



### WHAT IS THE TRUST AND ITS PURPOSE?

A trust is established through a written contract between one or more settlors and trustees. The settlor transfers assets to the trustee, who then manages and uses these assets as per the trust deed, primarily for the benefit of designated third parties (beneficiaries). Unlike a legal entity, the trust property is not legally independent.

Liechtenstein, a pioneer in introducing trusts in continental Europe, bases its trust law on the common law model but with unique aspects, such as not adhering to a rule against perpetuities.

- Succession planning
- Asset protection across generations
- Supporting family members or others
- Charitable purposes
- Investment management
- International tax planning strategies

### HOW IS THE TRUST CREATED?

A trust can be formed either during the settlor's lifetime or after their death. When created during the settlor's lifetime, it's done through a written contract between the settlor and the trustee. Alternatively, the settlor can establish the trust unilaterally through a written legal act or posthumously via a will. In these cases, a written acceptance from the trustee is necessary.

### IS THE TRUST ENTERED IN THE COMMERCIAL REGISTER?

Trusts formed with a trustee based in Liechtenstein and set up for over 12 months are required to be filed for registration in the commercial register. As an alternative, the trust's formation document, either an original or a certified copy, can be deposited with the commercial register without necessitating an actual entry in the register.

### WHAT OBJECTIVES CAN THE TRUST ACHIEVE?

A trust offers versatility in its objectives. It can be established to benefit one or more families or individuals. In the case of a purpose trust, its sole aim is to maintain and enhance specific investments under its control. Additionally, a trust can be dedicated to charitable activities.

### WHO ARE THE BENEFICIARIES?

Beneficiaries, designated by the settlor, are individuals or entities who gain present or future benefits from the trust's assets. These benefits can include a portion of the trust's assets, their income, or both. Beneficiaries are categorized into two types: entitled and discretionary. Entitled beneficiaries have a legal right to specific benefits, defined in terms of timing and amount. Discretionary beneficiaries, however, do not have an enforceable claim; the trustee or another party decides their selection, benefit amount, and timing. Discretionary beneficiaries are often preferred for asset protection and tax strategies. Initially named by the settlor, beneficiaries can be altered during the trust's term if the settlor, trustee, or protector(s) are granted this right. In a purpose trust, naming specific beneficiaries is not required.

## WHAT ASSETS CAN BE ENDOWED?

Virtually any asset with monetary value, such as receivables, securities, movable and immovable property, and equity interests, can be transferred to a trust. There is no minimum asset requirement. These assets are held by the trustee, who manages and utilizes them as per the trust deed's terms. The trust, lacking legal personality, relies on the trustee to hold assets in their name for the trust's benefit. Additional assets can be endowed to the trust at any time.

## WHAT ARE KEY DOCUMENTS AND THEIR CONTENTS?

The trust deed is the central document, outlining the trust's terms. It specifies the initial trust property and beneficiaries, either within the deed or in an annex. Beneficiaries can also be detailed in a separate document, like by-laws or regulations. Additionally, the settlor may draft a letter of wishes, expressing preferences for the trust's management and beneficiary distributions. While generally non-binding, these wishes guide the trustee's decisions to ensure due diligence.

## WHO ARE THE KEY PARTICIPANTS IN A TRUST?

**Settlor:** The settlor, either an individual or a legal entity, entrusts a portion of their assets to a trustee. Once transferred, these assets are managed and utilized by the trustee, separate from the settlor's personal holdings.

**Trustee:** The trustee, who can be an individual or a legal entity, independently manages and utilizes the trust assets in their own name. They hold full legal rights over these assets and are obligated to manage them in line with the settlor's initial intentions as outlined in the trust deed, maintaining the diligence of a prudent businessman.

**Protector:** A trust may include a protector or a group of protectors, trusted individuals appointed by the settlor. Their role can vary, including monitoring and advising the trustee, amending the trust deed, and influencing the management and use of the trust assets, based on the settlor's preferences.

**Representative Office:** In cases where the trustee is not a resident or a legal entity based in Liechtenstein, a local representative office (typically a Liechtenstein professional trustee) must be appointed. This office acts as the trust's postal address and liaises with authorities on behalf of the trust.

## WHAT ARE RESPONSIBILITIES AND RIGHTS OF THE TRUSTEE?

The trustee is bound to adhere to the trust deed's stipulations and legal requirements, holding and managing the trust assets accordingly. They possess exclusive rights to manage and dispose of these assets. It's crucial for the trustee to keep the trust assets distinct from their personal assets, ensuring they are identifiable as separate by their own creditors. In cases of the trustee's bankruptcy or asset seizure, the trust assets are legally segregated, safeguarding them from claims by the trustee's creditors.

The trust's existence is independent of the trustee's role. Therefore, the trust remains active even if the trustee resigns or is replaced.

## WHAT RIGHTS DOES THE SETTLOR RETAIN?

The settlor may retain certain rights, such as the ability to revoke the trust or modify the trust deed. However, exercising these rights might raise concerns regarding tax implications and the effectiveness of asset protection strategies.

## WHAT TERMINATES THE DURATION OF A TRUST?

A trust in Liechtenstein can be established for either a definite or indefinite period. If the trust deed doesn't specify a duration, the trust continues until an event for termination outlined in the trust deed occurs. Unlike common law trusts, the Liechtenstein trust is not subject to a maximum duration limit.

The settlor can also end the trust earlier if they have reserved the right to do so.

## 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.

## WHEN IS THE TRUST TERMINATED?

A trust with a specified term ends when the conditions for termination mentioned in the trust deed are met. If the settlor has reserved the right to revoke the trust, it ends upon their revocation. Additionally, the trust automatically terminates if the trust property is completely depleted or lost.

## HOW IS A TRUST TAXED?

Upon its establishment, a trust in Liechtenstein incurs a foundation fee of 2 ‰ on the statutory capital, with a minimum of CHF 200. This fee applies only to the initial capital, not to later contributions.

The trust is subject to a fixed annual income tax of CHF 1,800, regardless of the trust's property value or income. There's no requirement to file a tax return for this.

For individuals not residing in Liechtenstein, transferring assets to the trust or receiving distributions from it is exempt from Liechtenstein tax. However, these transactions might have tax implications in the settlor's or beneficiaries' home countries. Therefore, it's crucial to consider international tax implications before establishing a trust.