REDOMICILIATION REWARDS

When a company redomiciles to Portugal, no assets are transferred: no crystallisation of Capital Gains, no “*IMT*”(Property Transfer Tax), no Stamp Duty on Real Property. With no chargeable events taking place, only the headquarters and effective management move to Portugal. The assets remain safely within the Company. Thus the alternative term for Redomiciliation: *Continuance*. As we will see, Continuance opens attractive opportunities for legitimate tax mitigation.

Updated Basis for Capital Gains Tax

Following Company registration in Portugal, a Balance of Accounts needs to be presented to mark the starting point as a Portuguese resident corporate entity. In accord with most recent legislation (May 2019), this Balance Sheet must be based on *net book value,* rather than the *historical value* according to the relevant 2016 EU Directive. Any shareholders’ loans to the Company as well as outstanding bank mortgage (if one exists) show as “Liabilities”. “Capital” is the paid-up share capital as well as Reserves, reflecting any appreciation in the value of the property. There is a fresh start. Many historical problems, such as under-declared deed values or lack of bonafide invoices for capital improvements can be mitigated. For example, a real estate property belonging to a company can gain market value over time, while the machinery that exists therein may lose market value due to technological advances. In such cases, the book value measured by the historical cost would distort an asset or the actual value of a company against what is actually quoted in the market.

Reduced CGT following Redomiciliation

With the move to a Portuguese domiciled entity, Capital Gains Tax on the eventual sale of Company shares reduces to 14%, as compared to 28% that otherwise would be the norm. Further Capital Gains Tax mitigation can take one of two forms. With the uplift in the nominal price of the stock upon registration of the now Portuguese entity, the shares can be sold at full value with little or no gain. Alternatively, the company can be liquidated and the assets distributed to the shareholders. As in the previous instance, with similar values, there should be little or no tax to pay.

> *For example, a real estate property belonging to a company can gain market value over time, while the machinery that exists therein may lose market value due to technological advances. In such cases, the book value measured by the historical cost would distort an asset or the actual value of a company against what is actually quoted in the market.*

Potential Transfer Tax Exemption

If the Company assets include Portuguese immoveable property, the sale of the shares may be exempt from "*IMT*", depending on the circumstances of the eventual buyer of the Company. When a shareholder does not exceed a concentration of more than 75% of shares to a shareholder, no Property Transfer Tax (*"IMT"*) is due on the underlying asset conveyance. If eligible, the buyers may potentially save thousands of Euros, thus making the acquisition more appealing than a purchase in one's own name.

Reduced Bureaucracy

In contrast, when a property changes hands, many organs of government get into the act. *Finanças* records the change of ownership and updates the Ratable Value ("*VPT*") in a somewhat lengthy and labourious process. The local Council checks to see that current architectural records match the building(s) on site. The Land Registry verifies that boundaries and areas are correctly recorded. In short, a sea of bureaucracy that can be both slow and expensive. The transfer of ownership of Portuguese shares is normally a simple notarial process. While there is some paperwork involved in amending records to reflect the changes of Company domicil, the process is straightforward and does not trigger reevaluations of the underlying assets nor latent licensing problems inherent with many older properties.

Conclusion

While Redomiciliation may not always be a "magic bullet", this solution can offer significant advantages to many owners who have found themselves unwittingly trapped offshore. With the consolidation of establishing the "Net Book Value" based on EU Directive legislation, redomiciliation should prove an attractive option in the future.

 16 August 2019