

---

CHAMBERS GLOBAL PRACTICE GUIDES

---

# Corporate Tax 2024

---

Definitive global law guides offering  
comparative analysis from top-ranked lawyers

## **Liechtenstein: Law & Practice**

Andreas Schurti and Simon Oberhofer  
Schurti Partners Attorneys at Law Ltd



# LIECHTENSTEIN



## Law and Practice

### Contributed by:

Andreas Schurti and Simon Oberhofer

**Schurti Partners Attorneys at Law Ltd**

## Contents

### 1. Types of Business Entities, Their Residence and Basic Tax Treatment p.5

- 1.1 Corporate Structures and Tax Treatment p.5
- 1.2 Transparent Entities p.6
- 1.3 Determining Residence of Incorporated Businesses p.6
- 1.4 Tax Rates p.6

### 2. Key General Features of the Tax Regime Applicable to Incorporated Businesses p.6

- 2.1 Calculation for Taxable Profits p.6
- 2.2 Special Incentives for Technology Investments p.6
- 2.3 Other Special Incentives p.7
- 2.4 Basic Rules on Loss Relief p.7
- 2.5 Imposed Limits on Deduction of Interest p.7
- 2.6 Basic Rules on Consolidated Tax Grouping p.8
- 2.7 Capital Gains Taxation p.8
- 2.8 Other Taxes Payable by an Incorporated Business p.8
- 2.9 Incorporated Businesses and Notable Taxes p.8

### 3. Division of Tax Base Between Corporations and Non-corporate Businesses p.9

- 3.1 Closely Held Local Businesses p.9
- 3.2 Individual Rates and Corporate Rates p.9
- 3.3 Accumulating Earnings for Investment Purposes p.9
- 3.4 Sales of Shares by Individuals in Closely Held Corporations p.9
- 3.5 Sales of Shares by Individuals in Publicly Traded Corporations p.9

### 4. Key Features of Taxation of Inbound Investments p.9

- 4.1 Withholding Taxes p.9
- 4.2 Primary Tax Treaty Countries p.9
- 4.3 Use of Treaty Country Entities by Non-treaty Country Residents p.9
- 4.4 Transfer Pricing Issues p.9
- 4.5 Related-Party Limited Risk Distribution Arrangements p.10
- 4.6 Comparing Local Transfer Pricing Rules and/or Enforcement and OECD Standards p.10
- 4.7 International Transfer Pricing Disputes p.10

## **5. Key Features of Taxation of Non-local Corporations p.10**

- 5.1 Compensating Adjustments When Transfer Pricing Claims Are Settled p.10
- 5.2 Taxation Differences Between Local Branches and Local Subsidiaries of Non-local Corporations p.10
- 5.3 Capital Gains of Non-residents p.10
- 5.4 Change of Control Provisions p.10
- 5.5 Formulas Used to Determine Income of Foreign-Owned Local Affiliates p.10
- 5.6 Deductions for Payments by Local Affiliates p.10
- 5.7 Constraints on Related-Party Borrowing p.11

## **6. Key Features of Taxation of Foreign Income of Local Corporations p.11**

- 6.1 Foreign Income of Local Corporations p.11
- 6.2 Non-deductible Local Expenses p.11
- 6.3 Taxation on Dividends From Foreign Subsidiaries p.11
- 6.4 Use of Intangibles by Non-local Subsidiaries p.11
- 6.5 Taxation of Income of Non-local Subsidiaries Under Controlled Foreign Corporation-Type Rules p.11
- 6.6 Rules Related to the Substance of Non-local Affiliates p.12
- 6.7 Taxation on Gain on the Sale of Shares in Non-local Affiliates p.12

## **7. Anti-avoidance p.12**

- 7.1 Overarching Anti-avoidance Provisions p.12

## **8. Audit Cycles p.12**

- 8.1 Regular Routine Audit Cycle p.12

## **9. BEPS p.13**

- 9.1 Recommended Changes p.13
- 9.2 Government Attitudes p.13
- 9.3 Profile of International Tax p.14
- 9.4 Competitive Tax Policy Objective p.14
- 9.5 Features of the Competitive Tax System p.14
- 9.6 Proposals for Dealing With Hybrid Instruments p.15
- 9.7 Territorial Tax Regime p.15
- 9.8 Controlled Foreign Corporation Proposals p.15
- 9.9 Anti-avoidance Rules p.15
- 9.10 Transfer Pricing Changes p.15
- 9.11 Transparency and Country-by-Country Reporting p.15
- 9.12 Taxation of Digital Economy Businesses p.16
- 9.13 Digital Taxation p.16
- 9.14 Taxation of Offshore IP p.16

**Schurti Partners Attorneys at Law Ltd** is a Liechtenstein-based full-service law firm with a strong focus on international matters. Its lawyers are trained and qualified in several jurisdictions (Liechtenstein, New York, California, England and Wales, Ireland, Switzerland, Germany and Austria), and have gained work experience abroad in some of the most prestigious international law firms. The firm was founded in 1991 as a partnership and incorporated in 2015, and has

become one of the largest and most renowned law firms in Liechtenstein. It started as a traditional Liechtenstein law office and evolved into a modern full-service law firm with a strong focus on corporate, commercial, tax, trust and foundation law, providing transactional and litigation services. It can count on the support of its affiliated trust companies for administrative and accounting work, and for tax filings.

## Authors



**Andreas Schurti** is a founding partner of Schurti Partners Attorneys at Law Ltd, with admissions in Liechtenstein and New York. He has profound knowledge of corporate,

commercial, tax, trust and foundation law, and has been advising and representing international and domestic clients for more than three decades. Andreas is a co-director of affiliated licensed trust companies serving private clients and businesses.



**Simon Oberhofer** is a specialist who is admitted as a Certified Tax Adviser and a Certified Auditor in Austria. He studied at the Vienna University of Economics and Business and

earned an LLM in International Taxation from the University of Liechtenstein. Simon has been advising international corporations and private clients in Liechtenstein and Austria for more than ten years.

---

## Schurti Partners Attorneys at Law Ltd

Zollstrasse 2  
9490 Vaduz  
Liechtenstein

Tel: +41 44 244 2000  
Fax: +41 44 244 2100  
Email: [andreas.schurti@schurtipartners.com](mailto:andreas.schurti@schurtipartners.com)  
Web: [www.schurtipartners.com](http://www.schurtipartners.com)

**SCHURTI : PARTNERS**  
RECHTSANWÄLTE AG | ATTORNEYS AT LAW LTD

## 1. Types of Business Entities, Their Residence and Basic Tax Treatment

### 1.1 Corporate Structures and Tax Treatment

#### Liechtenstein Incorporated

In Liechtenstein, most businesses adopt a corporate form, which is always taxed on its profits as a separate legal entity.

The most frequently used corporate forms are:

- the company limited by shares (*Aktiengesellschaft*);
- the establishment (*Anstalt*);
- the trust enterprise (*Treuunternehmen*); and
- the limited liability company (*Gesellschaft mit beschränkter Haftung*).

The company limited by shares and the limited liability company are subject to and fully compliant with the European rules and regulations. The establishment and the trust enterprise are more flexible and less severely regulated, and are therefore less costly to administer.

Due to Liechtenstein's membership of the EEA, European companies (*Europäische Aktiengesellschaft*) and European co-operatives (*Europäische Genossenschaft*) can also be established in Liechtenstein.

#### Liechtenstein Managed

The introduction of the Economic Substance Rule in many Caribbean jurisdictions has made the running of their companies more complicated and expensive. Furthermore, the list of countries with strategic anti-money laundering deficiencies still includes Belize, Panama and the Bahamas. Companies incorporated in these jurisdictions face severe difficulties in banking,

so many have moved their actual place of business to Liechtenstein, where they are subject to Liechtenstein taxation. Such move allows them to fulfil the economic substance requirements easily, or to find a bank that is willing to deal with them.

#### Foundations

Foundations (*Stiftungen*) can be used for estate planning in general and for the passing on of businesses and specific assets to next generations, and as holding entities and voting trusts. They are taxed as all other legal entities.

#### Trusts

The (common law type) trust serves similar needs as the foundation. It is subject to an annual minimum tax of CHF1,800 only, and is not subject to (tax) filing duties.

#### Withholding Tax

There is no withholding tax on distributions of Liechtenstein legal entities.

#### Transparent Partnerships

In addition to legal entities, there are legal forms of sole proprietorships (*Einzelunternehmen*) and partnerships (*Personengesellschaften*). These undertakings are transparent and are not taxed, but their income is attributed to their owner(s) or partners, respectively.

Transparent entities are not taxed in Liechtenstein, but their partners are. Transparent entities have their seat in Liechtenstein if:

- they are governed by Liechtenstein law;
- they have their main place of management in Liechtenstein; or
- at least half of the partners are residing in Liechtenstein.

## 1.2 Transparent Entities

Transparent entities are rare in practice. The most commonly used transparent entities are sole proprietorships (*Einzelunternehmen*) for small businesses, and simple partnerships (*einfache Gesellschaft*) and general partnerships (*Kollektivgesellschaft*) for professionals. The limited partnership (*Kommanditgesellschaft*) is used for investment purposes where non-Liechtenstein (tax and other) rules put non-transparent legal entities at a disadvantage. In general, transparent entities are not heavily used.

## 1.3 Determining Residence of Incorporated Businesses

Incorporated businesses (legal entities) are considered to reside in Liechtenstein if their statutory seat or their place of effective management is in Liechtenstein. The statutory seat is where the entity is registered, while the place of effective management is where the strategic management decisions are taken.

## 1.4 Tax Rates

### 12.5% Single Corporate Rate

The net profits of incorporated businesses minus the income that is tax free (ie, most dividends and capital gains on participations in legal entities) minus the notional interest deduction on equity are taxed at the rate of 12.5%. However, apart from some small businesses, every incorporated business has to pay a minimum tax of CHF1,800 per year.

### Progressive Rates up to 22.4% for Individuals' Businesses

Businesses owned by an individual directly or through a transparent entity are taxed solely on the level of the individual or the partners. The personal income tax rate of such individual or partners depends on their income, wealth, deductibles and place of residency (municipal-

ity) within Liechtenstein. The progressive income tax rates can reach 22.4%.

## 2. Key General Features of the Tax Regime Applicable to Incorporated Businesses

### 2.1 Calculation for Taxable Profits Accrual Basis

The Persons and Companies Act (*Personen- und Gesellschaftsrecht*) requires incorporated businesses to maintain proper accounting records using the accrual basis.

### Taxable Income

The taxable income is the accounting income, subject to adjustment for tax purposes and excluding income from dividends, capital gains from sales of shares in legal entities, foreign real estate and permanent establishments abroad, and distributions from foundations.

### Loss Carry Forward

Loss carry forward from (all) former years can be set off against 70% of the profits of the respective current year.

### Notional Interest Deduction on Equity

A 4% notional interest on equity may be deducted as an expense, but such deduction may not result in a loss or an increased loss.

### 2.2 Special Incentives for Technology Investments

As technology tax incentives can be a potential tool for profit shifting, all tax incentives for technology investments have been abolished in Liechtenstein.

## 2.3 Other Special Incentives

### Private Asset Structures

Any incorporated business (domestic or foreign) that is resident for tax purposes in Liechtenstein can apply for treatment as a Private Asset Structure if it does not pursue active commercial activities but just invests its assets as a passive investor.

#### *Benefits*

Private Asset Structures do not have to file accounts and tax returns; they just have to pay the minimum tax of CHF1,800 per year.

#### *Activities*

Private Asset Structures may not conduct commercial activities. Typically, they hold “bankable assets” on their own behalf, real estate for their owners or beneficiaries, and art collections, liquid funds or participations.

#### *Participations held by Private Asset Structures*

Private Asset Structures or their shareholders or beneficiaries must not exert actual control over the management of participations by means of direct or indirect influence. However, the mere use of the shareholder’s voting rights is not harmful. The shares or ownership interests (if any) of a Private Asset Structure may not be publicly placed or traded. Private Asset Structures are often used as top holdings of companies that are not run by members of the family of the founder and beneficiaries.

#### *Typical use*

Private Asset Structures are frequently used by passive private investors/wealthy individuals. They can also benefit from the lack of withholding taxes on any kind of distributions (dividends from companies limited by shares, distributions from foundations, establishments, etc).

#### *EFTA Surveillance Authority approval*

The favourable taxation of Private Asset Structures was approved by the EFTA Surveillance Authority as being compliant with European competition law.

#### *Trusts*

Liechtenstein trusts are subject to the minimum corporate income tax of CHF1,800. As opposed to Private Asset Structures, trusts do not have to fulfil certain prerequisites and are not subject to certain restrictions, including in relation to the holding of participations.

## 2.4 Basic Rules on Loss Relief

### Loss Carry Forward

Losses may be carried forward to offset income for an unlimited period following the year of loss. The loss that can be offset is limited to 70% of the taxable income of the respective financial year. The remainder of the losses carried forward can be used in the following years.

Losses from activities that are not subject to taxation, such as the sale of participations in legal entities, cannot be set off against taxable income.

### Carry Back

Losses may not be carried back.

## 2.5 Imposed Limits on Deduction of Interest

Interest payments to related parties must be at arm’s length.

The Liechtenstein tax authority issues safe harbour interest rates for various currencies annually, in relation to related parties.

Due to the fact that a 4% notional interest deduction can be applied and because there

are no thin capitalisation rules, there is no great incentive to pay high interest rates.

## 2.6 Basic Rules on Consolidated Tax Grouping

Upon application, affiliated legal entities can form a group of entities for tax purposes and offset the losses incurred within one year against the profits of other group members generated in the same year. The compensation takes place by way of the losses from the group members being attributed to the group parent or – if there is a loss after offsetting any attributable losses against the taxable net income of the group parent – the losses from the group parent being attributed to a group member that is fully taxable in Liechtenstein.

The following conditions apply to group taxation, among others:

- the parent entity must reside in Liechtenstein for tax purposes (either because it is registered in Liechtenstein or because it is managed out of Liechtenstein); and
- the parent entity must hold at least 50% of the voting rights and the capital of the (domestic or foreign) subsidiaries as of the beginning of the respective year.

## 2.7 Capital Gains Taxation Capital Gains on Sale of Legal Entities

Capital gains from the sale of or the liquidation of interest in legal entities are tax-free, provided the anti-avoidance rules do not apply.

In order to be tax-exempt, the anti-avoidance rules require – in relation to holdings of foreign entities – either that the total gross revenue of the respective foreign entity derived from passive sources is less than 50% of the overall income or that the net profits of the respective foreign

entity are not subject to overall low taxation (considering potential foreign taxes). Low taxation is assumed if the total tax burden abroad is less than half of that which would result from a comparable situation in Liechtenstein. In practice, the anti-avoidance rules disadvantage participations in typical (Caribbean) offshore jurisdictions where there is hardly any taxation (less than 6.25%).

## Real Estate

Profits earned on the sale of domestic real estate are subject to a special tax, with a maximum rate of 24%.

## 2.8 Other Taxes Payable by an Incorporated Business

On the basis of the Swiss–Liechtenstein Customs Treaty, Swiss stamp duties are levied in Liechtenstein. Stamp duties are payable on the issue and transfer of certain securities.

## 2.9 Incorporated Businesses and Notable Taxes

Due to the Customs Union with Switzerland, a value-added tax has been implemented in Liechtenstein, which is identical to the Swiss value-added tax and is levied on goods and services and their import. The standard rate is 8.1% (it was 7.7% up to 31 December 2023), with reduced rates of 3.8% (3.7% up to 31 December 2023) applying to hotel accommodations and 2.6% (2.5% up to 31 December 2023) applying to basic goods.

## 3. Division of Tax Base Between Corporations and Non-corporate Businesses

### 3.1 Closely Held Local Businesses

Most closely held local businesses operate in a corporate form. Only micro-enterprises operate in a non-corporate form.

### 3.2 Individual Rates and Corporate Rates

There are no specific rules to prevent individual professionals such as architects, engineers, consultants, accountants and lawyers from earning income at the corporate rate. However, if they are residing or domiciled in Liechtenstein, they are subject to taxation on their respective worldwide net assets, which include their corporate entity.

Professionals who have not incorporated their businesses are generally taxed as self-employed persons and are subject to income and wealth tax.

### 3.3 Accumulating Earnings for Investment Purposes

There are no rules to prevent closely held corporations from accumulating earnings for investment purposes. The accumulation of the profits increases the value of the entity, thereby also increasing the basis for the wealth tax of the individual as owner of the entity.

### 3.4 Sales of Shares by Individuals in Closely Held Corporations

Dividends and gains from the sale of shares in closely held Liechtenstein and foreign corporations are tax-free for individuals residing in Liechtenstein. However, as with the accumulated earnings, the gains of such sales increase the basis for the wealth tax if the individual resides and is taxed in Liechtenstein.

### 3.5 Sales of Shares by Individuals in Publicly Traded Corporations

The same rules apply to closely held and publicly traded corporations: dividends and gains from the sale of shares in Liechtenstein and foreign companies are tax-free for individuals in Liechtenstein. However, as with the accumulated earnings, the gains of such sales increase the basis for the wealth tax if the individual resides and is taxed in Liechtenstein.

## 4. Key Features of Taxation of Inbound Investments

### 4.1 Withholding Taxes

Liechtenstein does not levy withholding taxes on interest, dividends or royalties.

### 4.2 Primary Tax Treaty Countries

Liechtenstein has concluded double taxation treaties with 21 countries, including Germany, Austria, Switzerland, the UK, the Netherlands, the UAE, Hong Kong, Singapore, Luxembourg, Malta, the Czech Republic, Hungary and Uruguay. The number is constantly increasing, with treaties with Italy and Romania having been initiated.

### 4.3 Use of Treaty Country Entities by Non-treaty Country Residents

The Liechtenstein tax authority does not unilaterally challenge the use of treaty country entities by non-treaty country residents.

### 4.4 Transfer Pricing Issues

Liechtenstein domestic law does not provide for any specific transfer pricing rules or regulations. Liechtenstein applies the OECD guidelines on transfer pricing issues and has fully implemented BEPS Action 13.

Inbound investors operating through a local entity must document the appropriateness of the transfer prices of significant transactions with related parties and permanent establishments.

#### 4.5 Related-Party Limited Risk Distribution Arrangements

There are no specific rules with respect to the use of related-party limited risk distribution arrangements in Liechtenstein law. However, the Liechtenstein tax authority can review and challenge such an arrangement based on the arm's length principle.

#### 4.6 Comparing Local Transfer Pricing Rules and/or Enforcement and OECD Standards

Liechtenstein has modelled its local transfer pricing rules and enforcement on the OECD standards for transfer pricing issues.

#### 4.7 International Transfer Pricing Disputes

##### Number of Disputes

Normally, fewer than ten cases per year require the initiation of a mutual agreement procedure based on a double taxation treaty due to transfer pricing issues.

##### Tax Authority's View

The tax authority considers mutual agreement procedures to be a useful tool in discussing double taxation issues with the respective partner state. In most cases, an agreement can be reached with the partner state.

## 5. Key Features of Taxation of Non-local Corporations

### 5.1 Compensating Adjustments When Transfer Pricing Claims Are Settled

The tax assessment is adjusted according to the outcome of the mutual agreement procedure.

### 5.2 Taxation Differences Between Local Branches and Local Subsidiaries of Non-local Corporations

The profits of both the local subsidiaries of non-local corporations and the local branches of non-local corporations are subject to the same corporate income tax rules, and are therefore taxed similarly.

### 5.3 Capital Gains of Non-residents

Capital gains of non-residents on the sale of stock in local corporations are not subject to taxation in Liechtenstein.

### 5.4 Change of Control Provisions

In Liechtenstein, there are no change of control provisions triggering tax or duty charges.

### 5.5 Formulas Used to Determine Income of Foreign-Owned Local Affiliates

There are no specific formulas to determine the income of foreign-owned local affiliates.

### 5.6 Deductions for Payments by Local Affiliates

Payments by local affiliates for management and administrative expenses incurred by a non-local affiliate are deductible to the extent that they are economically related to the domestic income of the paying domestic affiliate.

Management and administrative services must be charged at arm's length.

## 5.7 Constraints on Related-Party Borrowing

### Interest Barrier

Apart from the arm's length test, there are no restrictions regarding borrowings between related parties in relation to payable interest.

### Safe Harbour Rules

The tax administration issues safe harbour interest rates in relation to interest rates applied among related parties.

## 6. Key Features of Taxation of Foreign Income of Local Corporations

### 6.1 Foreign Income of Local Corporations

Resident corporations are subject to unlimited tax liability on their worldwide income, except for income generated by foreign permanent establishments, income from the management of foreign real estate, and distributions and capital gains from Liechtenstein and foreign participations (see 2.7 Capital Gains Taxation).

### 6.2 Non-deductible Local Expenses

Expenses that are proportionally attributable to foreign income that is not subject to tax in Liechtenstein are not deductible. However, losses from foreign permanent establishments in Liechtenstein can be taken into account under certain circumstances.

### 6.3 Taxation on Dividends From Foreign Subsidiaries

In general, dividends from the foreign subsidiaries of local corporations are not taxed. However, following the implementation of BEPS Action 5, dividends are taxable if the foreign subsidiary is subject to no or low taxation and generates

mainly passive income (see 2.7 Capital Gains Taxation).

### 6.4 Use of Intangibles by Non-local Subsidiaries

There are no specific rules related to the taxation of intangibles, so the income from intangibles is subject to ordinary income taxation.

Non-local subsidiaries are not subject to Liechtenstein taxation, including in relation to the intangibles developed by local entities. However, based on the arm's length rule, the tax authority could tax the local entity that developed the intangible, and attribute a respective royalty fee to its profits.

### 6.5 Taxation of Income of Non-local Subsidiaries Under Controlled Foreign Corporation-Type Rules

#### CFC Rules

Liechtenstein has not implemented BEPS Action 3 and therefore has not established CFC-type rules. Earnings from foreign subsidiaries are not attributed to the Liechtenstein entity. Instead, dividends that are from companies domiciled in low-tax countries and derived from predominantly passive income are taxable (see 2.7 Capital Gains Taxation).

#### Place of Management

Entities that are registered abroad but are effectively managed in Liechtenstein are subject to Liechtenstein income tax.

#### Branches

Non-local branches are treated the same as non-local corporations.

## 6.6 Rules Related to the Substance of Non-local Affiliates

There are no rules in Liechtenstein related to the substance of non-local affiliates.

## 6.7 Taxation on Gain on the Sale of Shares in Non-local Affiliates

In principle, the gains on the sale of shares in non-local affiliates are tax-free, provided that the anti-avoidance rules do not apply (see 2.7 Capital Gains Taxation).

## 7. Anti-avoidance

### 7.1 Overarching Anti-avoidance Provisions

#### General Rules

Legal or factual arrangements are deemed to be abusive if they appear to be inappropriate in the economic circumstances and if their sole economic purpose is to obtain tax advantages. If there is an abuse, the inappropriate arrangement is disregarded for tax purposes and taxes are levied as if the inappropriate arrangement would not exist.

#### Arm's Length Principle

The arm's length principle must be observed in all transactions between related parties. If a taxpayer's income or expenses from a business relationship with related parties or with a permanent establishment are changed by applying different terms and conditions to those with unrelated parties, such different terms and conditions are not acceptable for tax purposes.

#### Documentation

Taxpayers must document that the transfer prices of material transactions with related parties and permanent establishments are reasonable.

## 8. Audit Cycles

### 8.1 Regular Routine Audit Cycle Income Tax

Tax audits in relation to regular income taxes are rare. If there are no reasons or indications for the assumption of irregularities, there might be no tax audit for decades.

#### Value-Added Tax

Regular audits are conducted in relation to the value-added tax. In practice, there is a cycle of about five years.

#### Private Asset Structures

The tax authority verifies whether the conditions for the granting of the status of Private Asset Structure are fulfilled (ie, no commercial activities – see 2.3 Other Special Incentives). There is currently a cycle of about three to five years.

#### Rules of Tax Audits

Liechtenstein law does not outline the specifics and frequency of the audit process.

Entities must complete a tax return annually and are obliged to provide the tax authority with the requested information and documents. The tax authority's assessment is based on these documents and information, and on any other subsequently requested documents or explanations. The tax authority may also call in experts, carry out inspections, request information or certificates from the entities, and inspect their books. The assessment is concluded with a decision of the tax authority, which can be appealed to the Tax Commission and the Administrative Court.

## 9. BEPS

### 9.1 Recommended Changes

#### Multilateral Instrument

On 7 June 2017, Liechtenstein signed the Multilateral Convention to Implement Tax Treaty Measures to Prevent Base Erosion and Profit Shifting (MLI).

#### Implemented BEPS Standards

Liechtenstein has implemented the minimum standards and amended double taxation agreements to counter treaty abuse. In accordance with the MLI, Liechtenstein has implemented the following:

- BEPS Action 5 (Counter Harmful Tax Practices and Patent Boxes);
- BEPS Action 6 (Prevention of Treaty Abuse);
- BEPS Action 13 (Country-by-Country Reporting); and
- BEPS Action 14 (Dispute Resolution Mechanism).

Liechtenstein has implemented the Global Anti-Base Erosion (GloBE) minimum taxation of 15% (Pillar Two) as of 1 January 2024. The implementation will take place through the Liechtenstein GloBE Act, which follows the OECD standards and provides the legal basis for the levying of the top-up tax.

#### Non-implemented BEPS Standards

However, Liechtenstein has reserved the right not to apply the following MLI articles:

- Article 3 (Transparent Entities);
- Article 4 (Dual Resident Entities);
- Article 8 (Dividend Transfer Transactions);
- Article 9 (Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property);

- Article 10 (Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions);
- Article 11 (Application of Tax Agreements to Restrict a Party's Right to Tax its Own Residents);
- Article 12 (Artificial Avoidance of Permanent Establishment Status through Commissionaire Arrangements and Similar Strategies);
- Article 13 (Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions);
- Article 14 (Splitting-up of Contracts); and
- Article 15 (Definition of a Person Closely Related to an Enterprise) in its entirety.

### 9.2 Government Attitudes

Liechtenstein fully supports the BEPS project, which essentially provides for the taxation of profits in the jurisdiction where the value was generated, and has implemented the MLI and the minimum standards accordingly (BEPS Actions 5, 6, 13 and 14). The government focuses on Pillar One and Pillar Two, and the following issues in particular:

- patent boxes (abolished as of 1 January 2017);
- the prevention of treaty abuse;
- country-by-country reporting;
- dispute resolution mechanisms; and
- implementation of the global minimum taxation.

#### Impact

The new tax law, introduced in 2011, was designed to be in line with international and European standards. Therefore, for example, the Liechtenstein government was keen to get the approval of the EFTA Surveillance Authority in relation to Private Asset Structures. At the same time, it was possible to adopt attractive

and competitive rules and a reasonable tax rate of 12.5%.

The new Liechtenstein tax rules essentially fulfil all OECD requirements, so only the following few changes had to be made for the implementation of BEPS:

- the abolition of the IP Box;
- the abolition of the asymmetric treatment of capital gains and losses from participations;
- the introduction of an anti-abuse provision; and
- implementation of the GloBE Act with effect from 1 January 2024 to ensure the minimum taxation of 15%.

### 9.3 Profile of International Tax Entrepreneurial Spirit

Liechtenstein society and politics support private enterprises and entrepreneurs. There is one enterprise per eight residents, which is significantly higher than in most other countries. As a consequence, in Liechtenstein the government spending ratio in relation to the GDP is stable, at a low level of around 20%. This low ratio allows a reasonable level of taxation and is the basis for the competitive tax system. Despite such reasonable level of taxation, Liechtenstein is debt-free and regularly generates a budget surplus. Liechtenstein is AAA rated and has a cushion that will allow the payment of government spending for about a year.

### Political System

Due to Liechtenstein's grass roots democracy (referendum and initiative), people are interested in and are monitoring the new tax legislation. This has triggered a cautious approach by the government, with international taxation earning public attention. International tax rules could potentially undermine the (direct) democracy.

### Economics

Nevertheless, the Liechtenstein people know that their country is embedded in an international system, with the manufacturing industry accounting for about 39% of all jobs, and almost 100% of what is produced in Liechtenstein being exported. Likewise, the Liechtenstein financial industry – supported by the Swiss franc as the national currency – attracts clients from most parts of the world. Therefore, it is understood and accepted that compliance with international standards is key.

### 9.4 Competitive Tax Policy Objective

Liechtenstein is aware of the necessity to implement international standards (BEPS), and will continue to implement them in the future.

Nevertheless, Liechtenstein is an extremely attractive place in terms of tax and corporate law: it has modern, new and attractive tax rules that are adjusted regularly to international standards, and it has no debts, despite a reasonable corporate tax rate of 12.5% and progressive tax rates for individuals of up to 22.4%. Liechtenstein has no need to increase taxes. If it should be forced to increase the level of taxation, it would keep its competitive edge as long as there is a level playing field.

### 9.5 Features of the Competitive Tax System

The income tax rate of 12.5% in Liechtenstein is below the minimum tax rate under Pillar Two. With the implementation of Pillar Two from 1 January 2024, companies that are members of a group with a consolidated revenue of at least EUR750 million will be subject to a minimum tax rate of 15%.

## 9.6 Proposals for Dealing With Hybrid Instruments

Hybrid instruments have only minor significance in Liechtenstein. To avoid tax structuring with these instruments, dividend payments from affiliated companies are taxable if they can claim the distribution as an expense for tax purposes.

## 9.7 Territorial Tax Regime

In principle, Liechtenstein applies a worldwide tax regime. Territoriality applies only in certain areas, such as foreign branches, subsidiaries or real estate. Currently, no interest deduction restrictions in line with BEPS Action 4 have been implemented, nor are any expected to be implemented.

## 9.8 Controlled Foreign Corporation Proposals

Liechtenstein does not have CFC legislation, as Liechtenstein residents are not taxed on profits earned by foreign legal entities. Dividends from foreign legal entities are not tax-exempt if the entity is resident in a low-tax country and sustainably earns more than 50% passive income.

## 9.9 Anti-avoidance Rules Double Taxation Agreements

Private Asset Structures, which are subject only to the minimum corporate income tax of CHF1,800, cannot benefit from the double tax treaties – eg, with Switzerland, Austria, the Czech Republic, Germany, the United Kingdom and Andorra.

## MLI

Furthermore, the MLI (to which Liechtenstein is a party) includes the principal purpose test, which hinders the use of layered structures based on the provisions of multiple tax treaties.

## 9.10 Transfer Pricing Changes Modern Tax Law

Liechtenstein revised its tax rules in 2011 according to modern international standards, so only a few BEPS-related amendments and changes were necessary, with the most significant being the introduction of the anti-abuse provisions for participations with predominantly passive income in low-tax countries and the implementation of the minimum taxation according to Pillar Two.

### Transfer Price Documentation

The introduction of transfer pricing documentation has not led to radical changes in the Liechtenstein tax regime, since it embraces the OECD guidelines. Furthermore, the regulatory burden is deemed manageable, since the Master File and the Local File are internationally recognised.

### Intellectual Property

Liechtenstein abolished the IP Box regulation with effect from 1 January 2017, as it did not comply with the OECD standard (BEPS Action 5).

## 9.11 Transparency and Country-by-Country Reporting

Group parent entities residing in Liechtenstein with a consolidated revenue of more than CHF900 million or surrogate parent entities must comply with country-by-country reporting. The reports must be submitted to the Liechtenstein tax authority.

### Effect

The preparation of the transfer pricing documentation and the exchange of information represent a high administrative burden for the companies concerned.

## 9.12 Taxation of Digital Economy Businesses

Liechtenstein has not yet taken any action with regards to the taxation of digital economy businesses.

## 9.13 Digital Taxation

Liechtenstein is open regarding the introduction of digital taxation, but no proposals have yet been brought forward.

## 9.14 Taxation of Offshore IP

Liechtenstein has so far not introduced any specific provision dealing with the taxation of domestic offshore intellectual property.

Royalties constitute passive income in Liechtenstein, so dividends from foreign companies in low-tax jurisdictions are taxable if the foreign company's passive income constitutes more than 50% of its overall income.

---

## CHAMBERS GLOBAL PRACTICE GUIDES

---

Chambers Global Practice Guides bring you up-to-date, expert legal commentary on the main practice areas from around the globe. Focusing on the practical legal issues affecting businesses, the guides enable readers to compare legislation and procedure and read trend forecasts from legal experts from across key jurisdictions.

To find out more information about how we select contributors, email [Katie.Burrington@chambers.com](mailto:Katie.Burrington@chambers.com)