

to a minimum of 7.5% and a maximum of 15% of the net earnings²⁸. It increases by a further 1% to 5% if the distributions amount to more than 8% of the taxable capital.

Foundations that only have their seat in Liechtenstein, but which do not maintain an office and do not pursue any business or commercial activity there are however exempt from income taxation.

Taxation of beneficiaries of the foundation

No taxes are levied on distributions to beneficiaries who have neither a domicile nor an ordinary residence in Liechtenstein.

Tax consequences in the event of liquidation of a foundation

There are no particular tax consequences connected with the liquidation of a foundation in Liechtenstein.

The tax treatment of a Liechtenstein foundation from the point of view of the Austrian tax authorities

The above-stated provisions are the domestic law in Liechtenstein. However, as a large part of foundations in Liechtenstein have foreign founders or foreign beneficiaries, inter-country regulations (or the regulations applicable in countries in which the founders and/or beneficiaries reside) are also of importance in this context. An overview of tax consequences for Austrian founders and beneficiaries in connection with the establishment of a foundation in Liechtenstein follows. As Liechtenstein is one of the few countries in Europe that is considered a tax haven, it comes as no surprise that Austria has not concluded any double taxation agreement with Liechtenstein.

As a general rule, Liechtenstein foundations are also recognised by the Austrian tax authorities. However, in many cases, the Austrian tax authorities examine whether a foundation is recognised as a legal person under the laws and regulations of Liechtenstein or whether the assets of the foundation may be attributed to the founder from a tax perspective. In this case, the profits of the foundation would be considered as taxable income at the level of the founder.^{29,30} This often happens in connection with the so-called foundation with mandate agreement (Stiftung mit Mandatsvertrag). This type of foundation is a speciality of Liechtenstein. By means of a mandate agreement, which is normally concluded between the founder and a

²⁸ Article 77 Tax Act. The tax rate amounts to half as many percent of the net profits as the net profits percent of the capital subject to tax, at least 7.5% and a maximum of 15%.

²⁹ Foundations recognised by the Austrian tax authorities are referred to as non-transparent foundations, while foundations the assets and income of which are assigned to the founders are referred to as transparent foundations.

³⁰ For the criteria that must be met in the case of a non-transparent foundation, see Hosp (2008).