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## Amendments to Liechtenstein tax legislation

As already informed in our ATU Bulletin No. 31 of December 2018, some changes in the Liechtenstein tax legislation came into force on 1 January 2019. This was done in order to implement the adjustments required by the EU.

In the past, dividend payments, capital gains and unrealised capital gains from domestic and foreign participations and investments have been free of tax (independent of the amount and holding period of the investment).

Starting from 1 January 2019 respectively 1 January 2022, investment income arising from investments in **foreign** legal persons are taxable, if the following prerequisites are met:

1. more than 50% of the total income of the foreign legal person consists of passive income in the long term; **and**
2. the net profit of the foreign legal person is subject (directly or indirectly) to a lower tax rate.

If both of these prerequisites are met, 12.5% flat tax is payable in Liechtenstein if the foreign legal person disburses its income to a Liechtenstein legal person that is ordinarily subject to tax or on disposal or liquidation of the foreign legal person.

The changes apply to any investments in foreign legal persons already in existence on 1 January 2019 in the 2022 tax year for the first time.

This means in practical terms that, for example, dividend payments of an underlying company held by an ordinarily taxable Liechtenstein foundation may be subject to a 12.5% tax on the level of the foundation.

The same is the case if direct payments are made by the underlying company to a beneficiary of the foundation. This will only apply if there is no evidence of the actual origin of the income of the underlying company or that the income comes primarily from passive (e.g. interest) income. In many cases a bookkeeping is therefore needed on the level of the underlying company.

If certain criteria are fulfilled, the private asset structure regime (PAS) might be an alternative. Provided we claim for PAS status before 2022, we can continue with a taxation of the foundation of CHF 1'800.- p.a. regardless the mixture of the bankable portfolio in an underlying company and its taxation.

We hope that this general information has provided you with an initial overview of the new tax rules.

Please do not hesitate to contact the author of this article, Dr. Jürg Brinkmann or your client advisor, should you need any further information.

Sincerely yours,

**Allgemeines Treuunternehmen**

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