widespread and established beyond the borders of the EU. China, India, Japan, Norway, the USA and the United Kingdom, for example, also have separate taxation regulations, the core of which is a flat-rate profit calculation based on the size of the ship (tonnage).

The flat-rate calculation of profits means that taxes must also be paid in loss-making years. In profit years, however, the tax burden is generally well below the general national tax level.

Summary

Liechtenstein is also attractive for companies in the domestic shipping sector. Liechtenstein is ideally placed to gain market share in this global economic sector, which has received comparatively little attention to date, and to capitalize on its high level of international competitiveness.

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