

RE-DOMICILATION OF COMPANIES

INTRODUCTION

Cyprus Law for many years has not followed the pattern of various other jurisdictions to permit the so called “re-domiciliation” process and thus allowing a company to transfer its “seat” of incorporation into or out of the jurisdiction.

On 28th July 2006 the Cyprus Company Law, Cap 113, has been amended to introduce this concept of “re-domiciliation” of companies provided certain conditions as laid down by the new Companies (Amendment) Law of 2006, Law No. 124(I)/2006 are satisfied.

Foreign companies that shall choose to transfer their domicile to Cyprus will be able to do so without winding-up their business or legal entity and shall be able to benefit from the advantageous tax regime that Cyprus offers.

The law is still not effective until such time that the Department of the Registrar of Companies issues the necessary Regulations for the operation of the said Law. These Regulations need to be approved by the Law Office of the Republic of Cyprus, the Council of Ministers and the House of Representatives.

CONDITIONS FOR A COMPANY TO BE RE-DOMICILED IN CYPRUS

For a foreign company to apply to the Registrar of Companies to be re-domiciled in Cyprus it must:

- Be registered in a country which allows re-domiciliation; and
- Its Articles and Memorandum of Association provide for the possibility of re-domiciliation.

Required Documentation

The following documents must be submitted together with the application:

- A resolution or an equivalent document permitting the foreign company to be re-domiciled in Cyprus
- Copy of the constitutional documents of the foreign company
- Certificate of good standing
- An affidavit from a Director of the foreign company or from any other person that has been duly empowered from the Board of the foreign company confirming that:
 - The current name of the foreign company and the name under which it will continue in existence in Cyprus;
 - The jurisdiction where the foreign company is incorporated;
 - The date of incorporation of the foreign company;
 - The resolution or other legally equivalent document permitting the re-domiciliation of the foreign company to Cyprus;

- That the foreign company has officially notified the authorities of its country of incorporation of its decision to be re-domiciled to Cyprus. A copy of this official notification must be attached.
- That no administrative or criminal proceedings have been initiated against the foreign company for infringement of any laws in its country of incorporation;
- An affidavit from a Director of the foreign company confirming the solvency of the foreign company and that they are not aware of any facts that may negatively affect the solvency of the company within the period of 12 months from the date of the said application.
- List of the Directors and Secretary of the foreign company or of the people that may have been assigned with the administration and/or representation of the foreign company as the case may be.
- A certified list of the shareholders of the foreign company
- Such other documents as the Cyprus Registrar of Companies may deem necessary in order to be satisfied that (a) the jurisdiction where the foreign company is incorporated permits such an application for re-domiciliation and (b) the consent for the re-domiciliation has been granted by such number of members, employees and/or creditors as required by the laws of the country of incorporation of the foreign company.

If the foreign company is a **public company** then the following additional documents need to be produced:

- The prospectus of the foreign company when it offered its shares to the public;
- Evidence of the consent of the foreign Stock Exchange permitting the re-domiciliation of the foreign public company to Cyprus (this applies when the shares of the foreign company are listed on the Stock Exchange);
- A duly certified list of the current shareholders of the foreign company.

Licensed Activities

Any foreign company that will be re-domiciled in Cyprus and will carry on any licensable activity in or from Cyprus shall be required to obtain the relevant license or permit from the competent Cyprus authority before commencing any business activity as required under the Cyprus laws and regulations.

Certificate of registration of the foreign company as a continuing company

If the Registrar of Companies is satisfied with the application and the supportive documentation it shall issue a certificate stating that the foreign company is **temporarily registered** as a continued legal entity in Cyprus. The foreign company must then, within a period of six months, submit to the Company Registrar satisfactory documentation evidencing that the said company is no longer registered in the country where it has been originally incorporated. If the Cyprus Company Registrar is satisfied then it will issue the **Certificate of Continuation** certifying that the company has been registered in Cyprus as a continuing company pursuant to the provisions of the Cyprus Company Law.

It is important to note that the registration of a foreign company in Cyprus will be considered as void and illegal if it is done with the main purpose, amongst others, either to create a new legal entity or to prejudice the continuation as a legal entity of the said company.