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Family business: criteria for choosing location (2) 2/2/24


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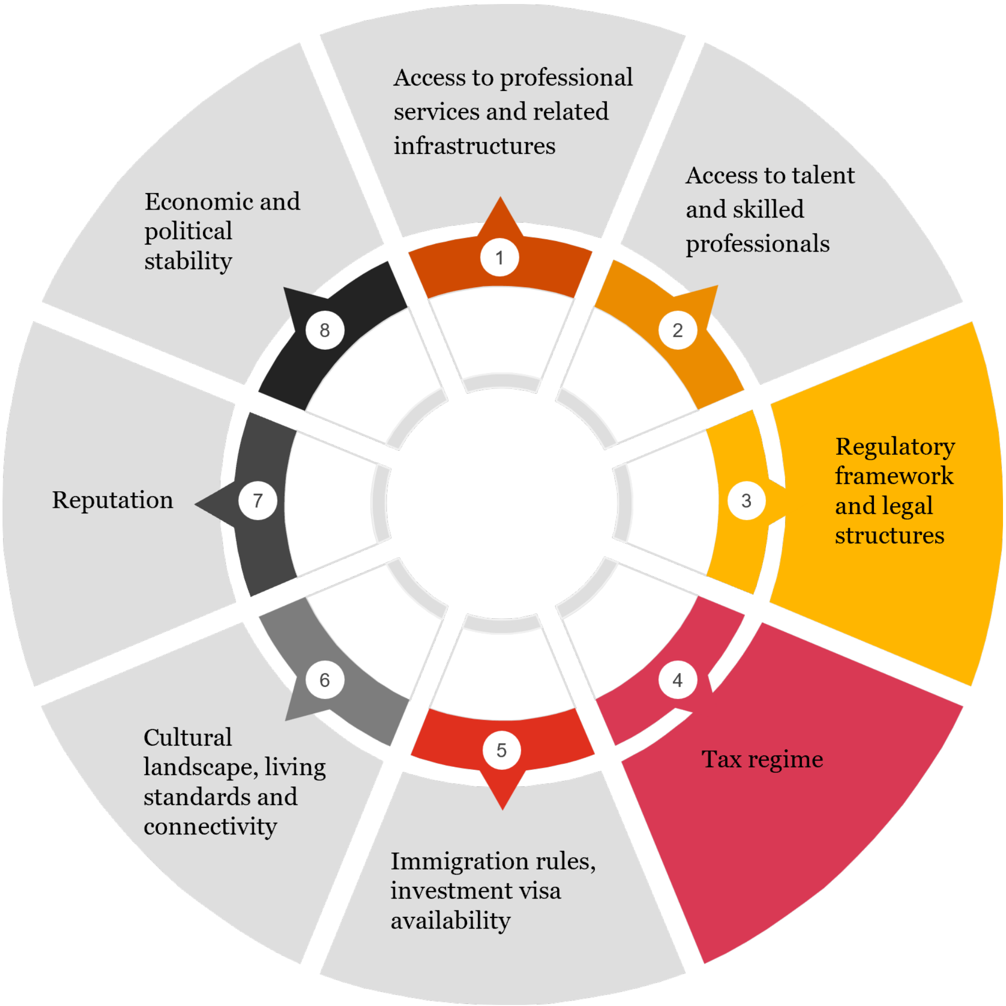
In our previous article we offered an introduction to aspects a family business needs to consider when it comes to operating in a different jurisdiction after relocating their company or setting up a new one. In this article we'll be exploring the regulatory framework and legal structures as well as the tax regime, based on PwC guidelines.



The regulatory framework and legal structures

Situations when a family business chooses to relocate may become relevant for a variety of reasons, such as to protect its assets, conquer new markets or attract investors in an international environment. Asset protection is crucial for companies and doing business in a jurisdiction with a higher international profile allows you achieve your goals faster. So, when it comes to choosing a jurisdiction for your family business, you need to find the best environment in terms of legislation, taxation and operations.

Each country has its own legal system and interpretation rules, so it's easier to move your company to a country where you are actually doing business and whose legal system is closer to the Latvian one. It's important that you look at the legal framework before deciding to relocate or start a business in another country, because non-compliance may pose a number of risks, for instance, a business licence may be revoked, the transfer of assets to another country may create tax liabilities, and your activities may amount to a permanent establishment.

One of the ways to relocate an incorporated business is by redomiciling. It's important to find out whether your home country and the new jurisdiction allow redomiciling and how much it will cost. Of course, you can relocate your family business by selling shares or contributing assets. However, as we mentioned in our earlier article, you may also incur costs associated with the practicalities of your operations. For example, before relocating you need to know whether the new jurisdiction offers access to a skilled workforce and whether you have a dedicated team ready to temporarily relocate to that country and help run your company and transfer their relevant expertise.

The next aspect individuals need to consider is a social security agreement. If a decision maker in your family business chooses to relocate within the EU, the person will not lose their social security entitlements guaranteed by European Parliament and Council Regulations No. 883/2004 and No. 987/2009. If your company wants to relocate to a country outside the EU, then you need to know whether the two countries have an agreement that will guarantee social insurance and service entitlements, whether the two countries have an effective double tax treaty (DTT) and whether there is investment protection and any other agreements and aspects related to your actual operations.

The tax regime

Before choosing your potential jurisdiction, it's important that you look at its tax regime to ensure your company has no extra tax implications or, if any do arise, they are close to a minimum. No matter what taxes are due, the tax charges and administrative costs will affect the profitability of your company and the overall performance of your asset portfolio.

The taxation aspects you need to consider before choosing a jurisdiction include, for instance, whether your chosen country has a stable and predictable tax system (not on the EU list of uncooperative jurisdictions) and whether the individual will be resident or non-resident in that jurisdiction. Resident status in your chosen jurisdiction determines whether and how the assets and profits of your family business will be taxed and what withholding taxes the non-resident will face. When choosing a country outside the EU, it's important to know whether the two countries have an effective DTT that will secure a stable tax regime. Yet companies generally favour a country with a transparent and expanded tax and legal system as well as legal predictability and stability.

In our next article we'll be exploring two more factors: immigration rules and investment visas, plus the cultural landscape, living standards and connectivity.

If you have any questions about this topic, feel free to phone Vita Sakne on +371 67094400.