Association of Accounting Technicians (AAT) response to the Department for Business, Energy & Industrial Strategy, HM Treasury & HM Revenue & Customs consultation, "Corporate Re-domiciliation"

As AAT highlighted in its recent response to the October 2021 Budget[1], this is not a key area for many AAT members and so our response to this consultation is relatively short. In essence, AAT supports the principle of the UK aligning its re-domiciliation approach with its international competitors in order to attract more companies to invest in the UK (and pay UK taxes) providing opportunities for abuse are kept to an absolute minimum.

General support

AAT very much supports the Government ambition to strengthen the UK's position as a global business hub and as an open, competitive, free market economy. AAT also agrees that making it possible for companies to move their domicile to and relocate to the UK, by enabling the 're-domiciliation' of companies, could assist in this regard. Given so many other countries already allow for re-domiciliation, aligning our approach with international peers is likely to enhance the UK's attractiveness as a destination to locate business, bring increased investment and skilled jobs into the UK, and as the consultation notes, increase demand for professional services within the UK.

Inward v Outward

AAT notes that the Government is not currently proposing to allow entities to redomicile from the UK into a jurisdiction outside the UK and can understand the rationale for this given the policy proposal is aimed at attracting businesses to the UK rather than making it easier for companies to leave.

However, given a successful re-domiciliation regime requires mutual recognition and compatibility with other jurisdictions i.e. the origin jurisdiction must accept a migration to the UK, it is highly likely that other countries would require reciprocal arrangements. Whilst the Government is correct to highlight the examples of Singapore, Ireland and soon Hong Kong, as not permitting outward re-domiciliation, these countries are the exception rather than the norm. Furthermore, it is possible that some companies may wish to redomicile to the UK but would like the flexibility of being able to leave in the future. Without permitting outward re-domiciliation then that flexibility would not exist and some organisations may be deterred from redomiciling to the UK. As a result of both of these considerations, Government should permit outward as well as inward re-domiciliation.

Costs

Although there will be a fee for re-domiciling in the UK, AAT notes that the consultation is silent on what this might be. The cost should not only cover the entire administrative and evaluation costs associated with the process but should at least partly reflect the value of the benefit of re-domiciliation.

Tax

AAT believes that clarity around tax is essential. Furthermore, AAT believes that any re-domiciliation must lead to the entity being considered as UK resident for tax purposes as this is the simplest, clearest and fairest approach. The alternative, of only treating re-domiciled entities as UK resident if the central management and control is in the UK, will in some cases lead to considerable complexity, uncertainty, costly legal arguments and increases the potential for avoidance. It is important that the UK attracts additional investment in the UK but it must be on the basis that such businesses pay a fair share of tax.

Potential for abuse

The track record requirements go some way to preventing a business from simply establishing itself as a legal entity in an overseas jurisdiction before immediately redomiciling in the UK but could probably go further than passing its "first financial period end" which appears to be unduly generous. Three years worth of accounts would appear to strike a better balance between attracting companies at an early stage and avoiding those seeking to exploit the system. Three years is commonly accepted in other areas of UK financial affairs. For example, a track record of three years is usually required before the self-employed can obtain a mortgage and a track record of three years is required before a company can list on the stock market in the UK

The proposals around insolvency appear to be sufficient and proportionate as do requirements around directors and persons with significant control (PSCs) being required to undergo identification checks with Companies House and so on.

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[1] **AAT Budget response, October 2021:**
https://www.aat.org.uk/prod/s3fs-public/assets/aat-response-treasury-select-committee-budget.pdf

On the issue of loss importation whereby non-UK resident companies become UK resident in order to set foreign losses against the UK profits of other group companies (under the UK's group relief provisions), this is a material risk that requires additional protections. It is also worth highlighting that whilst some companies may not initially re-domicile for this purpose, they may seek to take advantage of the UK's group relief provisions in years to come should their financial position in the UK and other countries make doing so more attractive.

Miscellaneous
AAT notes that the Government is not minded to prescribe a minimum turnover/size of companies that can re-domicile. Unfortunately no rationale or indeed any information is provided as to why. It may be that imposing such criteria could reduce the potential for tax or other forms of financial abuse as well as reducing any administrative burden on Companies House, HMRC and the Treasury by avoiding the re-domiciliation of very small companies unlikely to bring any financial benefit to UK plc.

In Singapore for example, the re-domiciling company must have either a minimum of 50 employees or a turnover in excess of S$10m.

Phil Hall, 06 January 2022