



The Establishment

What is an Establishment, and what is its purpose?

A Liechtenstein private-law establishment is a legally and economically independent special-purpose fund that is formed as a legal entity (legal person).

The legal form of the private-law establishment has no counterpart in foreign legal systems.

The purpose of the establishment may be of an economic or non-economic nature and may be in any legally permissible form, for example trade in goods, acquisition of participating interests, management of real estate, or management of assets for specific beneficiaries. In any case, the provision relating to the purpose of the establishment must specify whether it is engaged in commercial trading or not. The establishment may be structured similarly to a corporation or a foundation.

Only the assets of the establishment are liable for any debts of the establishment.

How is an Establishment created?

Only one natural or legal person is required to form an establishment. An establishment is formed by means of a deed of formation and Articles of Association. However, the establishment does not come into being until it has been entered in the commercial register. A public deed is not required for the formation.

No commercial permit is required for companies that do not pursue any business activity in Liechtenstein.

What share capital or minimum capital does an Establishment require?

The statutory minimum capital is CHF/EUR/USD 30,000.00 if the capital is not divided into shares. If the capital is divided into shares – as is customary for a company limited by shares (Aktiengesellschaft), for example – the statutory minimum capital is CHF/EUR/USD 50,000.00. The capital of an establishment may consist of contributions in kind or in form of a combination of cash and contributions in kind. Contributions in kind must be assessed as part of a review of the formation of an establishment. The capital is freely available to the establishment as soon as it is entered in the commercial register. The assets of the establishment may be increased at any time after the establishment has been formed.

What documents are required to form an Establishment?

The Articles of Association of an establishment must contain the provisions required by law (for example, its purpose). Generally, an establishment also has beneficiaries. In the event that there is no provision regarding beneficiaries, the law presumes that the holder of the founder's rights is the beneficiary.

What governing bodies does an Establishment have?

Holder of the founder's rights: In case of an establishment with founder's rights, the holder of the founder's rights is the supreme governing body. The founder's rights may also be bequeathed or transferred inter vivos by means of a declaration of assignment. In case of an establishment without founder's rights, the Board of Directors is the supreme governing body.

Board of Directors: The Board of Directors is entitled to exercise all powers that are not conferred by the Articles of Association to the supreme governing body (holder of the founder's rights). The Board of Directors is responsible for managing the business of the establishment and for representing it in dealings with third parties. In case of an establishment without founder's rights, the Board of Directors is the supreme governing body.

Auditor: If the establishment is engaged in commercial trading or its purpose as set out in the Articles of Association allows such activity to be conducted, it is required that an auditor be appointed. In the other cases, the appointment of an auditor is optional.

Representative: Is the representative of the establishment in relation to the Liechtenstein authorities and acts as a mailing address for the establishment. Other governing bodies, such as a supervisory board or protector, are optional.

What rights does the founder of an Establishment with founder's rights have?

The founder's rights are the totality of the powers that the founder of an establishment is entitled to exercise. Founder's rights may be assigned and bequeathed, but may not be encumbered or pledged.

The holder of the founder's rights may select the management in form of the Board of Directors, he may issue and amend the Articles of Association and By-Laws, designate the beneficiaries of the establishment, and may also designate himself as beneficiary.



How are the beneficiaries designated?

The beneficiaries are those natural or legal persons or institutions that receive a benefit from the establishment.

They are designated by the founder or by the supreme governing body and must be described in the Articles of Association or By-Laws in such a manner that they are identified or at least can be identified. Generally, beneficiaries are designated in By-Laws. The beneficial interest may be contingent, temporary, or subject to a condition or a restriction. The beneficial interest may also be structured so as to be revocable.

It is required, in case of establishments without founder's rights, that the beneficiaries be specified in the Articles of Association or By-Laws.

How is an Establishment terminated?

- Based on a resolution by the supreme governing body to dissolve it
- On commencement of insolvency proceedings relating to the assets of the establishment (or dismissal of insolvency proceedings)
- Based on a court judgment

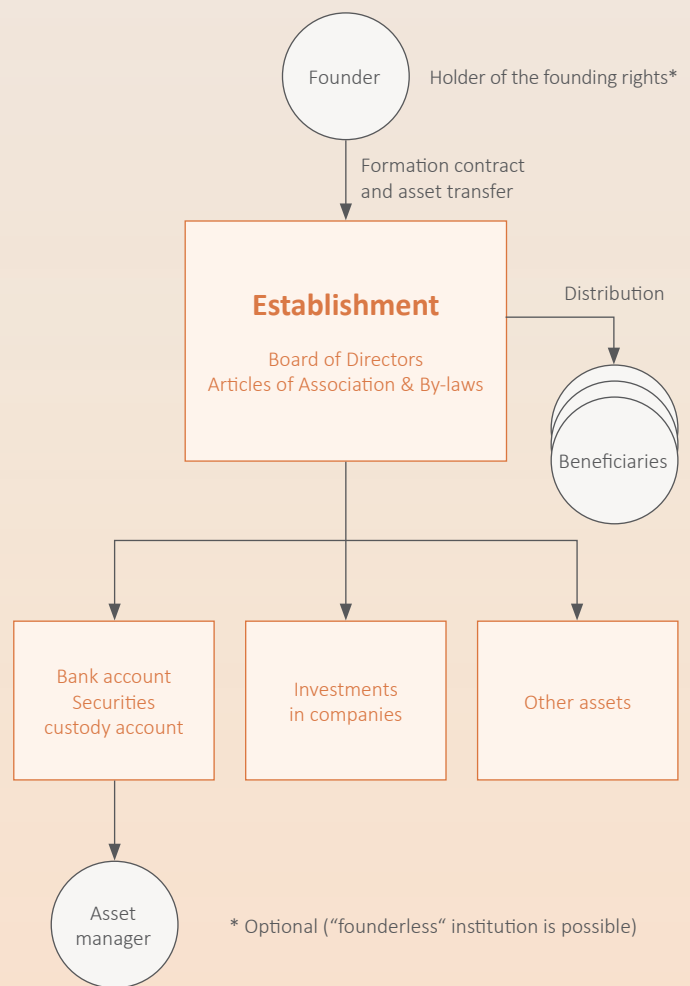
Any resolution to dissolve the establishment must be entered in the commercial register. The subsequent liquidation proceedings take approximately six months and require a three-time notice to creditors. Thereafter, the assets of the establishment may be divided among its final beneficiaries and the establishment may be deleted from the commercial register.

How is a Liechtenstein Establishment taxed from a Liechtenstein perspective?

Upon formation of an establishment that is engaged in commercial trading, a formation tax of 1% must be paid on the capital pursuant to the Articles of Association that exceeds the exemption limit of CHF 1 million. The formation tax is reduced to 0.5% for the capital exceeding CHF 5 million and to 0.3% for the capital exceeding CHF 10 million.

This tax also applies in the event of any increase in capital. Ongoing taxation: On January 1, 2001 a new tax law came into force in Liechtenstein. This law now provides for the concept of the private asset structure (PAS; Privatvermögensstruktur, PVS). Generally, establishments that conduct asset management and are not engaged in commercial trading may qualify as a PAS. In Liechtenstein, such establishments are taxed at the minimum income tax of CHF 1.800.00 p.a..

Establishments that do not qualify as a PAS are subject to the regular income tax of 12.5%, with some income being tax-exempt and some being tax-privileged. Distributions from an establishment are exempt from taxation in Liechtenstein.



This document is for information purposes only. It is not intended for persons subject to a jurisdiction that prohibits them from receiving documents of this type, and does not constitute a promotion, recommendation, offer or any other advisory service. Kaiser Partner excludes all liability for the contents or for any loss or damage whatsoever that may result from the use of this document, irrespective of the form it may take.