

QP Essay Topics 2011

A LAW

01 Compare and contrast the supervisory legislation for charitable foundations and trusts in Switzerland, Liechtenstein and a common law jurisdiction and the rights and duties of the supervisory authorities and trustees or members of the foundation board.

02 Describe the options available to an entrepreneur residing in Switzerland (or Liechtenstein) who wishes to ensure the control over his operative companies (by far the most important part of his assets). The testator is married and has minor children. He further wishes to defer the inheritance of his children regarding the operative companies beyond their 18th birthday. Discuss the implications of the estate planning by assuming that Swiss (or Liechtenstein) matrimonial law and Swiss (or Liechtenstein) inheritance law is applicable and by taking into account the likelihood of the estate planning's acceptance by the local authorities if necessary. [evtl.: You may present your thesis paper either in form of a theoretical essay or in form of a (fictional) case study]. Reference to federal, cantonal and/or local legislation, jurisprudence and/or regulations is expected.

03 Analyze the information rights of beneficiaries of a common law trust and the possibility to enforce them at Court in Switzerland. Compare these rights with the information rights of beneficiaries of a Liechtenstein foundation and their enforcement possibilities in Liechtenstein.

B ACCOUNTS AND ADMINISTRATION

01 Report on the rights and duties of a Swiss (or Liechtenstein) will executor regarding the investment policy of the estate. Discuss his liabilities and give concrete advice how to reduce an eventual liability.

02 Discuss what steps you would advise Swiss based trustees to take on the creation of a trust as regards the identification of the settlor, beneficiaries and source of funds for a trust to be settled in a common law jurisdiction allowing non-residents to act as trustees. Detail what documentation should be obtained and retained. Refer to the KYC legislation and regulations of different sectors already in force in Switzerland and compare your results with the Liechtenstein regulation.

03 Consider the responsibilities of the trustees with respect to investment policies and the extent of involvement of beneficiaries and protectors into the decisions on investments. Consider whether trustees are required to alter investments which were settled originally by the settlor into trust, in particular an investment into a family business.

C TAXATION

01 Compare the fiscal regime for common law trusts in three continental European "onshore" jurisdictions. Analyze the consequences for settlors or beneficiaries domiciled in these countries.

02 Discuss how Article 26 of the OECD model for double taxation agreements treats trusts, in particular potential beneficiaries in an irrevocable discretionary trust, and how it impacts on bank-client confidentiality, as set down in Art. 47 of the Swiss Banking Act of 1934 (respectively in Art. 14 of the Liechtenstein Banking Act of 1992).

03 Discuss the taxation of trusts, settlors and beneficiaries by Switzerland. The analysis should include the planning options for foreigners (professionals or pensioners) moving to Switzerland.

D INTERNATIONAL ISSUES

01 Comment upon the significance of and the effect of the proper law of a foreign trust and how this is determined in Switzerland. Discuss possible conflicts of law after the settlor's death if the trust's beneficiaries live abroad and the trust assets are situated in Switzerland. Consider jurisdiction for a dispute in Switzerland.

02 **CBEG Prize Topic**: Discuss the matters to be considered when advising a testator with multi-jurisdictional assets in both common law and civil law countries.

03 Present a case study for a family who plans to relocate to Switzerland (or Liechtenstein). The spouses got married in Paris in 1995 and they have been residing there since. Assume that the wife is a British and the husband is a Dutch national; the two common children have French, Dutch and British passports. Their assets consist mainly in investment portfolios with various domestic and foreign banks (savings built up since 1995) and an apartment at the Côte d'Azur (commonly acquired in 2000). In addition, the wife is owner of an inherited apartment in Leicester, England, and the husband has inherited a commercial property in Amsterdam. Explain the relocation's consequences in case of the death of either one of the spouses and discuss the possibilities for an estate planning enabling to maximize the surviving spouse's share.