

REDOMICILIATION OF COMPANIES TO MALTA



Redomiciliation is the process whereby a company registered in a foreign jurisdiction may opt to migrate to or be continued in Malta without the need to be wound up.

In order to qualify for redomiciliation into Malta, the entity must be a “body corporate” which is similar to a company in terms of Maltese law and must be incorporated in an approved jurisdiction as may be established from time to time by the Registrar. Furthermore the laws of the jurisdiction must allow for the migration of companies and the company must be authorised to migrate in terms of its statute or constitutive document.

Migration procedure and documentation

A company wishing to migrate should make a request to the Registrar of Companies presenting the following documents together with the appropriate Registration fee:

- ❖ resolution whereby the decision is taken for the Foreign Company to be continued in Malta;
- ❖ statute of the Foreign Company, revised and amended to include the requirements for registration in accordance with the provisions of the Companies Act 2005;
- ❖ a certificate of good standing in respect of the Foreign Company issued by the competent authority of the country in which the foreign company was incorporated or some other documentary evidence to show that the Foreign Company satisfies the registration requirements of the country in which it was incorporated;
- ❖ a declaration of solvency signed by at least two directors or two persons vested with the company’s administration or representation, confirming that the company is solvent and that they are not aware of any circumstances which may negatively affect such solvency in a material manner within the next twelve months;
- ❖ a list of the directors and company secretary of the Foreign Company or where such company does not have these officers, a list of the persons vested with the administration and/or representation of the Foreign Company;
- ❖ a declaration signed by at least two directors or two persons vested with the company’s administration or representation of the Foreign Company confirming:
 - ❖ the name of the Foreign Company and the name under which it will be continued;
 - ❖ the jurisdiction in which it is incorporated;
 - ❖ the date of incorporation;
 - ❖ the decision to have the Foreign Company registered as being continued in Malta;

- ❖ that formal notice has been given to the authority of the jurisdiction in which it has been registered of its intention to be registered, as being continued in Malta and providing evidence of such notification;
- ❖ that no proceedings for breach of the laws of the jurisdiction in which it was registered have been commenced.
- ❖ such material as the Registrar may require to ascertain that the request for migration is permitted by the laws of the jurisdiction where the company is incorporated and that the migration has been approved by the required number of shareholders, debenture holders and creditors of the Foreign Company in terms of the legislation of the incorporating jurisdiction.

Additional Documentation

Should the Foreign Company be a public company or carry out activities which if conducted in or from Malta require licensing or authorisation such as companies providing Investment Services, Insurance or Credit Institutions, additional documentary and licensing requirements will apply.

Provisional Registration

Once it is ascertained that the documents mentioned above comply with the provisions of the Regulations and the Companies Act 2005, the company shall be provisionally registered as continuing in Malta and shall be certified as such.



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The effects of provisional registration are:

- ❖ the company shall be continued as a body corporate incorporated under the Companies Act 2005 subject to all the obligations and exercising all the powers of such a company;
- ❖ its statute (as revised for the purpose of the redomiciliation) shall be considered as the company's Memorandum and Articles of Association.

Final Registration

The Company should within six months from the issue of the Provisional Certificate of Registration submit to the Registrar of Companies documentary evidence that it has ceased to be a company registered in the jurisdiction of its incorporation. Upon such evidence being provided and the surrender of the Provisional Certificate of Registration, a Certificate of Continuation shall be issued confirming that the company has been registered as continuing in Malta.

Final registration does not:

- ❖ create a new entity;
- ❖ prejudice or affect the continuity of the company;
- ❖ affect the property of the company or its assets, rights, liabilities and obligations;
- ❖ render defective any legal or other proceedings instituted or to be instituted, by or against the company;
- ❖ release or impair any conviction, judgement, ruling, order, debt, liability or obligation due or to become due or any cause existing against the company or any member, director, officer or person vested with the administration or representation of the company.

A request for a Foreign Company to be continued in Malta will not be granted if:

- ❖ dissolution or winding up of the Foreign Company has commenced or insolvency proceedings have been commenced by or against the Foreign Company;
- ❖ a liquidator or special administrator of the Foreign Company or receiver of its property has been appointed;
- ❖ there is a scheme or order in relation thereto whereby the rights of creditors are suspended or restricted;
- ❖ any proceedings for breach of the laws of the jurisdiction of incorporation have been commenced against such Foreign Company.

As already mentioned above, once the company is redomiciled to Malta, the company would become regulated by the Companies Act 2005. For further details about some regulatory aspects please refer to the fact sheet entitled '*Basic facts on a Maltese company*'. The tax aspects are highlighted in the factsheet entitled '*Taxation of Maltese Companies*'.



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