Bulletin

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Legal and generally accepted commercial principles of financial reporting

Notes on the annual accounts of the Company Limited by Shares

In ATU Bulletin No. 5 we referred to disclosure of the business report (annual accounts comprising the balance sheet, the profit and loss account, the notes on the annual accounts and the annual report) according to Liechtenstein law on Persons and Companies (PGR). You will be aware of the fact that the PGR has also been harmonized with the 1st and 4th EU Directive as of January 1, 2001. Consequently, valuation of assets and liabilities and the balance sheet and profit and loss account layouts have been regulated in much more detail than in the past.

Other EU Directives have been integrated into the PGR that are, however, of no interest to this Bulletin.

The following will be affected by amendments in the PGR: Company Limited by Shares (Aktiengesellschaft; AG), Private Company Limited (Gesellschaft mit beschränkter Haftung; GmbH); Limited Partnership with a Share Capital (Kommandit-Aktiengesellschaft); in addition, General Partnership (Kollektivgesellschaft) and Limited Partnership (Kommanditgesellschaft), subject to comprising shareholders of unlimited liability in one of the types of companies referred to above. In contrast to these so-called EU harmonized companies, the Establishment (Anstalt), the Trust reg. (Treuunternehmen) and the Foundation (Stiftung) will not be affected by the EU Directives.

In compliance with the new PGR regulations, business reports will have to be prepared for the first time for the financial year of January 1, 2002, to December 31, 2002 (subject to the financial year coinciding with the calendar year). As a new feature, previous year's figures will have to be listed in the balance sheet and profit and loss account.

The effects of PGR amendments on holding companies and domiciliary companies are rather modest.

The following comments will be for the Company Limited by Shares (the company). These explanations will also apply to any other so-called EU-harmonized legal forms, unless variations apply due to the legal form concerned.

The Liechtenstein legislator has furthermore directly incorporated in the PGR any provisions applying to the notes on the annual accounts, in the same sequence as listed in the Directives at present. Whilst the PGR stipulates binding layouts for the balance sheet and profit and loss account, (with the variations only being possible subject to certain prerequisites), the layout of the notes on the annual accounts must not be interpreted as a specification for layout but a list of facts, which must in general be included in the annual accounts.

Based on the structure of this Bulletin, it briefly deals with valuation rules, followed by a practical example of notes on the annual accounts of "small" companies in turn followed by structured notes on the annual accounts for all companies, e.g. "small", "medium"-sized and "large" ones.

Valuation rules – General principles

Irrespective of the size of a company, the following should be mentioned:

- The annual accounts must be complete (totals for all assets, liabilities, provisions, accruals and prepaid expenses and deferred income, income and expenditure must be included in the annual accounts). This means that fully depreciated assets, which are still used, will always have to be included by a per memoria figure of CHF 1.00.
- The gross principle is applied (no offsetting of assets against liabilities, expenditure against income).
- The annual accounts shall give a true and fair view of the company's assets, liabilities, financial position and profit and loss. This principle is of such importance that even departure from PGR

provisions will be tolerated (by presentation in the notes on the annual accounts).

- Items in the annual accounts are valued on the presumption that the company carries its business as a going concern; net sales value is relevant if operation is discontinued.
- Individual valuation of assets and liabilities instead of global valuation within individual balance sheet items.
- Account must be taken of income and charges relating to the financial year irrespective of the date of receipt of payment of such income or charges.
- The cost value principle: Purchasing or manufacturing costs.
- The accumulation or dissolution of undisclosed reserves is still feasible to a limited extent for exhausting tax valuation options, although only via value adjustment/depreciation. Provisions of reserve character are no longer allowed.

Requirements subject to size: "small" – "medium"-sized – "large" companies

As noted in Bulletin No. 5, the degree of detail in the layout of annual accounts and for disclosure will depend on the size of the company. A "small" company does not issue an annual report (director's report).

a) "small" company (Art. 1064 PGR)

A company is classed as "small" company when two of the following three size criteria are not exceeded on the balance sheet date:

- Balance sheet total CHF 5.55 million.
- Net turnover CHF 11.1 million for 12 months prior to the balance sheet date.
- Average number of employees during the financial year: 50.

However, these size criteria will only be relevant when exceeded or not achieved on the balance sheet dates of two consecutive financial years. From preparation of the first annual accounts, legal consequences will apply subject to prerequisites being met on the first balance sheet date.

The loss of a financial year, when posted to the assets side, must be deducted.

In general, the "balance sheet total" and the "number of employees" size criteria are only relevant to holding companies, and therefore in practice these should always be "small" companies. Although the EU Monitoring Committee has emphasized that typical "net turnover" exist for holding companies, too, countries such as Germany, Austria and Luxembourg, are clearly of the opinion that income (dividends, capital gains) of a holding company from shareholdings or securities of financial assets and other interest and similar income are of no importance within the scope of size criteria, such as "net turnover", even when constituting typical income of a holding company.

Although internal group services, such as typical scheduled and repeated consultations, brokerage and EDP services are part of net turnover.

For the "number of employees" size criteria, part-time employees must not be recorded as full employees but only pro rata temporis of their agreed average daily working times.[1]

b) "medium"-sized company

A company is classed as "medium"-sized company when exceeding the size criteria listed in subpara. a), but not exceeding two of three size criteria on the balance sheet date:

- Balance sheet total CHF 22.2 million.
- Net turnover CHF 44.4 million for 12 months prior to the balance sheet date.
- Average number of employees during the financial year: 250.

However, the above size criteria will only be relevant, when exceeded or not achieved on the balance sheet dates of two consecutive financial years. For the initial preparation of annual accounts, legal consequences will apply subject to the prerequisites being met on the first balance sheet date.

c) "large" company

Should a company exceed the size criteria of a "medium"-sized company, it will be a "large" company.

Notes on the annual accounts

The following page shows typical notes on the annual accounts of a "small" company, a domiciliary company. These notes on the annual accounts should be adequate in most cases.

Paragraphs referring to the rates of depreciation, including an explanation for the moment of inclusion of transactions in the accounts (receipt of payments or invoices) and details of participating interests (also in case of omitted information in compliance with Art. 1094 PGR), and pledgings should be modified.

[1] P. 879 margin No. 12, Budde/Karig, in Beck's balance sheet textbook (Beck'scher Bilanzkommentar), 3rd edition

Example of notes on the annual accounts for "small" Companies Limited by Shares:

General

The annual accounts are established according to the legal and generally accepted commercial principles of financial reporting. The annual accounts base on true and fair view of the company's assets, liabilities, financial position and profit and loss.

Balancing, valuation and posting of individual annual accounts items are effected in compliance with the provisions of the law on Persons and Companies (PGR).

General accounting principles

The valuation considers going concern principles. The principle of individual valuation of all assets and liabilities has been adhered to.

Annual accounts are valued at purchase price and production cost. Assets and liabilities are posted to the balance sheet at nominal value – not at (discounted) cash value. Amounts realized by the balance sheet date only are considered, in contrast to all known future charges associated with the past financial year.

Transactions are posted to the annual accounts at the time when payments are received or effected.

Assets and liabilities in foreign currencies are converted into the currency of the balance sheet at the rate of exchange applicable on the balance sheet date. Monetary transactions in foreign currencies are converted at the current rate. Non-monetary transactions are posted at the rate applicable on the balance sheet date. Exchange profits are posted to the profit and loss account subject to consideration of purchase price or production costs as the maximum.

Valuation of assets and liabilities

Tangible fixed assets are posted at purchase price less scheduled depreciation. Buildings are subject to an annual depreciation of 5 %, any other tangible fixed assets to 10 – 25 % p.a.

Financial assets are valued at purchasing costs or the lower market value.

Intangible assets are depreciated at a standard 25 % p.a.

The depreciation follows the straight line method.

Short-term assets and liabilities will become due within a period of 12 months.

Shareholdings

ABC Co. of 9490 Vaduz, Liechtenstein: 25 % share of subscribed and paid-up capital of CHF 300'000.00. The total capital and reserves are CHF XXX, net earnings according to the balance sheet are CHF XXX. The above are based on the last available annual accounts dated XX.XX.XX.

Other financial liabilities

There are pledgings of maximum CHF 100'000.00 for credit cards. These compromise pledgings to banks that are customary in the industry ("liquid funds" balance sheet item).

Structured notes on the annual accounts – Example for all Companies Limited by Shares including a checklist for possible information

The right-hand column "S" below lists the information duties for "small" companies, column "M" for "medium"-sized companies and "L" for "large" companies. "X" means that comments apply to a company of an appropriate size. If no "X" is listed, facts need not be presented in the notes on the annual accounts. Additional comments have been stated "*in italics*".
According to Ellrott, the principle of a clear and logically arranged structure applies, from which one must deduct that simply[2] complying with the balance sheet layout in accordance with the law for presentation of the notes on the annual accounts will not be adequate, as this would not show any classification criteria of any kind whatsoever.

1. Course of business for global operations and per strategic unit (division)

	S	M	L
Segmented information of net turnover (categories of activity and / or geographical defined markets: both layouts in case of considerable differences; see Art. 1092 subpara. 4 PGR)			X

2. Information and explanation referring to the type of presentation of balance sheet and profit and loss account, accounting principles

	S	M	L
Statement of significant accounting principles	X	X	X
Statement of valuation principles *(unless directly provided by law)* *(plus value adjustments) [In this case specifically, explanation of valuation options for fixed value methods, goodwill, tax depreciation, depreciation due to temporary value reductions, interest on capital borrowed to finance the manufacturing costs in compliance with Art. 1091 para. 2 subpara. 5 PGR etc.]*	X	X	X
Statement of foreign currency conversion method	X	X	X
Changes in / derogation from valuation principles and balancing methods (to be disclosed and explained)	X	X	X
Derogation from consistent application from one financial year to another, from prohibition of set-off, from the presumption to be carrying on its business as a going concern, is to be disclosed and explained.	X	X	X
Necessary derogations from balance sheet and P & L layouts in compliance with Art. 1067 para. 1 PGR to be disclosed and explained.	X	X	X
Assessment of the effects on assets, liabilities, financial position and profit and loss in case of departures from the accounting principles in accordance with Art. 1091 para. 2 subpara. 3 PGR *(report of the balance of all consequences; a simple presentation will suffice)*	X	X	X

3. Information, layouts and classifications, presentations, explanation and substantiation of individual balance sheet and profit and loss account items with regard to presentation, accounting and valuation

3.1. Balance sheet

	S	M	L
Formation, organising, capital increase costs *(capitalisation and depreciation over a period of 5 years, as allowed, to be commented to in the notes on the annual accounts)*		X	X
Research and development costs *(capitalisation and depreciation over a period of 5 years, as allowed, to be commented to in the notes on the annual accounts)*		X	X
Goodwill *(capitalisation and depreciation over the economic life to be substantiated in the notes on the annual accounts) Prohibition of distribution of dividends not relevant here*	X	X	X
Fire insurance values of tangible fixed assets	X	X	X
Fixed asset movement schedule for all fixed assets (Art. 1070 PGR) *(subject to purchase prices or production costs not being available on first application of this law without unjustified costs or delays, the net book value may be considered as purchase price or production costs at the beginning of the financial year. Application of this simplification must be stated in the notes on the annual accounts.)*		X	X
Disagio *(unless adequately commented to in the balance sheet)*	X	X	X
Major variations from market values PER GROUP in case of simplifications in valuation for stocks, securities, movable assets; respectively in case of tangible fixed asset items, raw materials and consumables (valued at fixed value) *(undisclosed reserves are not relevant here: the difference between the book value and the market value must be stated although it may exceed purchasing and manufacturing costs.) See Art. 1091 para. 2 subpara. 4 and Art. 1089 PGR.*		X	X

[2] P. 1205 margin No. 25, Ellrott, in Beck's balance sheet textbook (Beck'scher Bilanzkommentar), 3rd edition

	S	M	L
Composition of share capital in case of more than one class *(unless directly shown in the balance sheet) (number + nominal value; inclusive of participation certificates); see subpara 7 of Art. 1091 para. 2 PGR*	X	X	X
Authorized capital (+ shares subscribed during the financial year and participation certificates)	X	X	X
Conditional capital (+ shares subscribed during the financial year and participation certificates)	X	X	X
Convertible debentures, dividend-right certificates etc., stating any rights and changes during the current financial year in compliance with Art. 1091 para. 2 subpara 8 and 9 PGR.		X	X
In the annual report or for "small" companies in the notes on the annual accounts: Holding of the reporting company's own shares, acquired by the reporting company itself or by a dependent company or a company in which the reporting company holds a majority or acquired by another party on behalf of the reporting company or a controlled company or a company in which the reporting company holds a majority or which have been taken as a pledge; number, nominal value, share in capital stock, date of acquisition of acquired shares, reasons for acquisition; statement of purchasing-/sales price and its deployment for transactions during the financial year. These provisions also apply to participation certificates. Art. 1096 para. 2 subpara. 4 PGR. See also Art. 151 PGR.	X	X	X
For foundation costs, etc., prohibition of profit distributions must be considered. Available profit provisions that may be released at any point in time (also inclusive of retained profits brought forward and minus accumulated losses brought forward) must be at least of the same level as the not yet depreciated part of these capitalized expenses after distribution (= book value). See Art. 1072 PGR.	X	X	X
For research and development costs, etc., prohibition of profit distributions must also be considered. Available profit provisions that may be released at any point in time (also inclusive of retained profits brought forward and minus accumulated losses brought forward) must be at least of the same level as the not yet depreciated part of these capitalized expenses after distribution (= book value). See Art. 1072 PGR.	X	X	X
Liabilities to pension schemes *(hardly practically relevant in our country)*		X	X
Total amount of liabilities, becoming due and payable after more than five years. (For "medium"-sized and "large" companies not in total, but in detail, corresponding to the balance sheet layout.)	X	X	X
Total amount of secured liabilities of the company as per balance sheet, with indication of the nature and form of the pledged and assigned items (and similar type of real security). "Medium"-sized and "large" companies show the details corresponding to the balance sheet layout (and not only the total amount). *(This only includes securities for the company's own liabilities in the balance sheet. The duty to disclose these will regularly be waived for rights of lien in compliance with the law, such as for landlord's retention rights, due to these not actually being based on a legal transaction.[3]) (Securities customary to the industry and securities insignificant to the position of the company – such as retention of title – may not be subject to the duty to disclose. This applies in particular to facts based on General Terms and Conditions of Sale. Practical recommendation: "In addition to this, securities customary in the industry and/or in compliance with the law exist for the own liabilities.".)*	X	X	X
The item "Other provisions" will require comments.		X	X
Unless adequately presented in the balance sheet: The differential between major tax expenses for the current financial year in compliance with the Commercial Code, and tax expenditure accepted by the tax authorities for the financial year, must be delimited for the financial year in question when substantial *(provisions or possibly accruals and deferrals). Example of a possible case: The tax authorities would only accept taxes paid referring to the previous financial year and tax expenditure for these paid taxes would vary greatly from tax expenditure of the current fiscal period. For "small" companies, the delimited tax total need not be separately shown.*		X	X

3.2. Profit and loss account

	S	M	L
Unless included in the profit and loss account: *Extraordinary depreciation/value adjustments and consideration of events after the balance sheet date in compliance with Art. 1085 paras. 2 and 3 (in association with Art. 1082 PGR):*			
1. Extraordinary depreciation will apply when an asset will most likely be permanently subject to a reduction in value. *(e.g. when during the new financial year it becomes obvious, prior to preparing a balance sheet of the past financial year, that certain parts of production are to be divested. The sales value will be less than the going concern value.)*	X	X	X

[3] P. 1247 margin No. 12, Ellrott, in Beck's balance sheet textbook (Beck'scher Bilanzkommentar), 3rd edition

	S	M	L
2. For financial assets, depreciation for loss of value will also be possible when it is likely that it will not be permanent. *(Example: bonds held as fixed assets, subject to day-to-day value fluctuations due to a change in interest structure based on public quoting.)*	X	X	X
3. Value adjustments to current assets will be allowed, subject to wanting to prevent in accordance with careful commercial judgement that valuation of these assets must be changed due to variations in value in the near future. *(e.g. foreign currency debtors as of the balance sheet date of whom it is known that a rate of exchange loss will be sustained when payment is effected in the new year.)*	X	X	X
Major extraordinary income and charges must be explained (Art. 1083 PGR).		X	X
The extent to which company income tax will affect the result of ordinary business activities and the extraordinary result.		X	X

4. Information referring to profit or loss for the financial year

4.1. Changes in undisclosed reserves (provisions)

	S	M	L
Formation of undisclosed reserves on current and fixed asset items by value adjustments resp. depreciation for the application of tax regulations unless presented in the profit and loss account (Art. 1086 para. 2 PGR), *separated by fixed and current assets in one item each*	X	X	X
Should reasons for previous value adjustments and depreciation no longer exist, adjustment/depreciation should be reversed. Should no reversal be effected for tax reasons, any omitted reversal must be adequately commented in the notes on the annual accounts (= formation of undisclosed provisions. (Art. 1090 PGR) a) Art. 1085 para. 2 sentence 3 PGR: The likely permanent extraordinary value reduction of fixed assets has ceased to exist. b) Art. 1085 para. 2 sentence 4 PGR: The extraordinary value reduction of financial assets is no longer required. c) Value reductions of current assets in compliance with Art. 1085 para. 3 PGR (market fluctuations)	X	X	X

4.2. Effects on profit or loss for the financial year

	S	M	L
The extent to which the annual result is affected by the fact that during the financial year or in former financial years depreciation and value adjustments were only effected or maintained for tax reasons (value adjustments and depreciation exceeding a level required for operational reasons).		X	X
The level of considerable future tax charges due to such valuations must also be stated (Art. 1092 subpara. 5 PGR).		X	X

5. Additional information for reflecting the situation, the true and fair view of the company's assets, liabilities, financial position and profit and loss

	S	M	L
Explanations when figures in the previous year's balance sheet and profit and loss account are not comparable. See Art. 1067 para. 2 PGR. *There is no duty to adjust (restatement!).*	X	X	X
Variations from legal provisions in order to give a true and fair view. (Art. 1066 para. 3 PGR)	X	X	X
Events after the balance sheet date (consistent presentation of important events, not only, being directly associated with the past financial year). See also Art. 1084 para. 1 subpara. 4 PGR for all companies and Art. 1096 para. 1 subpara. 1 PGR for "medium"-sized and "large" companies.	(X)	X	X

6. Supplementary information

6.1. Other financial liabilities

	S	M	L
Contingent liabilities: • Total each for guarantee, warranty liabilities, pledgings and general other contingent liabilities, if any (itemized by type of liability) (Art. 1055 PGR) • Disclosure of any real security provided for guarantees, warranty liabilities and pledgings and any other contingent liabilities (separately by type of liability). Liabilities to affiliated companies must be listed separately (Art. 1091 para. 2 subpara. 6 PGR).	X X	X X	X X
Total financial liabilities, not included in the balance sheet *(if important: will exist when total payment liabilities curtail the financial scope[4]) (to affiliated companies to be listed separately).* This also includes statement of positive and negative replacement values for derivatives and leasing liabilities not included in the balance sheet, liabilities from long-term purchase contracts, liabilities for the acquisition of tangible assets (pending orders), liabilities for granting loans in favour of third parties, liabilities due to agreed/ specified major future repairs to be incurred after the balance sheet date (unless supported by the formation of a provision for expenditure (see Art. 1092 subpara. 3 PGR).		X	X

6.2. Participating interests and affiliated undertakings

	S	M	L
Name, registered office, shareholding, shareholders' equity, profit of each company holding a minimum of 20 % share of the capital. *See Art. 1092 subpara. 10 PGR. Voting rights are unimportant. A separate list of shareholdings will be acceptable in lieu of this information. Reference to this list and location where it is deposited (= public register) must then be included in the notes on the annual accounts.*	X	X	X
Company branch offices (see Art. 1096 para. 2 subpara. 5 PGR)		X	X
Name and registered office of the group's parent company, preparing consolidated annual accounts for the biggest circle of enterprises and its parent company, preparing consolidated accounts for the smallest circle of enterprises and in case of disclosure of consolidated annual accounts being prepared by the said parent company, the location from which these may be obtained.. *(This is a matter of a subsidiary, disclosing information of its parent company and central management of the group. This will enable shareholders or creditors to obtain the required information in order to be provided with as reliable an idea of the company's financial status as possible.)*	X	X	X

6.3. Executive bodies, loans to executive bodies, expenses of executive bodies, remuneration

	S	M	L
Statement of any advances and credits granted, including rates of interest, essential conditions and any amounts repaid during the financial year and any commitments by way of guarantee in favour of "members". The duty to disclose applies to members of all administrative, management and supervisory bodies or any similar body. Details must be provided for each group of persons (see Art. 1092 subpara. 9 lit. b PGR).	X	X	X
Information referring to members of administrative, management and executive bodies, the supervisory board or any similar organ, for each group of persons separately. a) Total remuneration (salaries, options, etc.) for their activities during the financial year, irrespective of whether paid out or converted into claims (such as pensions). In addition to remuneration for the financial year, any other remuneration must be stated when granted during the financial year but not having been stated in any annual accounts in the past;		X	X

[4] "Financial liabilities exceeding the normal scope are important for assessing the financial position. Short-term financial liabilities, continuously covered within a company's activities, are therefore not to be disclosed, e.g. current commitments, such as wages and salary payments, rent and lease payments..." (P. 1251 margin No. 24 Ellrott, in Beck's balance sheet textbook (Beck'scher Bilanzkommentar), 3rd edition

	S	M	L
b) Total remuneration (indemnities, pensions, etc.) to former members of the said administrative bodies and their surviving dependants, irrespective of whether paid out or converted into claims (such as pensions). In addition to remuneration for the financial year, any other remuneration must be stated that has been granted during the financial year but not been included in any annual accounts in the past. In addition, the amount of provisions created for this group of persons for current pensions and vested rights to future pension payments. The information listed in lit. a) and b) need not be provided when remuneration paid to one specific member of these bodies can be assessed, based on this information. See also Art. 1092 subpara. 9 PGR.			

6.4. Employees

	S	M	L
Average number of employees by groups.		X	X

It should be possible to include information in the balance sheet and profit and loss account in lieu of the notes on the annual accounts, subject to clarity not suffering by this.[5]

Notes:
Notes included in footnotes were obtained from the German balance sheet textbook (Bilanzkommentar / Wirtschaftsprüferhandbuch), but should also be relevant to accounting in Liechtenstein.

For more questions and examples please contact Mr. Roger Frick, CPA (dipl. Wirtschaftsprüfer) and business economist (dipl. Betriebsökonom FH), the author of this article, at Allgemeines Treuunternehmen.

[5] Auditor's Handbook (WP Handbuch) 1996, 11th edition, vol. I, p. 425, margin No. 440

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