

# Liechtenstein: philanthropy and the use of a charitable foundation

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## Abstract

Philanthropy is playing an ever growing role, particularly in times of economic crisis and heavily indebted countries. The reasons for a charitable approach are as diverse as human beings themselves. If philanthropy was once generally considered as the collection of monies and simple donations or patronage contributions, today it is increasingly being seen as a comprehensive investment. Charitable foundations are a useful tool for exercising philanthropy because charitable foundations allow certain flexibility needed to meet the diversity of all possible charitable approaches. The concept of the charitable foundation is familiar and recognized on a global scale.

## Key points

- Philanthropy provides added social value to society.
- It is applied as a third element complementing the state and the economy.
- The Charitable Foundation is a useful tool for exercising philanthropy.
- Liechtenstein has considerable advantages which distinguish it as a jurisdiction for charitable foundations.
- At present there are over 1,000 charitable foundations in Liechtenstein and their number is rising, the number almost doubled in the period between 2009 and 2010 alone.
- Liechtenstein offers efficient business conditions for the benefit of philanthropy.

## Philanthropy—for a better tomorrow

People strive to develop, to grow, and to turn their visions into reality. However, this is easier for some than it is for others. Many people must go to great efforts just to meet their most basic needs for food, clothing, or a roof over their heads. Others live in unstable crisis regions which are shaped by uncertainties and threats. Some people, however, have reached a status which allows them to live in comfort, to be recognized by society and to realize their visions. These people often consider it their mission in life to share their ‘happy fate’ with others, by becoming active in philanthropy, for example.

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Philanthropy—originally understood as charity or human kindness—expresses the intention of wanting to promote good deeds and the welfare of the general public. Philanthropy is now playing an ever growing role, particularly in times of economic crisis and

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heavily indebted countries. It is applied as a third element (complementing the state and the business world) in cases where the state or the business world cannot, does not want to or should not exercise a supporting influence. This is arguably also a reason why charity has been experiencing increasing attention for some time now. Many projects can only be realized through private initiative and support from charitable institutions. Philanthropy is making an important contribution to social development. The sums of money being transferred to philanthropy are substantial and run into billions. Behind every charitable approach there is the intention to provide added value to society.

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## The reasons behind philanthropy

The reasons for a charitable approach are as diverse as human beings themselves. In many cases, however, it is personal experiences that encourage the realization of a certain approach. For example, this can be:

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- Personal reasons: such as helping others who find themselves in a situation which one may have experienced oneself, in terms of researching certain diseases and thus supporting possible treatment approaches.
- Family reasons: married couples who do not have any children of their own and who would like to give their money to a good cause after they pass away.
- Idealistic reasons: with which disadvantaged people are given opportunities that allow them to organize

their life better. But also the motivation to continue traditions and culture.

- Economic reasons: whereby, for example, the research and innovative power of a certain region or entrepreneurship among junior employees is promoted.

Sometimes tax considerations can combine with a charitable approach. Many jurisdictions recognize charitable institutions as such and acknowledge these with corresponding benefits in their home state.

In Liechtenstein, various institutions and communities of interest have been dealing with the promotion and advancement of charitable ideas for some time. If philanthropy was once generally considered as the collection of monies and simple donations or patronage contributions, today it is increasingly being seen as a comprehensive investment, the use of which should contribute to a sustainable overall development of the charitable purpose. The aim of the institutions and communities of interest is to promote awareness for an effective management of the charitable institutions.

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## The charitable foundation: an ideal vehicle for philanthropy

Charitable foundations are a useful tool for exercising philanthropy because they can provide the flexibility needed to encompass the diversity of charitable approaches.

The concept of the charitable foundation is familiar and recognized on a global scale. As, in most cases,

they develop on the basis of private initiative, the resulting perception of responsibility leads to a very high level of effectiveness in exercising the purpose of the foundation.

At present there are over 1,000 charitable foundations in Liechtenstein and their number is rising. The number of charitable foundations almost doubled in the period between 2009 and 2010 alone. Liechtenstein lies in the heart of Europe and is an economically, politically, and socially stable country. It has considerable advantages which mark it out as a jurisdiction for charitable foundations. It is manageable in terms of its size and scale, and the decision-making processes are short, which allows for a high degree of efficiency in the administration of charitable foundations. Furthermore, Liechtenstein has a decade-long tradition in foundations, including in the charitable field. There is a high level of know-how in the area of professional foundation management, international project management, and in asset management. The range of services in the philanthropy field is also highly diverse. Legal and planning certainty is assured thanks to long-standing legally established regulations in the area of foundations. Moreover, EEA-membership also facilitates access to the European Union.

## The Liechtenstein charitable foundation

Liechtenstein enacted its new Foundation Law as of 1 April 2009. This laid a solid foundation for charitable foundations. The new Liechtenstein Foundation Law meets international standards and perpetuates the Liechtenstein legal tradition.

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The Liechtenstein Foundation Law distinguishes between private and charitable foundations. For charitable foundations, purposes which support the common good in accordance with Article 107, paragraph

4a of the Persons and Companies Act (*Personen- und Gesellschaftsrecht, PGR*) are permitted. A private benefit purpose can be, for example, the support of family members in education, upbringing, or old age/health care. The Liechtenstein Foundation Law, however, also recognizes mixed forms i.e. foundations that have both a charitable as well as private benefit character allowing for flexible arrangements. A foundation can therefore be given a predominantly private family purpose at the beginning, which may later merge into a predominantly charitable purpose. Private foundations which occasionally also carry out charitable activities are also not automatically considered charitable foundations. Through this regulation, the Liechtenstein Foundation Law accepts the founder's intentions as indicative.

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Foundation Governance depends on whether the private benefit or the charitable purpose prevails. Regarding Foundation Governance, the Liechtenstein legislator has taken a pragmatic approach: an effective Foundation Governance which does not constrain but rather enhances the possibilities and administration of charitable foundations. For example, the Liechtenstein Foundation Law does not stipulate that the foundation board has to include a *governance representative* or a *charity commission*. However, upon request of the founder, the foundation board can be complemented with an advisory board or a protector. Purely or predominantly charitable foundations are subject to external supervision of the Foundation Supervisory Authority, whose function is not, however, that of a 'guardianship authority'. The duty of the Foundation Supervisory Authority is rather to ensure the proper administration and use of the foundation's assets by the foundation board in accordance with the foundation purpose. In comparison, predominantly private foundations are subject to 'internal Foundation Governance', the principle of

which places the supervision of correct foundation administration in the hands of the foundation participants.

The Liechtenstein Foundation Law does not impose a minimum distribution rate, while in other jurisdictions this often forms the basis for the charitable status. The legislator is also not opposed to a change of legal form (for example from a foundation to a trust) which can make sense in certain circumstances.

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## Conclusion and outlook

Charitable foundations are extremely useful for social development and awareness that such foundations

must be given support is high. As an additional element to the state and the business world, charitable foundations fulfil an important social task. Liechtenstein is well suited as a jurisdiction for charitable foundations and offers the necessary environment through which philanthropic purposes can develop freely through the use of a Liechtenstein foundation. Liechtenstein is increasingly being recognized as prime jurisdiction for philanthropy—so to say: Liechtenstein is not only a jurisdiction for asset protection and asset preservation but also a jurisdiction for initiating philanthropic intentions. Liechtenstein offers efficient business conditions for the benefit of philanthropy.

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