

6 Assets & Pension Fund

6.1 Allocation of the increase in assets

Although in Liechtenstein (as in Austria) there is a separation of property (i.e. during the marriage each person owns what they have acquired or received for themselves), in the event of divorce there is a property settlement.

In principle, the assets acquired during the marriage are to be divided. However, the so-called personal property of the spouses, i.e. those assets that were brought into the marriage, inherited or donated, is not to be divided. This goes so far that a property which was bought during the marriage only from the demonstrably, already acquired (inherited or donated) funds before the marriage, of one of the spouses is not divided.

Saved income from such personal property (e.g. rental income from a property of the husband) counts as an increase if it was intended for the family or used for joint purchases.

The assets can only be divided in practice if there is clarity about the assets of both spouses. All components of the assets should be disclosed when the divorce is decided. Both spouses are obliged to provide each other with complete information about their income, assets and debts.

How and to what extent of the division, can cause difficulties in practice. According to the Marriage Act, the division is to be carried out "according to equity". The assets are not to be divided according to the numerical value of the assets to be divided. Compensation payments are to be assessed with a lump sum. If, for example, a house was built during the marriage on a plot of land belonging to one spouse with the cooperation of both spouses, the increase in assets is to be determined by comparing the market value of the house and the mortgage debts existing on it (in the event of dissolution of the marital union).

Contrary to legal norms, spouses can mutually stipulate through a marital agreement that their individual personal properties, along with any generated income or replacement acquisitions, will remain solely owned by each respective spouse. Such assets shall not be subject to division in the event of marriage dissolution, as part of the increase in assets.

6.2 Withdrawal benefits from the pension fund

In the event of a divorce, the pension fund assets of the spouses must also be divided. The spouse is entitled to half of the termination benefits acquired (until the dissolution of the marital union). If there are reciprocal claims, the difference between the termination benefits must be divided.

If one spouse is entitled to a credit balance, it must be transferred to his or her pension fund; if there is no pension fund, it must be transferred to a vested benefits blocked account. If the spouses agree on the division, the confirmation of the pension funds on the feasibility of the arrangement and on the amount of the assets must be submitted to the court.