

## THE PUBLIC LIMITED COMPANY

### What is a Public Limited Company and what is it for?

The idea of the Public Limited Company is familiar in many other legal systems. The capital is divided into certain amounts (shares) or quotas, and liability is limited to the company's assets. Only the company's assets are liable for the liabilities of the Public Limited Company, meaning that the shareholders are generally excluded from personal liability.

The Public Limited Company can carry out commercial activities or act as a holding company that holds and manages participations in companies, real estate or other assets.

### How is the Public Limited Company created?

At least two founders, who may be natural persons or legal entities, are required to form a Public Limited Company. After incorporation the shares can be held by a single person.

As a rule, the Public Limited Company is founded by means of a written declaration of incorporation, which is signed by all founders and publicly notarized. Alternatively, the Public Limited Company can be founded by a constituent General Meeting.

In practice, the Public Limited Company is established by a Liechtenstein trustee for its client(s).

### What purposes can be pursued with the Public Limited Company?

The Public Limited Company may pursue any economic or non-economic purpose, provided the purpose complies with the law.

However, it must be clear from the purpose of the Public Limited Company whether or not a commercial business is being conducted.

The investment and management of assets or the holding of participations in companies or other rights is not a commercial business, unless the nature and scope of the company require commercial operations and orderly accounting.

### Is the Public Limited Company entered in the commercial register?

The Public Limited Company is entered in the commercial register and acquires its legal personality upon entry in the Commercial register.

### What minimum share capital does the Public Limited Company require?

The minimum capital of the Public Limited Company is CHF 50,000.00. If the capital is contributed in Euros or US dollars, the minimum capital is either EUR 50,000.00 or USD 50,000.00. The capital is divided into certain amounts (shares) or into units (quotas).

The minimum capital must be fully paid up at the time of formation. The capital may also be contributed in whole or in part in the form of contributions in kind (assets or rights). From a share capital of CHF 200,000.00, at least 25 % of each share must be paid up in cash or covered by contributions in kind. The capital must be freely available to the Public Limited Company after entry in the commercial register. The share capital may be increased or reduced.

## What organs does the Public Limited Company have?

**General Meeting:** The General Meeting of Shareholders is the supreme organ of the Public Limited Company. The powers of the Annual General Meeting include the appointment of the Board of Directors, the approval of the annual financial statements, determining the dividend as well as the passing of resolutions on matters reserved for the Annual General Meeting by law or the Articles of Association.

The Annual General Meeting must be held every year within 6 months of the end of the financial year. Extraordinary General Meetings may be convened as required.

**Board of Directors:** The Board of Directors is the management and representative organ of the Public Limited Company. The members of the Board of Directors are elected by the General Meeting. The Board of Directors may consist of one or more members.

In the case of Public Limited Company with a share capital of at least 1 million Swiss francs, the Board of Directors must consist of at least 3 members.

If the Public Limited Company does not carry out any commercial activity and therefore does not have a Liechtenstein business licence, at least one member must be a Liechtenstein trustee or its employee.

The management and representation of the Public Limited Company can also be transferred to third parties who do not have to be members of the company.

**Auditor:** The General Meeting is obliged to appoint an Auditor who is independent of the Public Limited Company. Under certain conditions, the appointment of an auditor can be waived.

**Supervisory Board:** If the Public Limited Company is organised according to the so-called dualistic system, a Supervisory Board must be appointed, which can be assigned the function of permanent supervision of the management and participation in the administration. The members of the Supervisory Board are entered in the commercial register.

**Custodian:** The Board of Directors of a Public Limited Company that has issued bearer shares must appoint a so-called Custodian with whom all of the company's bearer shares must be deposited. The depositary must be entered in the commercial register, stating its function. Bearer shares can only be legally transferred, if the Custodian records the transfer in the register of bearer shares.

**Representative Office:** A Public Limited Company that is not commercially active and thus has no delivery address, has to appoint a Representative office. The Representative office is not an organ of the Public Limited Company, however a natural or legal person who acts as the postal address and represents the Public Limited Company in dealings with the authorities. This function is usually performed by a Liechtenstein trustee.

## What type of shares does the Public Limited Company have?

The shares may be registered or bearer shares. Both types of shares can also exist simultaneously. Many different types of other shares can be issued.

The Articles of Association may also provide for participation capital that is divided into participation certificates. Participation certificates have a nominal value and represent an investment in the Public Limited Company but do not grant voting rights.

## How is the Public Limited Company taxed?

Due to the Customs Union Treaty with Switzerland, the Swiss Federal Stamp Duty Act is applicable in Liechtenstein. A stamp duty amounting to 1% of the amount contributed to the Public Limited Company must be paid, if the contribution exceeds CHF 1 million. Stamp duty is also payable, if the share or participation capital is increased or if shareholders make contributions to the Public Limited Company without consideration.

Public Limited Companies are subject to a flat-rate income tax of 12,5%. Irrespective of the income, an annual income tax of CHF 1,800.00 must be paid. It should be noted that many types of income are tax-free and there are other tax reliefs.

Public Limited Companies that do not carry out any economic activity, i.e., basically only generate income from the assets they hold, can obtain the status of a Private Asset Structure (PVS). They then do not have to submit a tax return and are only subject to the annual minimum income tax of CHF 1,800.00.

International tax advice is recommended before setting up a Public Limited Company, as endowments to the Public Limited Company may have tax consequences abroad.

### When will the Public Limited Company be terminated?

The Public Limited Company is dissolved in the following cases:

→ Dissolution resolution of the General Meeting

→ Bankruptcy proceedings are opened against the assets of the Public Limited Company (or the court rejects the bankruptcy for lack of assets)

→ Dissolution by court order

### What accounting and disclosure obligations exist?

Public Limited Companies are obliged to prepare proper accounts, irrespective of whether they operate a commercial business or not. The legal representatives of Public Limited Companies must submit the duly approved annual financial statements and the audit report to the Office of Justice by the end of the 12<sup>th</sup> month after the balance sheet date at the latest.

### Can a foreign Public Limited Company relocate its registered office to Liechtenstein?

A foreign Public Limited Company may transfer its registered office to Liechtenstein without being dissolved abroad and re-established in Liechtenstein. The transfer of the registered office is authorised by the commercial register, if certain formalities are fulfilled.

### What are the KYC obligations?

Liechtenstein has implemented the 4<sup>th</sup> and 5<sup>th</sup> EU Anti-Money Laundering Directive (AMLD) into national law.

This requires, among other things, the identification and verification of the identity of the beneficial owners. In addition, the economic background of the total assets of the contributor of the assets (Source of Wealth) and the assets transferred to the Public Limited Company (Source of Funds) must be checked for plausibility or verified.

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**We are looking forward to hearing from you.**