Free Zone Company Relocation in the United Arab Emirates

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Due to the COVID-19 crisis, investors have considered how to implement cost-saving measures across the globe. A popular cost-saving measure in the United Arab Emirates (UAE) is the relocation of an entity from one free zone to another, for example, by being subject to lower license fees or lower office rents. This article discusses the most important aspects of free zone company relocation in the UAE.

1. How is relocating companies from one free zone to another relevant?

Throughout the COVID-19 crisis, investors have analysed their cost structure. One measure that has received much attention in the United Arab Emirates (UAE) is the relocation of free zone companies.

Given the liberalisation of the mainland's investment framework (full foreign ownership is now available for many commercial activities) and the increasing competition for foreign direct investment in the region, the free zones have entered a race for investors. Apart from the first merger of three free zones in the emirate of Dubai (e.g., Dubai Airport Free Zone, Dubai Silicon Oasis and Dubai Commerce City, which will operate under a single roof from 2022 onwards), various free zones have revised their license fee schedules.

2. What are the key considerations for the company relocation?

Cost aspects are often crucial for the decision to relocate a company. The various free zones in the UAE offer different packages to companies with various incentives. Further, price for real estate (lease) may play a critical role in opting for a move to another free zone.

3. What are the general options to facilitate the relocation?

A company relocation can be conducted either through winding up the existing company and incorporation of a new company, or transfer of the company from one to another free zone. Depending on the tax law in the country where the parent entity is seated, winding up a company may be disadvantageous from a tax law perspective.

In contrary, a transfer of a subsidiary may not trigger taxes. This is one of the reasons some UAE free zones (e.g., Jebel Ali Free Zone, Dubai Airport Free Zone, Dubai Multi Commodities Centre) have implemented provisions in their laws and regulations, explicitly allowing companies to relocate from one free zone to another by redomiciling the entity. However, in some instances free zones still consider a company transfer as a winding up and setting up of a new entity, even though a liquidation or dissolution is not required.

4. What are the necessary steps for a company relocation?

A company relocation from one free zone to another requires various administrative steps. These steps need to be carefully reviewed in advance in order to avoid delays in the relocation process.

a. Shareholders' resolution and other corporate documents

Similarly to the establishment of a company, the shareholders have to issue a shareholders' resolution which states that the shareholders intend to relocate the company from one free zone to another.

If any one of the shareholders is a company and seated abroad, the resolution passed by the respective shareholder needs to be notarized and legalized by the relevant UAE Embassy or Consulate in the shareholder's respective country and the UAE Ministry of Foreign Affairs in the UAE. It should be noted that this process can be time consuming, particularly as the current pandemic may lead to shortened office hours of the concerned authorities.

The shareholders' resolution should be diligently drafted. Experience shows that it is helpful to receive feedback on the draft shareholders' resolution by the relevant free zone authorities before issuing such resolution.

The same applies to other corporate documents, such as commercial licenses, trade register excerpts.

b. Application with the new free zone and no-objection-certificate from the old free zone

The company relocation requires the application for a pre-approval and trade name reservation in the new free zone.

Once the pre-approval has been obtained, a no-objection-certificate (NOC) from the old free zone must be acquired clarifying that the old free zone approves the relocation of the company, provided that further requirements have been fulfilled.

c. Verification of the management by the free zone authority

After the pre-approval by the new free zone and the issuance of a NOC from the old one, documents including the passport of the management (and shareholders) need to be verified. Because of COVID-19, many free zones allow the verification via online conference.

Once the verification has been completed, a pre-license is issued by the new free zone. This license does not allow the company to operate in the new free zone. Further approvals, as stated below, need to be obtained before the company is fully operational. However, an office in the new free zone can already be fitted out and the necessary approvals for the office, if required, can be obtained.

d. Obtaining an exit certificate

Once the pre-license has been issued by the new free zone, an exit certificate from the old free zone must be obtained

and presented to the authority of the new free zone. Depending on the company's assets and registrations with other authorities (e.g., the Customs Authority), clearance certificates may be necessary to be obtained first, and balances must be cleared. Once the special requirements set by the respective free zone authority are fulfilled and the clearance certificates from the other authorities have been obtained, the old free zone will issue an exit certificate for the company confirming that the company has been taken from the company registry.

e. Issuance of a new license

Once the exit certificate from the old free zone has been presented to the new free zone, the pre-license can be transformed into a full license which makes the company fully operational.

5. Conclusion

The laws and regulations of some free zones allow a company relocation. However, there are certain aspects to keep in mind before implementing a free zone company relocation. If planned well in advance, a company relocation can be a good option from a restructuring perspective.

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