

Liechtenstein trusts: the trust in a civil law country

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Liechtenstein was the first civil law country to adopt the trust. Since 1926 its Persons and Companies Act has contained a trust law modelled on the English trust, and Liechtenstein trust companies administer trusts under Liechtenstein law as well as under the law of England, Jersey, Guernsey and other common law jurisdictions. For families who are familiar with trusts from Hong Kong, Singapore or the Gulf, Liechtenstein offers the same instrument next to the Swiss banks.

1 The trust under Liechtenstein law

The trust (Treuhänderschaft) is governed by Articles 897 et seq. of the Persons and Companies Act (PGR). As in common law countries, the settlor transfers assets to a trustee, who holds them as a separate fund for the benefit of the beneficiaries and in accordance with the trust deed. The trust has no legal personality: the trustee is the owner of the trust assets, and they are kept separate from his own assets and protected from his personal creditors.

A Liechtenstein trust can be discretionary, with the trustee deciding on distributions within the framework of the trust deed, or it can give the beneficiaries fixed entitlements. The settlor can give his wishes in a letter of wishes, and a protector can be appointed to supervise the trustee and to approve important decisions.

2 Registration and disclosure

A trust that is to last for more than twelve months must, as a rule, either be entered in the commercial register or have its trust deed, or a confirmation of its formation, deposited with the Office of Justice (Amt für Justiz). Most private trusts use the deposit, which keeps the trust deed out of the public register.

The trustee must identify the settlor, the protector and the beneficiaries to the register of beneficial owners, and the trust's accounts are reported under the automatic exchange of financial account information to the countries in which these persons are resident. A Liechtenstein trust is therefore a structure for planning and protecting declared wealth.

3 The trustee

Anyone who acts as a trustee in Liechtenstein on a professional basis needs a licence under the Trustees Act and is supervised by the Financial Market Authority (FMA). The trustee is liable to the beneficiaries for the proper administration of the trust and must keep accounts. Families should choose the trustee as carefully as the structure itself, since the trustee will hold the family's assets for many years and in some cases for generations.

4 The trust enterprise

The trust enterprise (Treuunternehmen) under Article 932a PGR combines features of a trust and a company. Unlike the trust, it can be set up with legal personality, and it can be used both for holding assets and for commercial activities. In practice it is used less often than the foundation and the trust, but it remains an option for structures that need a legal entity with a trust-like organisation.

5 Trust or foundation

The choice between a trust and a foundation often depends on where the family comes from and where its assets are held. Families from common law countries and their advisers know the trust and the role of the trustee. Families from civil law countries, and many banks and authorities in Asia, the Middle East and Africa, are more familiar with a foundation, because it is a legal entity with its own board that can hold assets and sign contracts in its own name. Liechtenstein offers both, which allows the structure to be chosen according to the family's needs and the countries in which it will be recognised.

6 A Liechtenstein trust for a family in Switzerland

Switzerland has no trust law of its own, but it recognises foreign trusts under the Hague Trust Convention. For tax purposes the cantons follow a common practice: assets and income of a revocable trust are attributed to the settlor, while an irrevocable trust is assessed according to whether the

beneficiaries have fixed entitlements or the trustee has full discretion. Distributions to beneficiaries resident in Switzerland can be taxable income. The article on [offshore trusts and foundations](#) explains this practice, and a trust should be reviewed before the settlor or a beneficiary moves to Switzerland.

7 How Ressos Legal helps

I advise families on whether a trust, a foundation or a combination of both suits their situation, review Liechtenstein and foreign trusts before a move to Switzerland, and work with licensed trustees in Liechtenstein on the formation and administration of trusts. I am a Trust and Estate Practitioner (TEP) and admitted as a solicitor in England and Wales and in Hong Kong. [Contact me](#) for a first conversation.

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