

Original text was published in German, DIE STIFTUNG (special issue), February 2012, p. 30-31

More transparency creates a better image

Werner Meyer (Kaiser Partner) talks about how the Liechtenstein foundation sector is evolving.

Legislative reforms, double taxation agreements and transparency rules – Liechtenstein is making a real effort to shake off its image as a tax haven for the world's wealthy. *Werner Meyer*, Partner and Managing Director Trust Services at Kaiser Partner, talks to DIE STIFTUNG about the consequences for the foundations business in the Principality.

DIE STIFTUNG: How has the Liechtenstein foundations sector evolved in recent years?

Werner Meyer: Over the last few decades, Liechtenstein foundations have often been associated with figures such as British publisher Robert Maxwell, show-jumper and entrepreneur Paul Schockemöhle, and ex-head of Deutsche Post Klaus Zumwinkel. Their attempts to hide money had a significant influence on how foundation law has changed.

When Klaus Zumwinkel was arrested on February 14, 2008, the revision of Liechtenstein's foundation legislation, most of which had been written in 1926, was already well advanced. Transparency, effective supervision and general governance were three of the main objectives that lawmakers set themselves for the revision.

Finally, on April 1, 2009 Liechtenstein introduced a new foundation law that accorded with international standards. This has not, however, stopped the continual and significant decline in the number of foundations in recent years. At the end of 2009, there were still 44,684 "non-registered foundations". A year later it was only 37,228 and the number continued to fall in 2011.

DIE STIFTUNG: How is it possible for foundations to wind themselves up, and what happens to the foundation assets in these cases?

Meyer: Foundations are often liquidated or terminated because of "lack of assets", because they cannot then fulfil their foundation purpose any longer. This happens when all of the foundation's assets have been used up in line with their purpose. Usually this means that the assets and the income earned on them is paid out to the beneficiaries, be they individuals or institutions.

DIE STIFTUNG: So would you say that we are seeing the demise of the foundation?

Meyer: I don't think it would be accurate to talk about a demise. But it's true there has been a change of philosophy. For many years foundations were seen solely in the context of Liechtenstein civil law; no regard at all was paid to other jurisdictions. For a long time a large number of foundations were established and maintained under this regime, meeting the requirements of many families. But now, any asset manager seeking to fulfil the needs of its clients and take full account of the changed circumstances needs to consider the private law and tax rules that apply in different countries when establishing a foundation. Foundations are now competitive internationally and can be used as an attractive and sustainable structure by people and companies from all over the world.

DIE STIFTUNG: How has the revised law contributed to this development?

Meyer: By strengthening the beneficiaries' right to information, by creating a supervisory authority for foundations, and by requiring a specific foundation purpose, the new regime has created the necessary transparency and has improved the image of foundations. At the same time, Liechtenstein has demonstrated its desire to be integrated into the international community and to cooperate as an equal. By concluding numerous tax information exchange agreements and a growing number of double taxation accords, the Principality has smoothed the way for clients to use its legal structures efficiently and profitably at the international level.

DIE STIFTUNG: So can we say that foundations, in their new form, are now internationally accepted?

Meyer: Unfortunately we are not quite that far yet. It has not been possible to completely dispel the negative image that has grown up over many years, and that has been amplified in recent years by the media. However, Liechtenstein is doing everything it can at the political and legal levels to demonstrate what role the country and its financial industry are able and willing to play in international business involving such structures. The introduction of a new tax law on January 1, 2011 represented another important step towards establishing a strong international presence and wide acceptance. Even if the changes were driven by external factors, we can say that Liechtenstein has successfully implemented far-reaching, broad-based legal changes very quickly, and bedded these changes into day-to-day practice.

DIE STIFTUNG: How are these factors reflected in the new foundations being established today?

Meyer: The first thing to mention is the civil law framework under which the foundation is established. A foundation can be structured for private or common benefit; or the two types can be combined in the form of a "mixed family foundation".

When creating a foundation, it is important to evaluate how this will be judged in the founder's country of residence in terms of civil and tax law. Liechtenstein foundations can also be used these days for philanthropic purposes. At this year's "Liechtenstein Congress on Sustainable Development and Responsible Investing" (LISDAR), held from May 2 to 4, the role of foundations as vehicles for responsible investing was highlighted.

The quality and durability of the solution is very much dependent on careful consideration and analysis of all these factors. The resulting legal security represents significant added value for the founder.

DIE STIFTUNG: Are foundations trying to organize themselves and create networks?

Meyer: There isn't an actual foundations association in Liechtenstein yet. But as the number of registered foundations subject to foundation supervision increases, there is certainly a growing case for such an organization. Meanwhile, there are chances to meet and talk at the University of Liechtenstein, at international conferences and within the Liechtenstein Association of Professional Trustees. There is also an active exchange of ideas at events organized by the worldwide Society of Trust and Estate Practitioners, and at congresses like LISDAR. The Liechtenstein foundation is positioning itself as an attractive, internationally accepted structure.

DIE STIFTUNG: Thank you for your interesting insights, Mr, Meyer.

Interview by Gregor Jungheim

Werner Meyer is Partner and Managing Director Trust Services at Kaiser Partner, based in Vaduz. The company, whose origins go back to 1931, looks after a large number of foundations with substantial assets.