

Key Facts

Migration of Companies to Malta

Increasing numbers of companies are redomiciling to Malta, moving their seat of incorporation or registration from their original jurisdiction to Malta. During this process, the company will maintain its legal personality and corporate history. The process provides an effective method of transferring the ownership of assets and liabilities to another jurisdiction, without transferring the assets and liabilities themselves to another legal entity.

Corporate entities opting to redomicile to Malta (otherwise known as continuation) are required to satisfy four general requirements:

- Their structure must be similar to the corporate structures recognised by the Maltese Companies Act
- They must be registered in an approved jurisdiction (currently EU and EEA members, OECD member states, and Bahamas, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Guernsey, Isle of Man, Jersey and Mauritius)
- Continuation of companies must be allowed by the jurisdiction where the company is currently domiciled
- The foreign company's Memorandum and Articles of Association or constituting document must allow for the redomiciliation of the company to another jurisdiction or be amended to that effect

Public companies may also opt to be continued to Malta, so long as they comply with certain specific requirements.

Fiscal Implications and Advantages

When a company redomiciles to Malta it may opt to revalue the assets from historic costs to fair market value at the time of the move. The re-valued base cost should not exceed the market value of the asset and a request must be submitted to the Maltese

Commissioner for Revenue. Such revaluation will apply for the purpose of determining any gains on all subsequent disposal of assets, and should be considered as the base cost for Maltese tax purposes.

There are a number of fiscal benefits deriving from redomiciliation to Malta, which include:

- No Maltese income tax consequences when the company is continued to Malta
- Access to the EU Directives
- Subject to Maltese corporate and other laws
- It is possible to migrate to another jurisdiction in the future
- No sophisticated transfer pricing rules

Procedure

The procedure for continuation to Malta is relatively straightforward and requires mainly the submission of certain statutory documents of the corporate entity to the Malta Business Registry. In certain cases, the constitutive document of the corporate entity needs to be aligned to standards defined in the Maltese Companies Act. This includes the minimum share capital, which in the case of a Maltese company, is just under EUR 1,200 (or the equivalent in a different currency).

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Upon satisfying all the statutory requirements for continuation, the Malta Registrar of Companies issues a Provisional Certificate of Continuation to the corporate entity. This enables the continued entity to then revert to its original registry and request de-registration. Evidence of this de-registration is required to be submitted to the Malta Registrar of Companies within six months from the date of issuance of the Provisional Certificate. The Malta Registrar of Companies will then issue a Final Certificate of Continuation (following the return of the original Provisional Certificate of Continuation). The Final Certificate verifies that the company has been registered as continuing to Malta, effective from the date shown on the Provisional Certificate of Continuation.

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