

Re-domiciliation of a company to Mauritius – An interesting proposition!

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“ It is no secret that Mauritius’ efforts to combat the Covid-19 pandemic have been internationally acclaimed and the World Travel and Tourism Council has acknowledged Mauritius as a safe destination. This adds to the long list of motives for one to consider relocating to Mauritius and as much as someone can relocate to Mauritius, a company can follow suit by re-domiciling to Mauritius. The list of motives for doing so is equally long.

Re-domiciliation of companies commonly known as ‘migration’ is becoming more and more frequent, be it for the unfavorable tax and regulatory regime in which a company is currently operating in or for the efficient administration and management of costs by consolidating all structures in one particular jurisdiction or to generally lower the cost of doing business. Seen more recently, re-domiciliation is gaining traction for companies wishing to move away from stringent economic substance requirements in the jurisdiction they are operating in. While this is debatable in view of economic substance becoming prevalent globally, compliance with the substance requirements may be smoother and less costly in some jurisdictions.

What is re-domiciliation

Companies seeking to move to another jurisdiction were traditionally establishing a new company in the chosen jurisdiction, for the purpose of taking over all the assets, liabilities, obligations and contracts of the existing company, after which the existing company was terminated. However, since this process can be relatively lengthy and potentially costly, it is not favored by many. Companies are thus opting for the re-domiciliation route, which is the process through which a company transfers its

registration from one jurisdiction to another and which allows for a greater degree of continuity by avoiding issues relating to assigning or novating contracts among others.

Once a company has been redomiciled to another jurisdiction, it becomes a company incorporated under the laws of the new chosen jurisdiction and is treated as the same legal entity.

Why should I re-domicile my company to Mauritius

The most important question asked by many is where I should re-domicile my company and in the context of this article, why Mauritius. There are a multitude number of noticeable reasons for re-domiciling a company to Mauritius as compared to other jurisdictions.

Mauritius is one of the most stable and attractive environments for doing business in Africa thanks to its stable political and economic regime, tax attractiveness, enabling regulatory framework, robust legal and judicial framework and foreign currency availability with free capital flows. Other compelling reasons for the success of Mauritius as an IFC are, amongst others:

- 01 > The large pool of highly literate, comparatively low-cost and multi-lingual workforce as compared to some other jurisdictions which rely heavily on expatriates. Mauritius also has an open immigration policy that facilitates the relocation of foreign talent.
- 02 > Reputation is one of the most valuable things in the world today and takes years to build and nurture. Mauritius has an excellent track record with many accolades including the World Bank, Mo Ibrahim Governance Index and The Heritage Foundation to name a few.
- 03 > Leveraging on its ease of doing business regime and state-of-the-art infrastructure, the Mauritius IFC offers a panoply of competitive financial products and services, including private banking, global business, insurance and reinsurance, limited companies, protected cell companies, trust and foundation, investment banking, global headquarter administration amongst others.
- 04 > Our good and stable banking system which is a key consideration for investors. Mauritius is home to several international and local banks who are able to provide a diversified set of offerings and financing solutions to clients.
- 05 > Another appealing motive which provides security and peace of mind to investors is the fact that Mauritius is well poised to be a risk-mitigating platform with its numerous Investment Promotion and Protection Agreements (IPPAs) signed with African states which include clauses for protection against expropriation, compensation for losses and free repatriation of capital profits.

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Eligibility to re-domicile to Mauritius

A re-domiciliation is only possible if both the outgoing jurisdiction and incoming jurisdiction recognize it. This is thus an important consideration to have in mind at the outset.

Under Mauritius law, a company incorporated outside of Mauritius shall not be registered as a company in Mauritius, unless:

01

The company has complied with the requirements of that law in relation to the transfer of its incorporation; and

02

Where the law does not require its shareholders or a specified proportion of them, to consent to the transfer of its incorporation, the transfer has been consented to by not less than 75% of its shareholders entitled to vote and voting in person or by proxy at a meeting; and a notice specifying the intention to transfer the company's incorporation was given to the shareholders at least 21 days' notice prior to the meeting.

Mauritius law also provides that the company should not be in the process of winding up or liquidation in its country of incorporation, should not have appointed a receiver or manager whether by a court or not in relation to the property of the company and there is no scheme or order in force in relation to the company whereby the rights of the creditors are suspended or restricted.

The application for a re-domiciliation is twofold, with the process starting in the outgoing jurisdiction

and moving on to the ongoing jurisdiction. Once the Registrar of companies in the incoming jurisdiction is satisfied with the application submitted, they will issue a provisional certificate of registration by continuation, which will be effective as from the date of deregistration of the company in the outgoing jurisdiction. While the process under Mauritius law is forthright, this may not be the case in the outgoing jurisdiction, which makes it difficult to estimate the timeframe for completion of the whole process.

Conclusion

The re-domiciliation of a company is a very effective planning tool as it enables a company which has been incorporated in another jurisdiction to transfer to another jurisdiction which may have an ecosystem which is more favorable to the company's business activities and ultimate goals of the owner. Mauritius has, over the years, built a fantastic platform through an ingenious combination of fiscal and non-fiscal benefits, a diverse product-base and world class regulatory framework. It has also forged a reputation as a safe, well-regulated and business-friendly jurisdiction of substance for international investors. It is a jurisdiction that cannot be overlooked in the context of a potential migration.



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