

# Liechtenstein

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## Liechtenstein tax reform

Andreas Schurti  
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The current Liechtenstein Tax Act dates back to 1961. It shall be completely revised and come into force at the beginning of 2011 (following Tax Reform).

The ratio between the overall tax revenues in Liechtenstein and the GDP is 16.9% (2008). Liechtenstein has no debts; on the contrary, its government sits on a cushion which exceeds its one-year spending.

Against this background it is no surprise that the Tax Reform has a highly competitive edge. In addition the government was keen to bring the Liechtenstein tax rules in line with modern international trends and in conformity with European law in order to prevent future attacks from other countries. The Tax Reform shall facilitate the conclusion of bilateral tax agreements. For example corporations shall be subject to tax based on their legal or effective place of management and their transactions shall be considered on an arm's length basis. Uncommon and complicated provisions of the current law shall be replaced by new rules which match with the OECD model treaty.

### Taxation of legal entities

#### *Abolition of Capital Tax and Coupon Tax*

The existing capital tax and the coupon tax of 4% on certain distributions and interest payments will be eliminated.

Old reserves can be distributed in the first two years after entering into force of the Tax Reform at a lower rate of 2%. Afterwards, the current rate of 4% will apply again to distributions of old reserves.

#### *Abolition of Special Company Taxes*

The Tax Reform provides for the elimination of "Special Company Taxes" for domiciliary and holding companies, which shall prevent future

reproaches of ring-fencing. However, legal entities might qualify as Private Asset Structures.

Existing entities benefiting from the current Special Company Taxes have a five-year transitional period to adapt to the new rules. The minimum capital tax will be increased during that period to an amount between SFr1,200 and SFr1,800.

#### *Private Asset Structure (Privatvermögensstruktur - PVS)*

In the future any Liechtenstein legal entity can qualify as a PVS upon application, if it holds "bankable assets" as defined by the EU Markets in Financial Instruments Directive, liquid funds, and participations only and if its shares are not publicly offered or traded.

A Private Asset Structure is subject to the minimum annual tax of 6% on the minimum registered capital, however, at least SFr1,800.

#### *Trusts*

Trusts will be subject to the minimum tax of SFr1,800, if they are domiciled or actually administered in Liechtenstein or receive earnings in Liechtenstein.

#### *12.5% Flat Rate Tax*

All legal entities (including companies limited by shares, establishments and foundations) will be subject to a flat rate tax of 12.5% on taxable net profit if they did not apply for taxation as a Private Asset Structure.

#### *Deductions and Loss Carry-Forwards*

Numerous changes are proposed that aim to prevent the double taxation of corporate profits. Dividends received from domestic or foreign entities and capital gains from the disposal of shares or real estate, proceeds from foreign operations, and rent income from foreign real estate are deductible.

Further, 4% on the invested and needed capital can be deducted. The current five year loss carry-forward is replaced by an unlimited loss carry-forward.

#### *International Group Taxation*

Domestic and foreign subsidiaries of a Liechtenstein parent entity will be allowed to apply for group taxation. Losses of group entities shall be attributed to the parent company, subject to recapture rules.

#### *Depreciation of Shares of Subsidiaries*

The Tax Reform provides for a tax effective depreciation of subsidiaries in the event of a permanent decrease in value, subject to a recapture rule.

#### *Patent Income*

80% of the patent income shall be deductible.

#### *Investment Funds / Private Equity Vehicles*

Investment funds shall not be taxed; instead their unit holders shall be taxed in their countries of residence.

Private equity companies can apply for taxation as a Private Asset Structure if they are legal entities. If they are structured as a partnership ("Kommanditgesellschaft") their partners shall be taxed only.

### Taxation of Natural Persons

#### *Abolition of Inheritance, Estate and Gift Taxes*

The current inheritance, estate and gift taxes shall be abolished.

#### *Abolition of Capital Gains Taxation*

Capital gains are no longer relevant income for income tax purposes.

#### *Partnerships*

Partnerships and similar entities shall be taxed based on the concept of fiscal transparency. The partners, but not the partnership, shall have to pay the taxes.

#### *Combination of Wealth Tax and Income Tax*

Individuals will continue to be taxed based on a combination of wealth and income tax. However, the taxable net wealth will be integrated into the income tax for taxation purposes. The net wealth will be multiplied by a stan-

dard rate, and the product of such calculation becomes a part of the taxable income.

#### Tax Rates

Combined income shall be subject to seven different tax brackets (replacing the current progressive scale). Marginal rates will start at 1% (for income exceeding SFr30,000) and end with the top marginal rate of 21% (for taxable income exceeding SFr255,000), based on a municipal surcharge of 200% (which is currently, in practice, mostly lower).

## Financial and corporate

Recommended firms	
<b>Tier 1</b>	
Dr Dr Batliner & Dr Gasser	
Marxer & Partner	
Walch & Schurti	
<b>Tier 2</b>	
Batliner & Konrad	
Batliner Wanger Batliner	
Müller & Partner	
Seeger Frick & Partner	
Sele Frommelt & Partner	
<b>Tier 3</b>	
Harry Gstöhl & Partner	
Jelenik & Partner	
Kaiser & Kaiser	
Law Office Holzhaecker	
Law Office Struth	
Sprenger & Partner	
Wanger	

Liechtenstein went through a whirlwind of new tax regulations during 2009 in an attempt to reduce the number of clients hiding their money in off-shore accounts to avoid paying higher taxes in their native countries. Liechtenstein has concluded several tax information agreements (TIEAs) with Western countries including the UK, Germany and France which will offer a clear legal framework for information exchanges regarding off-shore accounts. The new agreement will provide detailed information for individual clients upon request, meaning clients of Liechtenstein banks will no longer have the anonymity that they enjoyed before the TIEA was introduced. Furthermore, the new agreement will ensure an “efficient and rapid administrative procedure” in all proceedings.

The UK agreed a unique agreement with Liechtenstein in August 2009 where the Liechtenstein Disclosure Facility (LDF) works in coordination with Her Majesty’s Revenue & Customs (HMRC) to ensure that “clients of the financial centre taxable in the UK honour their

tax obligations.” The initial agreement will run until April 2015.

The reaction to the new tax regulations has been mixed. One lawyer says, “Of course the banks have noticed a run off from most of the clients.” Another partner says, however, “I don’t think this new agreement will affect business too much. There have been some new off shore accounts opened since the agreement and many still consider Liechtenstein to be a safe haven.”

Law firms are now predicting how these new regulations will affect their own businesses. One partner says: “Business will be less and less and less. The main attraction for people coming to Liechtenstein was the secrecy of banks. Now people don’t have that, business will definitely suffer.”

In March 2010, Prince Max, chief executive of the country’s largest bank, LGT, responded by telling clients from the UK that they would offer a tax amnesty in an attempt to persuade investors who had money hidden from other off-shore accounts to deposit their funds into Liechtenstein. The offer included minimal penalties, a guarantee of no prosecutions and to be spared the embarrassment of being named and shamed.

The new tax regulations aside, Liechtenstein has barely been affected by the global financial crisis and has benefited from a strong economy. “The capital funds are extremely healthy in the banks. We have about twice the amount of most EU countries,” says one partner.

Though clients will lose their right to secrecy one partner says: “In the end it’s not that bad. People will have to weigh up what they want. A strong banking sector with no secrecy or a weak bank with secrecy”. Another partner says, “Clients will be able to find a way to declare their assets one way or another; I think it will be OK.”

### Dr Dr Batliner & Dr Gasser

“Dr Dr Batliner & Dr Gasser is a really good law firm,” says a rival. “It has a large number of employees and is very respectable.” The law firm remains one of the country’s market leaders and rivals are all in agreement about its position. “They have most of the clients and get the big cases.” says one peer.

The highly regarded law firm offers every corporate and financial service available, with a host of dedicated lawyers to each practice area.

#### Leading lawyers

Herbert Batliner  
Johannes Gasser  
Peter Monauni

### Marxer & Partner

One partner says that Marxer & Partner is “even a bit bigger” than Dr Dr Batliner & Dr Gasser.

The law firm, founded over 85 years ago, now has 14 partners and ten associates offering a wide range of legal skills to the market including banking and capital markets services.

“They are one of the top law firms in Liechtenstein,” says one peer.

#### Leading lawyers

Johannes Burger  
Herbert Oberhuber  
Michael Oberhuber  
Stefan Wenaweser

### Walch & Schurti

Founded in 1991, Walch & Schurti has been a strong presence in the market for a number of years and the latest has been no different. One lawyer says: “We’ve done a lot of work with them and I would definitely put them in the top tier.”

The firm’s practice is based around contract law, corporate and commercial law, banking and finance as well as others. Partner Ernst Walch was previously the Minister of Foreign Affairs in Liechtenstein between 2001 and 2005.

#### Leading lawyers

Andreas Schurti  
Ernst Walch

### Batliner Wanger Batliner

Batliner Wanger Batliner is a law firm on the up according to its peers. One partner says: “It is a young law firm that is developing very quickly. They have a good number of quality lawyers.” Another lawyer says: “They are very reputable. They may be young but they have great ambitions.”

Leading the firm are partners, Christian Batliner, Martin Batliner and Ralph Wanger, who focus on corporate and capital markets law.

A highlight in terms of banking regulation activity is its work advising on the development of a new Liechtenstein bank.

#### Leading lawyers

Martin Batliner

### Other notable firms

**Advocatio** entered the market this year after a leading lawyer from Wanger, Johannes Grabher, and colleague Johannes Schallert left to set up shop in May 2010. Grabher, who was recognised by the market in the 2010 edition of *IFLR1000* as one of the leading practitioners, has uniquely set out the firm to be a market leader in advising clients from eastern Europe. On this note, Schallert is the only Russian-speaking lawyer in Liechtenstein.