



Grant Thornton

An instinct for growth™

Re-domiciliation of foreign companies to Malta





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The Continuation of Companies Regulations (L.N. 344. 2002) permit a body corporate (i) formed and incorporated or (ii) registered under the laws of an approved country or jurisdiction other than Malta which is similar in nature to a company as known under the laws of Malta, to request to be registered as being continued in Malta under the local Companies Act. As such, the foreign company seeking to continue in another jurisdiction is not required to go through a process of liquidation and one of incorporation in Malta. Instead, all conditions satisfied, the company need only move to Malta at which point it will be considered as a continuation of the previous entity.

Apart from the advantages unique to Malta, there are substantial savings for the company.

Success is dependent upon the satisfaction of two conditions:

The continuation must be authorized by the law of the outbound country or jurisdiction; and

The Company is also authorized to do so by means of its charter, statutes or memorandum and articles or other constitutional instrument

There are additional requirements in the case of public companies or companies carrying out a licensable activity from the country where they were incorporated or currently registered.

Re-domiciliation is interesting for a number of reasons. Companies may wish to exploit more favourable tax legislation, less stringent regulation or simply access particular markets.

Approved jurisdictions:

- a European Union member state;
- an EEA country which is not an EU member state
- an OECD member state
- Dubai
- the British Virgin Islands
- the Cayman Islands
- Bermuda
- Gibraltar
- Isle of Man
- Guernsey
- the Bahamas
- Jersey
- Mauritius



1. Procedure

a. Request for registration

A request by a foreign company for registration as being continued in Malta shall be made and should be accompanied by:

1. A resolution or equivalent document of the foreign company authorising it to be registered as being continued in Malta and a certified translation in the English language where appropriate.
2. A copy of the revised constitutive document of the foreign company.
3. a certificate of good standing in respect of the foreign company issued by the foreign competent authority.
4. a declaration signed by at least two directors of the foreign company confirming:
 - the name of the foreign company and the name under which it proposes to be continued
 - the jurisdiction under which it is incorporated
 - the date of incorporation
 - the decision to have the foreign company registered as continuing in Malta
 - that the foreign company has given formal notice to the competent authority of the foreign country of its intention of continuing in Malta: evidence of such notice should be annexed to the declaration
 - that no proceedings for breach of the laws of the country or jurisdiction of incorporation have been commenced against such foreign company.

A declaration signed by at least two directors of the company confirming the solvency of the foreign company;

A list of directors of the foreign company as well as the company secretary, if any, or of the persons vested with the administration or the representation of the foreign company;

Any other evidence or information which the Registrar may require;

The relative fees. MFSAs Fees related to the re-domiciliation of a company to Malta are identical to the fees of incorporation.

b. Provisional certificate of incorporation

Upon compliance with the Continuation of Companies Regulations and the relevant provisions of the Companies Act, a Provisional Certificate of Continuation certifying that the foreign company is provisionally registered as continuing in Malta will be issued.

The Company must, within six months of such issue, submit documentary evidence that it has ceased to be a company registered in the country or jurisdiction where it had been formerly formed and incorporated or registered. A resolution or equivalent document of the foreign company authorising it to be registered as being continued in Malta and a certified translation in the English language where appropriate.

c. Certificate of continuation

Upon presentation of such documentary evidence and the surrender to the Registrar of the Provisional Certificate of Continuation, the Registrar shall issue a Certificate of Continuation confirming that the company has been registered as continuing in Malta.



2. Tax status

Companies incorporated under the laws of Malta are deemed to be ordinarily resident and domiciled in Malta saving scenarios of management and control being exercised in another jurisdiction.

Companies ordinarily resident and domiciled in Malta are subject to tax in Malta on their worldwide income. However, they are entitled to claim treaty benefits as well as any fiscal benefits granted by Maltese Income Tax legislation.

Alternatively if a foreign company is continued in Malta but its fiscal residence is not shifted to Malta, the company may be subject to tax in Malta on a remittance basis on its foreign sourced income.

3. Advantages of re-domiciliation to Malta

Continuation is 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 which may potentially create adverse tax consequences. In addition, there is/are:

- no income tax consequences on inbound migration
- no step-up in the tax basis of the assets
- access to Malta's tax refund system
- access to Malta's participation exemption regime
- access to Malta's double tax treaty network
- access to the EU Directives
- the possibility to fall outside the scope of CFC legislation
- the possibility to fall outside the scope of anti-tax haven rules
- the possibility to migrate outside to another jurisdiction
- no exit taxes in Malta (on outbound migration).

Your contact

We offer a genuine collaborative approach and want to build a close working relationship with you, ensuring a consistent service delivery that is flexible.

Wayne is the partner leading the corporate and financial services regulatory team within Grant Thornton, conducting an active consulting practice in international tax planning, financial services, corporate, commercial, transactional, trusts and fiscal law. He advises an extensive international client base ranging from private clients, including family offices and high-net-worth individuals, to NASDAQ listed companies on the legal and tax implications involved in the structuring of both local and international M&A and project finance transactions, in various industry sectors.

He regularly advises promoters on various corporate, tax, regulatory and other legal issues involved in the setting up of regulated financial products as well as credit, insurance and financial institutions, providing the necessary legal assistance in connection with banking, investment and insurance licensing procedures.

He acted as company director and compliance officer to EPIC Financial Services Limited, a financial institution licensed by the Malta Financial Services Authority to provide investment services and related advice to the public.



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Following an egregia cum laude Bachelor of Arts Degree in Legal and Humanistic Studies, he was awarded a Doctorate in legal studies from the University of Malta Faculty of Laws in 2001 after researching and submitting a thesis on Merger control: a comparative study of regulatory systems for potential implementation into the Maltese legal system, and was admitted to the Chamber of Advocates of Malta in December of that year.

He also read for a Masters in Financial Services at the University of Malta, graduating in 2003 after submission of a thesis entitled The Impact of Information Technology on Financial Services.

Wayne is a visiting lecturer on securitisation at the University of Malta and on taxation for the Chartered Institute of Taxation's Advanced Diploma in Taxation. He is a council member of the Malta Institute of Management as well as the Malta Institute of Financial Services Practitioners, chairing the Education Committee thereof. He is also a member of the International Fiscal Association, the International Bar Association and the Maltese Chamber of Advocates.

Why Grant Thornton

Organisations come to us for our global scale, quality, industry insight and deep technical expertise. But what sets us apart is our distinctive client experience which leads to more meaningful advice and a better working relationship.

We discover what's important to you and make it important to us

Our culture is built on a genuine interest in our clients – their challenges, growth ambitions and wider commercial context. You get the attention you deserve from approachable, senior professionals who ask the right questions, listen and provide real insight and a clear point of view.

The bottom line

- A relationship-led approach with more time and attention from partners and senior advisers
- A deeper understanding of your business for more meaningful advice and recommendations

Agile and responsive service

Our size and structure create advantages for you. We adopt a flatter structure, with shorter decision making chains, empowered teams and no complex chains of command. We have all the necessary processes and controls but they're streamlined and efficient. Our teams are more responsive.

The bottom line

- A faster response when you need quick answers and clarity
- Anticipating the answers you'll need before you ask

Pragmatic solutions to help you improve and grow

Our teams bring ideas to the table, going beyond the technical issues to recommend ways to make your business better.

We balance a desire to do what's best for you in the future with an experienced sense of what's going to help you now.

The bottom line

- Helping you think ahead and think more broadly
- Proactively identifying opportunities for improvement and growth

Collaborative teams with a different mindset

Our people are open, accessible and easy to work with. We work through the issues alongside you, always with an independent perspective and challenging where necessary. Our collaborative style also enables us to assemble teams across service lines, industries and geographies to tailor our capabilities for you.

The bottom line

- Teams and solutions built around your needs not our structures
- A better working relationship with you and your team

Awards

It's great to be collectively competitive. Our awards acknowledge how we help dynamic organisations grow through our independent assurance, tax and advisory services. Seeing our clients achieve their goals: that's a big reward for us.



Net Promoter Score



Promoters



Passives

Based on clients surveyed in 24 markets in 2016

Global



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Our distinctive client experience sets us apart



USD5.45bn
(2018 revenue)



53,000
people



700+
offices



135+
countries

Local

A focus on Malta

Founded in 1975, the Malta firm became a Grant Thornton member firm in 1991. We have been building our momentum for over 40 years, garnering hands on experience placed in us by our clients and offering a range of services that promise to stand the test of time.

As a €5bn global organisation of member firms with 53,000 people in over 135 countries and growing, our brand is respected internationally as one of the major global accounting organisations recognised by capital markets, regulators and international standard setting bodies. Privately owned, public listed and government-based clients come to us for not only our technical skills and industry capabilities, but also for our different way of working. With this comes a real opportunity to make a difference around the world.

We focus on providing a full range of services including assurance, tax, advisory, specialist financial services, corporate, secretarial and administrative services to clients ranging from public companies, multi-nationals and government agencies to entrepreneurial businesses across a broad spectrum of industries.

We combine award-winning technical knowledge with the intuition, insight and confidence gained from our extensive sector experience and a deep understanding of our clients. We have the autonomy and flexibility to adapt our client service to our local and global clients' requirements. We work to ensure that our clients get a tailored service and that we truly understand their business as if it were our own.

“We have the scale to meet our clients’ changing needs, alongside the insight and agility that helps them stay one step ahead. Our partners and teams invest the time to truly understand our clients business, giving real insight and a fresh perspective to keep them moving forward.

Mark Bugeja, Managing Partner Grant Thornton Malta



\$5.1m
turnover in 2018



5
Partners



85
Employees



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