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REDOMICILING A COMPANY TO THE UAE: REASONS AND MECHANICS

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Redomiciliation or corporate migration is a process whereby a company transfers its domicile from one jurisdiction to another. The ease with which corporate migration may take place has significantly improved in recent years due to high demand from corporate entities to change their jurisdiction. The United Arab Emirates ("UAE") has numerous free zones, each with separate laws for operation and domicile, and has become an attractive location for redomiciliation.

Why Redomicile?

Companies redomicile for multiple reasons – whether commercial, practical or legal. When a company redomiciles to the UAE, it is converted into a UAE - registered company, which means that all rights and liabilities of the company transfer with it.

When a company changes its domicile to the UAE, the company is still the same entity, only its place of incorporation changes. This allows for total continuity of the business and can be beneficial from a commercial perspective. With no corporate taxes, aside from certain exceptions including foreign bank branches and oil companies, redomiciliation to the UAE can also increase tax efficiency, bolstered by an international network of more than 90 double tax treaties. Finally, taking the irrevocable step to redomicile to the UAE may send an important signal to key clients and to the market that the company is serious about focusing on its UAE and / or Middle East operations.

It should be noted that the process of redomiciliation is somewhat different from the process of setting up an overseas branch or incorporating a subsidiary in a foreign country. Upon completion of the process, the redomiciled company is regulated under UAE law and / or its applicable free zone laws and regulations.

The UAE provides an opportunity to avail more substance and use of international infrastructure, as well as access to financial regulators and the aforementioned tax treaties. The most targeted UAE free zones for corporate migration include the Dubai International Financial Centre ("DIFC") and the Abu Dhabi Global Market ("ADGM").

Redomiciliation Eligibility

Before applying for redomiciliation in either the DIFC or ADGM, it is important to confirm a company's eligibility for registration with one of these free zones. The main criterion is legality, meaning that the company must have demonstrated compliance with all relevant company law requirements in its original place of

incorporation, and is not seeking to redomicile for an improper purpose such as to defraud creditors.

Most crucially, the company's place of incorporation must have legal provisions in place for overseas redomiciliation. A number of countries permit two-way redomiciliation, which allows foreign companies to re-register as local companies, and local companies to re-register as foreign companies. Conversely, certain jurisdictions only allow for inward redomiciliation, which allows foreign companies to re-register as local companies, but does not permit local companies to re-register as foreign companies. Incidentally, if the company is moving from one common law jurisdiction to another, then the basic structure of company law will likely be the same.

The ADGM and DIFC Companies Law contain detailed provisions to this effect. A company that is incorporated outside ADGM or DIFC may apply for the issuance of a certificate confirming that it continues as a company registered under ADGM / DIFC Companies Regulations. The company must be authorised to make such an application by the laws of the jurisdiction under which it is currently incorporated.

Other Considerations

Redomiciliation is still a relatively new process in the UAE, so foreign companies considering changing their domicile to the UAE should understand all of the eligibility requirements and consider the process involved before doing so. Advice from corporate lawyers and tax specialists in the original place of incorporation should also be sought.

Nevertheless, given the attractive business and regulatory environment in the UAE, redomiciliation is something that many foreign companies with significant UAE and / or Middle East operations could plausibly consider.

The Maples Group has a strong presence in key financial centres around the world, including Abu Dhabi and Dubai, as well as Bermuda, Boston, the British

Virgin Islands, the Cayman Islands, Delaware, Hong Kong, Ireland, Jersey, Luxembourg, Montreal, New York, San Francisco, Singapore, the Netherlands and the United Kingdom. We leverage our global network and cross-jurisdictional expertise to routinely assist clients with coordinating the redomiciliation process from both inbound and outbound perspectives.

About the Author

Norbert Neijzen

Norbert is the Regional Head of Fiduciary – Middle East and leads the fiduciary services business for the Maples Group's Abu Dhabi and Dubai offices. Based in Dubai, he serves as an independent director on a wide range of alternative investment funds including fund of funds, segregated portfolio companies, private equity vehicles and related structures. In addition, he specialises in tailored corporate administration and fiduciary services to regionally arranged Islamic and conventional finance structures, including Sukuks, DIFC special purpose companies, funds and other international structures requiring time zone convenient support. Norbert has over 10 years' experience in the financial services industry with a focus on corporate, legal and governance services for a diverse portfolio of hedge funds, private equity funds, real estate funds and other hybrid structures. Prior to joining the Maples Group, Norbert was performing various roles from 2010 until 2018 within a corporate services team in the Netherlands, Luxembourg and Dubai. His responsibilities included guiding clients on international structuring and managing a broad portfolio of international clients with complex structures. Norbert began his career in law in 2004, practicing as a Civil Law Notary (deputy) with law firms in Amsterdam and The Hague in the Netherlands. Norbert holds a Master of Laws from the University of Amsterdam.