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# **COMPANY REDOMICILIATION**

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Corporate redomiciliation is the process by which a company moves its domicile from one jurisdiction to another by changing the country under whose laws it is registered or incorporated, while maintaining the same legal identity.

Companies' redomicile for a variety of reasons including to take advantage of more favourable tax laws or less stringent regulatory provisions; to align their place of registration with their shareholder base; or to access specialist capital markets.

Up until the 28/07/2006 the Cyprus Companies Act (Cap.113) did not provide for companies to redomicile to Cyprus or from Cyprus to another jurisdiction. The enactment of Law 124(I)/2006 on the 28/07/2006, amended Companies Law Cap. 113, and theoretically the redomiciliation of companies to and from Cyprus was made possible from this date. However, in practice only recently have regulations been issued by the Council of Ministers which provided details of the procedure to be followed, the forms to be filed and the fees payable.

This enactment, in conjunction with the existing attractive taxation system and the excellent infrastructure facilities and services offered by Cyprus, further adds to the islands' competitiveness as an international financial Centre.

A brief summary of the provisions of the law and regulations concerning foreign companies to be redomiciled in Cyprus is covered here.

### **Application for redomiciliation**

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

The application must be submitted together with the following documents:

- (a) a resolution or a similar document authorising the foreign company to obtain registration in Cyprus as a continued legal body;
- (b) a copy of the revised constitutional documents of the foreign company (Certificate of Incorporation and/or Memorandum and Articles of Association or as the case may be) satisfying the provisions of Cap. 113 and which accords to the laws of the Country of first incorporation;
- (c) a certificate of good standing (or equivalent) from the Country of first incorporation;
- (d) an affidavit from the director of the foreign company duly authorized by its Board of Directors - management board (or equivalent) stating the following:



- (i) the current company name of the foreign company and the name under which it will continue to use once the process of re-domiciliation is completed;
- (ii) the country of jurisdiction where the foreign company is registered;
- (iii) date of registration of the foreign company;
- (iv) the resolution with which the Company has decided to re-domicile to Cyprus;
- (v) that the foreign company has formerly declared its decision to re-domicile to Cyprus to the authority of the Country of the first incorporation (a copy of which must be provided);
- (vi) that there are no criminal or administrative procedures pending or which have been commenced against the company, whether in the past or present;
- (vii) an affidavit by a duly authorised director of the foreign company confirming the financial good standing and solvency of the foreign company;
- (viii) a list of the shareholders/members of the foreign company;
- (ix) a list of directors of the foreign company and/or the secretary and/or the managers of the foreign company and
- (x) such other documents as the Registrar of Companies in Cyprus may deem appropriate to prove that:
  - such application is allowed under the laws of the Country first incorporation; and
  - that the parties needing to consent to such action under the law of the Country of first incorporation have so consented.

### **Registration in Cyprus**

Once the documents mentioned above been filed, and the registrar of Companies is satisfied that they satisfy all the legal requirements, a temporary certificate of redomiciliation is issued.

This temporary certificate will give the redomiciled Company the status of a legal person established under the Cyprus Companies Law and will extend to it all rights and obligations arising therefrom. The amended constitutional documents will be deemed to be the Company's Articles of Association.

Within six months from the date of issue of the temporary certificate, the foreign Company must provide the Registrar of Companies with evidence that it is no longer registered in the Country of



first incorporation. If such a certificate is not provided the registrar may strike the Company off the Registry.

Once the certificate is delivered to the Registrar, the Registrar shall register the Company as re-domiciled in the Republic of Cyprus.

### **Temporary registration**

From the date of issuing the temporary registration the foreign company:

- is considered as a legal entity duly incorporated according to the laws of Cyprus and is temporarily registered in the Republic for the purpose of the Companies Law Cap 113;
- has the same liabilities and is eligible to exercise all powers that registered companies have according to the laws of Cyprus;
- the constituent document of amendment is considered as the Memorandum of the company and where applicable as its Articles of Association;
- the registration of the foreign company is not lawful and is void if it is done:
  - (i) for the purpose of establishing a new legal entity;
  - (ii) to damage or affect the continuance of the foreign company as a legal body;
  - (iii) to affect the property of the foreign company and the way this company will maintain its assets, rights and obligations;
  - (iv) to render ineffective any legal or other procedures filed or to be filed against the foreign company and
  - (v) to acquit or prohibit from any conviction, judgment, opinion, debt, order or liability against the foreign company or its officials or shareholders.

Within six months from the issuing of the temporary registration certificate, the foreign company must present evidence to the Registrar of Companies that it has been disallowed from being a company registered in the country of initial incorporation.

### **Refusal of Application**

The application to re-domicile a Company to Cyprus will be denied in the following circumstances:-



- (a) procedures for dissolution or winding-up or any other insolvency proceedings, settlements or writs against the Company are in process or equivalent proceeding have been commenced against the Company;
- (b) a liquidator, receiver or equivalent administrator has been appointed in relation to the Company;
- (c) any order exists that limits or suspend the rights of the Company's creditors;
- (d) any legal proceeding, criminal or civil have commenced against the Company in the jurisdiction of primary incorporation.

### **Licensed Activities**

Companies which offer licensed activities under certain provisions of the law in their jurisdiction and for which similar licences are required in Cyprus, must produce relevant consent for their re-domiciliation by the proper authorities of their country.

Any foreign company which will undertake any activity for which a licence is required in Cyprus, must obtain such a licence according to the requirements of Cypriot law (such companies include Financial Services Companies, Insurance Companies and Banking Institutions).

### **Public companies**

If the 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 it is listed in a Stock Exchange, evidence of consent of the foreign Stock Exchange allowing redomiciliation in Cyprus must be provided and
- A duly certified list of it's shareholders.

**If you have a query or wish to receive further information, please contact our Company Department using [company@cyadvocates.com](mailto:company@cyadvocates.com).**

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