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MBA International Business

**Design and inculcation of modern technologies of tax planning, protection of assets and information in enterprises in Latvia and worldwide for tax optimization purposes**

**Modernu nodokļu plānošanas, aktīvu un informācijas aizsardzības tehnoloģiju izstrāde un ieviešana praksē Latvijas un pasaules uzņēmumos ar mērķi optimizēt nodokļu maksājumus**

Master thesis

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## Annotation

The name of master thesis is “Design and inculcation of modern technologies of tax planning, protection of assets and information in enterprises in Latvia and worldwide for tax optimization purposes”.

Main goal of this master thesis is to do the research of low tax jurisdictions essence, describe important solutions, to show benefit of inculcation of modern technologies of tax planning as well as to analyze the connected problems. Second goal is to describe the development tendencies of modern tax planning in Latvia and worldwide and to describe directions of development of tax planning services.

Master thesis consists of the introduction; four produced parts; the conclusions and proposals. The essence of low tax jurisdictions and development tendency in world market were conducted in the first part of the master thesis. The business sectors, corporate functions and working schemes of law tax jurisdictions were investigated in the second part of the master thesis. Technology and schemes of protection of assets and information have been analyzed in the third part of the master thesis. In the fourth part of the master thesis have been produced the new structure of international holding companies and have been found the advantages of holding companies for tax optimization purposes.

The main conclusion of this master thesis is – the market of tax planning services in Latvia is developing and as a result is hardly predictable. But despite this fact, tax planning take an important part in country’s financial market. The modern tax planning services development is based and depends on country’s economical situation, the legislation and the level of insurance from influence of undesirable factors as well as local and foreign capital attraction.

## **Anotācija.**

Maģistra darba nosaukums ir “ Modernu nodokļu plānošanas, aktīvu un informācijas aizsardzības tehnoloģiju izstrāde un ieviešana praksē Latvijas un pasaules uzņēmumos ar mērķi optimizēt nodokļu maksājumus”.

Galvenais darba mērķis ir izpētīt ārzonu (offshore) jurisdikcijās būtību, aprakstīt vajadzīgus risinājumus, pierādīt modernu nodokļu plānošanas ieviešanas izdevīgumu, kā arī izanalizēt ar to saistītas problēmas. Otrais mērķis ir apskatīt nodokļu plānošanas attīstības tendences Latvijā un pasaulē, kā arī moderna nodokļu plānošanas pakalpojumu virzienu attīstību.

Darbs sastāv no ievada, 4 iztirzājuma nodaļām, secinājumiem un priekšlikumiem. Darba pirmajā daļā tika veikta vispārīga zemu nodokļu jurisdikciju analīze, kā arī aplūkotas šo jurisdikciju attīstības tendences. Darba otrajā daļā tika pētīts biznesa sektors, korporatīvās funkcijas un zemu nodokļu jurisdikciju darbības shēmas. Trešajā daļā tika veikta informācijas un aktīvu aizsardzības tehnoloģiju un shēmu analīze. Ceturtajā daļā tika izstrādāta jauna starptautiskās holdinga kompānijas struktūra, kā arī tika identificētas starptautisko holdinga kompāniju izmantošanas priekšrocības ar mērķi optimizēt nodokļu maksājumus.

Pēc autora domām šī pētījuma galvenais secinājums ir – nodokļu plānošanas tirgus Latvijā atrodas attīstības stāvoklī un līdz ar to ir grūti prognozējams. Tajā notiekošie darījumi ieņem ievērojamu vietu valsts kopējā finansu tirgū. Nodokļu plānošanas tirgus attīstības pamatā ir ekonomiskā stabilitāte valstī, sakārtota likumdošana, nodrošināšanās pret nelabvēlīgu faktoru ietekmi, kā arī pašmāju un ārzemju kapitāla piesaiste.

## Анотация

Тема магистерской работы – «Разработка и внедрение современных технологий налогового планирования, защиты активов и информации в предприятия, как Латвии, так и всего мира с целью оптимизации налогов».

Главная цель работы – изучить сущность низко налоговых юрисдикций, рассмотреть необходимые решения, показать выгоду внедрения современных технологий налогового планирования, а также проанализировать связанные с этим проблемы. Вторая цель работы – рассмотреть тенденции развития технологий налогового планирования, как в Латвии, так и в остальном мире, изучить направления развития современных технологий налогового планирования.

Работа состоит из вводной части, 4 проанализированных частей, а также выводов и предложений. В первой части работы был проведен анализ сущности низко налоговых юрисдикций, а также их тенденции развития на мировом рынке. Во второй части работы был изучен бизнес сектор, корпоративные функции и схемы работы низко налоговых юрисдикций. В третьей части был проведен анализ технологий и схем работы по защите активов и информации. В четвертой части была выработана новая структура международной холдинговой компании, а также были найдены преимущества использования международных холдинговых компаний для целей оптимизации налогов.

По мнению автора, главный вывод работы заключается в том, что рынок налогового планирования в Латвии находится в состоянии развития и в связи с этим сложно прогнозируем. Но, не смотря на это, налоговое планирование занимает важную часть общего финансового рынка в стране. В основе развития рынка услуг налогового планирования лежит экономическая стабильность страны, упорядоченное законодательство, защищенность от влияния нежелательных факторов, а также привлечение местного и зарубежного капитала.

## Introduction

*"Everyone has a right to arrange his business affairs in such a way that brings appropriate tax payments to the minimum: no one must plan his expenses and income to the maximum convenience of the Ministry of Finance; for a citizen there is no patriotic duty whatsoever to increase his own tax payments."*

*Federal Judge Hand, Helvering v. Gregory-United States Supreme Court*

During the last couple of years the authorities of EU and the USA have made a couple of steps to reduce interest of entrepreneurs to use in the business activity offshore companies. How much taken measures will reduce demand on so popular in Latvia tool of tax planning and protection of the assets?

As long as State exists, it will aspire to collect more taxes. At the same time tax payers will not get tired to search and find the solutions how to reduce these taxes. With respect to the tax payers there are some countries which government agreed to reduce or to not collect at all general income taxes. They fill up the treasury due to duties on registration of business or investment funds. And these countries are known as "offshore zones".

From small beginnings early in the 20th century, the offshore sector has grown ever faster in response to high tax rates in the developed countries, until it is estimated now that more than half of the world's money is offshore.

'Offshore' has no precise dictionary meaning: the word simply reflects the fact that most low tax jurisdictions are islands. Loosely, it is used to mean 'outside the control of the highly-taxed Western nations', although those nations could have controlled the growth of offshore jurisdictions (International Offshore Financial Centres) much more tightly if they had wanted to. It is an interesting question, why they didn't – maybe a combination of individual self-interest and muddle?

Probably by now the large, rich nations no longer have the financial clout to take on 'offshore' in any comprehensive way. The EU complains about 'unfair tax practices', but in the real world of offshore there are only minor changes to low-tax regimes. This is partly because the rich countries have their own tax breaks and incentives for particular local purposes, and partly because the rich countries themselves (both the countries and their citizens) make plentiful use of 'offshore'.

In 1999 and 2000, global concerns about money-laundering have given the rich countries an opportunity to mount a more concerted attack on 'offshore'. This is certainly leading to better regulatory structures in many of the International Offshore Financial Centres,

but they are fiercely resisting the underlying agenda of 'tax harmonisation': any tax haven that was weak enough to give in to rich-country pressure in any meaningful way would quickly be picked clean by its competitors. There are 70 self-declared International Offshore Financial Centres already, and another 100 countries that would be only too happy to join them if the business was there.

International Offshore Financial Centres themselves are a very mixed bag, and serve a variety of different purposes for various types of individual and corporation. Not all of those purposes are legitimate: there is no question that drug barons and other illegal 'businessmen' have used and do use International Offshore Financial Centres to wash their money before recycling it legally. The world's Governments and over-arching economic organizations such as the OECD have had some success in preventing abuses, but laundering remains a problem in some International Offshore Financial Centres. Among the main legal uses of International Offshore Financial Centres are:

- tax-efficient structuring of international trade
- holding and investment companies
- offshore investment funds
- protection of personal wealth using trusts
- international financial services
- 'captive' insurance companies
- shipping registries

Many International Offshore Financial Centres are most useful in relation to a particular high-tax country, eg the Isle of Man which is offshore the UK. Others have specialized in particular business sectors. The Jurisdictions section describes the characteristics and uses of many of all the main International Offshore Financial Centres in depth, and in the Uses of Offshore later in this section you will find a sector-by-sector analysis of how offshore can be used, and the jurisdictions that specialize in each sector.

The actuality of master thesis “design and inculcation of modern technologies of tax planning, protection of assets and information in enterprises in Latvia and worldwide for tax optimization purposes” names the fact that indeed, offshore today is big business. It is estimated that over 60% of world deposits are held offshore, and ca. 1/3 of all int'l trade passes through tax-free companies. The obvious advantages of utilizing offshore corporate vehicles include, to name but a few, low or non-existent taxation, no currency import/export controls, greater flexibility and confidentiality in decision-making and conducting corporate business, etc. At present there are over 50 countries and territories all over the world, ranging from such old and well-established financial centers as the Bahamas, Channel Islands,

Gibraltar, to the newer players on the scene, including obscure places like Vanuatu and the so-called “quasi-offshore” jurisdictions, like the US, UK, Switzerland, with legislative provisions for advantageous tax treatment of non-resident business. The offshore financial sector is already larger and more pervasive than any individual national economy, and it is used by business in many different ways to optimize tax structures.

After expansion of European Union, the requirements to the local businessmen who is using low tax jurisdictions for tax planning purposes have become tougher. One of the main reason of this situation - complexity of definition of a difference between tax planning and evasion from taxes. The reasons of occurrence of this problem are various.

First of all, effectively enough has worked the pressure rendered by the USA and EU under a cover of fighting the terrorism.

Second of all, in East Europe and Baltic’s in business environment payment of corporate tax often considered to be an attribute of dementia.

Third of all, there are not too many specialists who can design high quality tax planning schemes. As the result, at high cost of creation of the scheme of tax planning, it can appear absolutely useless and in certain cases even illegal.

In this master thesis author would like to study problems of tax planning which basically define its essence, application and understanding.

Master thesis goal – with help of special literature do research of low tax jurisdictions, to analyze tax planning functions as well as modern instruments of protection of assets and information and being based on that analysis develop the proposals of modern technology of tax planning.

For achievement of the master thesis goal it is necessary to execute following tasks:

1. With help of special literature do research of low tax jurisdictions essence as well as development tendency in world market, find out their differences and necessity for improvement.

2. Being based on that analysis do research of business sectors, corporate functions and working schemes of modern tax planning with purpose to find out role and value of tax planning for enterprises.

3. Analyze technology and schemes of protection of assets and information, find out their differences and necessity for improvement.

4. Do research of structure of international holding companies and find out their differences and advantages for tax optimization purposes.

5. Being based on that analysis design the proposals of inculcation of modern tax planning in corporate sector for increasing working effectiveness in enterprises.

Master thesis hypothesis - from the point of view of the European Union, the good offshore jurisdiction is a "dead" offshore jurisdiction. However the offshore business is more likely alive, than dead and it evidently confirms demand for the given service.

At the same time the existential tendencies of tax planning were described from the geographical side. The research was made on law tax jurisdictions existential situation and prospects. This research mainly was made to describe current situation in this field of activity, to show what had been done already and to show some new fields for development of this type of business. Most of this master thesis has been devoted to existential situation, solutions and development opportunities for tax planning.

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The research period of this master thesis covers the last 16 years, when prompt development of tax planning started in Latvia.

Doing the research of this master thesis quantitative method has been used. Because by now tax planning in Latvia is not well developed, use of qualitative method is not reasonable.

Preparing this master thesis mainly has been used new literature sources: modern magazines and newspaper, such as "Latvijas Vēstnesis" and "Business & Baltia", because they describe real economical situation in Latvia and worldwide. For the same reason author uses internet sources. Mainly have been used internet home pages of organizations, which provide as assistance in tax planning, because they know how to describe their services in the best way. For the analysis of the latest events in sphere of tax planning, were used materials from various conferences, devoted to the given theme.

## 1. Low tax jurisdictions

### 1.1. Criteria of selecting a jurisdiction

Many International Offshore Financial Centres use both English legal systems and the English language; and there are many reputable advisers to help a beginner through the early stages of using 'offshore' for tax panning purposes. It is one of the purposes of this master thesis to make 'offshore' more accessible and understandable for tax panning purposes. [6,27]

The factors and advantages that describe a successful offshore centre include the following:

- The tax and other incentives offered for offshore companies;
- The network of favourable tax treaties that Jurisdiction maintains with other countries;
- The " British modelled" legal system and corporate law;
- A strong banking system and very strong commercial banks;
- Abundance of professionals and graduates, the vast majority being educated and trained in Western Europe or the USA;
- Continuous support, promotion and progressive legislation from the government;
- The English language being widely known and used as the business language;
- Modern infrastructure and telecommunications;
- Minimal level of crime;
- The convenient geographical location of the island. [20]

Basic conditions to qualify for the tax incentives:

1. The offshore company must belong to non-residents of the country in which it will be registered.
2. The company must not earn any income nor carry out any commercial activity within the offshore jurisdiction where it has been registered.

In international trade and investment the selection of an offshore jurisdiction requires very careful consideration. It is important to select a jurisdiction that is well suited to specific corporate and personal needs. Most offshore jurisdictions are free from foreign exchange controls and have introduced company legislation to cater for a diverse range of international business requirements.

***Political and Economic Situation.*** The pre-requisites for establishing business or private interests offshore are certainty, confidence and corporate security. In order to satisfy these requirements it is important to select a jurisdiction that provides political and economic stability.

***Essential Corporate Characteristics.*** Most offshore and 'tax planning' jurisdictions have made efforts to ensure that their company law satisfies the following demands:

- Limited liability;
- Minimal or optional statutory filing obligations;
- Low capital requirements;
- Nominee shareholders allowance;
- Availability of bearer shares;
- Disclosure of beneficial ownership either not required or limited to special bodies (offshore authorities, central banks);
- Minimal directors' liability; \*
- Broad range of permitted company names and suffixes to denote limited liability;
- Directors and/or shareholders meetings can be held anywhere in the world;
- No requirement or optional requirement for accounting records to be audited. [10, 21]

\* Directors are generally liable for the company's actions. However, in certain jurisdictions directors may seek indemnities from both the company and its beneficial owners.

***Legislation Requirements.*** The most essential criterion is that legislation should be modern, flexible and well proven. Furthermore, the legislation should preferably guarantee confidentiality and complete privacy with regard to a client's business dealings. Nowadays there are more than 50 jurisdictions world-wide providing offshore company legislation. Some jurisdictions have introduced new and modern corporate legislation specifically designed for international business; others have amended existing domestic legislation to cater for offshore requirements. [17]

***Company Law.*** There are three main models of Company Law: English Common Law; European Corporate Law; US Corporate Law. Hybrid models of Company Law that are a combination of the above-mentioned models also exist. Let us consider the characteristics of these models. [16]

***English Common Law.*** Company Law based on English Common Law is the most frequent model for classic offshore jurisdictions. Company Law in this case is based on the UK Companies Act 1948. This Act in turn draws on earlier Acts (since 1844) and many other concepts, such as the acceptance of nominee shareholders, based on 19th century Acts. The Joint Stock Companies Act of 1856 introduced the Memorandum and Articles of Association providing incorporation by registration. Examples are the BVI, the Bahamas, Hong Kong, and Belize. [18,142]

***European Corporate Law.*** European Corporate Law is based on French Law (1864). Usually it is different for a "share" company (with a lower initial capital and a smaller number

of subscribers) and a public company (which is allowed to issue publicly negotiable securities).

Incorporation procedures in Civil Law jurisdictions have the following features (compared to English Common Law):

- An amount of paid-up capital must be subscribed before incorporation;
- A Company' statutes are essentially a contract between subscribers;
- Procedures are more onerous and time consuming than in English Common Law countries;
- Incorporation procedures are carried out by a notary;
- Corporate Law in Civil Law countries demands that the responsibility of a board of directors be shared between an executive and a supervisory board;
- Directors' powers may be limited;
- A legal reserve may be required;
- Liquidation procedures are time consuming and complex. [12]

**US Corporate Law.** US Corporate Law was formed under the influence of both English and Civil Law. Apart from differences in language, terminology and interpretation, US Company Law differs from English Law in a number of significant ways, including:

- US Corporations have officers in addition to directors;
- By-laws are often adopted after incorporation;
- Directors are often empowered to change by-laws.

Company Law in Liberia, Panama and Nevis has been influenced by US Law. [11,1285]

**Double Taxation Avoidance Treaties.** The jurisdictions around the world can be divided into two groups: Treaty jurisdictions, and Non-Treaty jurisdictions.

**A) Treaty jurisdiction.** Clients wishing to benefit from relief from a double tax treaty must establish a company situated in a Treaty jurisdiction. This is essential for minimum withholding tax on dividend payments and royalties from contracting states. Treaty jurisdictions also convey a non-offshore image and thus provide cosmetic appeal. [26]

**B) Non-Treaty jurisdictions.** This type of jurisdiction is mainly used because of the absence of corporate taxes on the company's profits and usually only requires companies to pay a fixed annual license fee. [26]

It is important to assess the taxation implications for the business and to decide whether a treaty jurisdiction is required. Usually, a treaty jurisdiction is not required for international trade, the movement of goods or most services. However, inward investment into certain countries requires a treaty jurisdiction to minimize the impact of taxation. Tax treaties on the exclusion of double taxation have been concluded between many countries in

order to avoid the situation whereby a businessman is liable for income tax twice - firstly in the country where the income was gained, and secondly in the country where he is a resident (a taxpayer).

Treaties on the exclusion of double taxation are usually applicable in the instances when taxes are imposed on:

- profits gained by a resident of one country within the territory of another country
- dividends paid in one country to residents of another country
- interest paid in one country to residents of another country
- royalties and license fees paid in one country to residents of another country [26]

It should be noted that the benefits of interstate treaties are available only to those companies who are in fact taxpayers in the country of registration. The tax-free status of a company and tax exemptions granted by interstate treaties are mutually exclusive; indeed, no tax authorities in any jurisdiction will confirm that a company is a taxpayer in this country if, in fact, companies of this type do not pay any taxes in this country. Therefore, tax exemptions of interstate treaties are not applicable to IBC companies and to certain types of companies registered in taxpaying countries, who do not pay taxes there, in accordance with the specific legislation of the country of registration. [4]

Tax treaties on the exclusion of double taxation can be used efficiently if the tax rate for the same income is known to be lower in one of the two countries bound by the treaty. In particular, the optimal methods of using interstate treaties are:

- 1) When dividends, interest or license fees are paid to non-residents, the country of payment imposes, as a rule, the so-called withholding tax, usually amounting to 15-25%. At the same time, interstate tax treaties often prescribe a lower or zero tax rate for these types of payments.
- 2) Most interstate tax treaties make provisions for certain business activities, which can be carried out by a resident of one country in another country and are not regarded as the setting up of a permanent representation in the latter country. This means that a company from one country can carry out certain business operations in another country, but may pay income tax in the first country, which has lower tax rates. [26]

Treaties on the exclusion of double taxation are most often used in commercial and holding operations, using jurisdictions such as Cyprus, etc.

***Legal and Accounting Infrastructure.*** Administration of all offshore structures requires both legal and accounting services.

***Communications.*** Since business must be run in an efficient manner, it is important for a jurisdiction to possess modern telecommunication facilities.

**Banking.** Though offshore companies can open corporate accounts anywhere in the world, it is preferable for many clients to bank in the jurisdiction where their offshore company is domiciled. The banks should be able to meet important requirements, i.e. that a comprehensive range of banking services and access to international banking facilities are available.

**Languages.** Running the business in English is preferable, though offshore structures are usually capable of providing multilingual services. This concerns the need to exclude any misunderstanding in respect of clients' requirements.

## 1.2. Example low tax jurisdictions

There are two types of low tax jurisdictions – offshore and onshore and there are some differences between them.

Onshore jurisdictions basically are more complicated in administration. They demand to submit annual accounts and audit reports along with annual state fees for maintenance the companies in good standing.

To maintain in good standing a company in offshore jurisdiction is enough to pay only annual state fees to company register.

Also the “due diligence” procedure for company formation is a lot easier in offshore jurisdictions.

But never the less both offshore and onshore jurisdictions can be used for tax planning purposes as well as for protection of assets and information.

Author will give the characteristics for some of the offshore and onshore jurisdictions.

### 1.2.1. Offshore jurisdiction

#### a) Belize

Belize (before 1973 British Honduras) is a picturesque country that has an unspoiled environment. It is located in Central America in the south-eastern part of the Yucatan Peninsula. Its shores are washed by the Caribbean Sea. The area of the country is approximately 23,000 sq. km, and it is bounded by Mexico to the north and Guatemala to the west and south. The administrative capital is Belmopan, but the major commercial centre is Belize City, situated on the east coast close to the major International airport. The total population of Belize is about 200,000, of which about 60,000 live in Belize City. The official and main spoken language is English. [10, 165]

The currency used is the Belize Dollar (BZ\$). Offshore activities are exempted from exchange control. [26]

**Company Incorporation.** The principal piece of Company legislation is the International Business Companies Act, 2000. A Company incorporated in Belize has the same powers as a natural person. The language of legislation and corporate documents is English.

The type of company for international trade and investment is an International Business Company (IBC). An IBC is subject to the following restrictions on trading and business activity:

- An IBC is not allowed to trade within Belize or own real estate there;

- An IBC is not allowed to engage in the business of banking, insurance, assurance or reinsurance.

Incorporation procedure is as follows: a Registered Agent delivers the Memorandum of Association and Articles of Association to the Registry, together with the appropriate fee. A registered office must be maintained in Belize at the address of a licensed management company. There are no specific statutory provisions governing secrecy in relation to companies, but English Law, which applies within the jurisdiction, does impose a common law duty on professionals to keep the affairs of their clients confidential. In Belize off-the-shelf Companies are available. [21]

A Belize IBC name can be incorporated using any language. Chinese language incorporations with Chinese documentation are very popular. The following name restrictions apply:

- A Company cannot use a name that has already been incorporated, or is so similar as to cause confusion.
- A Company cannot use a name that in the opinion of the Registrar is considered undesirable, obscene or offensive.
- Names such as Royal or Imperial, or any name that suggests the patronage of the Belize Government, are not acceptable.
- The following words either in English or any other languages: Bank, Building Society, Chartered, Co-operative, Savings, Loans, Insurance, Assurance, Reinsurance, Trust, Trustees, Chamber of Commerce, University, Municipal, Or any name in English or a foreign language that may suggest association with the banking or insurance industries require consent or a licence.
- Limited, Corporation, Incorporation, Societe Anonyme, Sociedad Anonima, Gesellschaft mit beschraenkter Haftung or the relevant abbreviations are the required suffixes to denote limited liability.

A minimum of one director is required and corporate directors are permitted. Directors may be natural persons or corporate bodies. They can be of any nationality and are not required to be Belize residents. A Company secretary is not a requirement under the Act, but a secretary is normally appointed to facilitate signing obligations. A minimum of one shareholder is required. No details of the shareholders or directors appear on the public file, but a register of shareholders must be kept at the registered office address of the company in Belize.

The normal authorised share capital is US\$ 50,000 divided into shares with or without par value. The share capital may be expressed in any currency. The minimum issued capital

may be one share of no par value or one share of par value. The following classes of share are permitted: registered shares, bearer shares, shares of no par value, preference shares, redeemable shares and shares with or without voting rights. [26]

Annual Taxation and Fees. Particular features of taxation in Belize are as follows: although there are fairly high rates of tax for resident persons and companies in Belize, the country now offers tax-free IBCs by virtue of the IBC Act 2000. Belize is not a party to any double tax agreements. The annual fee depends on the value of the authorised capital as follows:

- Companies with an authorized capital up to US\$ 50,000 pay the sum of US\$ 100 per year.
- Companies with a share capital over US\$ 50,001 pay the sum of US\$ 1,000 per year.
- Companies some or all of whose shares are of no par value, pay the sum of US\$ 350 per year.
- Penalty fees of up to 50% of the annual Government fee will be incurred if the license fee is not paid when required.

Financial statement requirements are follows: although there is no requirement to file audited accounts with the authorities, a company is required to keep financial records to reflect its financial state. [26]

## **b) British Virgin Islands**

The British Virgin Islands (BVI) are located in the West Indies, in the Eastern Caribbean. They are a group of small islands and coral reefs (about 100 in all) in the northern part of the Lesser Antilles archipelago, to the East of Puerto Rico. The official language is English. [26]

The official currency on the BVI is the US Dollar, and there is no currency exchange control.

***Company Incorporation.*** In 1985, the Government offered offshore registration to companies wishing to incorporate in the Islands. The principal Corporate legislation is The Companies Act 1985, the International Business Companies Ordinance 1984 (as amended) and the Banks and Trust Companies Act 1990. [21]

The type of Company used for international trade and investment is called an International Business Company (IBC). A company incorporated in the BVI has the same powers as a natural person. Off-the-shelf companies are available. The language of legislation and corporate documents is English. [25]

Incorporation procedure for an IBC includes the submission of the Memorandum and Articles of Association and a Certificate from the Registered Agent confirming compliance with the requirements of the Ordinance.

As a matter of local company law, the Company must maintain a registered office address within the BVI and must also appoint a BVI resident as registered agent. There are no specific statutory provisions governing secrecy in relation to companies, but English Law, which applies within the BVI, requires that professionals keep the affairs of their clients absolutely confidential. [28]

An IBC is subject to the following restrictions on trading and business activities:

- A Company does not have the right to trade within the British Virgin Islands or own real estate there;
- A Company is not permitted to engage in banking, insurance, assurance, reinsurance, fund management, collective investment schemes, trust management, trusteeship, giving investment advice or any other activity that would suggest an association with the banking or insurance industries;
- A Company cannot offer its shares for sale to the public.

Company names are subject to the following restrictions:

- A Company cannot use a name that is identical or similar to that of an existing company.
- A Company cannot use any name that suggests the patronage of the Royal Family or the Government of the British Virgin Islands.
- A Company name can be in any language, although the documentation must be in English and an English translation of the name must be given.
- A name containing such words as Bank, Building Society, Chartered, Co-operative, Savings, Loans, Insurance, Assurance, Reinsurance, Fund Management, Investment Fund, Trust, Trustees, Chamber of Commerce, University, Municipal or their foreign language equivalents require consent or a licence.
- Limited, Corporation, Incorporated, Societe Anonyme, Sociedad Anonima or abbreviations thereof are the required suffixes denoting limited liability .

The minimum number of directors is one. They may be natural persons or bodies corporate. They may be of any nationality and need not reside in the British Virgin Islands. Details of the directors do not appear on the public files. A Company secretary must be appointed. The company secretary may be a natural person or a body corporate. They can be of any nationality and need not reside in the British Virgin Islands. The minimum number of

shareholders is one. No details of the shareholders appear on the public files but a register of shareholders must be kept at the company's registered office address. [21]

The normal authorised share capital is US\$ 50,000 with all shares with par value, this being the maximum share capital to qualify for the minimum duty payable upon incorporation and annually thereafter. The share capital may be expressed in any currency. The minimum issued capital is one share without par value or one share with par value. The following classes of shares are permitted: registered shares, bearer shares, shares of no par value, preference shares, redeemable shares and shares with or without voting rights. [7,117]

**Annual Taxation and Fees.** An IBC does not pay any tax on its world-wide profits to the British Virgin Island authorities. The British Virgin Islands have treaties with Japan and Switzerland, although they are of limited benefit and are not applicable to offshore business.

The licence fees depend on the company's share capital:

- Companies with an authorised capital of up to US\$ 50,000 pay US\$ 300 per year;
- Companies with a share capital of over US\$ 50,001 pay US\$ 1,000 per year;
- Companies with a share capital not exceeding US\$ 50,000, some or all of whose shares without par value, pay US\$ 350 per year;
- A penalty of up to 50% of the annual Government fee will be incurred if the licence fee is not paid when due.

Though there is no requirement to file audited accounts with the authorities, a Company is required to keep financial records that reflect its financial state. [21]

### c) Marshall Islands

Located midway between Indonesia and Hawaii, the Marshall Islands are the easternmost island group in Micronesia. The Marshall Islands are spread over approximately 2 million sq. km in the Central Pacific, with two 1,280 km long parallel chains of atolls and volcanic islands separated by 179 km of sea. The languages spoken are Marshallese and English. English is used in business and legislation. [26]

Marshallese Common Law is based on **Anglo/American Common Law**.

The currency is US Dollar. There is no exchange control.

**Company Incorporation.** The principal corporate legislation is the Associations Law of the Republic of the Marshall Islands 1990, which incorporates the Business Corporation Act (BCA) and the Partnership Act. Although the Marshall Islands BCA is modelled on the corporate laws of the United States, certain provisions have also been borrowed from British law. A Company incorporated in the Marshall Islands has the same powers as a natural person. The language of legislation and corporate documents is English. [21]

The type of Company used for international trade and investment is **the Non-resident Domestic Corporation**, which is easy to form and administer.

Incorporation procedure: the Marshall Islands have an exclusive franchise with one company that is licensed to incorporate all non-resident companies. After the name is approved, companies can be incorporated using standard Articles of Incorporation. With standard Articles, the request to incorporate must contain the following information: [21]

- Company name.
- Number of shares.
- Whether shares are with or without par value (if with par value, the amount per share).
- Whether the shares are to be in bearer and/or registered form.
- If clients' own Articles of Incorporation are to be used, these must be prepared in accordance with the Marshall Islands BCA.

Trading activity is subject to the following restrictions:

- A Company cannot trade within the Marshall Islands.
- A Company cannot engage in the business of banking, trust services, insurance, assurance or reinsurance.

A registered office must be maintained in the Marshall Islands at the address of the licensed Trust and Management Company.

Company names are subject to the following requirements and restrictions:

- A name can be in any language as long as Roman letters are used. The Registrar may however require an English translation if a foreign language is used to ensure that the proposed name is not a restricted name.
- A name cannot be identical or similar to that of an existing company.
- The following words or their derivatives may not be used: *bank, chartered, establishment, foundation, insurance, partnership or trust.*
- A standard corporate suffix or its abbreviation, for example Corporation, Incorporated, Limited, Gesellschaft mit beschränkter Haftung, Aktiengesellschaft, Societe Anonyme, Sociedad Anonima, must be used to denote limited liability.

The minimum number of directors is one. The directors may be natural persons or corporate bodies. They can be of any nationality and need not be Marshall Islands residents. A Marshall Islands Corporation must appoint a company secretary who may be a natural person or a corporate body. The company secretary can be of any nationality and need not be resident in the Marshall Islands. The minimum number of shareholders is one. [21]

The standard authorised share capital is 500 shares without par value or a capital with par value of up to US\$ 50,000. The authorised share capital may be in any currency. The

minimum issued share capital is either one share without par value or one share with par value. [21]

Marshall Islands corporations may have the following classes of shares: registered shares, bearer shares, preference shares, redeemable shares, shares with or without par value and shares with or without voting rights.

***Annual Taxation and Fees.*** Non-resident Marshall Islands companies are exempted from taxes. There is no requirement to file financial statements, but records should be maintained to reflect a company's financial status. [8,58]

## 1.2.2. Onshore jurisdiction

### a) United Kingdom

***Geography, Population, Languages.*** The British Isles is the name for a collection of about 4000 islands, including Great Britain and Ireland. The United Kingdom of Great Britain and Northern Ireland (the UK), which consists of England, Scotland, Wales and Northern Ireland, lies off the west coast of Europe. It has an area of some 244,100 square kilometres (94,250 sq. miles) with an estimated population in excess of 57 million. At least 9 million live in the Greater London area. 5.25 million live in Scotland, with a further 1.5 million resident in Northern Ireland. The population of Wales is also approximately 1.5 million. The official and spoken language is English. [26]

***History, Political Structure and Law.*** The United Kingdom is a constitutional hereditary monarchy, and the head of state is Queen Elizabeth II, who ascended the throne on 6th February 1952.. True power lies in the hands of the Prime Minister and the Cabinet. [21]

The type of law is Common Law.

***Economy and Infrastructure.*** The United Kingdom is one of the world's great trading powers and financial centres, and its economy ranks among the four largest in Western Europe. Heavy industry, including steel manufacture and shipbuilding, has been replaced in recent years by high-tech manufacturing industries such as aircraft engine manufacture, car manufacture, electronics and pharmaceuticals. Agriculture is intensive, highly mechanised and efficient by European standards, producing 60% of food needs with only 1% of the labour force. [26]

The official currency of the United Kingdom is the UK Pound. There are no exchange controls.

***Company Incorporation.*** The Principal Corporate Legislation is Companies Act 1985 (amended), and the Income and Corporation Taxes Act 1988. English is the language of legislation and corporate documents.

The types of company used for international trade and investment are Private or Public Limited Companies. A company incorporated in the United Kingdom has the same powers as a natural person. There are no specific laws relating to the unauthorised disclosure of information about a UK company, its directors or owners, but UK law recognises the common law duty that professionals have towards their clients to keep their affairs confidential.

There are restrictions on trading and business activities: specified types of service, including for example banking, insurance, financial services, consumer credit-related services and employment agencies, are not permitted. [27]

Incorporation procedure requires the submission of the Memorandum and Articles of Association, Declaration of Compliance and Statement by the First Directors and Secretary, notification of the location of the Registered Office and payment of the requisite fee to Companies House. A registered office must be maintained in the United Kingdom. For the purposes of this information sheet a UK company is incorporated in England or Wales and registered in Cardiff, Wales. Details on incorporating a company in Edinburgh, Scotland or Belfast, Northern Ireland are available on request. Off-the-shelf companies are available.

London Registration: Many international clients and UK businesses prefer to have their UK company incorporated in London. The UK Registrar of Companies levies a nominal additional fee for this service, and clients often take advantage of this exclusive facility. However, less than 1% of all companies incorporated in England and Wales are today incorporated in London. Over a decade ago the government moved the principal Companies' Registry for England and Wales from London to Cardiff in Wales. [10,175]

Another distinct advantage of incorporation in London is the availability of a same-day incorporation service.

Clients who decide not to incorporate in London will have their company registered at the principal Companies Registry for England and Wales in Cardiff.

In addition to the Cardiff Registry, which covers England and Wales, there are also company registries in Edinburgh for Scotland and Belfast for Northern Ireland

Company names are subject to the following requirements and restrictions:

- Although the name of company can be in any language, documentation must be in English. Any name in a language other than English must be accompanied by a translation to ensure that the name is not restricted. However, if the company is incorporated in Wales there is a proviso that documentation in Welsh will be accepted.

- Any name that is identical or similar to that of an existing company is not acceptable.
- Any name considered to be offensive or suggesting criminal activity is not acceptable.
- Any name that suggests the patronage of the Royal Family or the Government of the United Kingdom is not acceptable.
- Restricted names include *Assurance, Bank, Benevolent, Building Society, Chamber of Commerce, Fund Management, Insurance, Investment Fund, Loans, Municipal, Reassurance, Reinsurance, Savings, Trust, Trustees, University* or their foreign language equivalents.
- Any company name implying financial service activities such as banking and insurance require consent or licence.
- *Limited (Ltd)* or *Public Limited Company (PLC)* are the required suffixes to denote limited liability. [27]

A *Private Company* must have at least one director, and a *Public Company* must have a minimum of two directors. A sole director cannot also be company secretary. The directors can be natural persons or bodies corporate. They may be of any nationality and need not reside in the UK. If there is more than one director, one of them can also be company secretary, but as UK Company Law is complex, it is recommended that a professional secretary with relevant experience be appointed. Details of the directors appear on the public file, but anonymity can be maintained by the use of third party professionals. [31]

A company secretary must be appointed. The company secretary may be a natural person or a body corporate. They can be of any nationality and need not reside in the United Kingdom.

For *Private Companies* the minimum number of shareholders is one, for *Public Companies* the minimum number is two. A shareholder may be a corporate body or an individual. Details of shareholders appear on public record but anonymity may be retained by the use of nominee shareholders or holding companies. [31]

Requirements relating to authorised and issued share capital depend on the type of Company:

- *Private Company*: the minimum issued capital is one share, but further capital is usually issued to reflect the stability and strength of the company. A private company is normally incorporated with an authorised share capital of £1,000.
- *Public Company*: the minimum authorized share capital for a public company is £50,000, of which £12,500 must be paid up (in case of liquidation the full £50,000 must be paid). The minimum issued capital is two shares.

The following classes of shares are permitted: ordinary shares, preference shares, deferred shares, and redeemable shares and shares with or without voting rights. Bearer shares are not permitted. [27]

**Annual Taxation and Fees.** Tax is paid by companies in the UK based on audited accounts submitted to the Inland Revenue at the end of the company's financial year. International tax planners are able to utilise UK structures to minimise taxation for international business. The United Kingdom is party to more double tax agreements than any other sovereign state. The UK has signed double taxation agreements with 100 countries and thus enjoys the most extensive double taxation agreement network in the world. There are no licence fees. [27]

It is important to emphasise that corporation tax rates are the lowest in the European Union. Corporation Tax is levied from 19% to 30% on a UK company that has net profits under £300,000, and a tax rate of 30% is levied where the profits are over this figure. [31]

Requirements for Financial Statements are as follows:

All UK Companies must file accounts with the Registrar of Companies. To determine whether a company needs an audit or not, they are divided into two categories: small or medium-size. The following conditions must be met:

To be a small company (no audit is required only a set of accounts is required)

- the annual turnover must be £5.6 million or less;
- the balance sheet total must be £2.8 million or less;
- the average number of employees must be 50 or fewer

To be a medium-sized company, at least two of the following conditions must be met:

- annual turnover must be £22.8 million or less;
- the balance sheet total must be £11.4 or less;
- the average number of employees must be 250 or fewer. [27]

## **b) Switzerland**

Swiss company is an ideal instrument for trading and services activity. Being a European company it pays very low taxes (it may be as low as 8.5 %) and enjoys first class services of Swiss banking system.

There are two main types of companies, that might be used for tax optimization:

### **a) HOLDING COMPANY**

**Main purposes:**

To Hold group subsidiaries

To hold significant shareholdings in external companies

**Main benefits:**

Exemption or reduction of income tax on Dividends from “qualifying participations”.

Exemption or reduction of corporation tax on Capital Gains arising from the sale of “qualifying participations “.

Low income taxes on ancillary activities.

Deductibility of accrued or paid borrowing costs.

Enhanced anonymity, confidentiality and transferability of shares through use of bearer shares

**BUSINESS CONTROL CENTRE COMPANY**

**Main purposes:**

To Manage and administer international business operations

To Hold Intellectual Property or other corporate asset

**Main benefits:**

Reduction in Group corporate taxes – if 80% sales are derived from customer outside Switzerland preferential income rates apply

Exemption or reduction of income taxes on dividends from “qualifying participations”

Exemption or reduction of corporation taxes on Capital gains arising on the sale of “qualifying participations”

Deductibility of accrued and paid external and intra-group borrowing costs. [22]

**b) MIXED COMPANY (Finance Company/Subsidiary)**

**Main purposes:**

To fund group/ international operations

**Main benefits:**

Reduced corporation taxes on financial/interest income

Exemption or reduction on interest income from “qualifying participations”

Deductibility of accrued or paid borrowing costs including inter-group companies

Deductibility of Bad Debt Reserves of up to 10%

Deductibility of Realised Foreign Exchange Losses

## MANAGEMENT COMPANY

### **Main purposes:**

Provision of management or services to non-Swiss entities

### **Main benefits:**

Reduced (preferential) corporation taxes on income (7-10%)

E-Commerce Company

### **Main Purpose:**

To conduct international E-Commerce

To hold related IP

### **Main Benefits:**

Preferential (low) rate of corporation tax (7-10% of profits) if over 80% sales conducted with non-Swiss customers

No VAT on digitised products delivered via E-Commerce

No VAT on E-sales to EU countries

Possible exemption from corporation tax on dividend income and capital gains from E-business if owned by Swiss Holding Company [22]

***History, Political Structure and Law.*** Switzerland is a federal republic. The two dominant principles of the Swiss Constitution of 1874 are federalism and democracy. The Constitution provides for the cantons to exercise all powers of government not delegated to the federal government. The head of the government is the President. The three major sectors of the Swiss national government are the Federal Council, the Federal Assembly and the Federal Tribunal. The executive body is the seven-man collegiate Federal Council, which is elected for a four-year term by the national legislature. [10,237]

The system of law is Civil Law.

***Economy and Infrastructure.*** Switzerland has a prosperous and stable modern economy with a per capita income approximately 10% higher than in other Western European countries. [22]

Switzerland is the world's largest offshore private banking centre, with the Big Two banks, Credit Suisse and UBS, and a plethora of private banks, handling one-third of the world's offshore private wealth.[2]

For private investors, Switzerland's banks, based in the cities of Zurich, Basle and Geneva, offer a safe and mainly conservative approach to investing, backed by political stability and strong banking secrecy practices.

Most Swiss banks have a well-diversified range of Swiss and Luxembourg-based mutual funds that are available world-wide to private investors, along with a range of discretionary portfolio management services and banking facilities. [21]

The currency is the Swiss Franc (SF). There are no exchange controls.

***Company Incorporation*** . The principal corporate legislation includes the following documents:

- Schweizerisches Obligationenrecht (Swiss Code of Obligations).
- Bundesgesetz über Schuldbetreibung und Konkurs (Swiss Federal law on Debt Collection and Bankruptcy).
- Bundesgesetz über die direkte Bundessteuer (Federal Law on Direct Taxation).
- Bundesgesetz über die Banken und Sparkassen (Swiss Federal Act on Banks and Savings Associations).
- Bundesgesetz über die Anlagefonds (Federal Act on open ended Investment Companies).
- Bundesgesetz über die Internationale Privatrecht (Federal Act on Private International Law).

The language of legislation and corporate documentation is any Swiss official language (German, French, Italian or Romansch), but foreign language translations can be obtained. A company incorporated in Switzerland has the same powers as a natural person.

In Switzerland there are the two types of company used for international trade and investment:

- Aktiengesellschaft (**AG**) - Stock Company;
- Gesellschaft mit beschränkter Haftung (**GmbH**) - Limited Liability Company.

A company incorporated in Switzerland is subject to restrictions on the following trading and business activities, which cannot be undertaken without a special licence or consent: banking, insurance, assurance, reinsurance, fund management, collective investment schemes, or any other activity that suggests an association with the banking or finance industries. [1]

Company incorporation procedure involves the submission to the Commercial Register of the following documentation:

- The Public Deed of Incorporation executed before a Notary Public;
- The Articles of Incorporation;

- Confirmation by a Bank that the share capital is held in an account;
- Consent to Act forms signed by the proposed directors;
- A declaration of the applicants;
- An application to the Commercial Register covering the above documentation and including the notarised signature of the person appointed to represent the company.

A registered office must be maintained in the canton of incorporation. Owing to the costs associated with incorporation and paid up share capital requirements, off-the-shelf companies are not available. [21]

The names of companies being incorporated are subject to the following requirements and restrictions:

- The name of a body corporate or trust entity may be in any language that uses the Latin alphabet, but the Public Registry may require a translation into any official Swiss language.
- A name that is identical or similar to an existing name is unacceptable.
- A name that may imply government patronage is not permitted.
- Any name that in the opinion of the Registrar may be considered undesirable is restricted.
- If the Company name includes such words as Bank, Building Society, Savings, Insurance, Assurance, Reinsurance, Fund Management, Investment Fund, Switzerland, State, Country, Municipality, Principality, Red Cross or their foreign language equivalents, then consent or a licence are required.
- The following suffixes are used to denote limited liability: Aktiengesellschaft or **AG**; Gesellschaft mit beschränkter Haftung or **GmbH**.

A minimum of one director/manager who must be a Swiss citizen and resident in Switzerland must be appointed. If more than one is appointed the majority must be Swiss citizens and resident in Switzerland. Corporate directors are not permitted. There is no requirement under Swiss Law for a company secretary to be appointed. The minimum number of shareholders depends on the type of Company: for an AG the minimum number of shareholders is three, while for a GmbH it is two. [1]

The minimum authorised and issued share capital depend on the type of Company:

- **AG:** This type of limited liability company has a minimum authorised share capital of SFr 100,000, all of which has in practice to be issued and fully paid up. When the share capital exceeds SFr 250,000 a capital duty of 1% is payable on the amount over SFr 250,000.

- **GmbH:** The minimum authorised capital is SFr 20,000 but the company does not have shares; instead, the owners' share stake is registered in the Commercial Register. SFr 10,000 must be paid up on incorporation.

The following classes of shares are permitted, depending on the type of Company:

- **AG:** Registered shares, bearer shares and preference shares.
- **GmbH:** Share stakes only. Bearer shares are not permitted.

### c) Liechtenstein

One of the most used form of Liechtenstein companies is „**The foundation**”. Liechtenstein foundations are perfect legal solutions for complex corporate structures and high-net worth individuals. It can be used for asset protection, properties holding, inheritance and other purposes. [22]

**The foundation** may be formed as a pure family foundation (for the defrayal of expenses for upbringing and education, outfitting and equipping, etc.), as a non-profit making foundation (support and promotion, e.g. of a charitable, artistic, scientific, social nature) or as an ecclesiastical foundation. The establishment of a foundation as a purely maintenance foundation may also be considered. [22]

**The foundation** is not suitable for the pursuit of commercial objects. Commercial activities may only be undertaken when such activity serves to achieve the foundation's non-commercial purpose or the type and scope of the participations held require the facilities provided by a commercial undertaking.

Only the non-profit making foundation is subject, under certain circumstances, to official supervision.

**Formation.** Upon formation, the founder donates assets definitively for a certain specific purpose and regulates the beneficial interest. To a justifiable extent the founder may reserve certain rights by occupying a position (as a member of the foundation council, curator, protector) or by the inclusion of an appropriate provision in the articles/by-laws/ regulations.

**Eksistence.** The foundation that is not under obligation to register comes into existence with the preparation of the deed of foundation, that which is under obligation to register, only upon entry in the Public Register. [21]

**Registration or Deposition.** All foundations that undertake commercial activities in order to achieve their noncommercial purpose (e.g. youth hostel, old people's home, welfare foundation in association with an enterprise) are under obligation to register.

The mere obligation to deposit the foundation documents with the Public Register Office (without by-laws or regulations) is applicable to ecclesiastical foundations, pure and

mixed family foundations (maintenance foundations, for instance) as well as foundations whose beneficiaries are specifically designated or definable. In this case evident existence of the foundation is not provided by any register and inspection is only possible when proof of an entitled interest is provided. [22]

**Nominal Capital.** The minimum capital (foundation fund) must be CHF 30000.- or the equivalent value in any desired legal currency.

**Governing Bodies.** The supreme authority is the foundation council, which conducts the foundation's business within the intendment of the articles, by-laws and regulations. The founder may designate other bodies as, for example, the auditor, to investigate the activities of the foundation council or limit these activities by means of the rights of protectors, curators or collators to instruct, check or veto.

The appointment of an auditor is mandatory for registered foundations with a business conducted in a commercial manner.

**Beneficiaries.** Basically, beneficiaries must be designated in some way (for example, by reference to descent, sex, etc). Please refer to the comments under «General».

**Submission of Balance Sheet.** In so far as the registered foundation undertakes commercial activities or the articles provide for such activities, the annual account examined by the auditor, must be submitted to the Liechtenstein Tax Administration, Vaduz.

**Declaration.** Voluntarily registered foundations that do not undertake commercial activities and whose purpose as determined in the articles does not provide for such activities are under obligation to declare (please refer to the comments under «General»). The deposited foundation is not required to declare. [22]

**Taxes.** Assets donated by persons domiciled abroad are not subject to the Liechtenstein gift tax. In Liechtenstein, the distribution of beneficial interest to recipients living abroad is neutral with respect to tax. Basically, the capital tax of 0.1 % of the foundation fund and the visible reserves (net assets), but at least CHF 1000.- per annum, must be observed. Net assets of CHF 2 million and above are taxed at the rate of 0.75 % and net assets of CHF 10 million and above at the rate of 0.5%. [22]

**Economy and Infrastructure.** The economy of Liechtenstein is very closely related to the Swiss. There is no customs control on the border between Liechtenstein and Switzerland.

Banking and financial services are one of Liechtenstein's main industries, and within this industry there are high levels of secrecy, with heavy sanctions imposed for any breaches of confidentiality. The combination of low taxation, fairly liberal regulations for the running of companies and very well protected banking confidentiality makes Liechtenstein very attractive as an international business centre. [21]

Liechtenstein is a member of the United Nations, the Council of Europe, EFTA and the EU, although membership does not affect local fiscal policy.

The system of law in Liechtenstein is Civil Law. It is based on Swiss, Austrian and German law with local adaptations. [10,205]

The official currency of Liechtenstein is the Swiss Franc. Under a treaty with Switzerland, there is no foreign Exchange Control.

***Company Incorporation.*** The principal Corporate Legislation is the Persons and Companies Act of 1926. Liechtenstein is the only country on the Continent to have a Law on Registered Trusts. The powers of Liechtenstein corporate bodies are contained in the Companies' statutes. The language used for legislation and corporate documents is German, but foreign language translations can be obtained.

The types of Company used for International trade and investment are:

- Aktiengesellschaft or AG (a company limited by shares).
- Anstalt (an Establishment, commercial or non-commercial, without shares).
- Stiftung (a Foundation).
- Gesellschaft mit beschränkter Haftung - GmbH (a Private Limited Company without shares).
- Treuunternehmen (a Registered Trust).
- Treuhandschaft (a Trust).

One of the main attractions of Liechtenstein is its extremely flexible company law, which allows for the creation of any type of legal organisation, which is recognised under the law of any jurisdiction in the world. The three main types of commercial entity in use are: (1) the Establishment, or Anstalt; (2) the Foundation, or Stiftung; (3) the Company limited by shares, or AG. [7, 189]

The most important entity for tax purposes is the Anstalt, which is commonly used by foreign companies as a holding company for overseas subsidiaries. The Anstalt is an entity that has no members, participants or shareholders, and is a hybrid of a company limited by shares and a foundation. It is popular because with minor exceptions it is free to conduct all kinds of business, including non-trading activities such as holding of passive investments.

A Stiftung (Foundation) is typically formed purely for family, non-profit or non-commercial reasons, since a foundation is not suitable for the pursuit of commercial business. This type of foundation is commonly used to hold assets, fixed property or shares in other companies. A Liechtenstein foundation is not subject to any form of income tax, capital tax, transfer tax or inheritance tax in Liechtenstein.

Trading and business activities are subject to the following restrictions:

A Liechtenstein corporate body or trust cannot undertake the business of banking, insurance, assurance, reinsurance, fund management, collective investment schemes or any other activity that would suggest an association with the Banking or Finance industries, unless a special licence is obtained. [3]

Incorporation procedure for Liechtenstein entities follows Civil Law practice. Entities must appoint a local representative. The procedure requires the submission of the following information to the Offentlichkeitsregister (Public Registry):

- The Deed constituting the statutes and by-laws signed by the subscriber or agent.
- The proposed name of the company.
- Share capital, division of capital and type of shares (where appropriate).
- A declaration that the minimum capital has been paid into a Bank in either Liechtenstein or Switzerland.
- Names, addresses and nationalities of directors and confirmation that they consent to act as directors.
- Names, addresses and nationalities of shareholders.
- Confirmation that a Liechtenstein resident representative has been appointed.

Owing to the costs associated with incorporation and paid up share capital requirements, off-the-shelf companies are not normally available.

Company names are subject to the following restrictions:

- The name may be in any language that uses the Latin alphabet, but the Public Registry may require a German translation.
- A name that is identical or similar to an existing name is not acceptable.
- A major name that is known to exist elsewhere is not acceptable.
- A name that may imply government patronage cannot be used.
- A name that in the opinion of the Registrar may be considered undesirable is not permitted.
- The following names or their derivatives require consent or a licence: *Bank, Building Society, Savings, Insurance, Assurance, Reinsurance, Fund Management, Investment Fund, Liechtenstein, State, Country, Municipality, Principality, Red Cross*
- The name must end with one of the following suffixes denoting limited liability: *Aktiengesellschaft or AG; Gesellschaft mit beschränkter Haftung or GmbH; Anstalt*[22]

The minimum number of directors for the Aktiengesellschaft (AG), GmbH and Anstalt is one. The directors may be natural persons or bodies corporate. A Liechtenstein Stiftung does not have a board of directors, but appoints a Foundation Council. The directors (members of council) may be natural persons or bodies corporate. They can be of any

nationality, but at least one director (member of council) must be a natural person, a resident of Liechtenstein and qualified to act on behalf of the company. [21]

The concept of a company secretary is not recognised in the Principality of Liechtenstein.

The minimum number of shareholders/equity participants/beneficiaries of any Liechtenstein entity is one.

The minimum authorised, issued and paid up share capital are as follows:

- An Aktiengesellschaft is CHF 50,000.
- Anstalt: CHF 30,000.
- Stiftung: CHF 30,000.
- Trust Enterprise: CHF 30,000.

The following classes of shares are permitted:

- An Aktiengesellschaft (AG) may issue registered, bearer or preference shares, also shares without par value or with special voting rights.
- A GmbH, Anstalt, Stiftung or trust are not allowed to issue shares and the shareholders' rights are assigned by Deed or Bylaws. The minimum number of shareholders in GmbH is two. [21]

**Annual Taxation and Fees.** The taxation and licence fees depend on the type of entity:

- An Aktiengesellschaft (AG) pays a 4% coupon tax on dividends and an annual capital tax of 0.1% on the net asset value of the company. The annual minimum is CHF 1,000.
- A commercial or non-commercial Anstalt, provided the capital has not been divided, does not pay a coupon tax but pays an annual capital tax of 0.1% on the net asset value of the company. The annual minimum is CHF 1,000.
- A Stiftung, whether registered or deposited, does not pay a coupon tax, but must pay an annual capital tax of 0.1% on the net asset value of the company. The annual minimum is CHF 1,000.
- Trusts pay a minimum annual tax of CHF 1,000 or 0.1% on the net asset value.

Liechtenstein has only one double tax agreement, with Austria. [21]

The following requirements apply to the financial statements:

- An Aktiengesellschaft (AG) or GmbH is required to submit an audited financial statement to the Liechtenstein tax administrator for assessment.
- A commercial Anstalt is required to submit an audited financial statement to the Liechtenstein tax administrator.

- A non-commercial Anstalt need not submit accounts to the Liechtenstein tax administrator; a statement by the bank that a record of its assets is available is sufficient.
- A Stiftung need not submit accounts to the Liechtenstein tax administrator; a statement by the bank that a record of its assets is available is sufficient. [3]

#### **d) Cyprus**

It should be noted from the outset that these companies are empowered to carry on any type of activities except those licensed including the provision of banking, insurance and reinsurance services and recently added financial services. Over 135,000 companies are registered with the Register of Cyprus. The most widespread type of international business companies' activities is trade. On the Island the companies may stock or repack its transit shipments, establish there trade exhibitions of its goods as well as to organize various trainings and seminars for its agents and clients. The second position is occupied by the companies providing professional services – accounting, promotional, technical support as well as the ones in the sphere of marketing, business consulting and software engineering. A sufficient part is played by companies-news agencies, periodicals publications editing houses and publishing houses (their registration requires special permit pursuant to the Press Law the obtaining whereof is not very difficult subject all requirements are met). The rest is shared between holding, administrative, mediator, shipping and other companies.[30]

Some of our overcautious businessmen are confused by the obligatory submission of Cyprus companies' accounts which are not required in some negligent "tax havens". What if they spy? However this practice is primarily supported by the reason that these companies shall pay taxes though of a low level for the local authorities to be firmly sure that the income sources are exclusively of a foreign nature. Cyprus authorities are well effective to deal with inveterate wheeler-dealers by themselves, and they by no means are used to informing foreign tax authorities regarding the offshore companies' owners and their profits. An International Business Company as well as previously an offshore one is registered via submitting proper forms for approval to the Central Bank of Cyprus (hereinafter referred to as "CB") and the Registrar of Companies. It should be noted that it is impossible to incorporate and especially to purchase a ready-made company without using the services of a Cyprian lawyer or a firm (including a Russian one) involved in partnership relations with a Cyprian legal organization working in this sphere. According to the exchange control Law CB is responsible for granting permit to non-residents

that purchase shares of legal entities registered in Cyprus. The exchange control Law does not differentiate between the citizens of Cyprus and foreigners yet it does differentiate between residents and non-residents.

The Registrar of Companies in Cyprus is empowered to disapprove of the name of the company if it is alike that of an already existing company, implies misleading, sounds too general or bombastic, points at the royal, national or international attribute or includes the words – “Co-operative”, “Insurance”, “Bank”, “Financial Services” which do not correspond to the aims of the company.

Notwithstanding that the family names of the true owners of International Business Companies must be filed with CB, their personalities are protected by secrecy regulations.

The Law prohibits a bank to be a source of information about natural persons or legal entities.

The names of only registered owners are stated in minutes of the court filed with the Department of Registrar of Companies and Official Receiver. The list of companies is a confidential document. From time to time CB makes public only consolidated figures for the Government and community to evaluate the offshore sector development.

For the purpose to confirm the financial reliability of true owners of International Business Companies, their solvency, respectability and that they are honored in the country of residence, CB requires bank or other letters of credence to be submitted (special forms for such letters have recently been adopted). In some cases CB is empowered to apply to the Ministry of Internal Affairs of the country of residence of the true owners of companies willing to operate on the basis of fully-operational office and thus use foreign members of staff employed in Cyprus. Recommendations are not necessary to well-known international corporations the shares whereof are traded on famous stock exchanges.

Usually it takes several days to obtain incorporation permit. The following basic documents are necessary to incorporate a company:

- printed Memorandum and Articles of Association signed by the – subscribers and certified by the Lawyer;
- declaration by a practicing – advocate that all the requirements of the Companies Act are satisfied;
- Certificate of Directors and Secretary and Certificate of the – Registered Office of the company.

Should the Registrar of Companies deem the submitted documents be drawn up correctly he will issue the Certificate of Incorporation pursuant to which the offshore company becomes a legally existing corporative body.

By the issue of the permit the Central Bank determines certain provisions regarding actual

ownership, activities, financial transactions and the order of accounts that must always be observed.[10,198]

At the end of a financial year each company is obliged to forward to the CB the balance and income and expenditure assessment. For the preparation thereof chartered accountants and auditors practicing in the Republic of Cyprus and duly authorized by the Minister of Finance are retained. The auditor is to confirm that the company did not make any transactions with residents but for professional services payments and for the administrative purposes.[30]

Pursuant to the Companies Act the first annual general meeting is to be held by the company during 18 months since the date of incorporation. Afterwards the interval between two meetings shall not exceed 15 months. Table A of the Companies Act contains regulations regarding proceedings at meetings including voting, quorum, voting by proxy etc. These regulations may partially or in full be observed by the company. The usual proceedings at meetings include declaring dividends, matters regarding the balance of the company, calculation of income and expenditure as well as Directors' and auditors' reports; furthermore – election of Directors to substitute those retiring, the appointment and fee of the auditor. Directors manage the company during the periods between general meetings. Each Director is authorized to conclude contracts (subject to some established internal restrictions). As a result Director bears the responsibility for the losses caused to the company through the abuse of the powers of a Director. In accordance with the Companies Act the court may bind directors to reimburse the debts of the company if they carried on its activities being aware of the company's insolvency. A Director shall be prosecuted or liable to civil proceedings if he transacts business with the purpose of misleading creditors or any other person. The Act also provides for the responsibility of a Director for dishonest preference i.e. assistance to one creditor at the expense of another one during or previously to the winding of the company. In addition to the annual returns it is obligatory to make the "Director" Report that shall be attached to the balance of the company and served to the shareholders thereof. This report shall contain the information determined by the regulations of the Articles of Association. Directors are also responsible for keeping registers and records. Each company in Cyprus pursuant to the Law is obliged to maintain duly organized records of its economic activities. All correctly completed books and records should be kept either in the Registered Office of the company or in any other office as the Directors may determine. Should the documentation be kept outside the island, it must in equal intervals of time be forwarded to the Office of the Company in Cyprus. Every company at its annual general meetings shall appoint auditors for annual auditing. The Law provides that the auditors shall

be the members of either the Institute of Approved Chartered Accountants of Cyprus or associates of British Association of Accountants and Auditors or they must be approved by the Council of Ministers to be persons of efficient qualification, skills and experience. The audited financial accounts are necessary to present at an annual general meeting of the company as well as to submit to the Registrar of Companies together with the annual return that contains data of the company capital structure, pledges and mortgages besides the names and the addresses of the members, Directors and the secretary of the company. The exempt private companies are not obliged to submit the audited financial accounts together with the annual return. [7,169]

On the 1st of May, 2004 Cyprus joined the European Union. It was 1987 when Cyprus and EC concluded the Customs Union agreement proposing a gradual abolition of duties on most Western-European manufactured goods and produce (which (the agreement) however did not apply to so-called “service” economic sectors to which the offshore sector relates as well). The government of Cyprus has also adopted some substantial changes in the system of companies and natural person’s taxation. The new Law came into force on the 1st of January, 2003, however there are certain regulations which were introduced as early as 2002. The main aim of the new enforced Law – the coordination of own legislation with the European Union legislation and EU Code of conduct as well as the fulfillment of the obligation before the Organization for Economic Cooperation and Development (OECD) to eliminate the dangerous tax practices.

The following are some of the principal regulations of the tax reform relating to offshore companies and that from our point of view are of the main interest to be examined by those who regard Cyprus as the prospective sphere of the offshore activities:

- The definition of a company-resident of Cyprus is adopted. A company is a resident of Cyprus if it is controlled and managed from the territory of Cyprus, if most members of the Board of Directors of the company are residents of Cyprus.
- The differences between general companies in Cyprus and offshore companies are abolished. The taxable income of all companies in Cyprus is liable to taxation at the rate of 10%. The companies that were operating and in Goodstanding before the 31st of December, 2001 reserve the tax rate of 4.25% till the end of 2005.
- Those of companies in Cyprus owned by the citizens of European Union members are empowered to gain profits both in the territory of Cyprus and outside it. If the owners of a company in Cyprus are not citizens of European Union members – such company has to obtain a license to have the right to carry out activities in the territory of Cyprus (actually it is not difficult but all formalities must be observed).

- Dividends income derived from outside Cyprus is not levied with the corporate tax in Cyprus.
- No tax is levied on profit received by the companies-residents of Cyprus from securities transactions. “Securities” are defined as shares, bonds, debentures and other securities of companies or other legal entities incorporated in accordance with the legislation of Cyprus or beyond it.
- The interdiction prohibiting during the period of five years to shift “the losses” to another article while preparing the financial accounts of the company is abolished. There is no time limitation any more.
- For the purpose of compliance with the EU legislation the new tax legislation adopted the corresponding EU directives permitting rearrangement, takeover, purchase and merger of companies without changes in tax terms.
- No withholding and royalty payment tax.
- VAT in Cyprus is raised from 10% to 13%.
- Real estate tax applies to the real estate in Cyprus and the rates are modified as follows:

Real estate tax applies to the real estate in Cyprus. Table 1.1. [9,24]

Asset value (CYPs)	RATE (%)
Less than 100,000	0
100,001 – 250,000	2.5
250,001 – 500,000	3.5
500,001 and more	4

Thus and so the favorite tax rate of 4.25% flows into past and actually there are no offshore companies (in terms of both name and nature). However it does not cause panic in Cyprus as the perspectives of using companies in Cyprus as European holding structures are brought to the forefront whereof the Cyprian lawyers expect the main rise in the number of incorporation cases and amount of the corresponding services rendered. The companies in Cyprus obtained the image of a European company and at will and sometimes under the necessity VAT number may be obtained for preferential trading with EU countries. In the history of the European Union – the “Cyprus case” is practically unprecedented for it is not an English colony like Jersey or Gibraltar that is in question the status whereof, England being joined to the EU, was regulated by the special protocols but a sovereign state. And what

is more important Cyprus entered into EU without abolishing the low Tax regime quite deliberately. Now when Russia is far from entering into the European Union the offshore companies incorporated in Cyprus and owned by our fellow countrymen may provide them with a real “window to Europ [30]

#### e) Luxembourg

**Geography, Population, Languages.** The Grand Duchy of Luxembourg is situated in Western Europe between Belgium, France and Germany. Luxembourg covers an area of 2,400 sq. km. The country's climate is mild. The population is about 405,000, 20% of whom are foreign nationals. The capital is also called Luxembourg and is the centre of government, business and finance. French, German and English are widely spoken and used in business circles, with French being the language of administration. [21]

The legal system is based on the Napoleonic code and is therefore similar to the Belgium and French legal systems (Civil Law). [10,207]

**Economy and Infrastructure.** As from 2002 the sole currency of Luxembourg is Euro (EUR). There are no exchange controls.

**Company Incorporation.** The principal corporate legislation is the Commercial Companies Act 1915 (amended). The powers of companies are as dictated by the objects in the Articles of Incorporation. Legislation is published in both French and German. Corporate documents can be in any language, provided they are accompanied by a French or German translation.

The following types of companies are used for international trade and investment:

- 1929 Societe Anonyme Holding Company.
- 1929 Societe Responsabilite Limitee Holding Company.
- 1990 Societe de Participation Financiere (SOPARFI) and Holding Company.

The following rules and restrictions apply to trading and business activities:

*A 1929 Holding Company has no right:*

- Be an active member of a general partnership or partnerships limited by shares.
- Engage in any commercial or industrial activity.
- Engage in brokerage or banking activities.
- Engage in insurance, assurance or reinsurance.
- Own real estate other than its own premises.
- Grant loans to companies that are not subsidiaries.
- Render any type of advice or management services.

*A 1929 Holding Company has the right to:*

- Acquire, hold and dispose of shares and bonds in Luxembourg or foreign companies.
- Hold cash and foreign currencies and negotiate securities.
- Finance subsidiaries or companies where it has a direct share-holding.
- Hold and license patents and receives income from the granting of licences.
- Issue bonds by private or public subscription of up to ten times the amount of its paid up capital.
- Borrow up to three times its issued capital. [21]

*A 1990 normal Luxembourg Trading and Investment Company with SOPARFI provisions* is not subject to any trading restrictions. The only restriction is that without the appropriate licences it may not engage in the business of banking, insurance, assurance, reinsurance, fund management, collective investment schemes or any other activity that may suggest an association with the banking and insurance industries. [21]

Incorporation procedure involves the preparation of the Acte de Constitution and Articles of Incorporation in the form of a deed. This deed must include:

- The name(s) of the person(s) wishing to form the corporate entity.
- The address of the Registered Office.
- The amount and currency of the authorized capital.
- The type and classes of shares.
- The amount of paid up capital.
- Voting rights of shares.
- Names, addresses and nationalities of the proposed directors. [7,196]

In addition, a certificate issued by the Trade Registry confirming the acceptability of the name is required, together with a certificate produced by the proposed company's Luxembourg bankers confirming that the paid up capital is deposited with them. [7,198]

These documents and information must then be presented to a Notary Public by the appointed representative of the company. After notarisaton, the Notary Public lodges the Articles of Incorporation and By-laws with the Department of Registration and Trade Registry. The Articles of Incorporation are then published in the Official Gazette. [7,199]

A registered office must be maintained in Luxembourg. Due to the costs associated with incorporation and paid up capital requirements, off-the-shelf companies are not available. [21]

There are a number of requirements and restrictions in respect of company names:

- A company name can be in any language that uses the Latin alphabet.
- The Registry may request a French or German translation if a foreign language is used.

- A company name cannot be similar or identical to an existing name.
- A company name must not coincide with that of a major international corporation, unless there is written consent to incorporate.
- Any name that in the opinion of the Trade Registry is undesirable or offensive is not permitted.
- It is normal practice for the Trade Registry to refuse names that are associated with the banking and insurance industries or any name that would suggest government patronage.
- The French and German names including the words *Bank, Buildings Society, Savings, Insurance, Assurance, Reinsurance, Fund Management, Investment Fund, Council, Municipal, Cooperative* or the foreign language equivalent require consent or licence.
- The suffix Societe Anonyme or SA is required to denote limited liability. [26]

The minimum number of directors is three. These may be natural persons or bodies corporate. They may be of any nationality and need not be resident in Luxembourg. The Luxembourg Companies Acts does not provide for the appointment of a company secretary. The minimum number of shareholders is two. [21]

The minimum authorised share capital of a 1929 Holding Company and a 1990 Company with SOPARFI provisions is 31 000 EUR all of which has to be issued and fully paid up. The capital can be expressed in any currency. The following classes of shares are permitted: registered shares, bearer shares (fully paid), preference shares and shares with or without voting rights.

**Annual Taxation and Fees.** A 1929 Holding Company is exempt from local taxation, but pays 0.2% per annum on its share capital, which is payable quarterly. A company with SOPARFI (Societes de Participations Financieres) provisions is subject to the normal rate of taxation at 39%, but subject to certain conditions (as detailed under "Restrictions On Trading") dividends received and capital gains are exempt from taxation. [21]

The advantages of a 1990 normal Luxembourg Trading and Investment Company with SOPARFI provisions can be summarised as follows:

Companies investing in shares can benefit from affiliation privileges; thus these companies are fully subject to corporation tax, but exemptions are granted by law for dividends received from share-holdings, capital gains made on the sale of share-holdings and gains made on liquidation of companies in which shares are held. Corporate tax exemption is granted on the following conditions:

- Dividend and liquidation gains exemption on share-holdings of at least 10% or a cost of at least EUR 1,2 million held at the start of the financial year of receipt, and at least 12 months prior to the end of the financial year of receipt.
- Capital gains exemption of share-holdings of at least 25% or costs of at least EUR 6 million held at least 12 months before the start of the financial year of sale.
- Under certain conditions financing costs, value adjustments and administration expenses are tax deductible.
- Zero withholding tax applies to dividends paid to an EU Parent/Subsidiary Directive (EU Directive 27 of 1990).
- Withholding tax must be paid on dividend payments to non-EU countries, but may be reduced through tax treaty relief. [8,32]

Luxembourg has entered into many double tax agreements. As 1929 Holding Companies are exempted from local taxation, they are excluded from the benefits of these agreements. Luxembourg companies with SOPARFI provisions may access Luxembourg's extensive network of agreements. There are agreements with Austria, Belgium, Brazil, Bulgaria, Canada, the Czech and Slovak Republics, Denmark, Finland, France, Germany, Greece, Hungary, Indonesia, Ireland, Italy, Japan, Malta, Mauritius, Mexico, Morocco, the Netherlands, Norway, Poland, Romania, Russia, Singapore, Slovenia, South Korea, Spain, Sweden, Switzerland, the CIS (air traffic treaty only), Thailand, Tunisia, the UK, the USA, Uzbekistan and Vietnam. [26]

Licence fees are not applicable.

Financial statements: the annual accounts must be presented to the authorities.

## **f) Hong Kong**

***Geography, Population, Languages.*** Hong Kong is located in the South China Sea, 160 km south-east of Guanzhou. Hong Kong consists of a large number of islands and a part of the mainland, with a total area of approximately 1,025 sq. km. The principal areas are Hong Kong Island, Kowloon and the New Territories. Separating Hong Kong Island and the Kowloon peninsular is Victoria Harbour, which is recognised internationally as one of the world's perfect natural harbours. It varies in width from two to ten kilometres. [21]

The official languages are English and Chinese, with English being used in the commercial and political contexts and Cantonese Chinese used widely in industry and domestic trade. [21]

***History, Political Structure and Law.*** Hong Kong Island, Kowloon and the New Territories were ceded to Britain in perpetuity in 1842 under the treaty of Nanking, and in

1898, they were leased from China by Britain for a period of 99 years. Until 1 July 1997, Hong Kong was a British Crown Colony. A governor appointed by the Queen presided over the Hong Kong government, which consisted of the executive and legislative councils. [21]

Hong Kong Common Law is based on English Common Law with Ordinances being enacted locally. [25]

***Economy and Infrastructure.*** Hong Kong is the leading South East Asian centre for both finance and commerce and ranks as the world's third largest financial centre after New York and London. There are more than 160 licensed banks, with 128 foreign banks having representative offices in Hong Kong and a further 225 licensed deposit-taking Finance Companies, all of which play an active role in the financing of international trade and commerce. There is a wide range of professional services available. [10, 184]

Hong Kong remains a free port with a free flow of capital and a freely convertible Hong Kong dollar which is officially pegged to the US Dollar. There is no exchange control.

***Company Incorporation.*** The principal Corporate Legislation is the Companies Ordinance (Cap 32). The type of Company used for international trade and investment is the Private Company limited by Shares. A Hong Kong Company has all the powers of a natural person. Off-the-shelf Companies are available. The language of legislation and corporate documentation is English, but Chinese characters may be added if desired. [7, 145]

Trading and business activities are subject to the following requirements: a Company cannot undertake banking or insurance activities or solicit funds from or sell its shares to the Public.

It is possible to establish a Hong Kong registered corporate entity in two different ways:

- By incorporating a new Hong Kong Company.
- By registering an existing foreign company in Hong Kong under Part XI of the Hong Kong Companies Ordinance.

Incorporation procedure includes the submission of the Memorandum and Articles of Association and a Declaration of Compliance. A Notice of Situation of Registered Office must also be filed. This can either be done at the same time as the Memorandum and Articles of Association and Declaration of Compliance are filed, or within 14 days of the date of incorporation. As a matter of local company law, the company must maintain a registered office address within Hong Kong and appoint a local resident company secretary.

Company names are subject to the following restrictions:

- It is not possible to reserve a name.
- It is essential to check that there is no similar or identical name on the register, which would prevent the company being incorporated.

- A name that implies criminal activity or is otherwise contrary to the public interest is prohibited.
- A name that implies royal or government patronage is not acceptable.
- Use of the following words in the name or their foreign language equivalents require consent or a licence: *Building Society, Chamber of Commerce, Chartered, Co-operative, Imperial, Kaifong, Mass Transit, Municipal, Royal, Savings, Tourist Association, Trust, Trustee, Underground Railway, Bank, Insurance, Assurance, Reinsurance, Fund Management, Asset Management, Investment Fund.*
- The suffix "Limited" is required to denote limited liability. [10,185]

The minimum number of directors is two. These may be natural persons or corporate bodies, of any nationality, and need not be resident in Hong Kong. Full details of the directors must be filed with the Public Registry. There is no requirement for board meetings to be held within Hong Kong and directors may be resident anywhere in the world.

A Hong Kong company must appoint a company secretary, who may be a natural person or a corporate body, but the company secretary must be resident in Hong Kong.

The minimum number of shareholders is two. Their details must be filed on the public register. Corporate shareholders are permitted and anonymity can be assured by the use of nominee shareholders.

The standard authorised share capital is HK\$ 1,000. The minimum issued capital is two shares with par value. Classes of shares permitted are as follows: ordinary shares, preference shares, redeemable shares and shares with or without voting rights; deferred, founders' and management shares. Bearer shares are not permitted. [23]

***Annual Taxation and Fees.*** Taxation in Hong Kong has the following features:

Hong Kong does not impose tax on non-Hong Kong source income even when remitted to Hong Kong. Consequently if a Hong Kong company's trading or business activities are based outside Hong Kong, no tax is levied. Hong Kong companies with Hong Kong source income currently pay a rate of taxation on profits of 16%. [21]

Hong Kong has no double tax agreement with any country, with the exception of a limited treaty with the USA relating to shipping matters only. [10, 192]

The Business Registration Fee (BRF), currently HK\$ 2,250, is due and payable within one month of the date of incorporation and then annually on the anniversary of the first payment.

Hong Kong companies are required to file audited accounts and must also prepare and file an annual return giving details of the current directors and of shareholders who have held shares in the company at any time during the year. A Hong Kong company's accounting

records may be kept at the registered office address or elsewhere at the discretion of the directors. Every company must appoint an auditor who must be a member of the Hong Kong Society of Accountants and hold a practising certificate. There is a requirement to file accounts with the tax authorities but not with the Registrar.[21]

#### **g) Latvia**

*Latvia Executive Summary.* Latvia is in Eastern Europe, bordering the Baltic Sea, between Estonia and Lithuania, and is about the same size as Ireland, with a population of 2.3m, including a substantial Russian minority. Latvia has many lakes and rivers. Much is forested. Natural resources are scarce, but Latvia has 531km of coastline, and the ports of Liepaja and Ventspils provide important warm-water harbors on the Baltic. The capital is Riga. [21]

As an independent nation since 1991, Latvia joined the European Union in 2004. Latvia is a parliamentary democracy. The Council of Ministers is nominated by the prime minister and appointed by the Parliament. [21]

The 1998 Russian financial crisis was hurtful for Latvia, but the government's budget stringency and a gradual reorientation of exports toward EU countries has lessened Latvia's trade dependency on Russia. Most companies, banks, and real estate have been privatized; Latvia joined the World Trade Organization in February 1999. [20]

GDP in 2003 at purchasing power parity was \$23.9 billion, and growth in that year was 7.4%; growth remained strong in 2004. GDP per head at purchasing power parity was \$10,200 in 2003. Inflation was 2.9% in that year, with unemployment at 8.6%. The Latvian currency is the Lat, pegged to the Euro at the rate of 0.702804 Lats for 1 Euro. It is expected that Latvia will be dealing in euros as a domestic currency by 2008. [20]

Latvia is one of the more advanced, fast growing 'transition' economies and has good services, transportation network and logistics. There is a well-developed banking system, stable political and monetary conditions, and a favorable taxation regime. The Latvian economy is rapidly expanding and is buoyed by a young and highly educated work force eager to get ahead. Latvia boasts one of the best international credit ratings in Central and

Eastern Europe. Standard & Poor's has given Latvia an "A-minus/stable" rating, while Fitch-IBCA has rated the economy "A-minus/positive".

The government continues to pursue liberal, market-oriented economic policies emphasizing macroeconomic stability and the creation of business-friendly incentive structures. The Latvian tax system neither favors nor discriminates against inward foreign

investment. Companies are taxed at 15% and individuals at 25%. However it is government policy to ensure all income generated in transacting business is taxed within the country. [20]

***Latvia Country and Foreign Investment.*** Latvia Business Environment. Latvia is one of the more advanced, fast growing 'transition' economies and has well-developed services, transportation network and logistics. There is a well-developed banking system, stable political and monetary conditions, and a favorable taxation regime.

Latvia is the member of the World Trade Organization and has ratified most of the important international economic treaties. The Latvian economy is rapidly expanding and is buoyed by a young and highly educated work force eager to get ahead. Latvia boasts one of the best international credit ratings in Central and Eastern Europe. Standard & Poor's has given Latvia an "A-minus/stable" rating, while Fitch-IBCA has rated the economy "A-minus/positive". [20]

The government continues to pursue liberal, market-oriented economic policies emphasizing macroeconomic stability and the creation of business-friendly incentive structure.

There is no export duty on most goods exported from Latvia. However, certain goods such as metals, minerals, art, wood and wood products are subject to export duty and a license or permit is required. Zero % VAT is imposed on the export of goods and certain services, including those related to exports, international shipping and airlines.

The Latvian tax system neither favors nor discriminates against inward foreign investment. Companies are taxed at 15% and individuals at 25%. However it government policy to ensure all income generated in transacting business is taxed within the country.

For the last two decades real estate market prices have been constantly rising. Since 1998 residential property prices rose by 300% on average, land prices by 150-250%, and commercial property prices by 70-120% [26]

The legislation of Latvia provides foreign investors an opportunity to purchase or rent real estate property with virtually no limitations. All real estate is entered in the central land register - the Land Book, protecting ownership rights for the property and land. Mortgages are available for foreigners willing to finance their real estate purchases in Latvia.

There are currently 22 banks in the country with over 8 billion LVL (EUR 11.4bn) in total assets at the end of 2004. The market is relatively saturated in traditional banking services such as private and business accounts and account transactions, financing of import/export operations, lending and leasing, etc. Since 2005, all bank account numbers comply with the IBAN standard. Bank staff speaks at least three languages – English, Latvian and Russian. [26]

Latvia Investment Incentives. Incentives to invest in Latvia comprise direct incentives such as various tax incentives, the ability to acquire real estate, the existence of special economic zones and free ports and EU aligned customs and other commercial procedures, but also indirect incentives such as numerous international agreements on the mutual promotion and protection of investments, World Trade Organization membership, agreements regarding protection of intellectual property rights, trade marks etc. and the simplification of regulations regarding visas, work permits and other administrative matters related to inward investment.

NB Many Latvian tax incentives were abrogated under State Aid when the country entered the EU; some of the schemes described below are closed to new entrants, and come to an end in any event at the end of 2005.

Infrastructure investment incentive. Investors, both foreign and local, can obtain a 40% tax credit based on their investment in approved capital infrastructure projects in Latvia. The capital investment must be at least 10 million LVL and the project must be completed within three years. The tax credit granted must be used within 10 years. To obtain the tax credit, the government must approve the investment project and the right to use the tax credit commences in the year the investment project is completed. In the case of an approved 10 million LVL project, a 4 million LVL credit will become available. Broadly speaking, investors making use of the infrastructure investment incentive are unable to utilize other incentive programs. [26]

Incentive production of hi-tech products and computer programs. A 30% tax credit is available on an annual basis to the developers of hi-tech products and computer programs. In order to obtain the 30% tax credit, the producer must be certified according to the requirements of ISO 9001 or ISO 14001 standards. High-tech medical equipment must be certified under the provisions of local law and comply with good manufacturing practice standards. Hi-tech products or computer programs must account for 75% of annual turnover. High tech products and programs must also comply with conditions issued by the Latvian Cabinet of Ministers.

Incentive for small enterprises. Latvian Corporate taxation law provides tax relief to enterprises who meet at least two of the following three criteria during a taxation year.

- Book value of fixed assets does not exceed 70 000 LVL;
- Net turnover does not exceed 200 000 LVL;
- The average number of employees does not exceed 25.

If an enterprise meets at least two of these criteria, it is considered a small enterprise and can apply a 20% reduction to the Corporate Income Tax it must pay.

As of January 1, 2002, a new law "On Application of Taxes in Free Ports and Special Economic Zones" came into force. This law regulates the application of indirect taxes in free ports and special economic zones and the application of allowances of direct taxes, and stipulates how state social insurance contributions shall be applied in free ports and special economic zones.

Liepaja and Rezekne are Special Economic Zones and the ports of Ventspils and Riga operate as Free Ports. The Liepaja Special Economic Zone is located in the coastal port city of Liepaja on the south-west coast of Latvia with the Rezekne zone being located in the City of Rezekne in the south-east corner of Latvia near the Russian border.

The main concessions for enterprises in the Free Ports and SEZs are as follows:

- 0% VAT for most goods and services provided to enterprises in free zones or exported out of them;
- oil products delivered to an enterprise in a free zone are exempted from excise tax;
- construction services delivered to free ports before 31 December, 2003, were subject to 0% VAT;
- construction services delivered to SEZ administration outside the territories of the free zones before 31 December, 2003, were subject to 0% VAT;
- 0% VAT for most goods and services supplied in the free zones, including construction services;
- 80-100% rebate on real estate tax;
- 80% rebate on corporate income tax on activities carried out within the zones;
- Companies may apply the double-declining depreciation method for all types of fixed assets in certain instances;
- 10 year carry forward of losses as compared to the standard 5 year period;
- 80% rebate on the applicable withholding tax for dividends; management fee and payments for use of intellectual property;
- Expatriates who pay social tax in their home country may pay a reduced social tax based on 15 minimum monthly salaries. [26]

**Latvia: types of companies.** Company formation in Latvia is governed by a new Commercial Code effective 1 January 2002. Influenced by German law, the Code brings Latvian commercial law in line with European Union directives, and simplifies commercial law particularly by reducing the number of available business vehicles from 13 to 5. Protection of creditors' and minority shareholders' interests has been given greater attention especially where reorganization of the company or the reduction of capital takes place. The Code is explicit about the liability of company managers and for the first time provides

detailed rules for dissolution, liquidation and reorganization of commercial partnerships and companies.

The code has reintroduced the legal term "Firma" which is used by a business merchant when concluding and signing contracts. It also abolishes limitations in the use of foreign languages by a Firma.

Currently foreigners are allowed to carry out business activities in Latvia in the form of: a limited liability company (SIA); stock company (A/s - public or closed); or as a branch of a company. It is also possible to register a representative office for the sole purpose of advertising and promoting a business. Representative offices may no longer be used for the actual conduct of business.

There are no restrictions on the ownership of Latvian companies by foreign investors. The overwhelming majority of Latvian businesses are launched as limited liability companies. In order to be a legal entity and to undertake business activities all companies must be registered with the Latvian Registry of Companies and also as taxpayers with the State Revenue.

A company is formed by filing certain prescribed documents with the Companies' registry. The registration procedure would normally be carried out on behalf of the foreign investor by lawyers or other professional advisers.

Registration fees payable to the Government upon registration are:

- LVL 250 for a stock company;
- LVL 100 for a limited liability company;
- LVL 20 for a branch;
- LVL 20 for a representative office.

Documents have to be filed with the Registry in Latvian. Documents in other languages have to be translated and notarized. All company documents filed with the Registrar are open to public inspection at a nominal charge.

Latvian company law calls for the creation of a three-tier governing structure - the shareholders' meeting, the management board and the supervisory board (optional for limited liability companies). At least half of the members of the management board must be domiciled in Latvia.

Both limited liabilities and stock companies have legal personality, distinct from that of their shareholders. Shares in a company represent a portion of corporate capital and entitle the holder to a proportional right to corporate assets on dissolution. There is no minimum or maximum amount of shares that a company is allowed to issue, unless otherwise specified in

the incorporating documents. "One shareholder" companies are also permissible under Latvian law.

*Latvia Limited Limited Company.* The most common form of a business presence in Latvia is a limited liability company. The minimum share capital required to establish a limited liability company is Ls 2000 which has to be paid before registration with the Commercial Register. Share capital may be contributed in kind.

The following documents are required in setting up a limited liability company in Latvia:

- Application form which must be signed by all founders. Signatures and capacity of signatories must be certified by a notary.
- Any power of attorney (notarized) issued by a founder to another person, authorizing such a person to sign the application.
- Shareholders agreement signed by all founders. Signatures must be notarized. In case of a sole founder the Memorandum is replaced by a Resolution on Incorporation.
- Copies of the founders' passports.
- Articles of association signed by all founders. Signatures must be notarized.
- Confirmation letter from the bank (in case of monetary contributions).
- Statement regarding any investments in kind.
- Each Council member's consent to act as a Council member (If the company has established a Council).
- Passport of the copies of the members of the Council.
- Each Board member's consent to act as a Board member.
- Passport copies of the Board members.
- Notarized signature samples of the Board members having representation rights.
- The Board's confirmation of the company's address. [20]

An LLC is prohibited from offering its shares to the public or from trading on the Stock Exchange. The shareholders' liability is limited to the amounts of the capital invested. Share certificates and registration of the shareholders is recorded in the "Shareholders Register". An LLC may issue only registered shares.

A Public Limited Liability Company (with the suffix AS) has a minimum registered share capital of LVL 25,000 (approximately Euro 38,000). The company may offer its shares to the public.

*Latvia Joint Stock Company.* Joint Stock Companies may issue registered shares as well as bonds.. A joint stock company is generally entitled to issue different classes of shares which may confer on their holders different rights, such as voting rights, rights to fixed

dividends, and a right of priority on winding up, etc. Joint stock companies are entitled to issue non-voting preference shares subject to the provisions of the statutes.

The minimum requirement for the registered share capital of a joint stock companies is set at LVL 25,000. Higher capital requirements apply in respect of joint stock companies operating in banking and insurance.

Shares may be paid up in money or in kind.

Joint stock companies are entitled to issue employees' shares, which should be covered by the profit of the company. The total value of issued employees' shares may not exceed 10% of a company's subscribed share capital. The employees' shares are not transferable and cannot be inherited.

*Latvia Representative Office.* A non-resident's representative office can be incorporated for an initial period of five years which may be extended for a further five if requested. There are no legal limits to the number of extensions permitted.

The following documents are required:

- A legalized copy of the articles of association of the parent company;
- A legalized copy of the foreign registration certificate of the parent company;
- An authorized and legalized decision of the parent company to establish the RO in Latvia;
- An authorized and legalized decision appointing the head of the RO;
- A document (passport, lease agreement) confirming the legal address of the RO;
- A notarized signature sample of the head of the RO;
- Copy of the RO head's passport. [20]

The application for registration and the foundation documents must be submitted to the Enterprise Register within 14 days of the ratification of the RO by-laws.

*Latvia Branch.* Branches of foreign companies in Latvia have no legal personality. However a branch of a non-resident company is treated by the law as a separate Latvian taxpayer subject to the same reporting and audit requirements as are applied in respect of local companies.

Profits of a Latvian branch of a non-resident company are taxed on a normal assessment basis at the same rate as the profits of a resident company. There is no withholding tax on the remittance of taxed branch profits to the head office, whilst under the law in general a 10% withholding tax is imposed on the remittance of dividends out of taxed profits from a Latvian subsidiary. [26]

The branch structure can be useful for a new business where start-up losses are expected, provided that these losses can be set off for tax purposes against profits arising in the country of residence of the head office.

*Latvia General Partnership.* A general partnership is a company in which two or more partners operate under a common business name. A natural person or legal person may be a partner in a general partnership. All partners are jointly liable for the obligations of the general partnership with all of their assets. [20]

A general partnership operates on the basis of a partnership agreement concluded by the partners which may be amended only with the consent of all partners.

Each partner may represent the general partnership in all legal acts unless the partnership agreement prescribes otherwise. The partnership agreement prescribes the amount of contribution to be made by the partners. A contribution may be monetary or non-monetary.

To enter a general partnership into the Commercial Register, a formal request for entry signed by all partners is submitted to the Commercial Register.

*Latvia Limited Partnership.* A limited partnership is a company in which two or more legal or natural persons operate under a common business name. At least one of the persons (general partner) is liable for the obligations of the limited partnership with all of the general partner's assets, and at least one of the persons (limited partner) is liable for the obligations of the limited partnership to the extent of the limited partner's contribution. [20]

The state or a local government may not be partners in a limited partnership. Partners of a limited partnership agree on the business name, amount of contribution of the partners and headquarters of the limited partnership. A contribution may be monetary or non-monetary.

If a limited partner joins a general partnership, the general partnership shall be deemed to be transformed into a limited partnership. If all the limited partners leave or are excluded from a limited partnership and at least two general partners remain, the limited partnership shall be deemed to be transformed into a general partnership.

***Latvia Domestic Corporate Taxes.*** Latvia Scope of Income Tax. Taxable entities are resident companies (but not partnerships) and non-resident entities as well as permanent establishments of non-residents that derive income from a Latvian source. [33]

The criterion for establishing a company's residence for tax purposes is its incorporation in Latvia, or that it legally should have been incorporated in Latvia. Latvia does not have an effective place of management test of residence. Corporate income tax is applied to all Latvian-registered enterprises and permanent representative offices of foreign companies registered in Latvia.

For companies not registered in Latvia (non-residents), corporate income tax is based on income earned in Latvia. The corporate income tax is levied on payments that Latvian-registered companies and permanent representative offices render to non-residents if personal

income tax has not already been withheld from such payments. See below for the rates of withholding tax.

**Latvia Rates of Income Tax:** From 1 January 2002, the Latvian corporate income tax was reduced from a flat rate of 25% to a flat rate of 22%. The rate was 19% in 2003 and dropped to 15% from 2004. [33]

Companies eligible for specific tax rate reductions will continue to calculate their reduction entitlements based on a flat tax rate of 25%.

*Latvia Calculation of Taxable Base.* The taxable base of resident companies is their worldwide income and capital gains. A permanent establishment (branch) of a non-resident company is treated by the law as a separate Latvian taxpayer. The profits of a Latvian branch of a non-resident company are taxed on a normal assessment basis at the same rate as the profits of a resident company. However, internal charges between the Branch and its Head Office such as interest, management fees etc. are not deductible.

Latvia uses a double declining-balance method of depreciation for tax purposes. Effective annual rates of depreciation are as follows:

- Buildings, constructions, long-term plantations (10%);
- Oil research and extraction platforms together with the equipment necessary for their functioning, located on these platforms; oil research and extraction ships (15%);
- Rolling stock and railroad technological equipment, sea-going and river transportation vessels, technological equipment of merchant marine, transportation fleet and ports, energy equipment (20%);
- Computers and their appliances, including printing devices, information systems, software products and data storage equipment, communication means, copying machines and their appliances (40%);
- Other fixed assets (40%). [33]

Goodwill may not be amortized for tax purposes. Concessions, patents, licenses and trademarks are amortized on a straight-line basis.

It is possible to carry tax losses forward for five years. Where a change in the control of a Company occurs, the right to existing losses is lost unless the Company continues to undertake for the next 5 years the same fundamental business activity that it undertook during the previous 2 years. Companies are not allowed to carry losses back.

Interest paid to anyone (except Latvian registered credit institutions) that exceeds an allowed amount for the tax period is not deductible. The allowed amount is calculated by multiplying the average short-term credit rate charged by Latvian banks in the last month of the tax period, by the company's equity at the beginning of the tax period. Undeducted interest

can be carried forward indefinitely subject to the annual calculation of allowable interest. The right to carry forward undeducted interest is lost if there is more than a 50% change in the ownership of the Company. [33]

Parent and subsidiary(s) that have 90% common ownership are treated as a group. The companies must be Latvian residents or residents of a country with which Latvia has an operative Double Taxation Treaty. Although there is no fiscal unity for taxation purposes, consolidated financial statements are required for the group. Losses can be transferred between group members who are Latvian residents.

Regardless of ownership level, dividends from Latvian companies are received tax exempt excluding dividends paid by a Latvian company that utilizes some form of corporate income tax relief. In this case the dividends are subject to tax in accordance with the percentage of the tax relief obtained by the paying Company.

Dividends from non-resident companies are normally taxable. They are, however, not taxable if at the moment of payment the Latvian recipient owns at least 25% of the capital and voting rights in the paying Company and the payer is not a Company resident in a listed low or nil tax jurisdiction. [33]

Foreign taxes paid are not tax deductible in Latvia. A tax credit may be granted for these taxes but not exceeding the amount of Latvian tax payable on that income (i.e. ordinary credit) on a source-by-source basis. Payments to low tax countries ordinary are the subject to 25% withholding tax.

**Latvia Filing Requirements and Payment of Tax.** Latvia has a self-assessment taxation system. The taxpayer calculates the amount of tax payable and reports this amount in a declaration. The taxation authorities may audit the declaration within a period, which is currently up to three years after the payment of the tax for the year in question. The Latvian corporate tax declaration is based on the income disclosed in the Company's audited profit and loss statement for the year, subject to adjustment as above. [20]

The tax year either is the calendar year or may differ from the calendar year if so stipulated by the charter of the company. The fiscal year should be 12 months, however, a company being incorporated part way through the year may have an tax period which is shorter or longer than 12 months, although, on no account should any tax period exceed 18 months. The annual tax returns must be filed within four month of the end of the tax period to which it relates. Large companies are allowed to extend this deadline up to seven months. Monthly advance payments of tax are required.

The annual income declaration must be filed within 30 days after the annual shareholders' meeting, but not later than four months after the year-end.

Companies must make tax advance payments by the 15th day of each month. In general, for the period from the first month of taxation period until and including the month of filing the annual report, but not later than four months after the taxation year ends, monthly advance payments are equal to one-twelfth of the tax calculated for the year that is two years before the current tax year, adjusted for inflation. For the rest of the months, the monthly advance payments are each equal to one-eighth of the following: the tax calculated for the preceding year, adjusted for inflation and reduced by the advance tax payments made in accordance with the above procedure. Any balance of the tax due must be paid within 15 days after the date due for the annual income declaration. [33]

**Latvia Social Taxes.** An employer must withhold social tax on a monthly basis at the rate of 26.09%. The total tax payable is 35.09%, so 9% must be paid from the employee's payroll.

From January 1, 2003, the social insurance rate was reduced to 33%, split between the employee – 9% and the employer – 24%. [33]

Expatriates employed by non-resident employers are subject to a social tax of 8.52%. The self-employed rate of social insurance payments is 32.27%.

**Latvia Withholding Tax.** For non-resident companies without a permanent establishment in Latvia, final withholding tax is imposed on proceeds received from sale of Latvian real estate. The rate of withholding tax is 2 per cent for income from the sale of Latvian real estate. Loss on sale of securities may be offset only against income on sale on securities within next 5 years.

Withholding taxes imposed on payments to non-residents are as follows:

- dividends - 10%;
- remuneration for management and consultation services - 10%;
- interest payments among related enterprises and persons - 10%, but if performed by Latvian commercial banks - 5%;
- remuneration for intellectual property: payments for the right to use literary works or pieces of art, including cinema films, video or sound recordings - 15%; payments for the use of other forms of intellectual property - 5%;
- remuneration for the rent or use of property located in Latvia - 5%;
- income from the sale of real estate in Latvia – 25%;
- remuneration from the sale of securities in Latvia – 10%;
- payment for the sale of real estate located in Latvia is 2% of the total proceeds;

- payments made to entities or individuals in any of the low-tax territories listed above - 25%, other than for dividend payments, normal deposit interest paid by Latvian Credit Institutions and payments for goods that have their origin in the low or nil tax country or territory. [33]

*Latvia Value Added Tax.* Taxable entities are individual or legal entities that in the course of a trade or profession perform taxable transactions within Latvia. Taxable transactions are the supply of goods or services within Latvia, self-consumption, the import of goods and export of goods and services.

Individual and legal entities whose taxable transactions exceed 10,000 LVL in a 12 month period must register for VAT.

The standard VAT rate is 18%. A lower rate of 9% applies to some goods. Zero-rated transactions include:

- supplies of goods where the place of supply is not within Latvia,;
- services connected with the export of goods and transit carriage;
- services where the place of supply is deemed not within Latvia;
- supplies of goods and services connected with supply and servicing of international transport;
- travel agent's services for foreign customers and associated carriage of passengers and goods performed by international transport;
- supplies of goods and services under diplomatic and consular arrangements;
- supplies of goods and services provided under non-repayable foreign technical assistance. [33]

VAT declarations are filed on a monthly basis. Input VAT cannot be claimed in respect of exempt transactions and input VAT can only be claimed in respect of transactions that are directly related to the income production of the individual or entity.

*Latvia: Personal taxation.* The law “On Individual Income Tax”, adopted in 1993, sets out the basis of taxation of individuals' personal income. The basic rate of taxable personal income is 25% which is withheld at source and remitted to the tax authorities.

The tax is payable by permanent residents of Latvia who have generated income in Latvia or abroad and by non-residents who have generated income in the Republic of Latvia. The tax is imposed on the taxable income of the taxpayer.

Expatriates are liable for Latvian taxes depending on their tax residency. Latvian residents are taxable on their worldwide income. Non-Latvian residents are liable on their income derived in Latvia. An individual will be regarded as a resident of Latvia, if:

- the permanent place of residence of that person is Latvia; or

- the person resides in Latvia for 183 days or longer in any given 12-month period commencing or finishing during the taxation year; or
- the person is a citizen of the Republic of Latvia employed abroad by the Latvian government. [33]

As a general rule, persons who do not match the above-mentioned categories are considered to be non-residents of Latvia for tax purposes.

An individual, who has not been considered to be a resident during the year prior to that when taxation is due, is considered to be a resident from the date they entered Latvia during the taxation year. An individual, who is not considered to be a resident during a post-taxation year, is not considered to have been a resident for that period of the taxation year after the date that they left Latvia, provided that during that period the person had closer ties with another country than with Latvia.

Closer ties with another country may be demonstrated by ownership of property in that country, contributions to that country's social security system, or the fact that the expatriate's family is residing abroad.

A actual presence test is used to ascertain how many days an individual has been in Latvia. When the test is applied, the following days are included in the calculation as full days: days of partial presence (less than 24 hours), days of entry and departure, Saturdays and Sundays, public holidays, days of annual leave, and periods of illness, except when the illness has prevented the departure of the person.

Certain types of individual income are exempt from income tax in Latvia:

- dividends paid by Latvian or EU member state companies;
- income from deposits in banks registered in Latvia;
- income from the sale of personal property, excluding the sale of real estate held for a period less than 12 months;
- insurance monies received – except compensation payments for life, health or accident insurance if premiums were paid by employers – upon expiration or breach of agreements;
- income derived from Latvian state or municipality treasury bills;
- certain business travel expenses;
- a number of government benefits.
- There are limited deductions under Latvian law. Deductible items are:
  - Mandatory social security contributions;
  - Allowances for the support of close relatives or dependants;

- Donations to charitable organizations;
- Expenses related to the production of scientific, literary and artistic works;
- Contributions to private pension schemes. [33]

Non-resident taxpayers and individuals who are resident for less than six months in a tax year are only entitled to the standard deductions like social security contributions. Special rules apply to the calculation of the income of a self-employed individual. [33]

Annual declarations must be filed by 1 April of the following year. Declarations are prepared on a self-assessment basis and may be audited up to three years after the tax became payable. If the tax liability assessed exceeds 100 LVL the tax can be paid over three months in equal installments. Individual income tax in respect of employment income is usually withheld from salary payments (payroll tax). All employers in Latvia, including foreign companies operating through a permanent establishment (branch), must deduct payroll tax from remuneration paid to all employees, and remit this tax to the tax authorities on monthly basis on the salary payment date. [20]

Latvia Taxation Of Non-Residents. Non-residents are liable for Latvian tax only in respect of Latvian source income including:

- employment income for duties performed within Latvia in favor of a Latvian or foreign employer, or performed outside Latvia for a Latvian employer;
- income from independent professional services rendered to Latvian residents or registered permanent establishments within and outside Latvia;
- income from professional services such as an artist, sportsman or trainer performed in Latvia;
- income from performing duties as the member of a Board or advisory body of a Latvian company;
- income from a Latvian registered partnership;
- income in the form of liquidation proceeds from the liquidation of a Latvian company that exceed payable dividends;
- income from the sale or use of immovable property located in Latvia;
- income from the lease of movable property in Latvia;
- income from agricultural production from "individual" farms;
- dividends;
- interest income, except interests from Latvian credit institutions;
- income from intellectual property (royalties);

- insurance payments, if the agreement is concluded by an employer and it is terminated before a specified period;
- pensions paid according to Latvian legislation. [33]

Personal tax paid abroad may be credited against tax payable in Latvia, but not more than 25% of the income taxed abroad. To credit foreign paid tax, statements from foreign tax authorities must be submitted to the Latvian tax authorities.

Foreigners working in Latvia for a non Latvian employer must register with the tax authorities and either the employer or the foreigner must, on a monthly basis, pay personal income tax based on their monthly salary.

Expatriates who have received remuneration abroad and stayed in Latvia for more than 183 days within any 12 month period starting or ending within a year, or who have received Latvian residence permit, must file a Latvian individual income tax declaration, except where tax treaty exemptions are applicable.

***Latvia Double Tax Treaties.*** Latvia has double tax treaties with 30 countries.

Latvia Table Of Treaty Rates. The following table shows the withholding tax applicable to dividend, interest and royalty payments to the designated countries. If the non-treaty country rate of withholding tax for a particular class of payment is lower than the rate applicable to the designated countries, the non-treaty rate is applicable.

Latvia Table Of Treaty Rates. Table 1.2. [33]

Country	Dividends %	Interest %	Royalties%
Armenia	5/15 1	10	10
Belarus		10	10
China	5/15 2	10	10
Czech Republic	5/15 1	10	10
Croatia	5/15 1	10	10
Denmark	5/15 1	10	5/10 4
Estonia	5/15 2	10	5/10 4
Finland	5/15 1	10	5/10 4
France	5/10 8	10	5/10 4
Germany	5/10 1	10	5/10 4
Iceland	5/15 1	10	5/10 4
Ireland	5/15 2	10	5/10 4

Lithuania	0/15 3	0	0
Moldova	10	10	10
Malta	5/10 1	10	10
Norway	5/15 1	10	5/10 4
Poland	5/15 1	10	10
Singapore	5/10 1	10	7.5
Slovakia	10	10	10
Sweden	5/15 1	10	5/10 4
Netherlands	5/15 1	10	5/10 4
UK	5/15 1	10	10
Ukraine	57/15	10	54/10
USA	10	10	10
Uzbekhistan	10	0/5/10 6	15

## Notes:

- (1) 5% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the company paying the dividends;
- (2) 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25% of the company paying the dividends;
- (3) 0% if the recipient of the dividends is a company (other than a partnership) that holds at least 25% of the company paying the dividends;
- (4) 5% of the gross amount of royalties paid for the use of industrial, commercial or scientific equipment;
- (5) 5% per cent rate applies to royalties for intellectual property, except royalties for copyrights or neighboring rights on literary or artistic works, including films and audio recordings to which 15% applies;
- (6) 5% rate applies to interest paid by a Latvia registered bank to related parties; 10% is applicable to interest paid to a related party;
- (7) 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10% of the company paying the dividends;
- (8) 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly are least 10% of the company paying the dividends.

**Use of Latvian Companies.** The company-principal charges to the Latvian company, representing itself as the agent to lead the transaction on purchase and sale of the goods and finances the transaction. The Latvian company operates on its own behalf, but on behalf of and for money of the company-principal. Calculations are made through the account of the Latvian company, but its income is only the sum of agency (commission) compensation. [21]

**Example:**

- 1) Incoming sums from buyers per year - 1.000.000
- (2) Payments to suppliers, for delivery and other - 900.000
- (3) Profit (1) - (2) = 100.000
- (4) Commissions according to the contract, 5 % from profit of the principal =  $0.05 \times 100.000$   
= 5.000
- (5) Other own expenses of the Latvian company (office, phones) - 2.500
- (6) Tax (15 %)  $0.15 \times 2500 = 375$ .

Additional useful features:

- As a result, final effective payments of the profit tax from commercial transaction can be 0,375 %.
- The company the Shareholder - offshore or European jurisdiction
- Account for company-shareholder in Latvian bank
- Trust management of the account of the company -shareholder in the Latvian bank
- Virtual office (the address, a fax, phone) for the company-shareholder in Latvia

Having the European shareholders (for example, the English, Danish or Cyprian company) on more than 25 %, the Latvian company has an opportunity to pay to the parent company dividends without paying the withholding tax at a source in two years.

The Latvian companies can operate and pay in any currency. Also Latvian companies can open accounts in foreign bank without any restrictions. Presence of the account of the Latvian company in the Latvian bank looks logical.

Use of the Latvian companies in trading activities, under certain conditions, allows receiving return of the VAT.

This circumstance makes the Latvian companies a convenient tool for optimization of taxes.

Being based on the essence of law tax jurisdictions, business sectors, corporate functions and working schemes of law tax jurisdictions were investigated in the second part of the master thesis.

## 2. Uses of low tax jurisdictions for modern tax planning purposes

### 2.1 Business sectors and corporate functions

There are many similarities between the various offshore centres, some are more suitable than others for certain purposes. This part describes how offshore centres service a number of different business sectors and corporate functions, and guides you to the most appropriate centres according to your particular needs.

- **Trade marketing and distribution**

A high proportion of companies engage in 'trade', that is the process of making or procuring goods or services and selling them on to business or individual customers. If this process takes place internationally, then it is often possible to interpose an offshore company in which part of the profits of the operation can be realized in a low-tax jurisdiction. Even if the process takes place wholly in one high-tax jurisdiction, it may be possible to separate the 'selling on' part of the process from the 'making and procuring' part, and send it offshore, particularly now that e-commerce infrastructure is available in many IOFCs. [26]

The eventual value of having an offshore trading company will depend on the overall corporate structure, and on the particular country or countries in which the owner resides. To get the best result, it will normally be good for the offshore company not to be a controlled subsidiary of the main company; and it will normally be even better if the main shareholders are not resident in the same country as the main company; but even if these conditions are not fulfilled, there is much that can be achieved.

Here are some examples of business situations in which an offshore trading company can help to reduce or avoid tax:

An EU automotive component company sets up an independent offshore company to purchase cheap Chinese parts and sell them on at a profit to the EU company, which builds them into assemblies, adding further value (which will be taxed in the EU).

A newsletter and magazine publisher in the UK retains his editorial staff there, but sets up a separate offshore sales and distribution company to handle the rest of the process, and make most of the profit offshore. [23]

An international engineering personnel agency gives up its Paris office and moves completely to an offshore jurisdiction which is only slightly less convenient for interviewing people. Its own profits and those of its free-lance staff become untaxed (staff may choose to remain in a high-tax area, but at least now they have a choice!).

Note that the tax saved in most such cases is income (corporation) tax; but in the case of products or services which can be delivered over the Internet, the possibility of avoiding VAT also opens up.

It is worth noting that some IOFCs actively encourage trading operations by offering duty-free zones, or warehousing facilities. This can be particularly important when attempting to avoid the creation of a 'permanent establishment' in the destination country (eg for the storage of goods before delivery) which could compromise a company's offshore status.

Apart from ensuring fiscal suitability and confidentiality, the choice of an offshore jurisdiction for trading purposes will depend on a variety of factors, of which some particularly important ones may be:

- good transport links
- availability of skilled local labour
- ease of obtaining entry and work permits
- proximity to markets
- local cost levels
- effectiveness of local banking and commercial services
- modern telecommunications and e-commerce infrastructure
- availability of duty-free zones
- ease of establishment of offshore entities [26]

Due to the variety of possible trading purposes, it is difficult to recommend suitable IOFCs, but here is a list of some IOFCs with good, broad infrastructure and which meet many of the criteria above:

Examples: Bahamas, Barbados, Bermuda, British Virgin Islands, Cayman Islands, Costa Rica, Cyprus, Gibraltar, Guernsey, Ireland, Isle of Man, Jersey, Luxembourg, Malta, Mauritius, Panama.

- **Financial holding and investment activities**

Broadly speaking, it is larger companies, especially multinationals, that use IOFCs for holding and investment. At one time, the tax advantages that could be got from routing investment or ownership through an IOFC had got to be balanced against the extra cost, difficulty and risk of using a possibly somewhat backward offshore island without sophisticated business infrastructure or switched-on professionals.

No longer. Some of the International Offshore Financial Centres are difficult to distinguish from centres in high-tax countries in Europe or North America in terms of financial infrastructure, while the spread of modern telecommunications, computer

technology and now the Internet has pretty well done away with the difficulties of working with offshore. [23]

Still, it is the tax advantages that drive offshore, as always, and the 500 banks in the Cayman Islands are there to reduce their own tax bills and to service the needs of corporations that want to lower their tax burdens, not because of the climate. There is a very wide variety of corporate financing and investment purposes offshore, some of which are indicated in the following list:

- **to hold foreign subsidiaries** and receive dividends or interest on loans from them in a tax-efficient manner; either because there is a good tax treaty between the IOFC and the foreign country concerned; or because the IOFC itself has low taxes; or a combination of the two.
- **to concentrate the profits** and losses from subsidiaries in one low-tax area, which may be more tax-efficient than remitting them to the high-tax base country separately.
- **to obtain financing** from institutions that are themselves free of high taxation (especially withholding tax) and can therefore provide it more cheaply than they can from high-tax centres. Especially project finance is often assembled offshore, where the burden of regulation is lighter, alongside the tax advantages.
- **to base in-house treasury** and finance departments in a flexible, low-tax environment from which they can provide the best and cheapest service to group companies wherever they may be. [15,846]

In choosing an IOFC for financial purposes, it is the finance sector infrastructure that is most important, and here is a list of IOFCs that qualify in a general way – underlined jurisdictions are already covered in our Jurisdictions section; others will be shortly:

(NB: it may often be the case that a corporation resident in a particular high-tax country will choose a specific IOFC because of the tax situation between them.)

Examples: British Virgin Islands, Cayman Islands, Cyprus, Hong Kong, Isle of Man, Jersey, Luxembourg, Malta, Panama

- **Corporate financial and marketing management services**

The corporate headquarters of large groups tend to accumulate a variety of support services, which are often priced into the base costs of the group's products and services, and then attract margin in the final price to a customer. The profit realized by the group in this way is of course taxed at whatever local rate is applicable.

Nowadays, in a world of telecommunications, computing and easy travel, most or all headquarters' functions can be carried out almost anywhere, and there is extreme competition

to attract them between IOFCs and between high-tax jurisdictions as well, all wanting the prestige and the economic benefits stemming from the presence of a group of highly-paid executives and the business transactions they generate. In different ways, it is thus often possible for a group to make the profits inherent in its support activities in a more or less tax-free environment. Whether this translates through to the bottom line depends on many complex factors, but competent financial management will usually be able to get a good result.

The high-tax jurisdictions have tried to attract headquarters' offices and functions using the 'coordination centre' concept. Originally pioneered in Belgium, it is now in common use in many countries. Essentially, the host country will allow a resident corporate coordination centre to carry out its functions outside the normal tax laws, so that for instance a re-invoicing function for cross-border intra-group trading would be allowed to escape withholding tax or transfer-pricing rules. Taxation of coordination centres is 'by agreement' between the corporation and the host country, and is usually minimal. This is one of the ways in which high-tax jurisdictions, which are nominally against low-tax areas, play the game themselves. [23]

Often, however, a group will decide to locate some of its support functions in a traditional IOFC. There may be cost and operational advantages to doing so, apart from any tax savings; but the underlying reasons are always tax ones, and eventually amount to the fact that the profits implicit in the functions can be made in a low-tax centre. The list of corporate functions which can be carried out from an IOFC is very long, but includes procurement, marketing and distribution, treasury management, debt factoring, travel and transport management, telecommunications, computing, recruitment and training, pensions management, payroll.

The rapid evolution of e-commerce and e-business techniques has only increased the attractions of an offshore location for many of these functions.

Foreign exchange management is a good example of how centralized IOFC management can benefit a group:

Any large group with many subsidiaries in different countries has substantial costs connected with foreign exchange. Multi-currency treasury management on the basis of a set of independent national treasury operations is nearly the worst possible method, and concentration of all transactions into a flexible central treasury in a jurisdiction without exchange controls or predatory and highly-protected local banks is an obvious solution. Providing that the centralized currency management function is based in an IOFC with good local financial infrastructure, treasury management can proceed to optimize cash flows

without concerns about withholding taxes, capital gains, or any of the other unpleasant taxes or regulations often imposed by high-tax governments. Finally, the profits from such an operation, which can be quite substantial in a large group, are made in a low-tax jurisdiction.

The choice of an appropriate IOFC for the conduct of centralized group management or support functions is obviously dependent on the location of the existing head office or support functions, the type of business concerned, the existing group fiscal structure, and a host of other factors. It is not possible therefore to select a list of particular IOFCs that should be considered. [23]

- **Offshore Banking**

Almost all offshore jurisdictions control banking activity, not least in order to prevent money laundering. Domestic and offshore banking are usually separately licensed; domestic banking is sometimes reserved for local banks. Offshore banks are normally free of taxation - but there is usually a hefty annual license fee.

Banking secrecy is usually very good in offshore jurisdictions, often enforced by statute; but jurisdictions increasingly have international agreements that permit breaches of confidentiality in some circumstances. [10,106]

List of banking jurisdictions: Belize, Bermuda, British Virgin Islands, Cayman Islands, Cyprus, Hong Kong, Ireland, Liechtenstein, Luxembourg, The Netherland Antilles, Panama, Seychelles, Switzerland.

- **Offshore financial services (Investment funds)**

International Offshore Financial Centres (IOFCs) often provide a welcoming environment for investment companies. Offshore investment vehicles may take a variety of forms: unit trust, mutual fund or investment company, and may be open-ended or closed. They will be referred to generically in this section as 'offshore funds'. In all cases the key reasons for being offshore are that the gains from investment are untaxed or very lightly taxed in the IOFC concerned, and that the regulatory regime in the IOFC is lighter than in the high-tax countries where the investors and often the promoters (owners) of the fund are to be found.

OFCs vary greatly in the legal and fiscal regimes they provide for offshore funds. The most widely-used jurisdictions are Bermuda, the Cayman Islands, Guernsey, Hong Kong, the Isle of Man, Jersey and Luxembourg.

Just because offshore funds offer greater returns and often greater risks than onshore funds, many countries restrict investment in such funds by their citizens, and restrict

marketing by offshore funds on their territory or to their citizens. The USA is particularly fierce in this regard, and offshore funds take great care not to offend against US law, refusing to accept investment from US residents. The UK's regime is more permissive while still not very flexible. The laws and regulations of high-tax countries in respect of offshore funds are directed not just to limiting the behaviour of their citizens but also to preventing 'money-laundering' and other illicit uses of IOFCs. [14,425]

Of course, individuals or companies who are tax-resident in a high-tax country may not be able to benefit much from the tax advantages of an offshore fund if they are taxed on their world-wide income, as is usually the case. Some funds 'roll up' income and capital gains for this reason, at least allowing the tax-payer to defer taxation until the fund eventually distributes gains, or units/shares are sold. [21]

List of financial jurisdictions: Liechtenstein, Luxembourg, The Netherland Antilles, Switzerland

- **Ship management and maritime operations**

It has now become the norm for ships to be registered in International Offshore Financial Centres (IOFCs) and there has been intense competition between some of the IOFCs to offer the most advantageous operating and fiscal regime. Owners are concerned with labour regulations and manning scales, as well as with the more obvious tax advantages.

Ownership, registration, administration and operation of ships are four different activities, and are often situated in two, three or four different jurisdictions in order to achieve an optimum result. Thus, an owner in a high-tax, non-maritime country might register his ships in a low-tax jurisdiction, operate them from there, but administer them from a European port city. [23]

It is normal to create a company in the low-tax jurisdiction for each ship, in order to provide insulation in the event of problems. In addition to ship ownership, other maritime activities sometimes conducted from IOFCs include container leasing and ship chartering. Private groups with their own aircraft sometimes use an IOFC to create a 'captive' aircraft operating company which can charge market rates and make a profit in the IOFC.

Liberia and Panama were for a long time the best-known 'flags of convenience', but a number of other countries offer or are about to offer shipping registries, including Cyprus, Bahamas, Cayman Islands, Malta, Madeira, and The Netherland Antilles.

A study by the Center for Freedom and Prosperity Foundation released in August, 2004, analyzed the impact of open registries on the global shipping market. These registries, maintained by about 30 countries, are open to shipowners from all nations and the study finds

that they have boosted international trade and the world economy by reducing shipping costs and increasing efficiency in the industry. [23]

The study was written by Heritage Foundation Senior Fellow Daniel Mitchell. Commenting on his study, Mitchell stated, "Unlike monopolistic national registries, open registries use a market-based model. And since they compete with each other to attract ships, this has led to better service for shipowners and more rational tax and regulatory systems."

The OECD has targeted open registries as part of its anti-tax competition campaign and the International Transport Workers' Federation (ITF) has been fighting against so-called flags-of-convenience since 1948. The International Maritime Organization, with the support of the United States government, has rejected these efforts to hinder international trade. Veronique de Rugy of the American Enterprise Institute warned that the anti-competition agendas of the Organization for Economic Cooperation and Development (OECD) and the (ITF) are contrary to the interests of all trading nations. "Restricting open registries and returning to the days of high-cost, over-taxed national registries would throw sand in the gears of the global economy," she explained. [20]

- **Licensing and franchising: royalty collection**

One of the most common uses of IOFCs is for the collection of revenue from technology licenses, franchise fees, and royalties on other transfers of intellectual property. These types of payment often result from transfers of intellectual property from more advanced nations to less advanced ones.

Such payments are often subject to withholding taxes in the country from which they originate, and will get taxed, perhaps doubly, on arrival in the country of the licensor. Therefore an IOFC having good double-tax treaties with emerging markets countries, and not levying withholding tax on onward payments, will be a suitable location for an intermediary company. If the offshore collection company can be independent of the originating company (the licensor or franchisor) then so much the better, and the profits from licensing may be available free of tax altogether.

The US and many other countries have legislation designed to ensure that companies do not manage to escape tax due on the sale of intellectual property from offshore jurisdictions. However, this legislation was not designed to cope with digital downloads of intellectual property or property rights from servers in offshore jurisdictions. Many tax-efficient opportunities of this type are arising as the range of digitally downloadable products expands, but great care is necessary in setting up such schemes given the uncertainty of the legal and fiscal environment. [20]

While tax treaties are not absolutely vital to the success of offshore licensing schemes, they are quite important, and the list of jurisdictions below is restricted to those IOFCs having good networks of double-tax treaties. Click on any underlined jurisdiction for a full description, including details of that jurisdiction's double tax treaty network: [Cyprus](#), [Gibraltar](#), [Ireland](#), [Luxembourg](#), [Madeira](#), [Malta](#), [Mauritius](#), [The Netherland Antilles](#), [Panama](#)

Perhaps because licensing was one of the earliest significant uses of what used to be called 'tax havens', many of the high-tax jurisdictions terminated tax treaties that they used to have with some of the more blatant IOFCs. There is by now a division between those IOFCs that try to maintain at least the appearance of a normal fiscal regime, and those that don't bother.

- **Professional services**

IOFCs naturally generate significant amounts of professional work in support of the offshore companies and trusts that are set up. While some of this is performed by nationals of the IOFCs (creation of employment is evidently one of the reasons for a country to become an IOFC), much necessarily falls into the lap of expert foreign professionals, and IOFCs usually make it reasonably easy for such people to work.[23]

Apart from 'offshore' professional activity as such, IOFCs are also an attractive location for professional firms offering their services internationally. Engineering and management consultancies are examples.

Whether connected with tax or not, professionals in IOFCs have many advantages. Of course they can usually take advantage of low local tax rates, which are often further reduced for employees of offshore entities or offshore partnerships; and there are often further concessions which add up to a highly favourable tax regime. Their services provided in high-tax jurisdictions will of course be deductible expenses locally, while there are usually no withholding taxes on such payments.

The choice of an IOFC for a professional services company or partnership is highly dependent on the location of their customers, and their own existing residence. Therefore no short-list of possible IOFCs is offered. [23]

Some of the most interesting IOFCs: [Liechtenstein](#), [Luxembourg](#), [The Netherland Antilles](#), [Switzerland](#)

- **Insurance**

An offshore insurance company, usually referred to as a 'captive' insurance company, is usually a subsidiary of a large company or group of companies, and its purpose is to offer

insurance within the parent company or group, thus saving external costs and generating profits in a low tax jurisdiction. The fiscal benefits are not necessarily the driving factor, but they can be significant. Direct access to reinsurance is another important advantage of a captive.

Some high-tax countries have legislated to prevent excessive shifting of income to captives, but usually without seriously reducing fiscal benefits. Apart from offering tax savings, it is usually also true that an International Offshore Financial Centre (IOFC) offers a less regulated and bureaucratic supervisory insurance regime than the home country of the parent company. The captive may for instance be able to employ its capital more effectively than a domestic insurance company. [26]

The considerable advantages of captives have led to the development of a major world-wide captives industry, and IOFCs have vied with each other to establish attractive regimes for captives.

The jurisdictions which have been most successful at attracting captives are as follows: Bermuda, Bahamas, British Virgin Islands, Cayman Islands, Guernsey, Isle of Man, Jersey, Luxembourg, Panama, Vanuatu

Some other jurisdictions also have captive insurance regimes: Cyprus, Gibraltar, Hong Kong, Netherlands Antilles

## 2.2. Working schemes

Author convinced that the clients come to tax advisers already with specific plans for their future company in mind. After all, no one knows better than the client the intricacies of his business. Each client needs and deserves a custom made approach to his business, so that the optimum decision may be made as to the right set-up for him. However, certain general suggestions may be useful at the initial stage of choosing a working scheme, and as such author set out below the main business schemes where offshore companies are useful.

- **Trading**

Where ordinarily a trading transaction takes place between two companies, goods flow directly one way, and documents and payment the other way. The country where the profit on this particular transaction is shown imposes income taxes on this profit, based on the difference between the purchase price of the goods, and their eventual sales price. An offshore company can be inserted in the middle, with the profit accumulating on the offshore company books, instead of on the books of the original company. In this way, taxable profits are in effect transferred from a high tax jurisdiction to one with low or no taxes. The offshore company would take orders from the customer, and the goods would continue to go direct from the manufacturer to the final buyer. This addition of an offshore company in the commercial chain of entities is suitable for the seller of the goods in this transaction, as well as for the buyer, (or exporter and importer, in effect). The exporter can use the above scheme to transfer out the profit, which arises as the difference between his cost of goods sold, and the sales price. The importer can use it to avoid paying tax on the difference between the purchase price of the goods and the eventual sales price in his home country. [8,125]

- **Services**

Individuals who receive substantial income in respect of their professional services, such as architects, performing artists, consultants or authors may assign an offshore company the right to receive their fees. In other words, the offshore company would contract with the ordering party for the performance of the relevant work, and would invoice and receive payment accordingly. As such, again profits would be transferred to a no tax jurisdiction. The offshore company can also invoice for various services the mother company in a high tax jurisdiction, thus transferring profits out, and lowering the tax liability of the mother company. [8,126]

- **Investment**

Most countries if not all have withholding taxes. These taxes are imposed on income earned on or from the territory of that country by foreign persons, and this income is taxed at

source prior to repatriation. The size of these taxes varies, but is most often between 15 and 20 percent. This, admittedly, is a sizeable amount. Double tax treaties exist which allow for a reduction, and in some cases, elimination of this withholding tax. For foreign investors investing in Eastern Europe for example, it would make sense to channel their investment through a country with such a treaty with the investment-recipient country. If this intermediate country has low taxation, then the net result is the avoidance of withholding taxes, as well as avoidance of the dividends being taxed upon their receipt in the investors' country. A very good example of such an intermediate country is Cyprus, with its network of double tax treaties with over 25 countries, with zero withholding rates in most cases. It is no wonder, that in accordance with official statistics of the Russian government Registration Chamber, Cyprus holds the 3th place in terms of monetary value of foreign investments into Russia. [8,127]

- **Finance**

An offshore company is able to give a loan to a related company located in a high tax area, with tax deductions for interest payments. In this way, both inward investments from a foreign entity is achieved, which may be advantageous due to foreign investor protection laws, as well as tax savings on the deducted interest. [8,129]

- **Intellectual property**

Intellectual property, such as copyrights, trademarks, software or titles may be sold offshore, for later resale or lease or franchise to the home country at a substantially higher value. As such, the bulk of the profits arising from the utilization of the intellectual property are realized offshore, with minimum tax implications. [8,130]

- **Negotiable instruments**

This area of offshore utilization relates to Cyprus specifically. Certain clauses in its double tax agreements allow for brokerage and agency services to be conducted in other countries, without being viewed as permanent establishments and as such not being liable to taxation. This scheme is particularly advantageous in conjunction with goods and services, which are not vaitable, and liable only to income tax. One such example is trading in negotiable instruments, where substantial profit may arise, especially in developing, volatile markets. Use of a Cypriot offshore company and its eligibility for the double tax treaty allows for the avoidance of income tax in such cases. [8,131]

- **Real estate**

Being a premises owner allow most times to avoid different taxations. In most countries there is no difference between legal or physical person ownership.

- **Insurance**

Some jurisdictions allow the registration of insurance companies and create the necessary conditions for them to exist with low or zero income taxation. Registration of insurance companies is much more complicated but the results worth it. [8,132]

- **Banks**

Banks can be registered in different jurisdictions with limited internal licenses and can operate in zero taxation regions. Bank registration is complicated and expensive.[8,133]

- **Shipping**

Certain countries, such as Cyprus for example, allow for the registration of shipping companies who can operate without any income tax liability. Furthermore, such countries try to offer competitive terms as regards ship registration, overseas maritime services, and general ship management matters. [8,134]

As said before, the uses of offshore companies are multifaceted, and they probably should not be viewed as one tool for a particular job. Rather it is like a financial "Swiss army knife", which has many uses and applications.

Technology and schemes of protection of assets and information have been analyzed in the third part of the master thesis.

### 3. Modern instrument of protection of assets and information

#### 3.1. Technology of protection

In author's opinion area of protection of assets and information include following elements:

- corporate and tax planning
- security products
- wealth management
- company formation and administration

Author will describe some major security products, which might help to avoid negative influence of internal and external factors as well as to increase overall performance of the enterprise.

#### a) HR1 Automated Integrity Assessment

***Based on Layered Voice Analysis (LVA).*** LVA Technology is the core of the HR1 unique software which utilizes a wide range spectrum analysis to detect minute involuntary changes in the speech waveform itself. LVA technology can detect anomalies in brain activity and classify them in terms of stress, excitement, deception, and varying emotional states, accordingly.

HR1 leverages advanced LVA technology to automatically estimate a Tested PersonXs liability potential by analyzing the emotional content of his/her voice when responding to specifically designed questions.

HR1 is the state-of-the-art in automated Integrity/Risk Assessment systems. Featuring a fully automated and user-friendly interface, HR1 requires no technical or assessment expertise for operation. All the products based on HR1 platform generate graphical report with test results, manages database of results and candidates, have simple and user friendly interface. [22]

***"K-Factor"***. Recruitment and attestation. Provides an unprecedented level of insight into the integrity and risk potential of employment candidates. [22]

Features:

Provides level of risk with regard to the following topics and themes:

Loyalty

Honesty

Theft from place of employment  
 Credibility, Honesty and Integrity  
 Bribery and Kickbacks  
 Fraud and Deceit  
 Confidentiality and Secrecy  
 Drug Use  
 Alcohol Use  
 Gambling

**"Credit"**. Control of loaning risks. System may automatically recognize individuals with the high risk of irretrievable borrowings. [22]

Features:

Provides level of risk with regard to the following topics:

Solvency  
 Credit history  
 General tension

**"AML Counselor"**. Anti-Money Laundering tool which may automatically recognize clients with potential high risk of money laundry operations. Provides risk value of clientXs past and future intentions.

Features:

Simplifies Due Diligence procedure  
 Provides levels of risk with regards to:

- Identity verification
- Source of Funds
- Public Exposed Persons
- Verifying Identity

Automatically checking with appropriate database of Public involved persons, or being involved in terrorism or money-laundering schemes.

Dealing with documentation. Fully integrated scanner/archive module, text-recognition, indexing, time-proof. [22]

Suspicious reports. Automatically produce the Suspicious report form merging all relevant clientXs information.

## **b)LieDetector**

***Based on Layered Voice Analysis (LVA)***. The eX-Sense-Pro is a vocal emotion

analyzer that employs unique and revolutionary emotion detection algorithm based on LVA technology. It is capable of providing crucial information about the conversation subject. This additional data may be paramount in decision making process.

Developer and patent holder of LVA technology: NEMESYSCO LTD, Israel [22]

The eX-Sense refers to "extra sense", a quality we would like to have when making important decisions. It also designed to meet the needs of every man or woman who needs a quick, simple and reliable truth verification tool for many of his/her daily activities or for a few moments of fun and excitement. [22]

**Features:** Ex-Sense-Pro allows to identify emotional level of converser with regard to the following topics:

excitement (positive and negative)

level of cognitive or psychological conflicts

stress levels

hesitations

concentration & anticipation

During conversation it shows textual alerts such as TTruthY, TSubject Not SureY, TStressY...

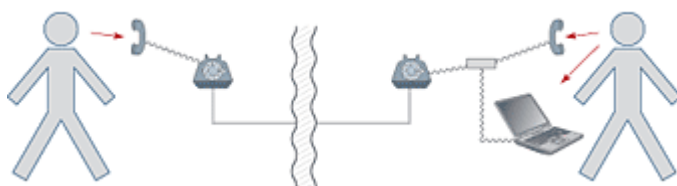
Generates graphical reports

Provides possibility to record and re-analyze conversations. [22]

**Usage.** After a quick and simple installation, your computer will be connected to your telephone and/or microphone, and eX-Sense-Pro is ready for work.

**Lie Detection.** eX-Sense-Pro can detect lies but it does much more than that. With its unique ability to identify emotions, it allows to know how converser feels about the subjects of discussion. This gives a definite competitive edge in dealing with suppliers, negotiating a better deal, hiring better personnel or simply knowing whether or not the person you are talking to likes you or not.. [22]

**Accuracy.** Ex-Sense-Pro will always recognize emotional state and provide the correct result. It should be mentioned, however, that it is a decision support tool and in combination with the common sense it can be a great advantage. [22]



3.1. representation. Working scheme of lie detector [22]

### c) Remote Desktop Platform

**Office away from Office.** Remote Desktop Platform allows working with office applications on the remote server, which is located deep in the Swiss Alps in a secret and safe fortifications.

Provider: Co-Handelszentrum GmbH, Switzerland [22]

#### **Functionality:**

Regular work with Microsoft Office applications (Word, Excel, Power Point, Outlook)

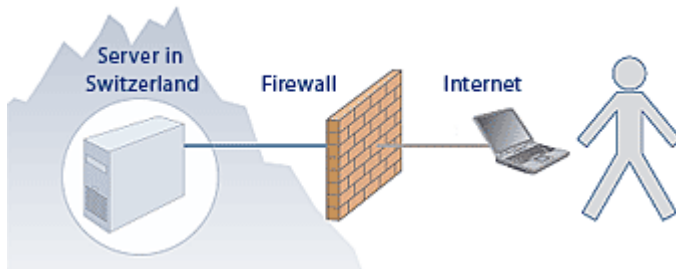
Management of sensitive and confidential information

Accessing E-mail account

Documents archiving

Clients' database access

**Advantages.** Information is protected from destruction and unauthorized access. There is no territorial limitation for using Remote Desktop Platform. Company's activities are originated in Switzerland and it may be proved by IP address.



3.2. representation. Working scheme of remote desktop platform. [22]

**How does it work?** User connects to RD Platform through the Internet. As a result display will show a screen, which is very similar to the regular MS Windows. From now work is not different than using local PC.

**Printer.** The printer which is attached to the local PC is automatically mapped into RD Platform session.

**E-mail Access.** User may access email account by using MS Outlook

**Unexpected disconnection from the Internet or local PC power down.** Access to RD Platform session is automatically disconnected and may be repaired by authorized user only. At the same time all opened applications' data will be saved on the server side.

**Local PC after disconnection.** After disconnection from RD Platform, no information is remained on a local PC, except for the link to the server, but it may be cleaned easily. [22]

#### d) Virtual Office

*Virtual Office* – or as sometimes it is accepted to name *Administrative servise* – design for enterprises or private persons. Despite many people think, that this kind of service is for those who has something to hide, Virtual Office is often used by big corporations for reducing expenses on personnel or to maintain Costumer Service, so called „hot line” for answers to client’s questions on in advance certain themes, and also for sale the products through catalogues. Virtual Office also might be used or local small companies which cannot afford the secretary and do not wish to use an answering machine. [21]

Basically Virtual Office include:

- mail forwarding
- forwarding of fax masages
- answering the phone calls
- providing registered office for external companies
- providing e-mail address
- design and hosting the Web-site

**Mail forwarding.** Many companies in Latvia provide mail drop services in England, Swiss, Cyprus, Belize, Latvia and ect. Mail can be forwarded to the address specified by the client. This service is irreplaceable for reception of mails from banks. Addresses can be used also as the legal address of the companies at registration.

**Fax forwarding.** Many companies in Latvia provide fax numbers in England, Swiss, Cyprus, Belize, Latvia and ect. Faxes or the voice masages will be forwarded to the client’s e-mail within one day.

**Answering the phone calls.** Basically there are 3 types of answering the phone calls.

1) The operator answers a call with the general phrase. On requests of abonent, operator answers in conformity with the instructions received in advance.

Example:

Abonent: - I would like to speak with director of the comopany „X”

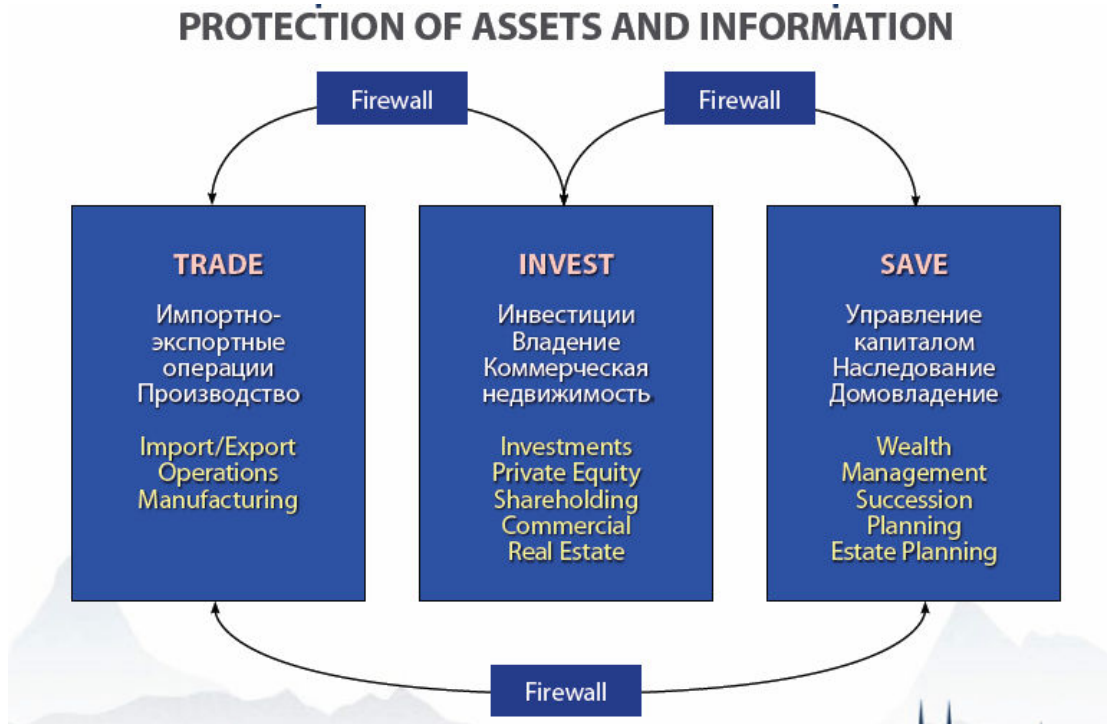
Operator: - Direcor is not inthe Office. You can call him on the cellphone

2) The operator answers a call with the phrase, which contain the name of the clint’s company: “Company “X”, how can I help you”. Then operator answers in conformity with the instructions received in advance.

3) Incoming phone call is automatically forwarded to the client’s phone number. [21]

### 3.2. Schemes of protection

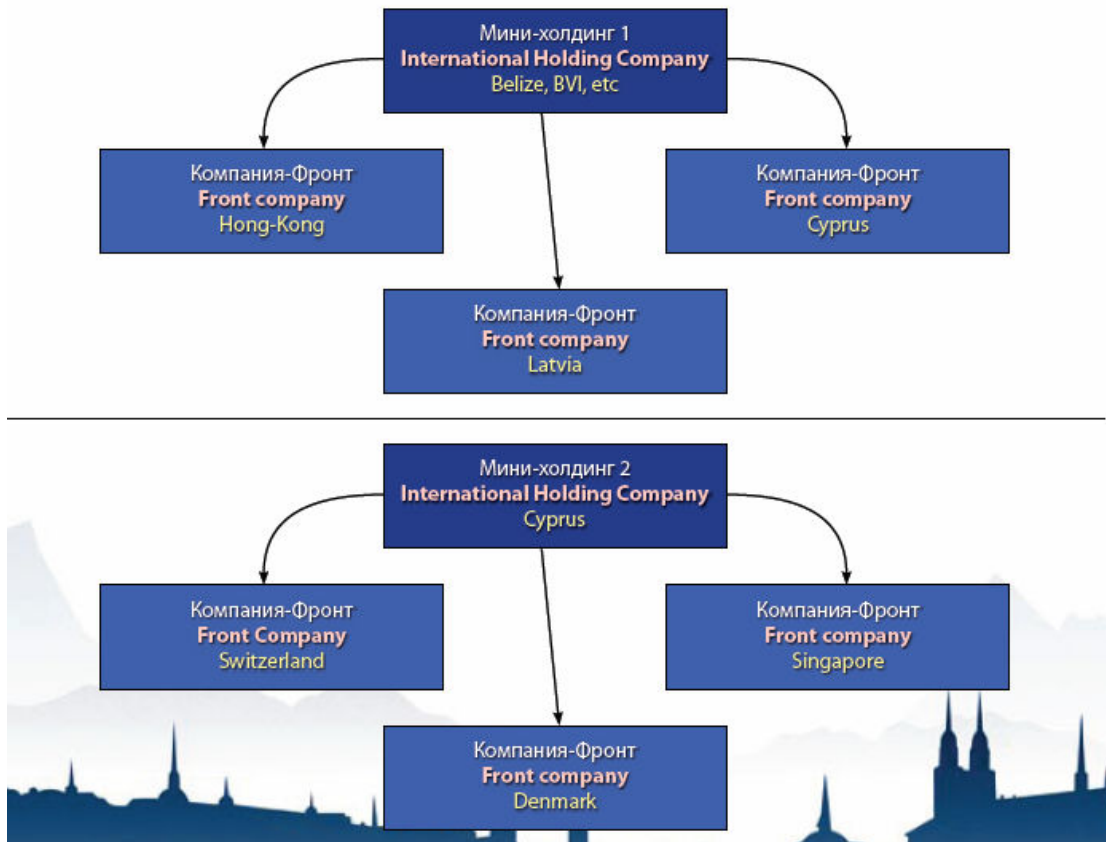
Representations of different approaches of protection of assets and information are presented bellow.



3.3. representation. Scheme of separation of business activities for asset protection purposes[2]

Describing scheme of separation of business activities for asset protection purposes, we can see, that trading, investment and savings should be separated from each other the firewall. In other words, for each of this business activity should be used different company (see representation 3.3.). But all of these companies can be incorporated in the law tax jurisdictions.

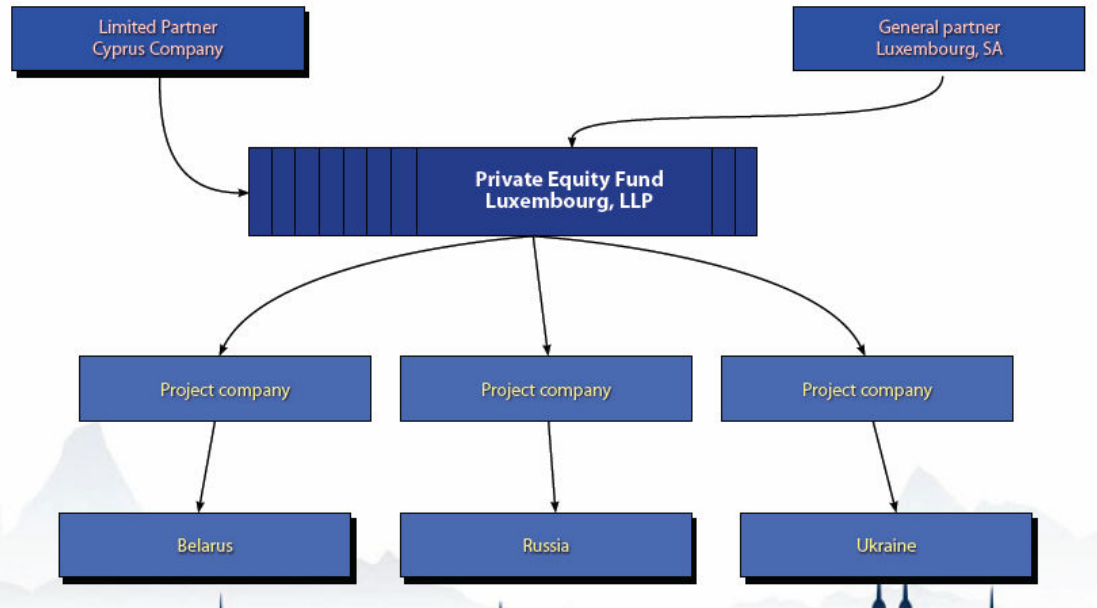
## TRADE INSTRUMENTS



3.4. representation. Trade instruments of scheme of asset protection. [2]

Describing trade instruments for asset protection purposes, we can see, that it is better to use different companies from different low tax jurisdictions. Every company play the special role in this scheme. And advantages of every jurisdiction make this scheme very attractive for asset protection purposes. (see representation 3.4.).

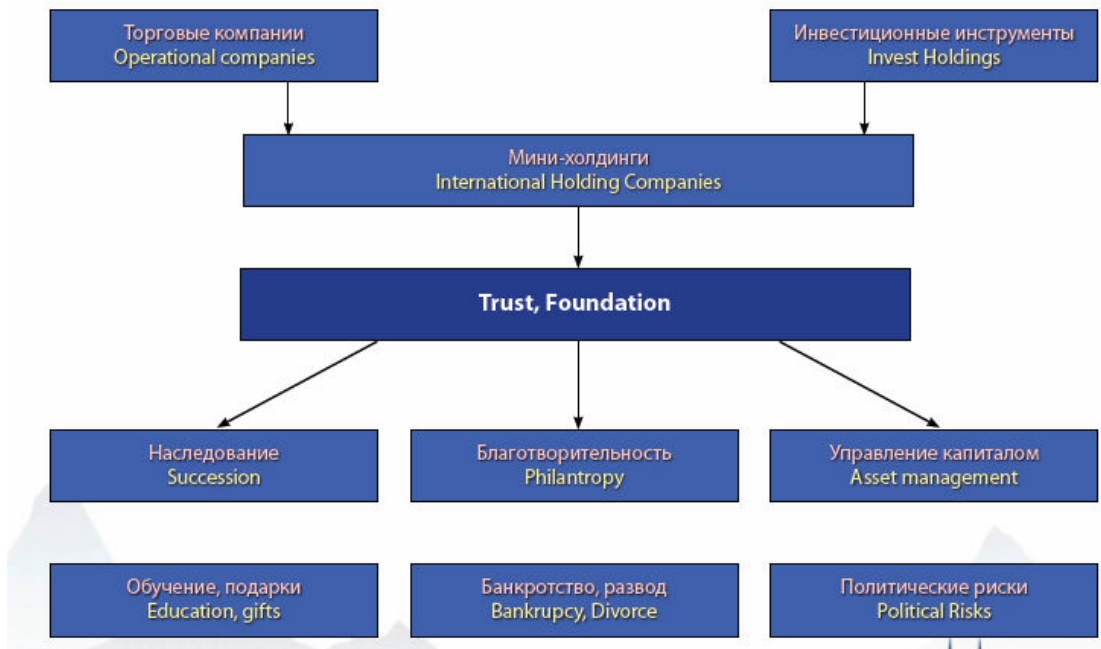
## INVEST Instruments -Private Equity Fund



3.5. representation. Scheme of working of private equiti fund. [2]

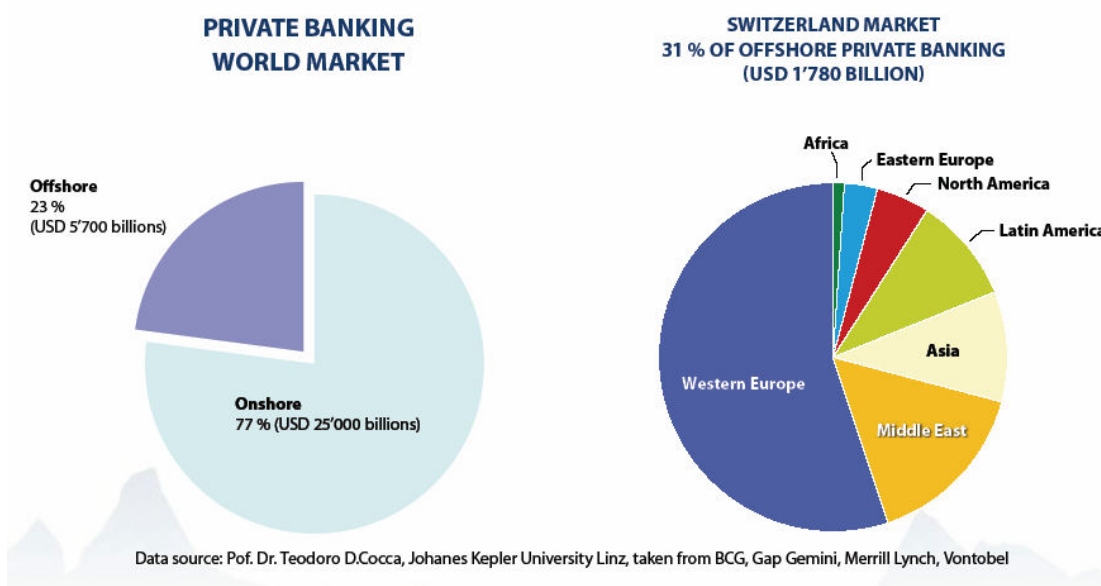
Describing 3.5. representation, we can see, that Private Equity Fund is design to different investment projects. These projects can be situated in different countries. Private Investment fund is a very expansive instrument of asset protection.

## SAVE INSTRUMENTS



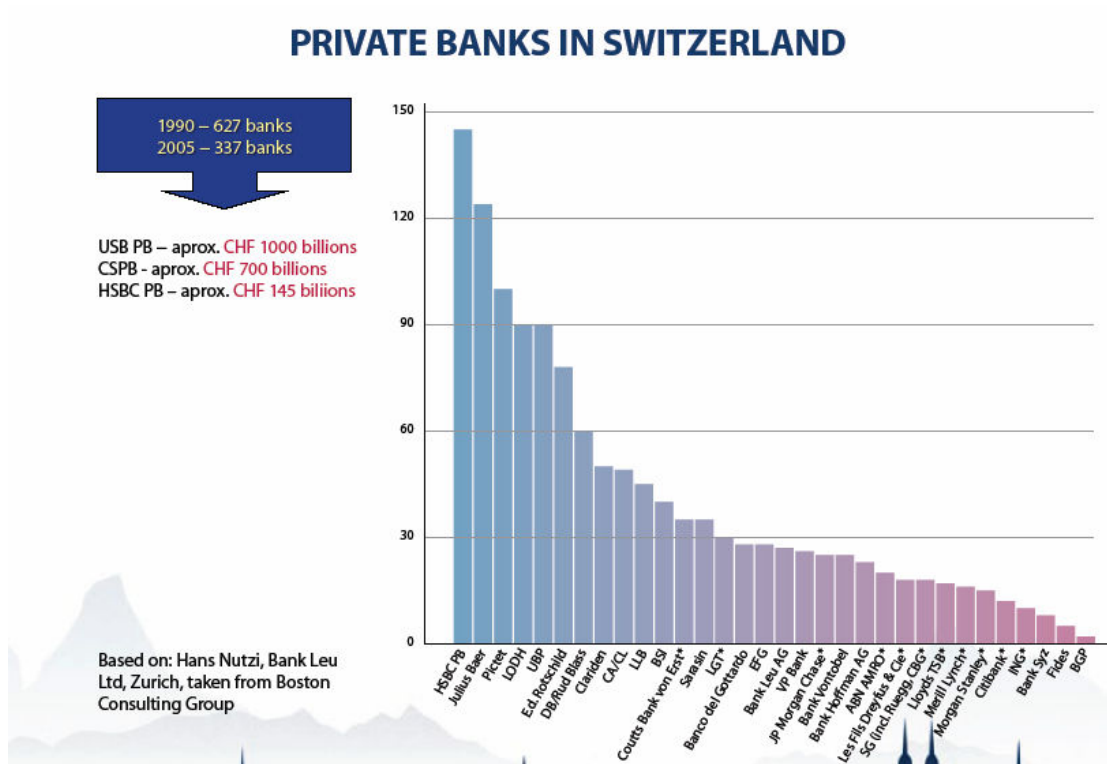
3.6. representation. Save instruments of asset protection. [3]

Describing 3.6. representation, we can see that a lot of different instruments are involved. Investment holdings, operational companies and international holding companies as well as Trust or Foundation Company are components of this saving scheme. Purposes of combining all this instruments might be: succession, asset management, philanthropy, avoidance of political risk and so on.



3.7. representation. Share of offshore market in private banking sector as well as share of offshore private banking in Switzerland market. [1]

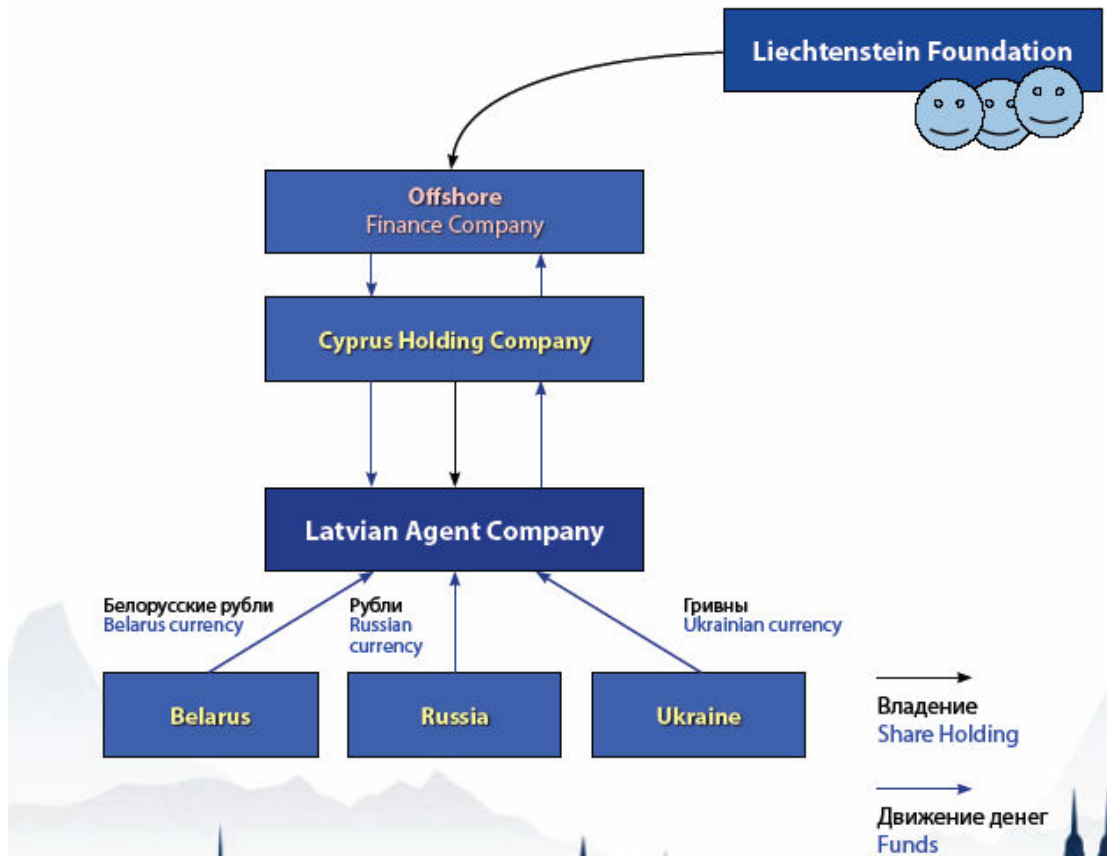
In the first part of 3.7. representation we can see, that share of offshore sector in private banking sector is equal to 5'700 billions USD. In the second part of 3.7. representation we can see, that share of offshore private banking in Switzerland market equals to 1'780 billions USD and the major part of it comes from Western Europe.



3.8. representation. Private Swiss banks in and their share in the private banking market. [1]

In the 3.8. representation we can see private banks in Switzerland and their share in the private banking market of Switzerland. It is also shows that 3 leading Private banks in Switzerland are USB PB, CSPB and HSBC PB. From 1990 till 2005 the amount of Private banks in Switzerland decreased from 627 to 337 banks. That fact shows that the level of competition between the Private banks in Switzerland is very high.

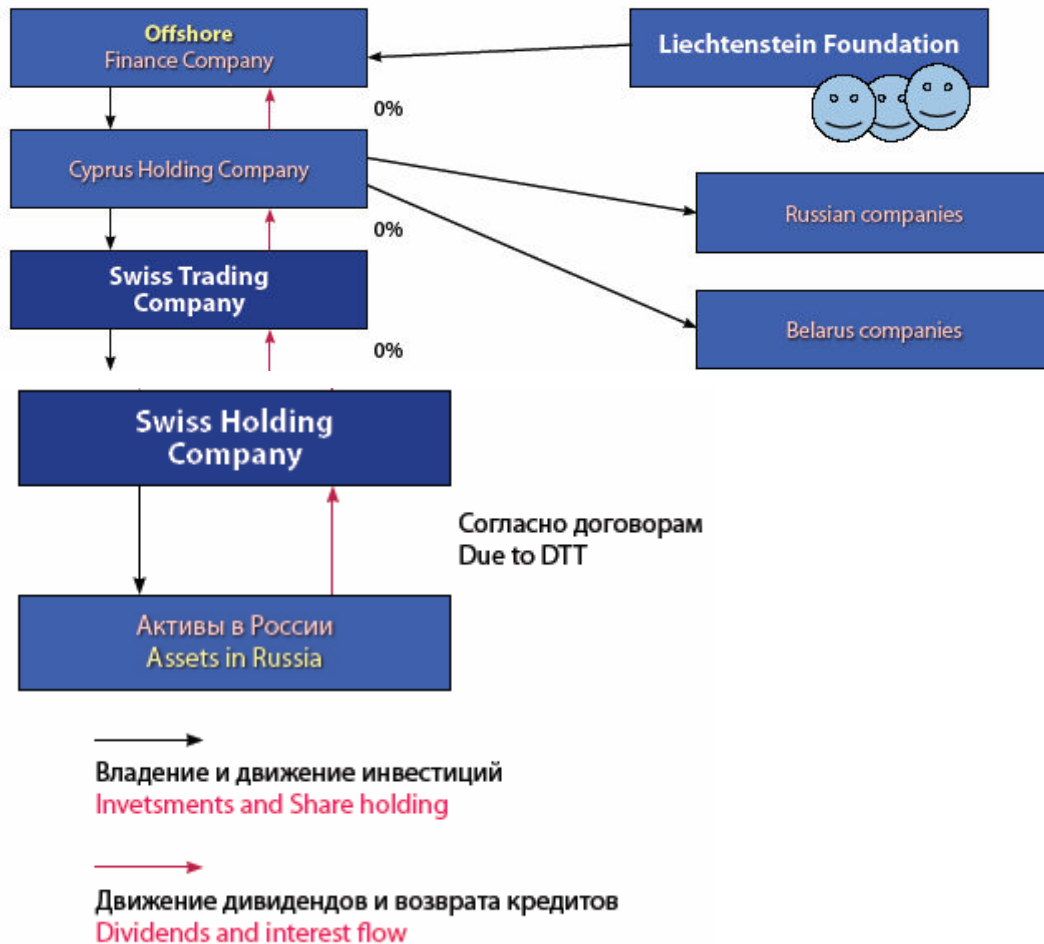
## TRADE STRUCTURE BASED ON LATVIAN COMPANY



3.9. representation. Trade structure of Latvian company. [3]

In 3.9. representation we can see, that Latvian company can also be involved in asset protection scheme. Latvian company has a role of agent between the Trading companies which can be situated in Belarus, Russia or Ukraine and Holding company. Liechtenstein Foundation possess the assets of Holding company through the offshore company. The best place for incorporation of the holding company in this example is in Cyprus. Offshore company can be incorporated in low tax jurisdictions such as Belize or BVI.

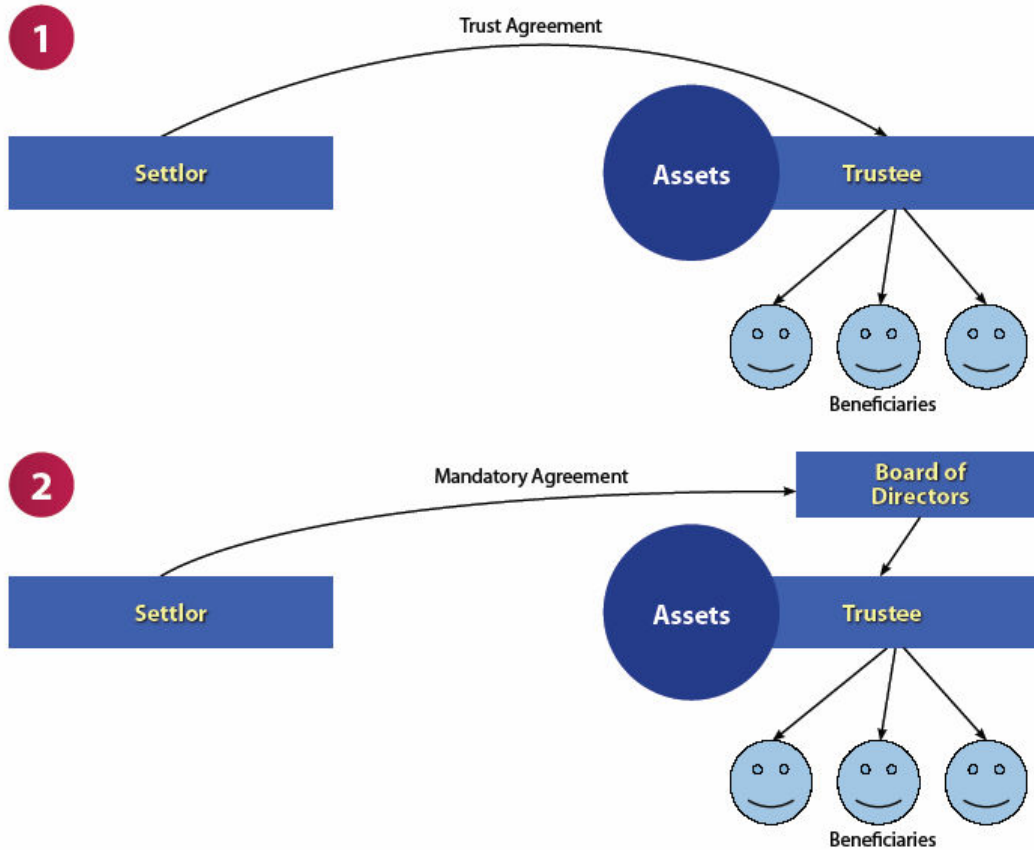
## DIVIDENDS FLOW FOR SWISS HOLDING STRUCTURE



3.10. representation. Dividends flow for Swiss Holding structure. [3]

In 3.10. representation we can see Swiss Holding structure of dividends flow. Many companies from different jurisdictions are involved in this scheme. Dividends flows from Russian company to the Swiss Holding company due to the double taxation treaty between Russia and Switzerland. Dividends flows from different countries without paying any taxes due to different treaties and regulations between those countries.

### STRUCTURE OF TRUST AND FOUNDATION



#### 3.11. representation. Structure of Trust and Fondation. [3]

Setlor signs an agreement with Trustee. Trustee manage the assets on behalf of Beneficiaries. Fondation structure is more complicated, because it's also involve Board of Directors (3.11. representation, 2 case). But the main goal is the same in both cases and it is to protect the assets.

In the fourth part of the master thesis have been produced the new structure of international holding companies and have been found the advantages of holding companies for tax plannin purposes.

## 4. Design and incuclacion of modern technologies of tax planning of passive income using holding companies.

### 4.1. Criteria of modern holding companies

For the country to be an attractive place for establishing the holding company it should correspond to 4 criteria:

- Incoming dividends: incoming dividends transfered by affiliated companies to holding, should be either exempt from the taxation, or they should have low tax rates according to legislation that extend on affiliated.
- The incomes received in the form of dividends: the income received by holding from affiliated company in the form of dividends, should be either exempt from the taxation, or they should have low tax rates on income tax for corporation according to legislation that extend on the holding companies.
- The tax on increasing the market value of the capital when sale the shares: the profit received by the holding company from sale of shares of affiliated company should be either exempt from the taxation, or they should have low tax rates on incomes on the capital according to legislation that extend on the holding companies.
- Paid dividends: the dividends paid by holding of parent company, should be either exempt from the taxation, or they should have low tax rates according to legislation that extend on the holding companies. [5,49]

### 4.2. Design and inculcation of structure of international holding companies for modern tax planning purposes

#### 4.2.1. International holding definition for tax purposes

Holding structure consists of at least 3 parts:

investor co., holding co., and target co. (see table 4.2.1)

Holding structure. Table 4.2.1 [1]



Main goal of holding company:

- to reduce or eliminate any taxation on income derived from target co. to investor co.

#### 4.2.2. Tax factors of importance when choosing the jurisdiction for holding company

Bellow we can see several factors of importance which can help when choosing the jurisdiction for holding company. As we can see, there are many factors, that should be taken into consideration when choosing the jurisdictions for holding company. These factors show that there are many way to optimize taxex using holding companies.

- **low withholding taxes on dividends paid from subsidiary to parent co. [1]**



- **tax exemption for dividends received by holding company (parent) [1]**



- **tax exemption on capital gains [1]**



- zero or low WHT on paying dividends or interest out of holding company [1]



- holding co. not subject to other taxes (capital tax, worth tax etc.) [1]



- how long the shares are held and % of ownership [1]



- CFC rule and substance test [1]



CFC rule – company must not be low taxed financial company

- low taxed – tax in sub. co. country compared to the tax in holding co. country
- financial co. – requirements for income of sub. not be merely (depends on country) financial (dividends, royalties, insurance premiums, profit from financial assets)

Substance test (usually):

- income – from active business

- must employ staff
- must have its own business facilities
- **number of treaties and EU country**

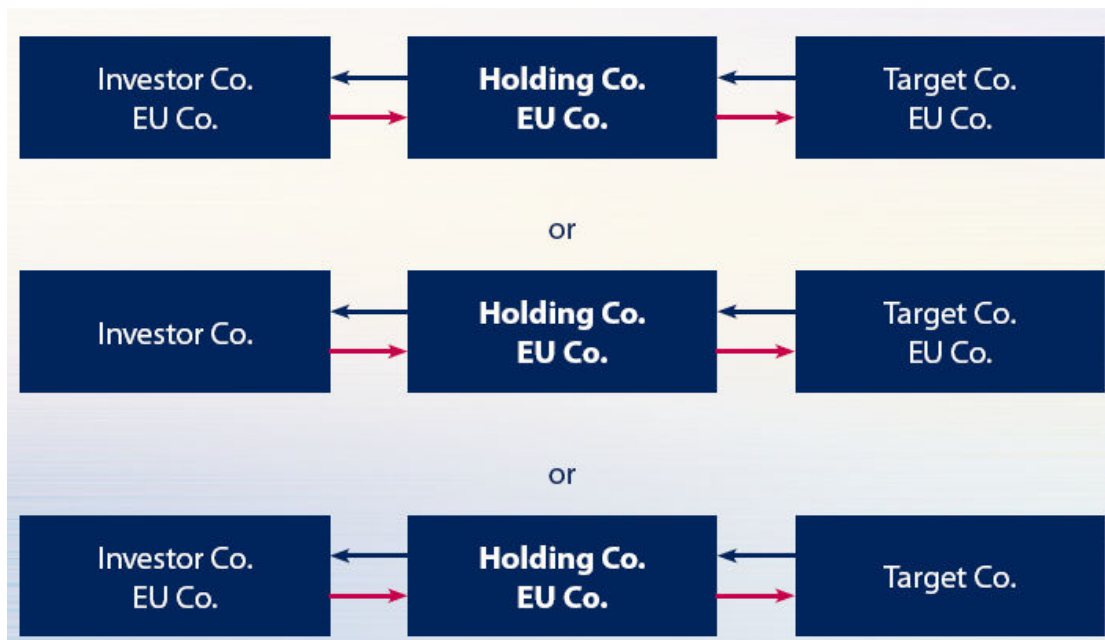
The number of treaties between countries which are involved in holding structure is a very important factor when choosing jurisdiction for holding company. Before building holding structure it is necessary to find out whether countries than are involved in holding structure have treaties between each other.

#### 4.2.3. EU Parent – Subsidiary directive

Bellow we can see several EU Parent – Subsidiary directives which can help when choosing the jurisdiction for holding company. As we can see, the main factor, that should be taken into consideration is whether countries than are involved in holding structure are members of EU or not.

**Goal** – to eliminate double taxation within the EU

EU Parent – Subsidiary directive. Table 4.2.3. [1]



- **no WHT on dividends paid by subsidiary EU co. to parent EU co. [1]**



- **no tax on dividends received by EU parent co. from EU sub. Co [1]**



- **participation lowered to 10% [1]**



- **exemptions**

“Countries can apply domestic or agreement based provisions required for the prevention of fraud or abuse”

Austria - substance test

France – owner of EU company – foreign entity

Italy - owner of EU company – foreign entity

Spain - owner of EU company – foreign entity

Netherlands – substance test

#### 4.2.4. Treaties on avoidance of double taxation (DTT)

Bellow we can see several structures of holding companies which involve treaties on avoidance of double taxation. As we can see, the main factor, that should be taken into consideration is whether countries than are involved in holding structure have treaties on avoidance of double taxation between each other.

**Goal** – to reduce/ abolish double taxation.

Treaties on avoidance of double taxation. Table 4.2.4. [1]



- tax exemption or low tax rate for dividends received by holding company [1]



- tax exemption or low tax on capital gains [1]



- tax exemption or low WHT on interest paid [1]



- double tax treaty + EU directive [1]



#### 4.2.5. Some of the jurisdictions for holding companies

Bellow we can see some of the jurisdictions and thier advantages for holding companies. As we can see, there are many jurisdictoins that might be used for building holding structure. Every country has thies specific anvantages, but they all can be used as holding companies.

##### 4.2.5.1. Cyprus

- Extensive network of treaties (former USSR, India)
- EU Member state (directive)
- No or low taxes
- **tax exemption for dividends received by Cyprus company (parent) [1]**



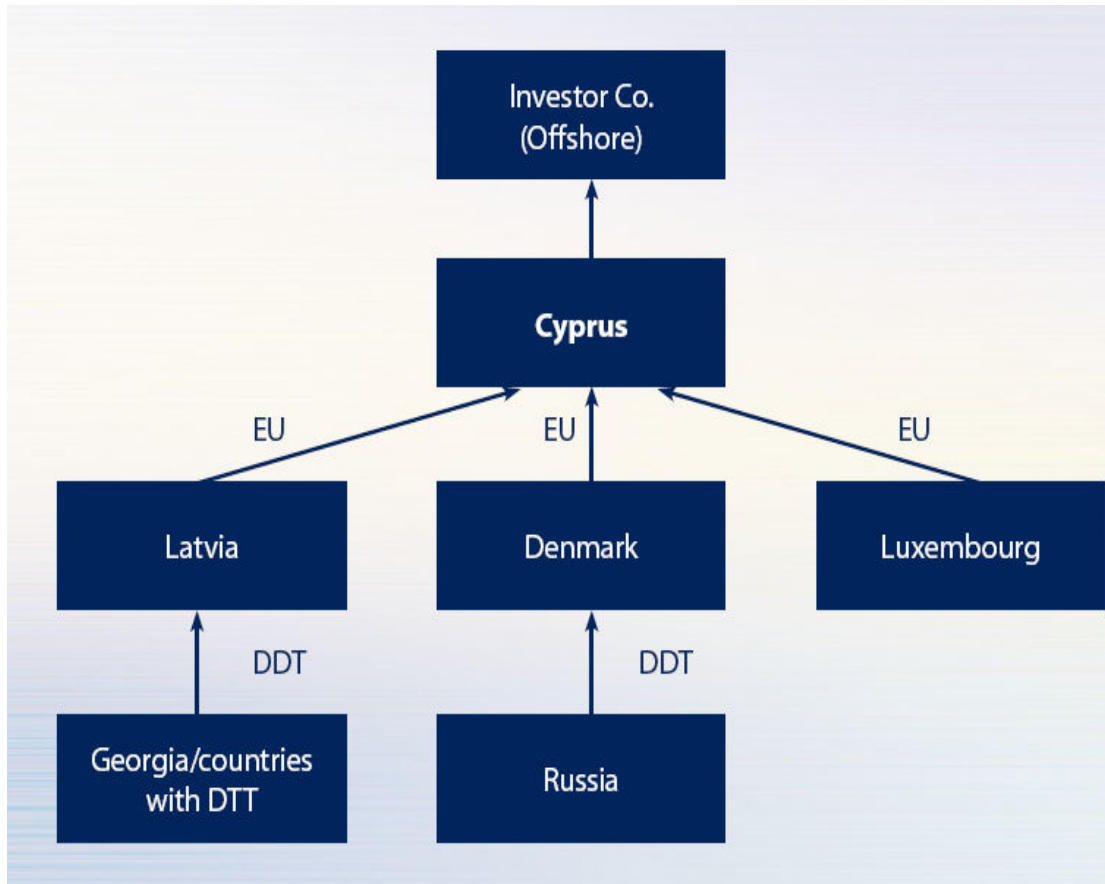
Low taxed Financial Company according to Cyprus Law:

- $\geq 50\%$  of activities – financial activities

and

- company is taxed at the rate of  $> 5\%$
- tax on capital gains –  $0\%$
- no WHT on dividends
- no capital tax

Structure of Cyprus holding company. Table 4.2.5.2. [1]



#### 4.2.5.2. Denmark

- Extensive network of treaties (former USSR, India)
- EU Member state (directive)
- No or low taxes on dividends received
- **tax exemption for dividends received by Denmark company (parent) [1]**



Low taxed Financial Company according to Denmark Law (CFC rule):

- $\geq 33\%$  of activities – financial activities

and

- company is taxed at the rate of  $< 21\%$
- **tax exemption for capital gains received by Denmark company (parent) [1]**



- **no WHT on dividends paid to parent EU co./ double treaty [1]**



otherwise – 28%

- WHT on interest – 30%
- no capital tax

#### 4.2.5.3. England

- no WHT on dividends
- tax rate 30% (small co. 19%)
- tax credit instead of tax exemption
- 115 DTT (good treaty with U.S.)

- **no tax exemption for dividends received by England company, but double tax relief available [1]**



Double tax relief – Finance Act 2001 (10% shareholding)

Tax relief for:

- any WHT imposed by subsidiary co.
- underlying tax paid on profits in subsidiary co.

**EU Directive not applicable!**

- **tax exemption for capital gains received by England company [1]**



tax exemption applies:

- when both companies are active trading companies
- and Parent co. has 10% shareholding for at least 1 year

Active Trading company according to HMRC (measures not absolute):

- trading activities - 80% of turnover
- trading activities – 80% of assets
- no WHT on dividends
- 20% WHT on interest (can be avoided through DTT)

- **CFC rule**

Subsidiary will be considered as CFC:

- UK co. 40% shareholding + tax rate in subsidiary co. lower 14% or 22%  
(depending on how the income would have been taxed in UK)

UK co. must make self assessment to tax and include CFC profits

- Companies exempt for CFC rule:
- acceptable distribution policy
- exempt activities
- no tax avoidance motives
- Subsidiary in „White list”

#### 4.2.5.4. Luxembourg – SPF

- EU member (directive)
- no CFC rules
- **tax exemption for dividends received by Luxembourg company [1]**



Tax exemption applies:

- subsidiary taxed >11% (0% in DTT)
- or
- EU directive (10% shareholding)

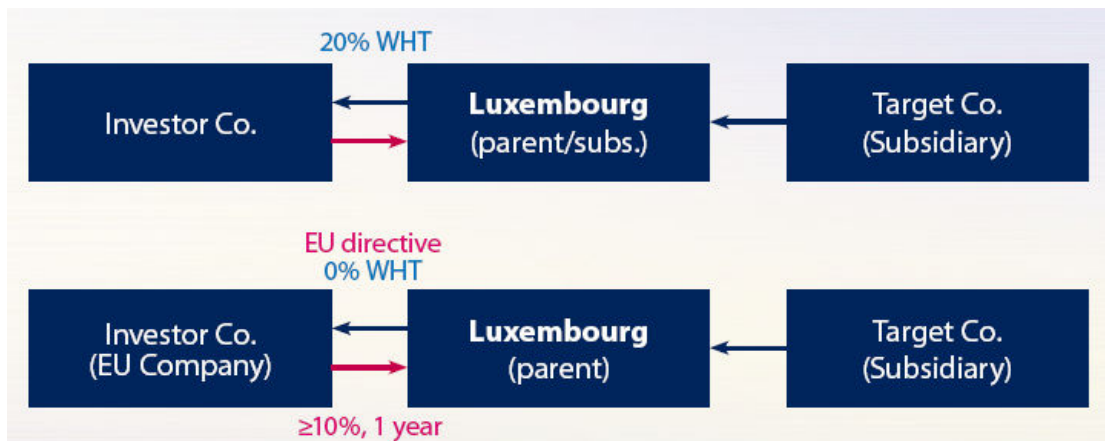
- **tax exemption for capital gains received by Luxembourg company [1]**



Tax exemption applies:

- Subsidiary taxed >11%
- or
- EU company (directive)

- **WHT on dividends paid to parent co. [1]**



- capital tax – 1%
- interest WHT – 0%
- net worth tax – 0,5% (subsidiary exemption)

#### 4.2.5.5. Netherlands – an attempt to create more attractive tax regime

Recently declining popularity due to the:

- restrictions on participation exemption
- high WHT – difficulties getting out dividends
- better tax conditions in other jurisdictions - Luxembourg

Advantages:

- extensive network of treaties (100, including US)
- EU member (directive)

- **tax exemption for dividends and capital gains received by Dutch company [1]**



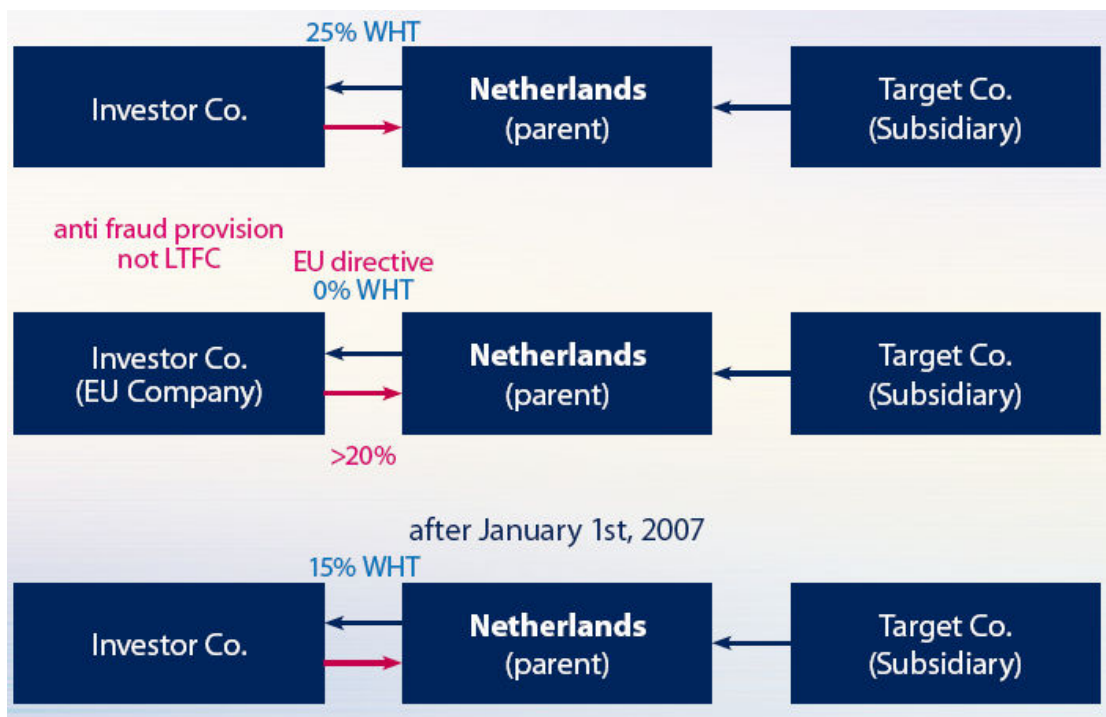
Tax exemption applies:

- Dutch company and target. co. – both active companies
  - linked activities between Dutch co. and target Co. (not portfolio investment)
- or
- EU directive (20% shareholding) [1]



Tax exemption applies if target co. is not LTFC company:

- tax at least 10%
- or
- financial activities <50%
- or
- EU company (EU directive) - 20% shareholding
- **WHT on dividends paid to parent co. [1]**



- no WHT on interest
- no capital tax (abolished 2006)

#### 4.2.5.6. Some of the Holding jurisdictions - comparison

Bellow is the table that describes different aspects of different holding jurisdictions. This information might be taken into consideration before the formation of the holding company and designing the tax optimization scheme.

Holding jurisdictions – comparison. Table 4.2.5.6. [1]

country	tax rate	DTT	dividends	gains	must for. co. be active	DWHT	CFC	In-WHT
Cyprus	10%	34	exempt	exem.	no	0%	no	0%
Denmark	28%	85	exempt	exem.	no	28%	yes	30%
Luxembourg	29,6%	44	exempt	exem.	no	20%	no	0%
Malaysia	28%	50	exempt	exem.	no	0%	no	15%
Netherlands	25,5%	85	exempt	exem.	yes	25%(15%)	no	0%
Singapore	20%	50	exempt	exem.	no	0%	no	15%
Switzerland	from 8,5%	75	exempt	exem.	no	35%	yes	0%
UK	19-30%	115	exempt	exem.	yes	0%	yes	20%

The market of tax planning services has a very important role in development of every country's economy. Until the recent years the tax planning was not a significant segment of the market economy in Latvia. Only during the past new years, after Latvia joined European Union, tax planning took its place in market economy in Latvia.

The market of tax planning services in Latvia is developing and as a result is hardly predictable. But despite this fact, tax planning take an important part in country's financial market. The modern tax planning services development is based and depends on country's economical situation, the legislation and the level of insurance from influence of undesirable factors as well as local and foreign capital attraction.

## Conclusions and proposals

1. The complex of methods on optimization of commodity, intellectual and financial streams within the limits of the international group of the companies with the purpose of reduction of taxes, can be named the international tax planning.

2. Development of communications, internalization of an economic life and occurrence after the second world war of a plenty of the new sovereign countries has led to occurrence of the international tax planning.

3. The goal of tax planning is to minimize tax liability. You can achieve this in different ways. Typically, though, you'd look at ways to reduce your taxable income by using low tax jurisdictions.

4. Offshore business - is the enterprise activity which is carried out within the limits of the international group of the companies which part of divisions is located in the countries giving tax, currency, investment and other privileges under certain conditions. These countries have received the informal name - "tax havens ".

Tax havens - any country having a low or zero level of the taxation on all or some categories of profit, and offering the certain level of bank or commercial privacy.

5. Business within the limits of the international group of the companies gives a legal opportunity to reduce tax obligations, to increase a degree of security of investments, to operate in a favorable currency mode.

6. Use of the foreign (offshore) companies is especially actual for the businessmen working in the countries of former "east block" (Eastern Europe). The high degree of investment risk caused by economic, political, social and legal instability in these countries, limits inflow of the foreign investments necessary for modernization of the industry, trade and financial sphere.

7. Tax heaven can be divided into three groups:

Group 1. There are countries which have no profit taxes, on the capital and a gain of the capital. The governments of these countries earn money, giving "tax heaven" status to the companies for the certain fixed annual payment, raising registration fees and duties and the small tax to the capital of the company. Example: Bahamas, Bermudas, Cayman islands

Group 2. The countries release from taxes the income taken by physical persons or the companies, abroad. The incomes taken in territory of the country are assessed under standard rates. These countries can be divided into two groups:

Group 2 A. Authorities allow the companies to do business inside and outside the country. The taxation occurs in conformity to the rules stated above. Example: Panama, Hong Kong

Group 2 B. Authorities demand from the company before incorporation to decide, whether it plans to do local business (and to pay taxes) or the international business (and to pay only the fixed annual fee). Example: Malta, Jersey, Gibraltar

Group 3. The countries raise low taxes to all incomes of the company without dependence from a place of their extraction. These countries have concluded numerous agreements on avoidance of the double taxation with the countries having a high level of the taxation. Example: Cyprus, Netherlands, Liechtenstein, Switzerland

8. Offshore today is big business. It is estimated that over 60% of world deposits are held offshore, and ca. 1/3 of all int'l trade passes through tax-free companies. The obvious advantages of utilizing offshore corporate vehicles include, to name but a few, low or non-existent taxation, no currency import/export controls, greater flexibility and confidentiality in decision-making and conducting corporate business, etc.

9. At present there are over 50 countries and territories all over the world, ranging from such old and well-established financial centers as the Bahamas, Channel Islands, Gibraltar, to the newer players on the scene, including obscure places like Vanuatu and the so-called "quasi-offshore" jurisdictions, like the US, UK, Switzerland, with legislative provisions for advantageous tax treatment of non-resident business.

10. The offshore financial sector is already larger and more pervasive than any individual national economy, and it is used by business in many different ways to optimize tax structures.

11. The market of tax planning services in Latvia is developing and as a result is hardly predictable. But despite this fact, tax planning take an important part in country's financial market. The modern tax planning services development is based and depends on country's economical situation, the legislation and the level of insurance from influence of undesirable factors as well as local and foreign capital attraction.

12. Prompt development of tax planning in Latvia started approximately 16 years ago, mainly because local banks started to open accounts for non-resident companies, especially those who were incorporated in low tax jurisdictions.

13. There are some basic conditions to qualify for the tax incentives:

- The offshore company must belong to non-residents of the country in which it will be registered.
- The company must not earn any income nor carry out any commercial activity within the offshore jurisdiction where it has been registered.

14. In international trade and investment the selection of an offshore jurisdiction requires very careful consideration. It is important to select a jurisdiction that is well suited to specific

corporate and personal needs. Most offshore jurisdictions are free from foreign exchange controls and have introduced company legislation to cater for a diverse range of international business requirements.

15. The major factors, that makes low tax jurisdictions attractive for tax optimization purposes are:

- Limited liability;
- Minimal or optional statutory filing obligations;
- Low capital requirements;
- Nominee shareholders allowance;
- Availability of bearer shares;
- Disclosure of beneficial ownership either not required or limited to special bodies (offshore authorities, central banks);
- Minimal directors' liability;
- Broad range of permitted company names and suffixes to denote limited liability;
- Directors and/or shareholders meetings can be held anywhere in the world;
- No requirement or optional requirement for accounting records to be audited.

16. Analyzing statistics of the offshore sector, the following information were received:

- Switzerland banking market holds 31 % (1'780 billion USD) of offshore private banking
- 23 % (5'700 billion USD) of worldwide private banking market hold in offshore

During the development of master thesis were produces following proposals:

1. An importing or exporting company should establish itself in an offshore area. The offshore company would take orders directly from the customer, but have the goods delivered directly to that customer from the manufacturer or place of purchase. The profits arising out of the difference between purchase price and sales price would then be accumulated in either a tax free or low tax area. With such trading companies, it is important to choose an offshore area, or at least an operational base, which has good communications as shipping and other documentation, may be critical to the scheme.

2. For European Union transactions, the Isle of Man and Madeira have become very popular locations for cross border activities. Both the Isle of Man and Madeira are able to obtain VAT registration, which is imperative for transactions within the European Union. As an example, if an Isle of Man company wished to source products from France for sale to Germany, the Isle of Man company would inform the French company of its vat number so that it could zero rate its sales invoice. The French company would not have charge Vat to the Isle of Man

company. The Isle of Man company would then obtain the German company's VAT number so that it could zero rate its sales invoice.

3. Funds accumulated through investment companies should be set up in offshore and then can be invested or deposited throughout the world and whilst generally returns or interest payable in respect of these funds will be subject to local taxation, there are a number of offshore areas in which funds may be placed either in tax free bonds or as bank deposits where interest is paid gross. Similarly, in many offshore areas no capital gains taxes are applicable. Use of an offshore company incorporated in suitable country allows the possibility of investing tax efficiently in a high tax country where there is a concessionary tax treaty in respect of investments made by companies incorporated in the low tax jurisdictions.

4. For tax optimization purposes offshore holding company should be used. If the holding company is situated in an offshore area where there are no income or corporation taxes and no requirement that dividends must be paid, then the profits which are accumulated in the tax free climate can be used to fund the requirement of subsidiaries or reinvested as business convenience suggests.

5. A high net worth individual with properties or other assets in a number of countries should hold these through the medium of a personal holding company or trust so that upon his demise probate would be applied for the country in which his company or trust were incorporated rather than in each of the countries in which he might hold assets. This saves legal fees and avoids publicity. Again, not everybody wishes to advertise wealth and an individual may wish to hold property through an offshore entity simply because of the privacy which the offshore arrangement gives.

6. To use an advantage of holding an overseas property, offshore property holding company should be involved. Advantages of offshore property ownership include avoidance of inheritance tax, avoidance of capital giants' tax, ease of sale which is achieved by transferring the shares in the company rather than transferring the property owned by the company and reduction of property purchase costs to the onward purchasers. Taking the examples of investment in property in the United Kingdom by an offshore, use of an appropriate offshore vehicle can offer relief from income tax, capital giants' tax and inheritance tax.

7. Many individuals engaged in the provision of professional services in the professions and in the construction, engineering, aviation, finance, computer, entertainment industries can achieve considerable tax saving benefits through the establishment of a personal service company, based offshore. The offshore company may not have to pay tax on its profits which can be reinvested in a tax free climate to generate further income from the offshore. The offshore company can contract to supply the services of the individual outside the country in

which he/she is normally resident and the fees earned can accumulate offshore, free from taxation in the offshore centre. Payments to the individual can then be structured in such a way to minimize income tax. One example in this regard in respect of an overseas employment is to increase subsistence expenses as against fees as such which would be paid to the individual.

8. To eliminate direct or indirect taxation on shipping better use offshore shipping company. Shipping companies may own or charter ships, the profits from which activities can be accumulated tax free. Tax and legal requirements generally dictate that the offshore company owning a shipping vessel should be incorporated in the jurisdiction whose flag the ship flies. The historic "tax heaven" for these purposes have been Panama.

9. An offshore company should purchase or be assigned the right to use a copyright, patent, trademark or know-how by its original holders with a power to sublicense. Upon acquisition of the intellectual property right the offshore company can then enter into agreement with licensees around the world who would be able to exploit the intellectual property right in various countries. It is thought preferable to acquire, for example, patent pending stage before it becomes very valuable so that the capital payment for the acquisition of the patent can be set at a lower amount.

10. Banking institutions should be established in low tax jurisdictions for several reasons. Such institution pay interest free of withholding tax and engage in international financing from offshore bases which are free from exchange controls. At the same time these banking institutions are able to provide a wide range of financial services to their international clientele.

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Maģistra darbs „Modernu nodokļu plānošanas, aktīvu un informācijas aizsardzības tehnoloģiju izstrāde un ieviešana praksē Latvijas un pasaules uzņēmumos ar mērķi optimizēt nodokļu maksājumus” izstrādāts LU Ekonomikas un vadības fakultātē profesionālajā maģistra studiju programmā „Starptautiskais bizness”.

Master thesis „Design and inculcation of modern technologies of tax planning, protection of assets and information in enterprises in Latvia and worldwide for tax optimization purposes” is developed in the UL Faculty of Economics and Management in frames of the Professional master study programme “MBA International business”.

Ar savu parakstu apliecinu, ka pētījums veikts patstāvīgi, izmantoti tikai tajā norādītie informācijas avoti un iesniegtā darba elektroniskā kopija atbilst izdrukai.

Herewith with my signature I confirm, that research in frames of the master thesis is conducted independently, only listed materials have been used as information sources and submitted electronic copy of the work complies with the printed copy.

Autors/Author: Dmitrijs Krasko \_\_\_\_\_  
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 (name, last name) (signature) (date)

Rekomendēju darbu aizstāvēšanai/Herewith I recommend the work for defence:

Vadītājs/Supervisor: prof. Dirk Linowski \_\_\_\_\_  
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Recenzents/Referee:

Darbs iesniegts Starptautisko ekonomisko attiecību katedrā.

Thesis submitted to the Department of international economic relations.

Lietvede/secretary: \_\_\_\_\_  
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 (scientific title, name, last name) (signature) (date)

## Maģistra darba kopsavilkums

### IEVADS

*"Neviens cilvēks valstī neuzņemas nekādas saistības – morālas vai citas – par to, ka organizē savas lietas un īpašumu tā, ka nodokļu dienesti var ielīst viņa šķīvī ar lielāko karoti. Nodokļu dienesti izmantos jebkādu izdevību, ko tiem dod nodokļu likumdošana, lai iztīrītu nodokļu maksātāja kabatas. Un nodokļu maksātājam ir tādas pašas tiesības likumu ietvaros izrādīt apķērību, lai pasargātu savas kabatas no tā, ka nodokļu dienesti tās iztīra."*  
– Lielbritānijas tiesnesis lords Klaidis -

*"Nav nekā slikta apstākļi, ka savas lietas kāds organizē tā, lai maksātu pēc iespējas mazāk nodokļu. Tā dara visi – gan nabagie, gan bagātie, un viņiem ir taisnība. Nevienam nav pienākums maksāt vairāk nekā to pieprasa likums; nodokļi ir piespiedu maksājums, tas nav brīvprātīgs ieguldījums"*  
– ASV tiesnesis Hends -

Vēl pirms divdesmit gadiem ofšora centrus varēja saskaitīt uz pirkstiem, un daudziem to izmantošana saistījās ar "noslēpumu". Turklāt tikai nedaudzi profesionāļi specializējās ofšora darbībā, bet arī tie, kas ar to nodarbojās, parasti saskārās ar vienu-divām sfērām.

Pēdējo divdesmit gadu laikā pārsteidzošie sasniegumi un pat revolūcija telekomunikācijās būtiski vienkāršoja pieeju ofšora centru iespējām – tik ļoti, ka šodienas ofšora industrija attīstījies par globālu biznesu, kas iespieš visos pasaules nostūros un tādā vai citādā veidā aptver pēc apjoma aptuveni pusi visu pasaules finansu darījumu.

Šajā darbā autors izvēlējis izpētīt problēmas nodokļu plānošanas sektorā, kurā uzsvars tiek likts, pirmkārt, uz uzņēmumu operāciju būtību, izpratni un piemērošanu.

Maģistra darba mērķis ir speciālajā literatūrā izpētīt ārzonu (offshore) jurisdikcijās būtību un tiesisko bāzi Latvijā salīdzinājumā ar ārvalstīm, analizēt dinamikā nodokļu plānošanas darījumus, kā arī informācijas un aktīvu aizsardzības tehnoloģijas un uz analīzes pamata izstrādāt priekšlikumus modernu nodokļu plānošanas pakalpojumu ieviešanā uzņēmējdarbībā un tiesiskās bāzes pilnveidošanu.

Izvirzītā mērķa sasniegšanai nepieciešams veikt šādus uzdevumus:

1. Speciālajā literatūrā izpētīt ārzonu (offshore) jurisdikcijās būtību, attīstības tendences pasaules tirgū, tiesisko bāzi Latvijā salīdzinājumā ar ārvalstīm un identificēt atšķirības un nepieciešamību pilnveidoties;

2. Uz analīzes pamata izpētīt faktisko situāciju nodokļu planošanas sektorā kā arī likumdošanas bāzes pielietojumu, ievērošanu un kontroli, lai paradītu nodokļu planošanas pakalpojumu lomu un vietu uzņēmējdarbībā;
3. Analizēt dinamikā informācijas un aktīvu aizsardzības tehnoloģijas un identificēt atšķirības un nepieciešamību pilnveidoties;
4. Izpētīt modernu trasta kompāniju darba organizāciju un izstrādāt jaunu pieeju trasta operāciju ienesīguma paaugstināšanai;
5. Uz analīzes pamata izstrādāt priekšlikumus modernu nodokļu planošanas pakalpojumu ieviešanā uzņēmējdarbībā un tiesiskās bāzes pilnveidošanu;

Tai paša laikā tika attēlotas nodokļu planošanas eksistējošās tendences no ģeogrāfiskā viedokļa. Izpēte tika veikta par Latvijā un Eiropā eksistējošo situāciju un perspektīvām. Šī izpēte, galvenokārt, bija izdarīta, lai varētu aptvert reāli eksistējošo situāciju šajā nozarē, redzētu kas jau ir izdarīts un kur vēl ir brīvie darbības lauki. Liela darba daļa ir veltīta tieši nodokļu planošanas eksistējošai situācijai, risinājumiem un attīstībai.

Darbs sastāv no ievada, 4 iztirzājuma nodaļām, secinājumiem un priekšlikumiem. Darba pirmajā daļā tika veikta vispārīga zemu nodokļu jurisdikciju analīze, kā arī aplūkotas šo jurisdikciju attīstības tendences. Darba otrajā daļā tika pētīts biznesa sektors, korporatīvās funkcijas un zemu nodokļu jurisdikciju darbības shēmas. Trešajā daļā tika veikta informācijas un aktīvu aizsardzības tehnoloģiju un shēmu analīze. Ceturtajā daļā tika izstrādāta jauna straptautiskās holdinga kompānijas struktūra, kā arī tika identificētas starptautisko holdinga kompāniju izmantošanas priekšrocības ar mērķi optimizēt nodokļu maksājumus.

Maģistra darba pētīšanas periods aptver pēdējas 16 gadus, kad sākās nodokļu planošanas strauja attīstība, līdz mūsdienam.

Dotas tēmas izpēte izmantota kvalitatīva metode. Tāpēc kā nodokļu planošanas sfēra nav pagaidām dziļi attīstīta izmantot kvantitatīvu metodi nav lietderīgi.

Darbā izmantoti pārsvarā jaunas literatūras avoti: modernie žurnāli un avīzes, tādi kā "Lavijas Vēstnesis" un "Dienas Bizness", jo tie vienmēr savlaicīgi attēlo patieso ekonomisku situāciju valstī. Tādu pašu iemesļu dēļ autors izmantoja interneta resursus. Pārsvara tika juridisko kompaniju interneta mājaslapas, kurās plaši aprakstīti dažādi nodokļu planošanas operācijas.

## STARPTAUTISKIE FINANSU PAKALPOJUMU CENTRI

Mēs runāsim par jēdzienu “starptautiskais finansu pakalpojumu centrs” kā par biznesa centru, kuram ir četri sekojošie raksturīgie elementi:

- Pakalpojumi galvenokārt tiek sniegti nerezidentiem
- Finanšu noteikumi un korporatīvā likumdošana veidota tā, lai piesaistītu ārvalstu uzņēmumus
- Vislielākā konfidencialitāte finansu lietās
- Pārdomāti nodokļu režīma atvieglojumi

Galvenā ofšora pakalpojumu pieprasījuma motivācija gan no fizisko personu, gan korporāciju puses ir šāda:

- Nodokļu minimizācija
- Risku vadība
- Izdevumu samazināšana

Globālas nestabilitātes, politiskās nenoteiktības un valūtas kursu maiņas situācijā mūsu klientu mērķi būs ne tikai samazināt nodokļu apjomu, bet arī saglabāt un aizsargāt savus kapitālus un ieguldījumus drošās vietās.

Tādā veidā risku vadība kļuvusi par nozīmīgu motivāciju starptautisko finansu pakalpojumu centru izmantošanai, lai veiktu starptautiska mēroga nodokļu plānošanu.

## KLIENTU VEIDI

Ofšora centru lietotāji galvenokārt dalāmi divās grupās – fiziskās personas un korporatīvie lietotāji. Fiziskās personas ietver:

- Personas ar lielu privāto kapitālu.
- Ekspatriantus un emigrantus.
- Uzņēmumu īpašniekus.

Personas ar lielu privāto kapitālu – tie parasti ir cilvēki, kam ir brīvi līdzekļi apjomā virs diviem miljoniem dolāru.

Ekspatrianti – galvenokārt personas, kas nedzīvo dzimtajās valstīs un vai nu strādā ārvalstīs pēc kontrakta, vai ir pensionāri, bet emigranti ir personas, kas uz visiem laikiem aizbraukuši no savas valsts uz citu, meklējot augstāku dzīves līmeni vai arī darījumu interesēs.

Kategorija “uzņēmumu īpašnieki” galvenokārt attiecas uz privātfirmām, kurās īpašuma daļas pieder ģimenes locekļiem.

Korporatīvos lietotājos ietilpst:

- Daudznacionālas kompānijas.
- Konglomerāti.
- Kuģniecības kompānijas.
- Finanšu iestādes.

Vairumam mūsdienu korporāciju, vai nu tās būtu vidēja izmēra kompānijas ar noietu visā pasaulē, daudznacionālās kompānijās, konglomerāti, kuģniecības kompānijas vai finanšu iestādes, darbību diktē to tirgus, un daudzi no šiem uzņēmumiem spējuši ieņemt savu vietu un to paturēt konkurences cīņā, veicot savas operācijas caur attiecīgiem ofšora centriem.

Holdingskompānijas, kompānijas, kas nodarbojas ar tiešajām ārvalstu investīcijām, autortiesībām un kapitāla vadību – tie ir tikai daži piemēri kompānijām, kas kļuvušas par ofšora centru korporatīvajiem lietotājiem.

Kapitāla vadības operācijas parasti sevī ietver skaidrās naudas kontroli, kapitāla palielināšanu, meitasfirmu finansēšanu un risku vadību. Korporāciju finansisti bieži sadala skaidrās naudas resursus starp meitasfirmām. Šis process tiek bieži veikts no ofšora centriem.

## **JURISDIKCIJAS IZVĒLE**

Pēdējo divdesmit gadu laikā augušais pieprasījums pēc ofšora pakalpojumiem novedis ne tikai pie starptautisko finanšu pakalpojumu centru skaita pieauguma, bet arī pie lielākas konkurences starp esošajiem centriem.

Politiskie un ekonomiskie katalizatori, kas ietekmējuši ofšora industrijas izaugsmi astoņdesmitajos un deviņdesmitajos gados, turpinās šo procesu veicināt arī nākamajās divās dekādēs.

Šie katalizatori ir:

- Politiskā un ekonomiskā nestabilitāte
- Tirgus regulēšanas vājināšanās un globalizācija
- Biznesa internacionalizācija
- Tirdzniecības barjeru izzušana
- Tendence uz pastāvīgu globālās ekonomikas pieaugumu
- Valūtas maiņas kontroles vājināšanās visā pasaulē

Blakus politiskajiem un ekonomiskajiem katalizatoriem pastāv arī globālie nodokļu katalizatori, kas ietekmēs ofšora industrijas izaugsmi.

Tie sevī ietver:

- Augstu nodokļu režīmus
- Efektīvāku nodokļu iekasēšanu

- Iespēju izmantot līgumus par dubulto nodokļu aplikšanu

Lai izvēlētos visnoderīgāko jurisdikciju starptautiskajai tirdzniecībai vai investīcijām, bieži vien grūti izšķirties un vajadzīga ļoti nopietna analīze. Vairums ofšora jurisdikciju atbrīvotas no valūtas kontroles un ieviešas likumus par kompānijām, kas apmierina visdažādākās starptautiskā biznesa prasības. Svarīgi ir izvēlēties tādu jurisdikciju, kas apmierina konkrētās korporācijas vai personas vajadzības, un šai jurisdikcijai jāatbilst sekojošiem kritērijiem.

**LIKUMDOŠANA.** Šodien pasaulē ir vairāk nekā 50 jurisdikciju, kurām ir likumdošana par ofšora kompānijām. Dažas jurisdikcijas pieņēmušas jaunus un mūsdienīgus korporatīvos likumus, kas speciāli paredzēti starptautiskajam biznesam, savukārt citas jurisdikcijas vietējo likumdošanu mainījušas tā, lai apmierinātu ofšora prasības. Pats svarīgākais kritērijs ir tas, ka likumdošanai jābūt mūsdienīgai, elastīgai un jāparedz ne pārāk augstas prasības pret kapitālu, minimālās vai neobligātās prasības reģistrācijai, iespējas rīkot direktoru vai akcionāru sapulces jebkurā pasaules vietā, iespēja par direktoriem iecelt profesionāļus, iecelt amatpersonas un nominālos akciju turētājus, uzrādītāja akciju izlaišanas iespēja, un lai nebūtu obligātu prasību pret uzskaites revīziju. Turklāt likumdošanai jānodrošina konfidencialitāte un pilnīga slepenība attiecībā pret klienta darījumiem.

**LĪGUMI PAR IZVAIRĪŠANOS NO DIVKĀRŠAS NODOKĻU APLIKŠANAS.** Jurisdikcijas visā pasaulē dalāmas divās kategorijās: līgumu noslēgušās un līgumu nenoslēgušās.

Klienti, kas vēlas izmantot priekšrocības, ko dod atbrīvojums no divkāršas nodokļu aplikšanas, parasti cenšas nodibināt kompāniju jurisdikcijā, kas līgumu noslēgusi. Tas ir svarīgi nodokļu minimizācijai attiecībā uz dividendu maksājumiem un licenču pārdošanu attiecībās ar valstīm, kas šādu līgumu noslēgušas. Jurisdikcijām, kas noslēgušas šādu līgumu, piemīt "neofšora" tēls, tas piešķir ārēju pievilcību. Jurisdikcijas, kas nav noslēgušas šādu līgumu, parasti tiek izmantotas, pateicoties tam, ka nav korporatīvo nodokļu uz uzņēmuma ienākumiem un parasti prasa no kompānijas tikai samaksāt ikgadēju fiksētu licences maksu. Tāpēc svarīgi novērtēt paredzamā biznesa nodokļu nosacījumus un izvēlēties atbilstošu jurisdikciju. Parastos apstākļos šāda līguma noslēgšana nav vajadzīga starptautiskai preču pārvietošanai un pakalpojumu pārdošanai. Iekšējo investīciju veikšanai dažās valstīs tomēr var būt nepieciešams, lai šāds līgums būtu, līdz ar to varētu samazināt nodokļus.

**POLITISKĀ UN EKONOMISKĀ STABILITĀTE.** Visām personām, kas vēlas pārcelt savu biznesu vai privātās intereses uz ofšora centru, nepieciešams izvēlēties jurisdikciju, kas nodrošina politisku un ekonomisku stabilitāti, lai ar biznesu varētu

nodarboties pārliecināti, konfidenciāli un droši.

**PROFESIONĀLĀ INFRASTRUKTŪRA.** Visu ofšora uzņēmumu administrācijai nepieciešams izmantot juridiskos un grāmatvedības pakalpojumus. Tāpēc ir svarīgi, lai jurisdikcija nodrošinātu lielu izvēli juridisko un grāmatvedības firmu ziņā, turklāt tām jāatbilst starptautiskajiem standartiem un jāpiedāvā konkurētspējīgas cenas.

**SATIKSME UN KOMUNIKĀCIJAS.** Jurisdikcijā jābūt moderniem saziņas un satiksmes līdzekļiem, ieskaitot gaisa pārvadājumus, pasta pakalpojumus un telekomunikāciju sistēmas, lai darījumos nebūtu aizkavējumu.

**VALODA.** Lai gan vairumā ofšora jurisdikciju vietējās firmas spēj sniegt pakalpojumus vairākās valodās, svarīgi, lai to darbinieki labi zinātu angļu valodu, jo tā ir starptautiskā biznesa valoda. Tas nodrošina to, ka klienta prasības tiek pilnībā saprastas un izpildītas un ļauj izvairīties no kļūdām.

**BANKAS.** Lai gan vairums ofšora kompāņu var izmantot banku pakalpojumus jebkurā pasaules vietā, un vairums to arī dara, daudzi cilvēki dod priekšroku korporāciju kontu atvēršanai jurisdikcijā, kurā nodibināta kompānija. Tāpēc ir svarīgi, lai jurisdikcijā būtu nodrošināti visdažādākie banku pakalpojumi un piekļuve starptautiskām bankām.

### **Ofšora kompāņu izmantošana (nodokļu minimizācija, risku vadība, izdevumu samazināšana )**

**STARPTAUTISKĀS INVESTĪCIJAS.** Gan korporācijas, gan fiziskas personas regulāri izmanto ofšora kompāņu investīciju portfeļu veidošanai. Tādi portfeļi var sastāvēt no akcijām, obligācijām, skaidrās naudas un veselas virknes citu investīciju instrumentu. Skaidrās naudas kapitāls, kas izvietots ofšora kompānijā, ļauj saņemt procentus par depozītu, un tos neapliet ar nodokli.

Cilvēki ar lielu personisko kapitālu bieži izmanto ofšora kompāņu kā personiskās holdinga kompāņu, kas rīkojas ar investīcijām, kuras izdarītas dažādos tirgos un dažādās valstīs. Personiskie holdingi nodrošina konfidencialitāti un ļauj ietaupīt izdevumus profesionāļu pakalpojumiem un citus izdevumus, kas saistīti ar dažādu uzņēmumu izveidi un darbības uzturēšanu veselā virknē dažādu struktūru. Šajā sakarā ofšora kompāņu regulāri tiek izmantotas mantojuma plānošanā un izdevumu samazināšanu laikā, kamēr notiek testamenta apstiprināšanas procedūra. Politiski un ekonomiski stabila reģiona izvēle

korporācijai var samazināt riskus, kas draud korporācijām un fiziskām personām to dzimtajā zemē vai trešo personu valstīs.

Daudzas lielas korporācijas un kompānijas, kas vēlas izdarīt investīcijas valstīs, ar kurām investora valstij nav noslēgti līgumi par divkāršo nodokļu aplikšanu, veido starptautiskās kompānijas jurisdikcijās, kas attiecīgus līgumus ir noslēgušas. Kipra noslēgusi līgumus par dubulto nodokļu aplikšanu ar daudzām Austrumeiropas valstīm un NVS, un Kipras kompāniju izmantošana investīciju izdarīšanai šajās valstīs nodrošina nodokļu samazinājumu.

Ofšora korporācijas un trasti tiek bieži izmantoti investīciju vadībai meitasfirmās vai asociētās kompānijās, atvērtās un slēgtās kompānijās un kopuzņēmumos. Daudzos gadījumos, kapitālam pieaugot vienu vai otru investīciju pārdošanas rezultātā, var izvairīties no aplikšanas ar nodokli. Izmaksājot dividendes, var samazināt nodokļus par dividendēm, izmantojot kompāniju jurisdikcijā ar zemu nodokļa likmi vai nulles likmi nodibinātu, kurai ir līgums ar attiecīgo valsti par dubulto nodokļu aplikšanu. Par piemēru var minēt Maurīcijas salas ofšora kompānija, kas var izdarīt investīcijas Indijas kompānijās un izmantot priekšrocības, ko dod līgumi par dubulto nodokļu aplikšanu, ko noslēgušas šīs divas valstis, turklāt nodoklis par dividendēm samazinās no 25% līdz 15%. Turklāt nav nodokļa kapitāla pieaugumam, pārdodot investīcijas Indijā.

**PRIVĀTĀS APKALPOŠANAS KOMPĀNIJAS.** Daudzas fiziskās personas, kas nodarbojas ar profesionālo pakalpojumu sniegšanu, pakalpojumiem celtniecībā, inženierijā, aviācijā, finansēs, datortehnikā, kino un izklaides industrijā, var iegūt būtiskas nodokļu priekšrocības, nodibinot privātas ofšora apkalpošanas kompānijas. Ofšora kompānija var slēgt kontraktus par pakalpojumu sniegšanu no fiziskās personas puses ārpus tās parastās uzturēšanās valsts, turklāt ofšora centrā var uzkrāt nopelnītos līdzekļus, izvairoties no nodokļu maksāšanas. Maksājumus fiziskām personām var iekārtot tā, lai ienākuma nodokli samazinātu līdz minimumam. Autors rekomendē slavenām aktrisēm, zvaigznēm, popgrupām, sportistiem, naftas inženieriem un finansu konsultantiem slēgt līgumus ar neatkarīgām kompānijām, kas nodarbojas ar darbinieku atlasī un atrodas noteiktās jurisdikcijās, bet viņu pakalpojumus pārdod ārpus viņu pastāvīgās uzturēšanās valsts.

**ĪPAŠUMS UN ZEMES ĪPAŠUMS.** Īpašuma un zemes īpašuma tiesības caur ofšora kompāniju bieži var nodrošināt daudzas priekšrocības attiecībā uz nodokļiem, ieskaitot likumīgu iespēju izvairīties no kapitāla pieauguma nodokļa, mantojuma nodokļa un īpašuma nodošanas nodokļa.

Ja, piemēram, ofšora kompānijai ir īpašums Lielbritānijā ar investīciju nolūkiem, un pēc tam īpašums pārdots trešai pusei, tad kapitāla pieaugums, kas radies darījuma rezultātā,

Lielbritānijā netiks aplikts ar nodokli uz kapitāla pieaugumu. Turklāt, pareizi izveidojot ofšora kompāniju un finansējot to ar savstarpēju aizņēmumu, ofšora kompānija var efektīvi samazināt jebkurus nodokļus par nomas ienākumiem.

Tādas ofšora kompānijas izmantošana, ka ir īpašums, bieži dod lielas priekšrocības, iegādājoties īpašumu ārvalstīs. Izdevumi šādā gadījumā nav lieli salīdzinājumā ar iegūstamo labumu. Izmantojot trastu, kura īpašumā būs ofšora kompānijas akcijas, var iegūt papildu priekšrocības attiecībā uz nodokļiem klienta valstī un vienkāršot procedūras, kas saistītas ar klienta nāvi.

Britu Virdžīnijas salas, Menas sala, Bahamu salas, Maurīcija un Madeira ir drošas un stabilas jurisdikcijas kompānijām, kam pieder īpašums, .

DARBINIEKU ATLASĒS KOMPĀNIJAS. Daudzas kompānijas izmanto ofšora kompānijas, lai atrastu personālu, kas strādā ārzemēs. Tas ļauj samazināt izdevumus, kas saistīti ar algas izmaksas vadību un komandējuma naudu, tas var nodrošināt ienākuma nodokļa un sociālā nodokļa ekonomiju, kas darbiniekiem ir izdevīgi.

INTELEKTUĀLAIS ĪPAŠUMS, LICENCĒŠANA UN FRANČĪZE. Intelektuālais īpašums, ieskaitot kompjūteru programnodrošinājumu, tehniskie “know-how”, patenti, tirdzniecības zīmes un autortiesības var atrasties īpašumā vai būt nodots ofšora kompānijai. Pēc tādu tiesību saņemšanas ofšora kompānija var slēgt licences vai frančīzes līgumus ar kompānijām, kas ieinteresētas šādas tiesības izmantot visā pasaulē. Ienākums no tādām operācijām var tikt ieskaitīts ofšora centrā un, rūpīgi izvēloties jurisdikciju, nodokļus par licences ienākumiem var samazināt uz divkāršās aplikšanas līgumu rēķina. Lielbritānija, Nīderlande, Madeira, Kipra un Maurīcija ir piemērs jurisdikcijām, ko izmanto intelektuālā īpašuma gadījumā.

JAUKTI UZŅĒMUMI. Dažas lielas starptautiskas kompānijas izveidojušas savas ofšora kompānijas, kas nodarbojas ar tādu dividendžu apvienošanu, kas iegūtas no filiālēm, lai iegūtu maksimālus nodokļu atvieglojumus.

Piemēram, Lielbritānija vērtē ienākumu no dividendēm, kas iegūtas ārzemēs, atkarībā no avota. Tas var novest pie situācijas, kad dividendēm no viena avota ir nodokļu atvieglojums, kas pārsniedz vietējo nodokli, turklāt vietējā likumā nav dota iespēja pārskaitīt vietējā nodokļa atvieglojuma pārpalikumu veina dividendei uz vietējo nodokli citai dividendei. Risinājums vietējai kompānijai ir filiāles izveidošana, kas parasti tiek izvietota teritorijā ar labvēlīgiem divkāršās aplikšanas līgumiem, un tās izmantošana ārvalstu nodokļu atvieglojumu apvienošanai, kas ļautu “pieskaitīt” nodokļu atvieglojumu pārpalikumu pie dividendēm no avota ar zemiem nodokļiem. Pēc tam apvienotā “dividende” tiek izmaksāta mātesfirmai, turklāt tai piemērojama vidēja nodokļu likme.

## FONDU BIRŽU SARAKSTI UN IZDEVUMI NAUDAS SAŅEMŠANAI.

Dažās valstīs ar politisku un ekonomisku nestabilitāti daudzas lielas korporācijas cenšas samazināt risku, pārceļot īpašumu aktīvos un uz birojiem ofšora centros. Luksemburga, Bahamas un Bermudu salas kļuvušas par mājām daudzām kompānijām, kas izlēmušas nomainīt savas darbības centru.

Ofšora kompānijas bieži tiek izmantotas līdzekļu saņemšanai aizņēmuma vai obligāciju izlaišanas veidā. Tāda struktūra ļauj samazināt nodokli procentu maksājumam, tā kā vairākas valstis, piemēram, Lielbritānija, paaugstina nodokli par procentiem, ko izmaksā par nekotējamām obligācijām nerezidentiem. Tādos gadījumos svarīgi izvairīties no divkāršas nodokļu aplikšanas.

FINANSES. Lai veiktu starpgrupu kapitāla vadības funkcijas, var izveidot ofšora finansu kompāniju. Grupas kompāniju procentu maksājumi var tikt aplikti ar nodokli, bet šie nodokļi bieži pēc likmes atšķiras no parastajām korporāciju nodokļu likmēm. Procentu izmaksa netiks iekļauta apliekamajā summā, tāpēc procentu maksājums ofšora finansu kompānijā var nodrošināt nodokļu ekonomiju. Daudzās valstīs zaudējumi ārvalstu valūtā netiek izskaitīti no apliekamās summas. Ja tikusi izveidota ofšora finansu filiāle, pēc tam bijuši zaudējumi ārvalstu valūtā, bet pēc tam filiāle likvidēta, tad investīcijas tiks atskaitītas no mātesfirmas apliekamās summas.

Ofšora kompānijas bieži tiek izmantotas kā daļa mehānisma un struktūras, lai iegādātos ārvalstu uzņēmumus, veiktu starptautisku korporāciju reorganizāciju, izdarītu ieguldījumus bekustamajos īpašumos un citas investīcijas, kā arī citiem finansu projektiem.

Tomēr pastāv virkne apstākļu, kuros ir dažas priekšrocības izmantot centrus ar zemiem nodokļiem kā bāzi aktīvu nomai. Galvenokārt tas attiecas uz situācijām, kad vajag pārskaitīt starptautiskas grupas fondus uz reģionu ar augstiem nodokļiem. Tāds pārvietojums parastā ceļā var beigties ar to, ka tas tiks uzskatīts par ienākumu, kas aplikams ar nodokli vai arī kā tieša vai netieša dividenžu saņemšana.

Tādos apstākļos ir divkārt izdevīgi izmantot kompāniju ar zemiem nodokļiem, lai pārskaitītu līdzekļus, vispirms apmierinot prasības, kas atteicas uz kapitāla izmantošanu jurisdikcijā ar augstiem nodokļiem, lai kapitāls netiktu aplikts ar nodokli, šķērsojot robežu, un lai pēc tam varētu iegūt peļņu reģionā ar augstiem nodokļiem nomas maksājumu formā pēc neatkarīgas likmes. Tāpat var būt priekšrocības saistībā ar valūtas kontroli.

KUĢNIECĪBAS KOMPĀNIJAS. No 20.gadsimta sākuma ofšora kompāniju izmantošana komercuģu un jahtu īpašumam ir svarīga funkcija dažās ofšora jurisdikcijās, piemēram, Panamā un Libērijā.

Daudzām citām pazīstamām ofšora jurisdikcijām ir mūsdienīgas organizācijas kuģu un jahtu reģistrācijai, kas nodrošina samērā lētu reģistrāciju un atbrīvojumu no kuģniecībā un čartera operācijās iegūstamo ienākumu nodokļiem. Šādas jurisdikcijas ir: Menas sala, Madeira, Džersija, Gibraltārs, Kipra, Bahamas, Beliza un Maurīcija.

### **Holdinga kompāniju izmantošanas priekšrocības**

Pedējā maģistra darba daļā tika izstrādāta jauna straptautiskās holdinga kompānijas struktūra, kā arī tika identificētas starptautisko holdinga kompāniju izmantošanas priekšrocības ar mērķi optimizēt nodokļu maksājumus.

Tādēļ, lai valsts būtu pievilcīga holdingu kompānijas radīšanai, viņai ir jāatbilst 3 kritērijiem:

1. Ienākošās dividendes: ienākošās dividendēm, ko meitas uzņēmumi izmaksā holdingam, jābūt vai nu atbrīvotām no nodokļu nomaksas, vai arī uz tām sakaņa ar tiesību normām, kas tiek piemērotas meitas uzņēmumiem, jābūt attiecinātām zemām nodokļu likmēm.
2. Nodoklis par kapitāla tirgu vērtības pieaugumu pārdodot akcijas: peļņai, ko saņem holdingu kompānija no meitas uzņēmumu akciju pārdošanas, jābūt vai nu atbrīvotai no nodokļa aplikošanas, vai uz to sakaņa ar tiesību normām, kas tiek piemērotas meitas uzņēmumiem, jābūt attiecinātām zemām nodokļu likmēm.
3. Izmaksājamās dividendes: dividendēm, ko izmaksā holdinga kompānija mātes uzņēmumam, jābūt vai nu atbrīvotām no nodokļa aplikšanas, vai arī uz tām saskaņā ar tiesību normām, kas tiek piemērotas meitas uzņēmumiem, jābūt attiecinātām zemām nodokļu likmēm.

Ka piemiers tika aplūkots holdinga kompānija Dānijā. 1998.gadā Dānijā tika pieņemts likums, kas nosaka holdingkompānijas statusu. Jaunais likums stājās spēkā 1999.gada 1.janvārī, un tas ļauj izmantot dāņu kompāniju kā holdingkompāniju starptautiskā kompāniju grupā. Tādā veidā kompānija var saņemt dividendes no savām meitasfirmām – pat tad, ja tās atrodas ofšora jurisdikcijās, un pārskaitīt šīs dividendes uz ārvalstu mātesfirmu, Dānijā neuzņemoties nekādu atbildību par nodokļiem. Mātesfirma arī drīkst atrasties ofšora jurisdikcijā.

Lai izvairītos no nodokļu maksāšanas, dāņu kompānijas īpašumā jābūt vismaz 25% meitasfirmas akciju un īpašuma periodam jābūt vismaz 1 gadam līdz dividenžu saņemšanai. Turklāt meitasfirma nevar būt maznodokļu Kontrolējamā Finansu Kompānija (KFK).

KFK ir kompānija, kuras finansu aktīvi pārsniedz trešdaļu visu aktīvu vai kuras finansu ienākums pārsniedz trešdaļu bruto ienākuma. Finansu ienākums ir dividendes,

procenti, royalty maksājumi, kā arī ienākums no banku, apdrošināšanas un līzings darbības. Par finansu aktīviem uzskatāmi jebkuri aktīvi, kas dod finansu rakstura ienākumu – akcijas, naudas depozīti un royalty tiesības. KFK tiks uzskatīta par maznodokļu firmu, ja nodokļu likme būs mazāka par 24%. Turklāt šie noteikumi par KFK tiek izmantoti tikai tad, ja KFK kontrolē dāņu kompānija ar vismaz 50% kapitāla vai balsstiesībām.

Mātesfirmai jāpieder vismaz 25% no dāņu kompānijas izlaistā kapitāla vismaz 1 gada ilgumā, lai mātesfirmai izmaksājāmās dividendes tiktu atbrīvotas no nodokļa “pie avota”.

Ja dāņu kompānijai meitasfirmu akcijas piederējušas vismaz 3 gadus, tā tiek atbrīvota no nodokļa par kapitāla pieaugumu.

Dānija noslēgusi daudz līgumu par izvairīšanos no dubultās nodokļu aplikšanas – uz šodien vairāk par 70 līgumiem, saskaņā ar kuriem ienākums, ko pārskaita dāņu kompānijai no meitasfirmas valstī, kas noslēgusi šādu līgumu, tiek aplikts ar nelielu nodokli “pie avota” vai netiek aplikts ar nodokli vispār. Tāpat arī atbilstoši ES Direktīvai par meitasfirmām un mātesfirmām, tās netiek apliktas ar nodokli “pie avota” – ar nosacījumu, ka dāņu kompānijas īpašumā 25% meitasfirmas akciju bijuši vismaz 1 gadu.

Dāņu holdingkompānija var būt reģistrēta divos veidos. Atklātai akciju sabiedrībai (aktieselskab vai A/S) jābūt ar vismaz 500 000 dāņu kronu pamatkapitālu, bet direktoru padomē jābūt vismaz 3 personām, no kurām vairumam jābūt Dānijas vai citas ES valsts rezidentiem. Kompānijas menedžeriem jāapmierina tādas pašas prasības attiecībā uz rezidenci.

Slēgtai akciju sabiedrībai (anpartsselskab vai APS) jābūt ar vismaz 125 000 dāņu kronu pamatkapitālu, un tai var vispār nebūt direktoru padomes. Ja direktoru padome tomēr ir iecelta, attiecībā pret to nav nekādu prasību vai ierobežojumu rezidences ziņā.

Lai iegūtu vai saglabātu beznodokļu statusu, dāņu kompānijai jāievēro zināmi noteikumi attiecībā pret vadību un kontroli. Praksē tas nozīmē, ka kompānijas vadību jāveic – kaut vai nomināli – no Dānijas teritorijas, lai kompānija netiktu pakļauta nodokļu iestādēm citā valstī.

Dāņu kompānijas nav pakļautas valūtas kontrolei, tomēr pastāv prasība statistiskos nolūkos paziņot Dānijas CB par visām transakcijām ar nerezidentiem virs 60 000 dāņu kronu.

Kompānijas pienākums ir iesniegt auditora apstiprinātu gada atskaiti. Kompānijai jāiesniedz konsolidētā atskaite gadījumā, ja tai ir virs 50% balsstiesību citās kompānijās. Finanšu atskaites ir pieejamas sabiedrībai.

Tādējādi dāņu holdingkompānija ir ļoti pievilcīga korporatīvā struktūra, jo tā ļauj pārcelt investīcijas uz ES valstīm un valstīm, ar kurām Dānija noslēgusi līgumus par

izvairīšanos no divkāršās nodokļu aplikšanas, kā arī uz ofšora jurisdikcijām vislielākajā nodokļu labvēlības statusā.

Nodokļu planošanas tirgum valsts ekonomikas attīstībā ir nepārvērtējama nozīme. Nodokļu planošanas tirgus līdz šim Latvijā ir bijis neizmantots tirgus segments, un tikai pēdējo gadu laikā, veidojoties banku sistēmai, tas sāk paplašināties un ieņem savu vietu tirgus sistēmā.

Nodokļu planošanas tirgus Latvijā atrodas attīstības stāvoklī un līdz ar to ir grūti prognozējams. Tajā notiekošie darījumi ieņem ievērojamu vietu valsts kopējā finansu tirgū. Nodokļu planošanas tirgus attīstības pamatā ir ekonomiskā stabilitāte valstī, sakārtota likumdošana, nodrošināšanās pret nelabvēlīgu faktoru ietekmi, kā arī pašmāju un ārzemju kapitāla piesaiste.

## Secinājumi un priekšlikumi

1. Preču, intelektuāla un finanšu plūsmas metožu optimizācijas komplekss starptautiskas grupas kompānijas ietvaros, ar mērķi samazināt nodokļu uzkrāšanas nastu (kas ir diezgan svarīgs investīciju riska faktors), var tikt nosaukts par starptautisko nodokļu plānošanu.
2. Komunikācijas attīstība, saimnieciskās dzīves internacionalizācija un liels skaits jaunu suverēno valstu un administratīvo teritoriju veidošanās pēc otrā pasaules kara – starptautisko subjektu tiesības noveda pie starptautiskās nodokļu plānošanas izveides.
3. Nodokļu plānošanas mērķis ir samazināt nodokļu slodzi. To var sasniegt, izmantojot dažādus variantus. Vairākos gadījumos nodokļu slodzi var samazināt, izmantojot zemu nodokļu jurisdikcijas.
4. Ofšoru uzņēmējdarbība – tā ir uzņēmējdarbība, kas tiek īstenota starptautiskas grupas kompānijas ietvaros, kuras apakšnodalījums izvietots valstīs, kuras attiecīgos apstākļos piešķir nodokļu, valūtas, investīciju un citas priekšrocības. Šīs valstis ir ieguvušas neoficiālu nosaukumu "nodokļu paradīze" (tax havens).  
"Nodokļu paradīze" – jebkura valsts, kurai ir zems vai nulles nodokļu aplikšanas līmenis uz visām vai dažām peļņas kategorijām un kura piedāvā noteikta līmeņa banku vai komercdarbības slepenību.
5. Uzņēmējdarbība starptautiskas grupas kompānijas ietvaros piedāvā legālu iespēju samazināt nodokļu saistības, palielināt investīciju aizsardzības pakāpi, darboties labvēlīgā valūtas režīmā.
6. Starptautisku kompāniju izmantošana īpaši aktuāla ir uzņēmējiem, kuri strādā bijušā Austrumu bloka valstīs. Augsta investīciju riska pakāpe, kas saistīta ar šajās valstīs eksistējošo ekonomisko, politisko, sociālu un tiesisko nestabilitāti, ierobežo ārzemju investīciju plūsmu, kas nepieciešama. Rūpniecības modernizācijai, tirdzniecībai un finanšu sfērai.
7. "Nodokļu paradīze" valstis var iedalīt trijās grupās:
  1. grupa. Eksistē valstis, kurās nav ienākumu, kapitāla un kapitāla pieauguma nodoklis. Šo valstu valdība pelna naudu, piedāvājot beznodokļu kompānijas statusu par noteiktu fiksētu ikgadēju maksu, iekasējot reģistrācijas un muitas nodevas un nelieli nodokli par kompānijas kapitālu. Piemēri: Bahamu, Bermunda un Kaimanu salas.
  2. grupa. Citas valstis atbrīvo no ienākumu nodokļa, izvilinot fiziskas personas un kompānijas uz ārzemēm. Ienākumi, kuri iegūti valsts teritorijā, tiek aplikti ar standarta likmēm. Šīs valstis var sadalīt divās apakšgrupās:

2.A. Valdības atļauj kompānijām nodarboties ar uzņēmējdarbību valstī un ārpus valsts. Nodokļu aplikšana notiek saistībā ar noteikumiem, kas izklāstīti iepriekš.

2.B. Pirms kompāniju reģistrācijas valdība pieprasa izlemt, vai tā vēlas nodarboties ar vietējo (un maksāt visus nodokļus) vai starptautisko (un maksāt tikai fiksētu ikgadējo maksu) uzņēmējdarbību. Piemēri, Malta, Gibraltārs, Džersija, Menas, Gernsi salas.

3. grupa. Trešās valstis iekasē zemas nodokļus no visiem kompānijas ienākumiem, neatkarīgi no to atrašanās vietas. Šīs valstis ir noslēgušas daudzus līgumus, lai izvairītos no dubultas nodokļu aplikšanas attiecībā pret valstīm, kurām ir augsts nodokļu aplikšanas līmenis, kas dažos gadījumos atļauj optimizēt kapitāla pārvedumus no vienas valsts uz citu. Piemērs, Kipra, Šveice.

Darba gaitā tika izstrādāti sekojoši priekšlikumi:

1. Importējošu vai eksportējošu uzņēmumu būtu jādibina ofšora zonā. Ofšora uzņēmums pieņemtu pasūtījumus tieši no klienta, bet preces piegādātu tieši šim klientam no ražotāja vai iegādes vietas. Peļņa, kas rastos no starpības starp pirkšanas cenu un pārdošanas cenu, tad uzkrātos vai nu no nodokļiem atbrīvotā vai zemu nodokļu zonā. Šādiem tirdzniecības uzņēmumiem ir svarīgi izvēlēties ofšora zonu, vai vismaz darbības bāzi ar labiem sakariem, jo nosūtīšanas un cita dokumentācija var būt shēmai izšķiroša.

2. Ar ieguldījumu sabiedrību palīdzību uzkrātos līdzekļus būtu jāizvieto ofšora zonā, tad tos var ieguldīt vai noguldīt jebkur pasaulē un, ja parasti peļņa vai procenti, kas maksājami par šiem līdzekļiem, tiek aplikti ar vietējiem nodokļiem, ir daudz ofšora zonu, kurās līdzekļus var izvietot vai nu no nodokļiem atbrīvotās obligācijās vai kā bankas noguldījumus, kur maksā lielus procentus. Tāpat daudzās ofšora zonās nepiemēro kapitāla pieauguma nodokļus. Piemērotā valstī reģistrēta ofšora uzņēmuma izmantošana ļauj efektīvi ieguldīt nodokļus valstī ar augstiem nodokļiem, kur ir vienošanās par nodokļu atvieglojumiem attiecībā uz ieguldījumiem, ko veic uzņēmumi, kas reģistrēti jurisdikcijās ar zemiem nodokļiem.

3. Lai novērstu kravas pārvadāšanas tiešu vai netiešu aplikšanu ar nodokļiem, labāk izmantot ofšora kuģniecību. Kuģniecībām var piederēt pašām savi kuģi, no kuru darbības peļņu var uzkrāt bez nodokļiem. Nodokļu un juridiskās prasības parasti nosaka to, ka uzņēmumam, kuram pieder kravas pārvadāšanas kuģis, jābūt reģistrētam tajā jurisdikcijā, kuras karogu kuģis reģistrē. Vēsturiskā „nodokļu paradīze” šim mērķim ir bijusi Panama.

4. Lai izmantotu ārzemju īpašumu turēšanu, jāiesaista ofšoru īpašuma holdinga sabiedrība. Ofšora īpašuma turēšanas priekšrocību skaitā ir izvairīšanās no mantojuma nodokļa, izvairīšanās no „kapitāla gigantu” nodokļa, pārdošanas vieglums, ko panāk, nododot uzņēmuma kapitāla daļas, nevis nododot īpašumu, kas pieder uzņēmumam, un īpašuma

iegādes izmaksu samazināšana nākamajiem pircējiem. Kā piemērus ņemot ofšora uzņēmumu ieguldījumus īpašumā Apvienotajā Karalistē, atbilstoša ofšora kuģa izmantošana var dot atbrīvošanu no ienākumu nodokļa, „kapitāla gigantu” nodokļa un mantojuma nodokļa.