Onshoring in Liechtenstein

Tightening of tax requirements for structures

In the battle against profit shifting and base erosion, the Organisation for Economic Co-operation and Development (OECD) and the European Union (EU), as well as their member states, have continuously stepped up the pressure on zero- and low-tax countries by introducing what are known as grey and black lists. In particular, this has increased requirements in the fields of substance, anti-abuse provisions and exchange of information in tax matters.

This trend is supported by various leaks from offshore jurisdictions, which have now also caused the public to heap a significant amount of social condemnation on classic tax havens.

The emerging requirements, particularly in terms of substance, and the associated added costs are making classic offshore locations less attractive. A trend can now be seen toward simpler structures with greater presence in moderately taxed jurisdictions that meet the requirements of both the EU and the OECD.

Because of its political and economic stability, EAA membership, and its attractive tax law, which is in conformity with the EU, Liechtenstein is an ideal onshoring location for asset management structures. The tax requirements and basic conditions of the OECD and the EU of course also apply to Liechtenstein. However, substance for tax purposes, for example, is often significantly easier to create in Liechtenstein than on a remote island.

Taxation of asset management structures in Liechtenstein

As part of the peer review process in the European Economic Area (EEA), the Liechtenstein tax system is periodically reviewed. It was most recently judged to be compliant in 2019. This circumstance creates planning certainty, which makes it possible to draft and implement long-term enterprise structures. The most interesting tax advantages for asset management structures include:

1 **Tax-free investment income**

In order to avoid multiple taxation, Liechtenstein exempts dividends and gains on disposals by corporations and similar entities from income tax. The exemption applies irrespective of the amount of the equity interest and is not subject to any minimum holding period. Excluded from the exemption are investments for which the distribution itself could be claimed as an expense or where the investment is in a foreign low-tax jurisdiction and more than 50% of the income from it is passive.

2 **Tax-free income from foreign real estate**

In order to avoid multiple taxation, Liechtenstein exempts income and gains on disposals attributable to foreign real estate from income tax, since it is assumed that the country where the real estate is located levies taxes.

3 No withholding taxes
Liechtenstein does not collect any withholding taxes on dividends, interest or royalty payments.

4 Tax-neutral step-up possibility
If a foreign company relocates to Liechtenstein, the hidden reserves that it had created abroad prior to relocation can be recognised in a tax-neutral manner. If it has depreciable assets, it can claim corresponding write-downs for tax purposes.

5 Moderate taxation and interest deduction on equity
Legal entities are subject in Liechtenstein to an income tax rate of 12.5% on their entire income. A notional interest deduction on equity can be deducted from the assessment basis as a pure tax expense position, which lowers the effective tax rate.

6 Growing network of double taxation treaties
As at 1 January 2020, Liechtenstein was a party to more than 19 double taxation treaties, including with Germany, Austria, Hong Kong, Luxembourg, Switzerland and the United Kingdom.

Onshoring of foreign companies

The onshoring of individual companies or entire corporate structures to Liechtenstein can be a potential way to avoid the disadvantages of classic offshore jurisdictions and create planning certainty for the future. At the same time, companies can benefit from attractive tax advantages. Onshoring can be accomplished in one of two ways:

Relocation of the registered seat to Liechtenstein
In terms of civil law, a registered seat can be relocated without having to re-establish the company if a foreign legal entity subjects itself to Liechtenstein law through recording in the commercial register and appointment of a representative (where required).

The legal entity is then subject to Liechtenstein tax liability from the time of actual relocation of the registered office and benefits from the previously mentioned advantages of Liechtenstein tax law.

Relocation of the place of actual management to Liechtenstein
Alternatively, a company can also establish only its seat for tax purposes by relocating the place of effective management to Liechtenstein.

In terms of civil law, Liechtenstein applies the incorporation principle, according to which, from the standpoint of Liechtenstein, the law applicable to the company does not change if the country from which the company relocated also applies the incorporation principle. However, it is important to note here that the company may continue to be subject to the substance requirements of the country where it maintains its registered office.

Need for action

The intensification of substance requirements with regard to classic offshore jurisdictions is in many cases resulting in tax risks and almost always in a noticeable increase in structure costs. By contrast, the initial advantages (discretion, tax neutrality, etc.) are often lost due to largely uniform rules concerning transparency and the combating of tax avoidance. In certain cases, a Liechtenstein structure is an alternative worth considering where the structure needs to be reorganised in light of the new tax rules.

In particular, because Liechtenstein is an established financial centre, is located close to Switzerland and Austria, and has a wide range of qualified experts, it is often much easier to satisfy the tax presence requirements there than in other jurisdictions.

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