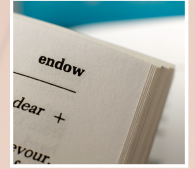


THE FOUNDATION



WHAT IS A FOUNDATION?

A Foundation is an independent legal entity created for specific purposes. It involves transferring assets from the founder to the Foundation, which are then managed by the Foundation board according to the founder's specified objectives. These assets are distinct from the founder's personal holdings.

Foundations are typically used for:

- Succession planning
- Supporting family members or others
- Managing investments
- Asset protection across generations
- Charitable activities
- International tax planning

The Foundation's liabilities are limited to its own assets, with no requirement for additional contributions from the founder(s).

HOW IS THE FOUNDATION CREATED?

A Foundation is formed based on a declaration of intent by one or more founders. This declaration can be in the form of a signed Foundation declaration for a living Foundation, or through a testamentary disposition or inheritance contract for a posthumous Foundation. The Foundation's documents, including the legally required minimum content, must be prepared. Additionally, the legally required minimum capital must be paid or contributed.

Typically, a Liechtenstein professional trustee establishes the Foundation on behalf of the founder(s).

WHAT IS THE REQUIRED INITIAL CAPITAL?

To establish a Foundation, it must be endowed with assets meeting or exceeding the statutory minimum capital of CHF 30,000.00. If the capital is denominated in Euros or US dollars, the minimum required is EUR 30,000.00 or USD 30,000.00, respectively.

The Foundation can be founded with either cash or non-cash contributions. For contributions in kind, an expert valuation is necessary. This capital must be fully accessible to the Foundation upon its registration in the commercial register.

IS THE FOUNDATION ENTERED IN THE COMMERCIAL REGISTER?

Private-benefit Foundations are not required to register in the commercial register, although they may opt to do so voluntarily.

However, Foundations with a primarily charitable purpose are obligated to be registered in the commercial register.

WHAT ARE THE OBJECTIVES OF A FOUNDATION?

Foundations can serve private, charitable, or a mix of both purposes.

Private-benefit Foundations, like family Foundations, typically focus on family-related needs such as education and support. Charitable Foundations are dedicated to supporting charitable causes. Additionally, Foundations can be established to manage and foster business investments or holdings.

WHAT ASSETS CAN BE ENDOWED?

A Foundation can be endowed with various assets, including cash, securities, real estate, and equity interests.

After its establishment, both the founder and others can contribute additional assets. Typically, a Foundation starts with the legally required minimum capital, followed by subsequent contributions.

WHAT ARE KEY DOCUMENTS AND THEIR CONTENTS?

The Foundation's primary document is the Foundation deed, outlining its purpose and organizational structure.

Additionally, the founder may create a supplementary deed or by-laws, detailing aspects not covered in the main deed, often including beneficiary provisions. Internal regulations may also be established for further guidance.

A non-binding letter of wishes can be written by the founder, expressing preferences for the Foundation's management and beneficiary distributions. While not legally required, these wishes should be considered by the Foundation board in decision-making to ensure due diligence.

WHAT CONSTITUTES THE GOVERNANCE STRUCTURE OF A FOUNDATION?

The Foundation board is the core management body, responsible for the Foundation's operations and external representation. It must include at least two members, with one being a Liechtenstein professional trustee.

A protector or protectorate, optional and based on the founder's preference, oversees or advises the Foundation board and can influence the Foundation's documents and asset management.

A supervisory body, if established by the founder, annually reviews the alignment of asset management with the Foundation's purpose.

An auditor is mandatory for predominantly charitable Foundations, while private-benefit Foundations have the option to appoint one.

The representative office, though not an official organ, acts as the Foundation's postal address and liaises with authorities, typically fulfilled by a Liechtenstein professional trustee.

WHAT RIGHTS DOES THE FOUNDER RETAIN?

After establishing the Foundation, the founder generally relinquishes most rights and control. However, the founder can reserve specific rights, such as the ability to amend the Foundation's documents or to revoke the Foundation entirely. These reserved rights should be considered carefully, as they can have implications for tax and asset protection strategies.

DOES THE FOUNDATION FALL UNDER STATE SUPERVISION?

Charitable Foundations in Liechtenstein are under the regulatory watch of the Liechtenstein Foundation Supervisory Authority (STIFA). However, private-benefit Foundations have the option to voluntarily place themselves under STIFA's supervision.

HOW IS A FOUNDATION TERMINATED?

A Foundation comes to an end in several scenarios, such as when the duration specified in the Foundation deed concludes, or other conditions in the deed are met. It also ends if its purpose is fulfilled or becomes unachievable, perhaps due to insufficient assets. Additionally, the initiation of bankruptcy proceedings against the Foundation's assets, or their rejection due to asset insufficiency, leads to termination. The Foundation can also be dissolved if the founder exercises a reserved right of revocation, or if it is ordered by a court.

WHO BENEFITS FROM THE FOUNDATION?

Beneficiaries in a Foundation are individuals or entities that may receive economic benefits either during its operation or upon its dissolution. Initially designated by the founder, beneficiaries can be altered by the founder, board, or protector(s). There are two categories: entitled beneficiaries, who have a legal claim to predetermined benefits, and discretionary beneficiaries, selected by the founder and subject to the governing board's discretion, commonly used for asset protection and tax strategies.

HOW IS A LIECHTENSTEIN FOUNDATION TAXED?

Upon establishment, Foundations in Liechtenstein pay a foundation fee of 2 ‰ on the statutory capital, with a minimum of CHF 200. They are also subject to a standard income tax rate of 12.5%, with a mandatory annual tax of CHF 1,800, although various income types and tax reliefs can reduce this burden.

Foundations without economic activities, primarily managing their own assets, can be classified as Private Asset Structures (PVS), requiring only the minimum annual tax of CHF 1,800 without needing to file a tax return.

For individuals not residing in Liechtenstein, transferring assets to or receiving distributions from the Foundation is not taxed under Liechtenstein law. However, these transactions might have tax implications in the founder's or beneficiaries' home countries, necessitating international tax consultation before establishing a Foundation.

WHAT ARE THE REPORTING REQUIREMENTS?

An Establishment is terminated through a resolution by its supreme governing organ, bankruptcy proceedings against its assets, or a court-ordered dissolution. The liquidation process starts with a resolution to dissolve, followed by a 6-month period for creditors to file claims. During this time, the Establishment cannot be dissolved. After this period, its assets are distributed to the final beneficiaries, and it is then removed from the commercial register.

WHAT ARE THE KYC REQUIREMENTS?

Liechtenstein adheres to the 4th and 5th EU Anti-Money Laundering Directives, integrating them into its national legislation. This compliance necessitates the identification of the beneficial founder and all associated individuals. Founders are required to disclose their total wealth, which is then scrutinized for authenticity (source of wealth). Additionally, the origin of assets transferred to the Establishment must be verifiable, either through documentation or independent sources (source of funds). A Liechtenstein professional trustee continuously monitors these business relationships to ensure they align with risk management protocols.

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We are looking forward to hearing from you.