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Companies Registry News Update: Company Re-domiciliation Regime

On 23 May 2025, the new company re-domiciliation regime under the Companies (Amendment) (No. 2) Ordinance 2025 came into effect.

Key features of the regime are set out below:

(a) Overview of Re-domiciliation Regime

- This regime is an inward regime allowing non-Hong Kong corporations to re-domicile to Hong Kong while preserving their legal identities (no new legal entities are created) and not affecting their business continuity, property, rights, obligations, liabilities, contractual and legal processes;
- There is no economic substance test imposed on the non-Hong Kong corporations applying to re-domicile to Hong Kong; and
- In general, the re-domiciled companies will be regarded as companies incorporated in Hong Kong with effect from the date of re-domiciliation and required to comply with all the relevant filing requirements under the Companies Ordinance (Cap. 622) (the "CO") in the same manner as companies formed and registered under the CO unless otherwise specified.

(b) Eligibility for Re-domiciliation

- This regime is applicable to non-Hong Kong corporations which are the same or substantially the same as one of the following four types of companies that could be formed under the CO:
  (i) public companies limited by shares;
  (ii) private companies limited by shares;
  (iii) public unlimited companies with a share capital; and
  (iv) private unlimited companies with a share capital;
- The jurisdiction where the applicant is incorporated or domiciled as at the application date ("Originating Domicile") allows the company to deregister for the purpose of re-domicile to another jurisdiction and does not prohibit re-domiciliation to Hong Kong. The applicant has also complied with the requirements in the Originating Domicile for the re-domiciliation;
- The applicant's constitutional document must not prohibit the re-domiciliation;
- The applicant has obtained its members' consent for the re-domiciliation to Hong Kong in compliance with the requirements of the Originating Domicile and its constitutional document. If there is no such requirement, the applicant has obtained a resolution of its members passed by a majority of at least 75% in accordance with the CO;
- The application is made in good faith and not intended to defraud the applicant's existing creditors. The applicant has served on all its creditors notice of the proposed re-domiciliation;
- The applicant has been incorporated or registered at the Originating Domicile for at least one financial year as at the application date;
- The applicant will be able to pay its debts which fall due within the period of 12 months beginning on the application date;
- The applicant is not in liquidation or subject to winding-up petition or carrying on business under a scheme, order, compromise or other similar arrangement relating to its insolvency;

- The applicant shall comply with all requirements in the CO in respect of re-domiciliation; and
- The intended re-domiciled company must not be used for an unlawful purpose or for a purpose contrary to public interest.

(c) Application for Re-domiciliation

- The application can be done via a "one-stop approach" whereby the applicant shall submit required documents and fees in respect of the application for re-domiciliation and business registration to the Registrar of Companies (the "Registrar");
- Required documents, among others, include the following:
  - A re-domiciliation form (Form NNC6) with, among others, the following documents to accompany the form:
    - a certified copy of certificate of incorporation / registration;
    - a certified copy of constitutional document;
    - a certified copy of members' consent resolution regarding re-domiciliation;
    - accounts;
    - a certificate issued by the board of directors of the applicant within 35 days before the application date, confirming, among others, the company's registration, solvency, all creditors having been served notice of the proposed re-domiciliation, any approval required under a contract having been obtained or waived and intent for re-domiciliation; and
    - a legal opinion issued by a legal practitioner practising the law of the Originating Domicile within 35 days before the application date, confirming, among others, the company's registration and subsistence, company type, directors qualification, solvency, permissibility of deregistration/re-domiciliation in the place of its Originating Domicile, and members' consent requirements regarding re-domiciliation having been complied;
  - a copy of the proposed articles of association; and
  - a notice to Business Registration Office (IRBR5)*(Note 1)*;
- Upon registration as a re-domiciled company, a certificate of re-domiciliation and a business registration certificate will be issued in one go;
- If the re-domiciled company has previously been registered as a registered non-Hong Kong company under Part 16 of the CO, its registration under Part 16 will cease to have effect on the date of issuance of its certificate of re-domiciliation; and
- Non-Hong Kong-incorporated authorized institutions (AIs), holding companies of AIs, authorized insurers, and approved money brokers require prior assessment from the relevant authorities in Hong Kong before submission of re-domiciliation application.

(d) Post Registration Obligations

- The re-domiciled company will be subject to the following filing obligations to the Registrar:
  - Consent to be a Director (Re-domiciled Company) (Form NNC3RD)
    - If a person, who is to be a director of the re-domiciled company, has not signed on the part "Consent to be a Director" in the re-domiciliation form, such person shall submit his/her written consent to act as a director within 15 days after the re-domiciliation date;

- Return of particulars of members of re-domiciled company as at Re-domiciliation Date (Form NSC21)
  - The re-domiciled company shall report its statement of capital as at the re-domiciliation date and the particulars of members within 15 days after the re-domiciliation date; and
- Deregistration in its Originating Domicile
  - The re-domiciled company shall provide evidence of its deregistration to the satisfaction of the Registrar within 120 days after the re-domiciliation date (which may be extended upon application). Failing to comply which may result in the re-domiciliation registration being revoked;
- The re-domiciled company shall deliver a statement of the particulars of charges created / charge existing on property acquired before the re-domiciliation date, issues of debentures made on or before the re-domiciliation date / commission etc. in relation to the debentures in the relevant prescribed form to the Registrar within one month after the re-domiciliation date; and
- The re-domiciled company shall deliver a statement of the particulars of any subsequent issue of debentures in the relevant prescribed form to the Registrar within one month after the date of issue.

(e) Tax implication relating to Re-domiciliation

- Hong Kong does not impose tax on the basis of residence or domicile. Under the Inland Revenue Ordinance (Cap. 112) (the "IRO"), a company carrying on any trade, profession or business in Hong Kong is chargeable to tax on all profits (excluding profits arising from the sale of capital assets) arising in or derived from Hong Kong from such trade, profession or business;
- If a non-Hong Kong incorporated company has carried on a trade, profession or business in Hong Kong before it re-domiciles to Hong Kong and is subject to profits tax before its re-domiciliation, re-domiciliation will not relieve the company from its profits tax liabilities in respect of the pre-domiciliation period;
- If, however, a non-Hong Kong incorporated company has never carried on any trade, profession or business in Hong Kong before it re-domiciles to Hong Kong, no profits tax will be charged on the company for the period before it commences business in Hong Kong;
- The IRO has been amended to the effect that references therein to a company "incorporated in Hong Kong" include a re-domiciled company and references to a company "incorporated outside Hong Kong" exclude a re-domiciled company. A re-domiciled company will be regarded as a company incorporated in Hong Kong and in turn a resident of the Hong Kong Special Administrative Region (HKSAR) under the comprehensive avoidance of double taxation agreements or arrangements signed between the HKSAR and other jurisdictions; and
- New schedule under IRO also provides certain transitional tax arrangements and elimination of double taxation treatments.

(f) Other amendments relating to Non-Hong Kong Companies

- A new definition of "place of incorporation" has been added to the following:
  - the Part 16 of the CO;
  - the Companies (Non-Hong Kong Companies and Other Companies to which Part 16 of Ordinance Applies) Regulation (Cap. 622J) *(Note 2)*; and
  - the Non-Hong Kong Companies (Disclosure of Company Name, Place of Incorporation and Members' Limited Liability) Regulation (Cap. 622M);

- All references made to "place of incorporation" of a non-Hong Kong company would mean the place outside Hong Kong in which the non-Hong Kong company is incorporated and registered as a company, and/or the place of the latest domicile of the non-Hong Kong company if it has transferred its domicile after is incorporation;
- A registered non-Hong Kong company shall report the change of its place of incorporation to the Registrar in a prescribed form (Form NN16) within one month after the change;
- Amendments to Cap. 622M require that a registered non-Hong Kong company has to display its "each place of incorporation" (replacing "place of incorporation") at certain areas; thus, a registered non-Hong Kong company is required to display (i) its place of incorporation; and (ii) if it has transferred its domicile after incorporation, the place of its latest domicile, at every business venue and in every communication document and transaction instrument of the company in Hong Kong; and
- For a non-Hong Kong company proceeding Part 16 application, the company is required to submit a certified copy of "each of the company's specified certificate" (replacing "the company's certificate of incorporation") which refers to the company's certificate of incorporation and the certificate of registration issued under the law of its latest domicile, if the company has transferred its domicile after its incorporation.

Notes:

1. *For a registered non-Hong Kong company under Part 16 of the CO holding a valid business registration certificate applying re-domiciliation, the application does not require application for a new business registration certificate and no new business registration certificate will be issued.*
2. *Renamed from "the Companies (Non-Hong Kong Companies) Regulation" (Cap. 622J).*

To view the full details of the following issued by the Companies Registry:

- Thematic section: please click HERE;
- External circular no. 4/2025 – Introduction of Company Re-domiciliation Regime: please click HERE;
- Guide on Company Re-domiciliation: please click HERE;
- FAQ regarding Company Re-domiciliation Regime: please click HERE;
- External circular no. 5/2025 – Company Re-domiciliation Regime - Updates on Requirements relating to Non-Hong Kong Companies: please click HERE; and
- FAQ regarding Non-Hong Kong Companies: please click HERE.

To view the full details of the following issued by the Inland Revenue Department:

- Tax Information for Re-domiciled Company: please click HERE.