

Succession planning: thinking in generations

“Thinking in generations” focuses on long-term perspectives and sustainable decision-making. When making decisions, future generations should therefore be taken into account, too. It is not only tangible assets but also values and responsibility that need to be preserved across many generations.

For planning, this means that one must select the right structure carefully.

The Liechtenstein establishment as an option

In Liechtenstein, the legal forms that can be used for the management and structuring of assets are not limited to the foundation and the trust; there is also the civil-law *Anstalt* (establishment). It is important to note that in contrast to Austrian and Swiss civil law, the Liechtenstein establishment is a separate legal form.

It is a very flexible legal form, which depending on the way it is structured can be used for asset management, as a company structure, and as a holding company.

Accordingly, the establishment's functioning and legal framework are quite variable, depending on the way it is structured.

With or without founder's rights

The establishment may be organised like a corporation (with founder's rights) or like a foundation (without founder's rights).

Founder's rights generally cannot be divided. The holder of the founder's rights as the supreme body has essentially the rights of a public limited company's general meeting of shareholders. The holder of the founder's rights has the right to issue by-laws, in which rules on benefits can be laid down. It is not required that the holder of the founder's rights be a beneficiary; however, if no rules on benefits have been issued, the holder of the founder's rights is considered to be the beneficiary. It is possible to assign founder's rights.

The precise structuring of the suitable form of establishment depends on the specific objectives of the founders and on the activities planned for the company.

Purpose determines structure

The establishment for asset management and the commercial establishment are organised like corporations, having members and founder's rights; the asset-management form mainly serves the management of assets, companies, or private interests and is therefore primarily selected by families or individuals.

If emphasis is rather on business operations and on making a profit, it is the commercial establishment that is more suitable. In this form, the establishment can be used to operate a business or as a holding company that holds participating interests in other enterprises.

Establishment organised like a foundation

An establishment that is organised like a foundation lends itself to the pursuit of philanthropic activities or for private investment purposes, but also for the private management of assets, in particular with a view on regulating succession.

The establishment organised like a foundation combines elements of the foundation with elements of the establishment. The foundation element is that assets can be managed without the focus being on a specific holder or owner; it is the pursuit of a specific purpose that is paramount. Just like with a foundation, there is a clear separation between the assets on the one hand and the founders' personal interests on the other, since the capital is owned by the establishment. The board of directors as the only necessary body has to comply with the articles of association – which are generally irrevocable – and ensure the pursuit of the predetermined purpose.

Thus, an establishment organised like a foundation is – just like a foundation – a very suitable instrument for asset preservation and regulating succession.

The advantage: flexibility

The special feature of the establishment as a legal form is its great flexibility, which is emphasised in particular by the option to convert an establishment that was originally organised like a corporation into an establishment organised like a foundation at a pre-determined time, for example upon the founder's death.

The flexibility of use of the Liechtenstein establishment is also shown by the option to operate an establishment as a subsidiary to a foundation.

In this constellation, the foundation as the owner of the establishment (with founder's right's) is able to protect the assets of the establishment and preserve them on the long term for future generations. Important aspects such as compliance with governance and strict pursuit of the foundation's purpose are ensured in this constellation by the legal requirements.

Thinking in generations

The various possible applications shown here demonstrate that thinking in generations and the establishment as a legal form are very compatible due to the establishment's varied options for structuring. This ensures that the needs and wishes of the settlor and persons involved can be met in a very flexible way. It supports the long-term, cross-generation management and securing of assets.

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