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Re-domiciliation of Foreign Companies to Cyprus



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Application of re-domiciliation in Cyprus

A foreign company registered in a country which allows re-domiciliation and which company's Memorandum and Articles of Association provide for the possibility of re-domiciliation, may apply to the Registrar of Cyprus Companies to be registered in Cyprus as a continuing company pursuant to the provisions of the Cyprus Companies Law, Cap. 113.

More specifically, Law No. 124(I)/2006 permits the transfer of a company's seat of incorporation from a foreign jurisdiction to Cyprus.

The foreign companies who wish to be re-domiciled in Cyprus will continue to maintain their legal identity and there is no need to start the formation of the company from the beginning.

Benefits of re-domiciliation in Cyprus

There are various benefits for a company to be re-domiciled in Cyprus, the most important of which are the following:

- The foreign company will obtain a tax residency in Cyprus which is beneficial in the terms of the favorable taxation as it has one of the lowest corporate taxes (currently 12.5%).
- The foreign company will continue to maintain its legal identity.
- It is an easy process as there is no need to establish a company from the beginning.

- The dividend income is exempted from the corporate income tax in Cyprus.
- Cyprus has an extensive double taxation treaty network.
- In Cyprus there is no taxation on profits of foreign permanent establishments.
- The Cyprus Law is adopting the European Directives and other European legislation and Regulations.
- There is no withholding tax on the payment of interest and royalties.
- Cyprus is a party to various Double Tax Treaties.

Required documentation to be produced to the Registrar of Cyprus Companies

The application must be accompanied by the following documents:

- (a) Resolution or a similar document authorizing the foreign company to be registered in Cyprus as a continuing legal entity. This resolution must be issued in accordance with the laws of the foreign country or jurisdiction of incorporation of the foreign company;
- (b) Copy of the constituent documents of the foreign company (Certificate of Incorporation and/or Memorandum and Articles of Association, or as the case may be);
- (c) Certificate of good standing, issued by the competent authority of the country where the Company was incorporated;

- (d) A sworn affidavit made by a director of the foreign company or any other person duly authorized by the board of directors of the foreign company confirming the following:
- (i) The current company name of the foreign company and the name under which it will continue to exist in Cyprus;
 - (ii) The jurisdiction under which the foreign company was incorporated;
 - (iii) The date of incorporation of the foreign company;
 - (iv) The resolution specified above or a similar document approving the registration and continuation of the existence of the foreign company in Cyprus;
 - (v) That the foreign company gave an official notice to the authorities of its country of incorporation according to the laws of the country of incorporation as to its decision to be re-domiciled in Cyprus. Evidence of receipt of such notice must be attached to the sworn affidavit.
 - (vi) That no criminal or administrative procedures have been commenced against the foreign company for infringement of the laws of its country of incorporation.

- (e) A sworn affidavit by a duly authorized director of the foreign company confirming the financial good standing and solvency of the foreign company and by which the signatories of the sworn affidavit declare that they are not aware of any facts that may impair and negatively affect the solvency of the foreign company within 12 months from the date of submission of the said application.
- (f) List of the directors of the foreign company and of the secretary and/or the people who have been assigned with the management or representation of the foreign company as the case may be;
- (g) Certified list of the shareholders / members of the foreign company;
- (h) Such other documents as the Registrar of Cyprus Companies may deem appropriate in order to be satisfied that:
 - i. The country of foreign jurisdiction allows such an application for re-domiciliation;
 - ii. The consent for the re-domiciliation has been received by such number or proportion of shareholders, employees, debenture holders and /or creditors of the foreign company as required by the laws of the country of incorporation of the foreign company.

Liabilities

A director or the management body of the foreign company providing a false declaration as to the solvency of the foreign company, shall be liable of an offence and, in case of conviction shall be liable to imprisonment for a term up to 1 year and to a fine up to Euro 34.172.

Licensed Activities

A foreign company which offers licensed activity under certain provisions of the law in its jurisdiction and for which similar license is required in Cyprus, must produce relevant official consent for its re-domiciliation by the competent authority for providing the said license of its country.

Any foreign company which will undertake any activity, for which a license is required in Cyprus, must obtain such license according to the requirements of Cyprus Law, before commencing its activities (such companies are, among others, financial services companies / insurance companies / banking institutions etc).

Public Companies

In case the foreign company is a public company, then the following must be produced in addition to the above:

- The prospectus of the foreign company, once the shares have been offered to the public;
- If the shares of the foreign company are listed in a Stock Exchange, evidence of the consent of the foreign Stock Exchange allowing re-domiciliation in Cyprus must be provided;
- List of the current shareholders of the foreign company duly certified.

Registration in the Republic

Once the Registrar of Cyprus Companies is satisfied that the documents submitted are in accordance with the Law, it will temporarily deposit the relevant documents and certify that the foreign company is *temporarily* registered as a continuing company in Cyprus as from the date of such registration and the relevant “Temporary Certificate of Continuation” will be issued.

Name

If the name of the foreign company is, according to the opinion of the Registrar of Cyprus Companies, confusing or misleading in relation to any other name of an already registered company or trademark, the Registrar of Cyprus Companies will request the amendment of the name before the temporary registration of the foreign company.

Legal consequences of temporary registration

From the date of issuance of the Temporary Certificate of Continuation, the foreign company:

- (a) Shall be considered as a body corporate duly incorporated according to the Laws of Cyprus and as being temporarily registered in Cyprus for the purposes of the Cyprus Companies Law, Cap. 113;

- (b) Shall have the same duties and liabilities and shall be capable to exercise all powers of a company which is registered according to the Cyprus Companies Law, Cap. 113;

- (c) The amended certificate of incorporation shall be considered to be the Memorandum of the company and, where appropriate, the Articles of Association.

- (d) The registration of the foreign company shall be void and without legal effect if it is done:
 - (i) With the aim of establishing a new legal entity;

 - (ii) To damage or affect the continuance of the foreign company as a body corporate;

 - (iii) To affect the property of the foreign company and the manner in which this company shall retain all of its property, rights, debts and obligations;

 - (iv) To render ineffective any legal or other proceedings that were commenced or are about to be commenced against the foreign company;

 - (v) To acquit or prevent any conviction, decision, opinion, order, debt, debenture or obligation against the foreign company or against its shareholders, directors or officers.

Time limit and provision of evidence of removal from previous registry

Within 6 months period from the date of issuance of the Temporary Certificate of Continuation by the Registrar of Cyprus Companies, the foreign company must present to the Registrar of Cyprus Companies evidence from the competent authority of the foreign jurisdiction, that it has ceased being a company registered in the country where it has been originally incorporated.

In the event that the foreign company does not submit to the Registrar of Cyprus Companies evidence showing that the foreign company has ceased being a company registered in the foreign jurisdiction then, the Registrar of Cyprus Companies may:

- Remove the name of the foreign company from the register and inform in this respect the competent authority of the foreign jurisdiction;
- Grant an extension of 3 months to present the aforementioned documents to his satisfaction, if there is a reasonable cause for not submitting the said documents. No further extension can be granted.

Certificate of Continuation

Once the above documents are submitted to the Registrar of Cyprus Companies, evidencing that the foreign company is no longer registered in the country of initial incorporation, as well as the Temporary Certificate of Continuation, the Registrar of Cyprus Companies shall issue the Certificate of Continuation, which certifies that the foreign company has been registered as a continuing company in Cyprus.

Circumstances where an application by a foreign company to be re- domiciled in Cyprus is rejected

An application for the re-domiciliation of a foreign company in Cyprus shall be rejected if:

- Dissolution or liquidation proceedings or other equivalent proceedings have been initiated from or against the foreign company;
- A liquidator or special administrator of the foreign company or receiver of its property has been appointed;
- An order or decision exists limiting the rights of its creditors;
- Proceedings have commenced against the foreign company for the infringement of the laws of its country of incorporation.

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