

The Liechtenstein Foundation in the context of family governance

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Abstract

Possessing wealth is something the general public frequently views as being desirable. But all too often, wealth and especially family wealth can be the source of conflicts. Thus, it should come as no surprise that anxieties and doubts arise amongst the parties involved when the deployment and conveyance of assets are up to discussion. However, there are methods and instruments by which the issues surrounding family and wealth management can be clarified and sorted at an early stage and thus unnecessary contentious situations be avoided. Family governance is one of those methods and the Liechtenstein family foundation a viable instrument.

the family fortune and preserving it for future generations.

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Purpose of a family foundation

As a legal form with decades of tradition, the Liechtenstein foundation has its origins in the Persons and Companies Act of 1926 (PGR). The ‘family foundation’ in particular has been firmly established in Liechtenstein foundation law since time immemorial. But what is the purpose of such a legal entity? For one, it is a means of cementing for the long term those family principles that are of relevance to one’s wealth: for example, the issues associated with the rearing, schooling, continuing education, and support of family members. But of equal importance, it is an instrument for safeguarding

The value of family

The family is frequently viewed as the highest good of man and an important anchorage in the life of a person. As an individual’s very first social network, it lays the cornerstone for the future of each family member. Ideally, the family offers respite and comfort in difficult times; it is a source of stability and consolation. And under circumstances, it can also offer support in translating the ideas of family members into reality.

Over time, a family can cultivate values and traditions that shape not only the way its members interact with each other, but also the way they comport themselves in public and in dealing with tangible assets. These values and traditions ultimately create a unique family culture. The ability of family members to consciously dissect the concept of ‘family’, and hence the integral aspect of family wealth, can have

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a very favourable influence on the further evolution of a family culture.

Family wealth can trigger conflicts

Possessing wealth is something that is frequently viewed as being desirable. The reasons are understandable—after all, wealth can considerably widen one's personal flexibility. Accordingly, it is also understandable that family wealth can all too often be the source of intrafamilial conflicts, as each member strives to develop, spread their wings, and realize their own visions. Those individual aspirations can ultimately pose a threat to both the family fortune and the family itself. The views on the long-term preservation or application of that wealth can differ greatly, as can the personal motivations of family members. For that reason, the deployment as well as the conveyance of assets is an endeavour frequently fraught with difficulties. Thus, it should come as no surprise that when anxieties and doubts arise amongst the parties concerned questions can come up such as:

- How can the family be safeguarded in the event of emergency situations?
- How can the projects of family members be furthered in the most sensible way?
- How can each family member be assured of enjoying the best possible upbringing and education?
- How can it be guaranteed that the family fortune will be preserved for generations to come?
- How can the family-owned enterprise and related jobs be maintained over the long term?

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There is no 'one-size-fits-all' solution to these conflicts and difficulties, the same way that there is no standard model for managing one's family or wealth. People simply differ too much, especially within families. But there are methods by which the issues surrounding family and wealth management can be clarified at an early stage and unnecessary contentious situations avoided. 'Family governance' is one of those methods.

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Family governance as a stabilizing factor

The objective of 'family governance' is to deal consciously with the responsibility that comes along with a family fortune. This entails planning and specifying in a timely manner the purpose, handling and conveyance of family wealth. Similar to 'corporate governance', 'family governance' establishes the framework for an approach to family and personal wealth management that is value-orientated and focused on the concept of sustainability. 'Value-orientated' because values serve as an ideological signpost and become embedded over time in the members' intrafamilial behaviour and personal dealings. 'Sustainable', because future generations should be taken into account as well. Via 'family governance', generation-transcending competence in the handling of a family fortune can be engendered and family cohesion and self-determination assured.

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Family values as key elements of family governance

'Family governance' centres on two key elements: 'family values', and one's 'wealth vision'. The family values constitute the foundation because they shape the way a family lives together as well as foster togetherness and the ability to stand up in public as a family. The family members decide which success factors are essential to the long-term cohesiveness and self-determination of the family. Several examples of those values are 'responsibility', 'togetherness', 'fairness', 'solidarity', etc. Through conscious observance of the family values, a family culture emerges and evolves. And as time passes, they represent the basis on which family decisions are taken.

The 'wealth vision', on the other hand, reflects the future concept a family has in terms of its fortune. Here, the members need to address a bevy of questions, for example, 'What should be done with the family fortune over the long run?' From those deliberations comes the answer as to how the wealth is to be managed. In this regard, the wealth vision lays the groundwork for intra- and extrafamilial asset planning and paves the way for the concrete steps that have to be taken.

'Intrafamilial asset planning' focuses on the long-term investment objectives of a family, for example, the educational path for family members, plans for the transgenerational preservation of capital, as well as estate and succession planning. The medium-term need for liquidity can then be derived from these investment objectives, as can the related financing, investment, tax, and budgeting dimensions. 'Extrafamilial asset planning' centres on the philanthropic and entrepreneurial intentions of family members.

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The family charter—a set of guiding principles

In a subsequent step based on the family values and wealth vision, a 'family charter' can be drawn up. It is put down on paper and documents the family's self-perception with regard to family and wealth management and includes the fundamental principles from which the family members desire to take their bearings when arriving at decisions. It states what the family stands for, what the members wish to achieve jointly, and the values they will uphold in their actions. It can also stipulate which precise roles the individual members are accorded in terms of family and wealth management. Afterwards, all significant family decisions are taken in keeping with the spirit of the family charter. For that reason, it is important that the family charter be composed in such a way that it can actually be abided by.

The Liechtenstein Foundation within the context of family governance

At this point, a link can be drawn between the foregoing comments and the Liechtenstein foundation. A Liechtenstein foundation stands out for its capacity to facilitate the individualized realization of family intentions. Why?

- Over the past decades, the Liechtenstein financial centre has established itself as a place for wealth protection and preservation. It possesses the seasoned know-how, tailored financial products, and first-rate infrastructure that are indispensable for

the implementation of a circumspect family and wealth management strategy. Liechtenstein can also lay claim to being one of the countries in the world that have demonstrated political, economic, and social stability since time immemorial. It is precisely that stability which represents the cornerstone for structures that serve the purpose of safeguarding wealth, augmenting it and passing it on to future generations.

- The fact that a Liechtenstein foundation is a stand-alone legal entity means that the assets it holds are for a specific purpose and take on a separate existence. Thus, there is no 'human' owner of those assets per se. Rather, rules governing management and benefits of the foundation apply. Such a solution motivates family members to consciously deal with the preservation and allocation of that wealth, and it affords the family fortune a special kind of protection.
- Apart from the asset-protection aspect, a Liechtenstein foundation is an ideal legal means of ensuring the transgenerational preservation of wealth, implementing a succession plan that is suitable for the family, and facilitating the realization of specific family intentions. Liechtenstein law allows for flexible configuration of the foundation's purpose clause and beneficiary regulations, which in turn enables family members to stipulate a purpose that best corresponds to their intentions, such as:
 - support of the upbringing and education of family members;
 - assurance that the family is safeguarded in the event of an emergency situation;
 - transgenerational preservation of the family's wealth; and
 - development and realization of specific family projects, such as the initiation of philanthropic undertakings or the administration of artworks that are part of the family fortune.

On the basis of this predefined purpose of the foundation, the types of beneficiaries can be further specified. They can vary in form from fixed interest,

to mixed (private and charitable initiatives) or discretionary.

- Moreover, Liechtenstein foundation law provides for the optional appointment of an auxiliary body (e.g. in the form of a Family Council) that advises and supports the Foundation Board. In turn, the previously mentioned family charter can serve as a roadmap that guides those formal bodies, for example, by its becoming in the broadest sense an integral document for governance of the foundation.

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Conclusion

Accumulating wealth requires continuous effort. Spending it, or even losing it, is easy and can take place in a heartbeat. With a circumspect approach to family and wealth management, the threats to a family fortune can be proactively countered.

From the foregoing elucidations it can be readily seen that a Liechtenstein foundation is a highly interesting, viable instrument for securing one's wealth over the long term and realizing family intentions. By means of a foundation and adherence to the concept of 'family governance', transgenerational competency in dealing with the family fortune can evolve, a wealth vision can be realized, and familial self-determination ensured for years and years to

come. And through the conscious dealing with wealth-related issues that is inherently associated with a foundation, the potential for intrafamilial conflicts can be reduced considerably.

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Over the course of time, and from generation to generation, the family environment changes. A Liechtenstein family foundation stands the test of time as a reliable polestar.