New tax law enhances attractiveness

By Dr. Norbert Seeger
Attorney-at-law, Vaduz

With the coming into effect of the new tax law on 1st January 2011, Liechtenstein has provided itself with an attractive, competitive and powerful tax law. This tax reform is closely affiliated to Liechtenstein's tradition of low taxation, but it also fulfils the demands for international compatibility and European legal conformity. The tax reform increases Liechtenstein's attractiveness by introducing a flat rate for active companies and tax privileges for private asset structures.

As part of this tax reform, Liechtenstein's goal was to adapt the current tax law, in accordance with the latest standards of international taxation, to the changing economic and legal framework at home and abroad. Liechtenstein will thereby continue to have an internationally competitive tax system. The continuation of a beneficial taxation for active companies as well as managed asset structures, such as foundations, establishments and trusts, will allow Liechtenstein to position itself as an economic location and a successful international financial marketplace.

In addition to a company-friendly structure, the tax law distinguishes itself through simplified taxation of natural persons. Capital gains tax as well as estate, inheritance and gift tax are waived.

The reform of the tax law strengthens Liechtenstein's position as an internationally competitive location, the most important location factor being company taxation rates. In Liechtenstein, taxable legal entities that are commercially active are only subject to tax on earnings. The levying of tax on capital and coupon tax on securities have been waived. The new regulations on earnings set a flat rate of 12.5%, which is an incentive for high-return industries as well as small and middle-sized companies to locate in Liechtenstein. This moderate tax on earnings is combined with an extensive exemption of returns on investments and equity profits. By being able to deduct the interest on equity, which in times of economic difficulties amounts to noticeable tax relief, the inequality between equity and borrowed capital has been abolished. The tax law creates a new modern taxation of companies which are part of a concern. This allows the balancing off of losses in a national or international concern within a set period. Through this new kind of taxation, Liechtenstein regains its tax attractiveness as a location for commercially active legal entities which diminished when various countries lowered their tax rates.

The attractiveness of asset managing structures is a focal point of Liechtenstein's financial marketplace. Liechtenstein has placed special emphasis, through the new tax law, on the taxation of various forms of asset managing structures especially foundations, establishments and trusts. Other associations such as joint stock companies can also be used by wealthy individuals to manage part of their wealth. Such legal entities are recognised under the new tax law as private asset companies (Privatvermögensgesellschaften or PVGs) if they are solely used for asset management of natural persons and do not exercise any commercial activity. The special company tax has been replaced by a legally conform European as well as an attractive, well-constituted, internationally unified taxation concept. The various kinds of funds or investment companies, in which numerous investors can bundle their asset investments, will be taxed comparable to legal entities on the basis of internationally compatible, transparent tax principles.

Once the special company tax has been rescinded, the private asset structures, as a new form of taxation, will provide Liechtenstein with an attractive model for the taxation of managed assets. On the whole, the tax reform increases, especially in connection with the new foundation law, Liechtenstein's appeal for foreign investors.

The new tax law places special focus on the various structures of asset management. In particular, company tax, which was in danger of contravening the EEA ban on state aid, was rescinded and replaced by a minimum tax on profits of 1,200 francs p.a. This taxation will, in particular, affect companies which are commercially inactive PVGs founded to manage asset investments of individual persons. With this modest increase, compared with the previous company tax of 1‰ on paid-up capital resp. invested assets or at least 1,000 francs, Liechtenstein remains an attractive location for PVGs. Experts envisage that the majority of legal entities which were subject to the special company tax in the past, will now qualify as PVGs.

The tax reform placed special emphasis on maintaining the attractiveness of Liechtenstein for the management of assets. Foundations, trusts and establishments under Liechtenstein law as well as other legal entities such as joint stock companies can be used by wealthy private individuals to manage a part of their assets. Such legal entities can qualify as PVGs if they are solely used for the management of assets of private individuals and exercise no commercial activities. PVGs are not subject to the usual tax on earnings but are taxed by a minimum flat rate of 1,200 francs p.a. The new tax law thereby fulfils the needs of the financial marketplace for an internationally competitive tax on managed asset structures. The taxation of qualified PVGs is now conform with the rules of the EEA which provides investors with legal certainty.

The introduction of a special tax system for companies which are solely used for the management of assets and are commercially inactive safeguards the appeal of Liechtenstein as a location for asset management. Collective capital investment as well as special funds for qualified investors are treated on the principle of tax transparency. Funds are thereby not taxable, because tax is levied on the investment holder in his country of abode. Private-equity companies in the form of private limited partnerships also enjoy this basic tax transparency. In the legal form of a legal person, they are either subject to tax on earnings or, providing they fulfil the legal requirements, are taxed as PVGs.

www.seeger.li