

Liechtenstein family foundations and financial privacy

H.S.H. Prince Michael von und zu Liechtenstein*

Abstract

At present, international and intergovernmental organizations are aiming to reduce basic individual rights to privacy. However, financial privacy continues to be the best protection against unjustified attachment and disclosure! Financial privacy is *not* an issue of rich people. And, financial privacy is *not* an issue of taxation. Financial privacy is also *not* an issue of criminal money. Financial privacy first and foremost is an issue of freedom! The Liechtenstein Foundation guarantees financial privacy for lawful means.

Key points

- Wealth preservation is important to any society.
- Private wealth is in need of protection and privacy.
- Financial privacy is the best protection of private wealth.
- A Liechtenstein foundation is an effective means to ensure lawful financial privacy.

Long-term wealth preservation is a factor for stability

Family wealth is important, irrespective of its size. For their respective owners, small fortunes are as important as large ones. The higher the number of comparatively wealthy people, the higher the stability of the accumulated savings of an economy. In consequence, wealth preservation is not only important to a small group of high-net-worth individuals and families, but even more relevant to a broad number of members of a prosperous and successful middle class.

Long-term wealth preservation gives families stability. Many entrepreneurial families raise their children with a strong sense of responsibility. Private wealth provides opportunities for an extended education. Long-term private wealth also acts as a stabilizing

factor in any society, as long as the necessary care and responsibility are applied. Furthermore, family wealth also influences social, cultural, educational and scientific improvement by launching institutions that support the progress and well-being of society.

Generally, private wealth is invested with a long-term perspective and is not subject to short-term decisions such as the duration of a management contract or a legislative period. It generally tends to optimise the overall allocation of capital to the economy.

Jeopardy of private wealth

History proves that private wealth was and is constantly jeopardized and therefore is in need of protection. This was particularly the case during and following World War I, when Continental Europe

*H.S.H. Prince Michael von und zu Liechtenstein, Executive President, Industrie- & Finanzkontor Establishment, Herrengasse 21, 9490 Vaduz, Liechtenstein. Tel: +423 237 58 58; Fax: +423 237 58 59; Email: susanna.gopp@iuf.li; www.iuf.li

was in extraordinary turmoil. Again today, serious politicians—even from various Western democracies—are using the populist term: ‘The rich should pay!’, aiming to provoke envy.

History proves that private wealth was and is constantly jeopardized and therefore is in need of protection.

In 1926, as a result of this financial turmoil, the Liechtenstein Private Foundation was created as a tool to protect family assets and as a comparable civil law instrument to the long-standing common law trust. This was the start of the success of the Liechtenstein Foundation, which continues in our days as a means of lawful private wealth protection.

Lawful wealth protection through a Liechtenstein Foundation

Liechtenstein has a very modern law on foundations that clearly distinguishes between family foundations, charitable foundations, mixed purpose foundations and private special-purpose foundations, etc.

As an example, the main objectives of a Liechtenstein family foundation are:

- Succession planning.
- Control of family businesses.
- Avoidance of problems due to spoiling effects, divorces, extravagance, etc.
- Asset protection against unjustified attachment.
- Securing wealth over generations.
- Implementation of specific intentions, such as protection of a family’s art collection, a family’s tradition, support of disadvantaged family members, etc.
- Tax planning in certain jurisdictions.

In addition, Liechtenstein foundations can be structured in a discretionary way, meaning that the foundation assets are separated from a family for the

benefit of a class of beneficiaries but with the effect that only at the time a beneficiary receives distributions out of the foundation, such funds will be relevant to taxation.

Furthermore, Foundation Governance is a core part of the new Liechtenstein Foundation Law (introduced in April 2009) and ensures that the founder’s intentions, as well as the beneficiaries’ interests, are at all times applied. In particular, the Liechtenstein law makes specific governance provisions for the charitable foundation which is perfectly suited to cater for philanthropic purposes of a family.

From all of the above, we can see that a foundation is not only important to the preservation of long-term family wealth but also an effective means to ensure financial privacy. A foundation achieves legal personality and once a founder has endowed assets to the foundation such assets do only belong to the foundation. The foundation is represented by the foundation council who administers the assets in accordance with the foundation’s purpose. A foundation guarantees financial privacy, examples of which can be seen below. It must be stressed that a foundation does *not* provide financial privacy in any cases of unlawful purposes such as money-laundering, terrorism financing, human trafficking, etc.

This fundamental value of *lawful financial privacy* hence should be maintained at all costs since it brings crucial advantages to individuals, families, society and the economy.

The essence of financial privacy

Privacy, in general, is a human right. Financial privacy such as the protection of lawful financial data, investments, income, spending, is a specific field of privacy to which everybody should be entitled to, irrespective of the size of assets or revenue. There is no justification for third parties being entitled to disclose information regarding *lawfully* acquired assets. Exceptions should only be justified by claims (for instance by creditors) or in situation of conflict of interest. Financial privacy is the best protection against personal attacks like theft, robbery,

kidnapping or unjustified attachment. Financial privacy also protects against inflated expectations of heirs and 'gold diggers' or against spoiling, etc.

Privacy, in general, is a human right. Financial privacy... is a specific field of privacy to which everybody should be entitled to.

Privacy supports personal freedom. Voyeurism—regardless of whether it stems from social circles, the broad public, the media or the administration—is detrimental both to personal and financial freedom. The wish, now being strongly expressed by certain international and intergovernmental organizations, to register beneficiaries of private foundations and trusts worldwide does not contribute to fighting money-laundering. Its only effect is to foment unjustified political curiosity and sensationalism, and incites attacks on assets and people.

The growing political wish for total transparency neglects the value of financial privacy.

Reducing the Liechtenstein Foundation to a vehicle used for the exclusive purpose of hiding money from fiscal authorities does not do the foundation justice. In fact, the Liechtenstein Foundation has a great tradition in providing essential financial privacy for absolutely lawful purposes. In contrast, exaggerated information exchange is dangerous as there is justified doubt in the reliability of data protection by public institutions as well as of the proper use of information in the various foreign jurisdictions.

Reducing the Liechtenstein Foundation to a vehicle used for the exclusive purpose of hiding money from fiscal authorities does not do the foundation justice. In fact, the Liechtenstein Foundation has a great tradition in providing essential financial privacy for absolutely lawful purposes.

In former times, people protected their valuables against unjustified attacks by burying them in the

forest or by hiding them under the mattress. Today financial privacy has taken over this protection and hence is one of the most effective means for asset protection.

In former times, people protected their valuables against unjustified attacks by burying them in the forest or by hiding them under the mattress.

Liechtenstein advocates for financial privacy while committing to international standards

After many decades of successfully applying the foundation for lawful wealth protection purposes, Liechtenstein disposes of the infrastructure, experience and know-how to manage complex structures. Furthermore, Liechtenstein has a stable political and economic environment, an excellent financial system and a legislation that is internationally recognized as achieving a high standard.

For many years, Liechtenstein financial intermediaries have been subject to strict Due Diligence Rules. They are supervised by the Financial Market Authority which also issues the license to exercise the profession as a trustee. This license is issued only to persons who have acquired the necessary expertise over several years of qualified practice and who have successfully passed the examination stipulated by law. Liechtenstein is extremely careful not to provide shelter for illegal funds. Gate-keeping is taken very seriously. Since the implementation of the 1st EU-Anti-Money-Laundering-Directive in 1995, all further directives have successfully been implemented.

The Liechtenstein Foundation provides a high level of discretion for persons and families with *lawfully* acquired assets who require privacy as a basic necessity for the protection of their wealth.