

OPPORTUNITIES TO USE OFFSHORE STRUCTURES FOR UK TAXPAYERS INNOVATIVE AND PROVEN STRATEGIES



26 June 2013

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Agenda

- | | | |
|--------|--|---|
| 1.30pm | Registration | |
| 2.00pm | Opening Speech | Laura Hutchinson (Forbes Dawson) |
| 2.05pm | Why doesn't everyone move offshore? | Andrew Marr (Forbes Dawson) |
| 2.35pm | How Forbes Dawson works with fiduciary firms and why relevant to you | Michael Dawson (Forbes Dawson) |
| 2.40pm | Introduction to Equiom and planning opportunities using Malta | Ali Stennett (Equiom) |
| 3.05pm | Client case study – Moving UK business to Malta | Michael Dawson/Michelle Hogan (Forbes Dawson) |
| 3.25pm | <i>Coffee Break</i> | |
| 3.45pm | A day in the life of a Guernsey Fiduciary | Jim Elliott (Richmond) |
| 4.10pm | Luxembourg: An attractive investment hub | William Jean-Baptiste (Speechly Bircham) |
| 4.35pm | Offshore EBTs and Pension Schemes | Michael Dawson (Forbes Dawson) |
| 4.55pm | Closing remarks and questions followed by drinks/nibbles | Michael Dawson |

Introduction



26 June 2013

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It's a small world.....

- Internet, skype, easier to conduct international business
- Media coverage
- Moral and ethical?
- Legislation
- EU freedom to trade
- Relevant for UK taxpayers
- Embrace the tax savings – plenty of anti-avoidance!

Why doesn't everyone move offshore?



26 June 2013

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Overview

- Tax obstacles to moving offshore
- Reforms to Anti-avoidance legislation
- If not UK then where?
- Examples of structures
- Quick introduction to tax treaties
- Additional opportunities for non-domiciled individuals

Tax Obstacles to Moving Offshore

- UK resident individuals taxed on worldwide income
- UK resident companies subject to corporation tax on worldwide income:
 - Incorporated in the UK
 - Centrally managed and controlled in the UK
- Exit charges
- Non UK resident companies subject to UK corporation tax in respect of profits made through a 'permanent establishment'

Tax Obstacles to Moving Offshore

Permanent Establishment – UK Definition (FA03/s148)

Permanent establishment if:

- (a) It has a fixed place of business here through which the business of the company is wholly or partly carried on, or
- (b) An agent acting on behalf of the company has and habitually exercises their authority to do business on behalf of the company.

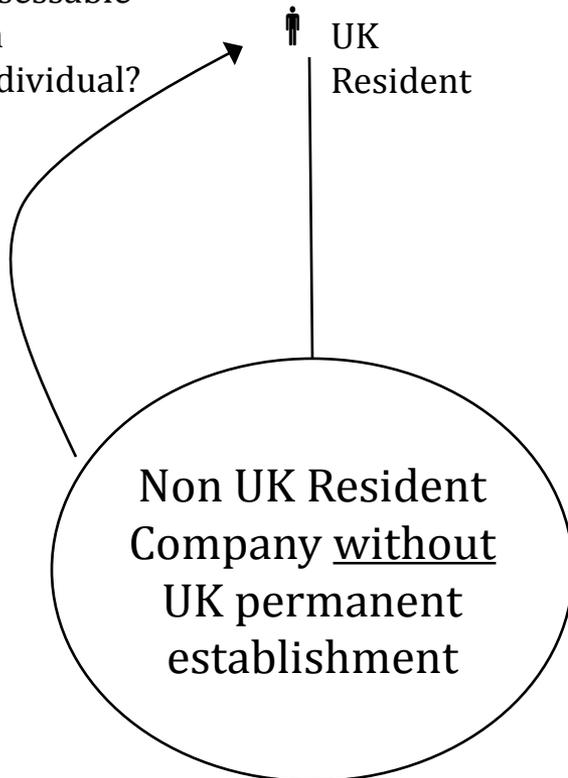
Examples of ‘fixed places of business’

Place of management, branch office, factory, workshop, building site or construction or installation project.

Tax Obstacles to Moving Offshore

Anti-Avoidance Legislation

Profits
assessable
on
individual?



Section 720 ITA 2007

- Acts to assess shareholders on profits made by their offshore companies.

Section 13 TCGA 1992

- Acts to assess shareholders on gains made by their offshore companies.
- But these have been made friendlier

Reforms to Anti-Avoidance Legislation

- Taxing individuals on income and gains is a breach of EU freedoms
- Therefore change legislation to make friendlier

Key Changes

- TCGA 1992 Section 13 (gains) not applicable if assets used for economically significant activities
- ITA 2007 Section 720 not applicable if it would give rise to 'unjustified and disproportionate restriction' on EU treaty freedom

Therefore much friendlier where EU countries are concerned.

Where do we move to?

Recap

- Can we use non-UK incorporated company?
- Can we avoid UK Permanent Establishment?
- Can we avoid UK anti-avoidance legislation?
- Are we happy exit charges are bearable/non-existent?
- OK, where do we go?



Where do we move to?

Key Considerations:

- Low taxation – no point leaving UK to be taxed at same or higher
- No tax on dividends
- No capital gains tax on disposals of subsidiaries
- Access to EU Directives – therefore defence from anti-avoidance legislation
- Treaty Network (eg. royalties, interest etc)
- No withholding tax on dividends

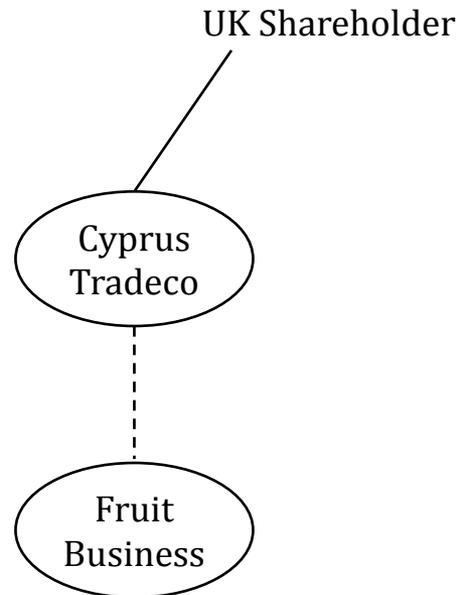
Where do we move to?

Some Candidates

	Guernsey/ Channel Islands	Cyprus	Malta	Madeira
Low Taxation	✓	✓	✓	✓
No tax on dividends	✓	✓	✓	✓ /5%
No capital gains tax on disposal of subsidiaries	✓	✓	✓	✓ /5%
Access to EU Directives	x	✓	✓	✓
Treaty Network	x	45	60	52
No withholding tax on dividends	✓	✓	✓	25%/30% but EU Parent – Subsidiary Directive

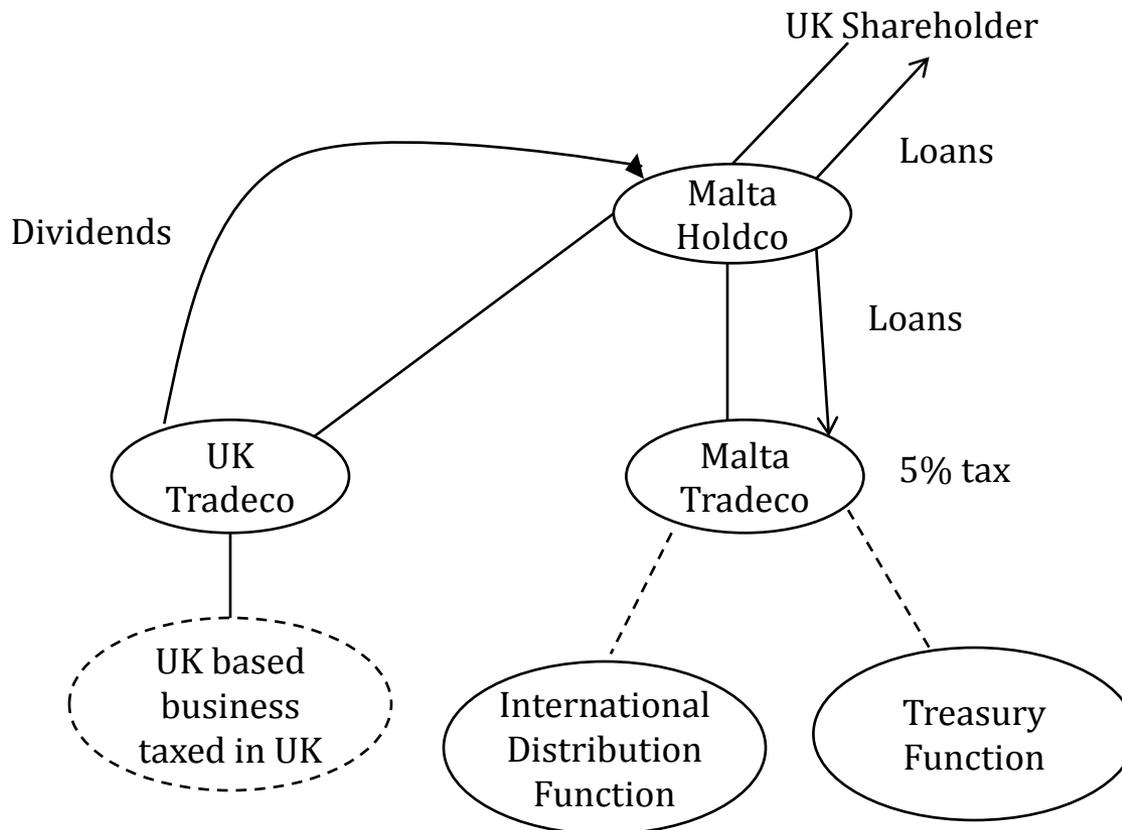
Examples of Structures

Example 1 – Cypriot Fruit Business



Examples of Structures

Example 2 – International Export Business

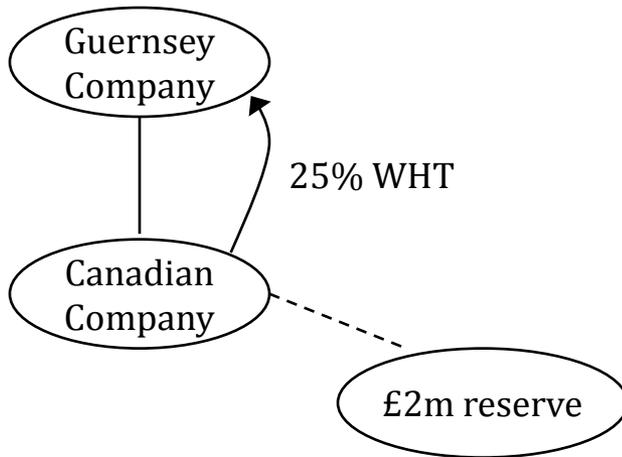


Quick Introduction to Tax Treaties

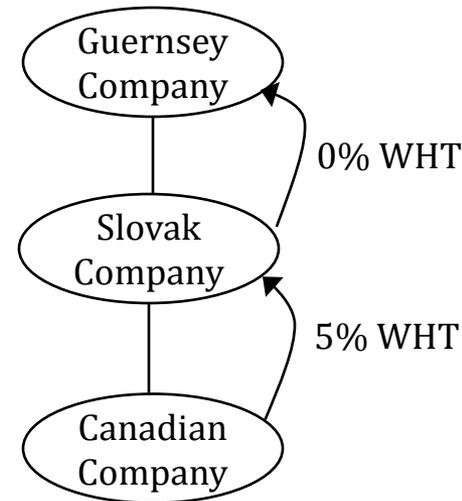
- Among other things these govern rates or withholding tax when profits flow from one country to another
- Sometimes it can be helpful to route through different companies

Example:

No Tax Treaty



Tax Treaty



But watch out for Treaty Shopping Rules!!

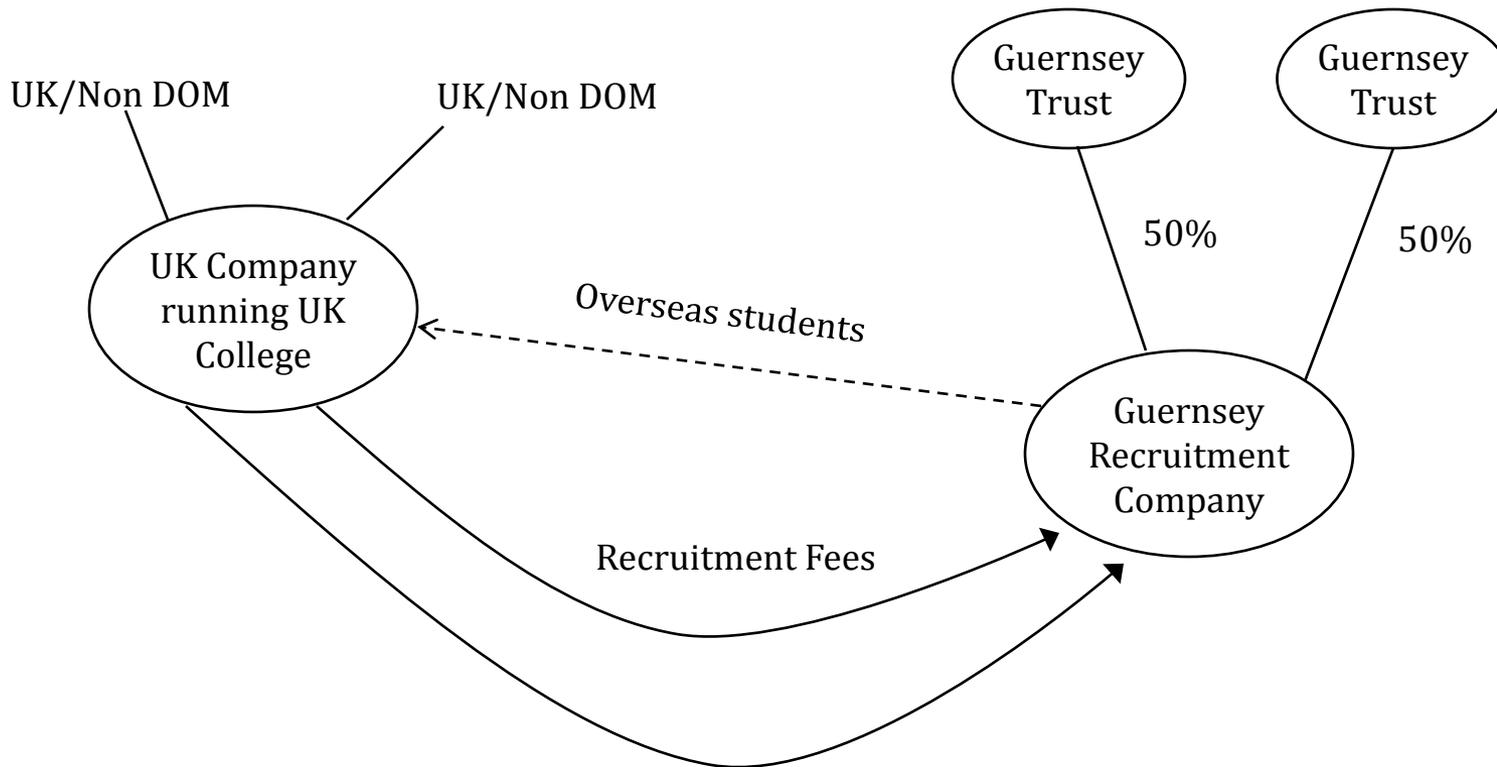
Additional Opportunities for Non-UK Domiciled Individuals

- Domicile of choice/domicile of origin
- If domicile of origin need to avoid acquiring domicile of choice:
 - Fixed intention to remain in the UK
- Take on domicile of father
- In practice HMRC accept second and even third generation Asian (say) clients are non UK domiciled

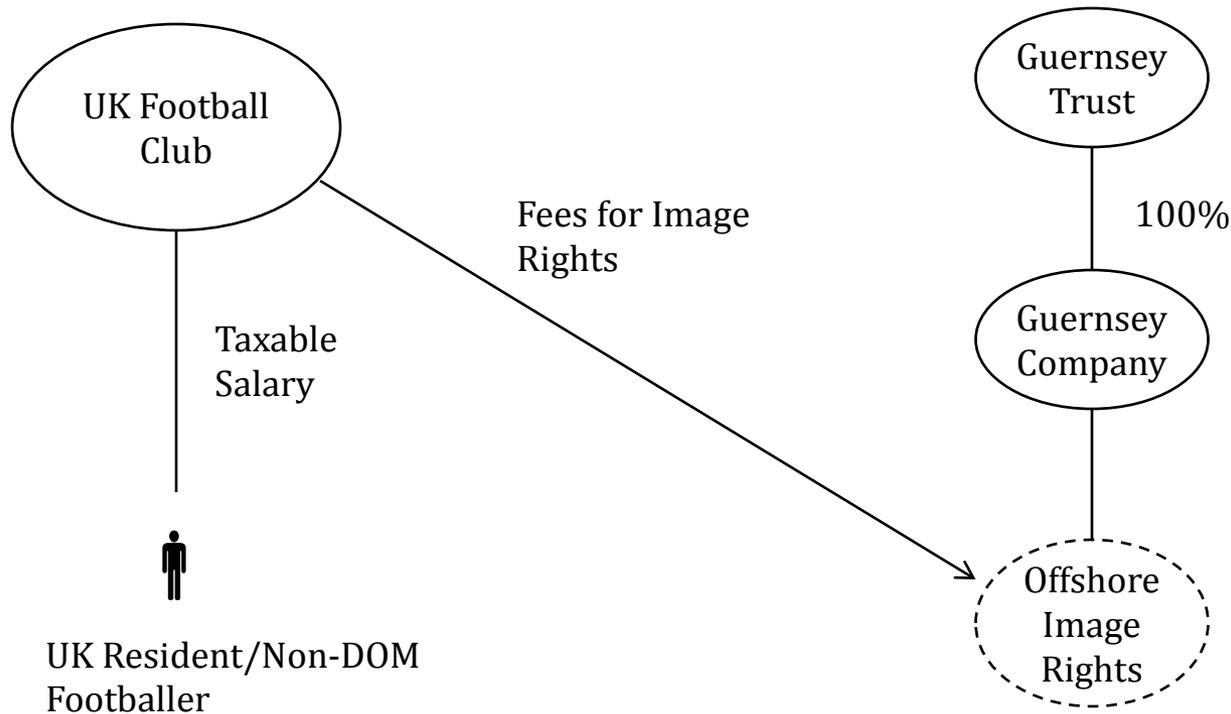
Additional Opportunities for Non-UK Domiciled Individuals

- Taxed on a remittance basis
- Anti-avoidance works on a remittance basis
- But remittance basis charge:
 - 12 of 14 previous tax years = £50,000
 - 7 of 9 previous tax years = £30,000
 - 'Free' otherwise

Additional Opportunities for Non-UK Domiciled Individuals



Additional Opportunities for Non-UK Domiciled Individuals



Summing Up

- If circumstances are right it is okay to move offshore
- Get the location right
- Additional opportunities for non-UK domiciled individuals (taxed on remittance basis)

How Forbes Dawson works with Fiduciary Firms and why relevant to you



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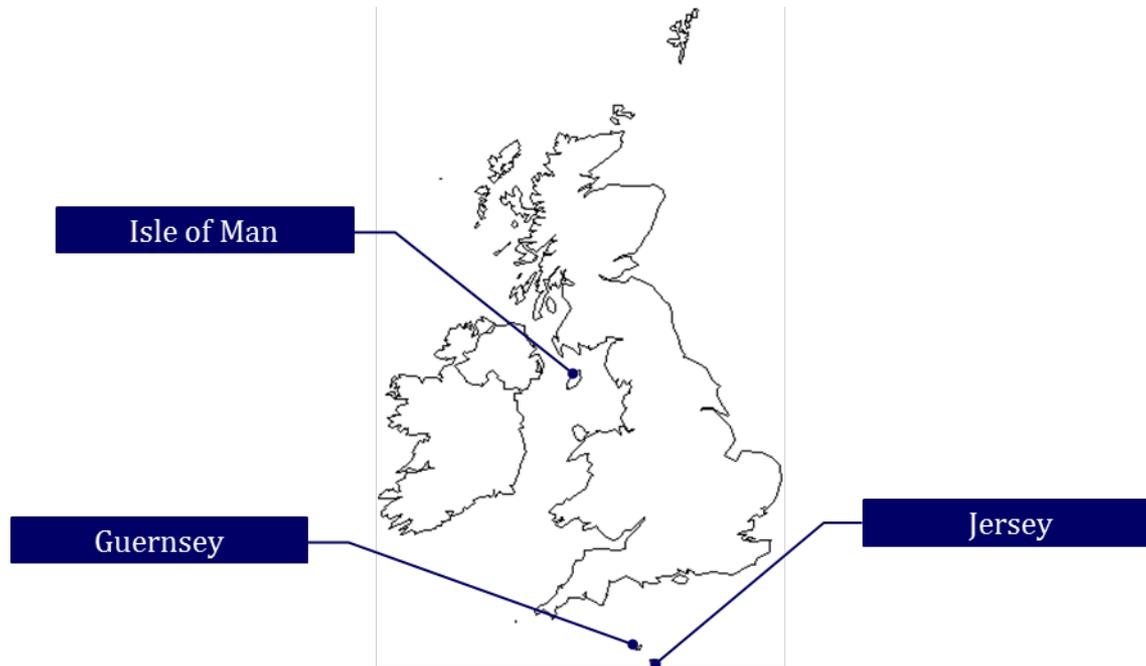
MICHAEL DAWSON

Partner

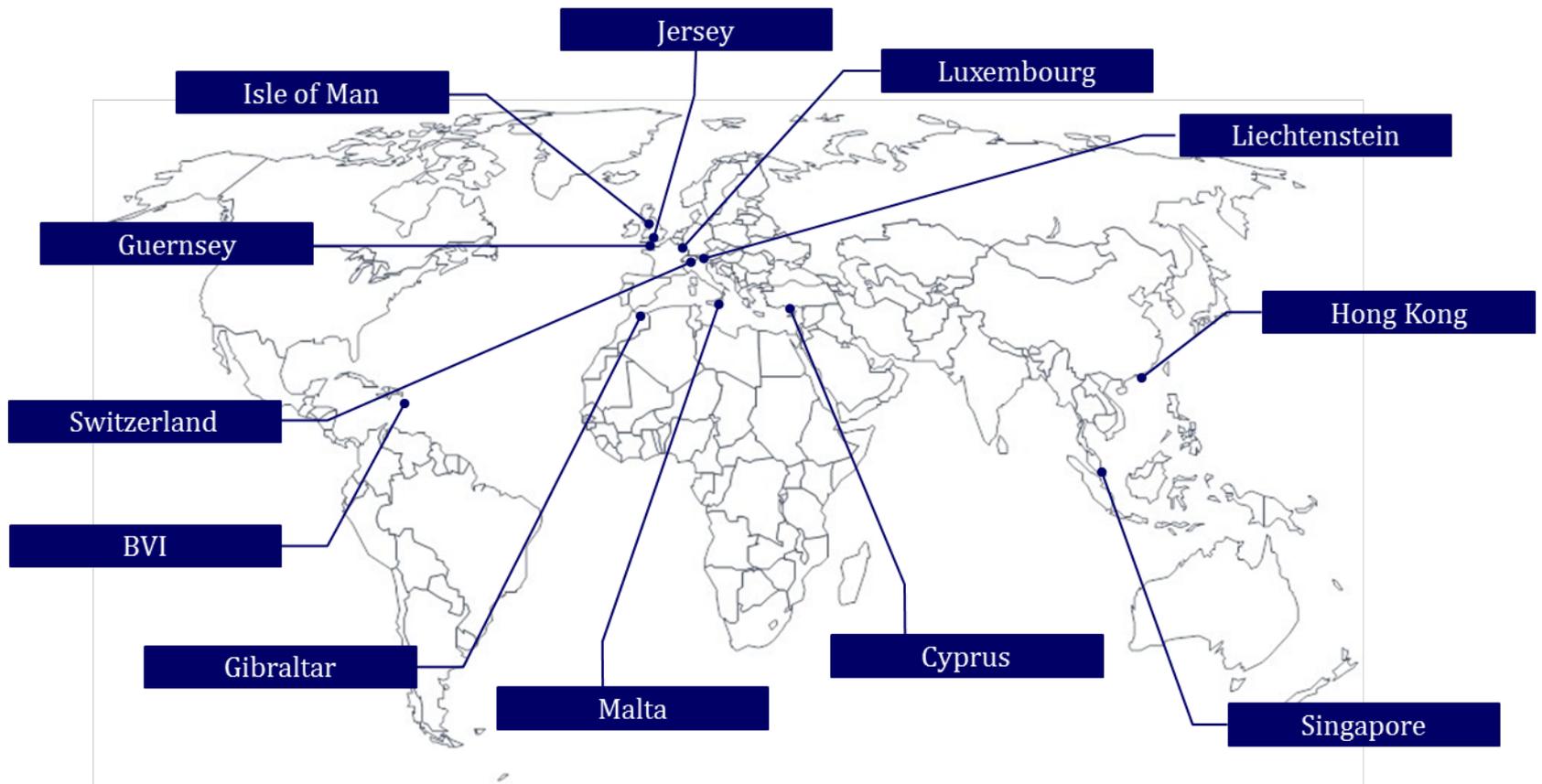
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Our role with Fiduciary Companies



Map of the World



Services we provide to Fiduciaries

- Compliance – Tax returns including 50FS and IHT reporting
- Dealing with HMRC disputes and tax settlements
- Planning and setting up structures
- Unwinding structures

Importance of Fiduciary

- Must exercise control
- Relationship of trust
- Quality of record keeping
- Cost effective
- Speed of response and staff continuity
- Expertise in recognising issues and introducing support



Equiom

A partnership built on trust

An Introduction to Equiom and Planning Opportunities using Malta

Ali Stennett, Tax Director

Introduction

- Introduction to Equiom
- Services we provide
- Activities performed by Equiom
- Location of clients and assets under administration
- Issues for UK persons using offshore structures
- Why use offshore structure?
- Opportunities in Malta
- Why use Malta?
- Examples of Maltese structures

Introduction to Equiom

- Fully licensed fiduciary service provider
- Over 120 staff including professionally qualified lawyers, accountants, tax advisers, chartered secretaries and trust practitioners
- Business lines divided between Core Services and Specialist Services with a dedicated team assigned to each structure, matching expertise with proposed activities
- A 'can do' ethos
- Broad asset acceptance policy
- Equiom Solutions provide a strong technical support team to work with the clients and their advisers to ensure the effective management of structures under administration

Location of Clients and Assets Under Administration

Over 1,400 entities administered for clients in:

- United Kingdom
- Ireland
- Channel Islands and Isle of Man
- Western Europe
- Russia and Central Europe
- North America
- South America
- The Middle East
- The Far East

Circa US\$10bn assets under administration

Services We Provide

- **Core Services**

- Trust and Company formation and administration
- Commercial and Residential Property structuring
- UK Res Non-Dom and International Asset Protection Structuring
- Sports, Media and Entertainment Structures
- Intellectual property structures
- Family office services
- Foundation formation and administration
- International Corporate Pension Trustees
- Resort Management
- Shipping

- **Specialised Services**

- AIM (Alternative Investment Market)
- Aviation
- Crew Payroll
- E-Gaming/E-Business
- Yachting

- **Accountancy Services**

- Client Accounting and Book Keeping
- Preparation of Accounts
- Regulatory Reporting
- Tax Returns
- VAT Returns

Issues for UK Persons using Offshore Structures

Tax issues to consider:

- Transfer of assets abroad (Sections 720, 727 and 731 ITA 2007)
- Attribution of Capital Gains (Section 13 TCGA 1992)
- The General Anti-Abuse Rule (“GAAR”)
- Disclosure requirements in Annual Tax Returns

- Management and Control

Activities Performed by Equiom

Through our offices in the Isle of Man, Jersey, Cyprus and Malta we provide:

- speedy and efficient incorporation services in a variety of jurisdictions
- professional directors and trustees
- registered office and agent facilities
- nominee services
- professional administration and accounting services
- legal and tax technical support

Why use Offshore Structures?

- Is offshore a modern day swear word? What about tax avoidance?
- Legitimate cross border structures
- Bona fide commercial reasons
- Non-UK domiciled individuals
- Tax deferral structures
- Asset protection
- Anonymity
- International clients investing in the UK or trading with the UK

- Common jurisdictions we use in practice

Why use Malta?

- Equiom (Malta) Limited was formed in response to market demand
- 35% headline rate of tax but low effective rate of tax due to imputation system (generally 5% or 10%)
- Low political and economic risk
- EU member state
- Strong treaty network – over 60 double tax treaties
- Non-domicile regime for individuals and companies
- English speaking
- Good transport links

Opportunities in Malta

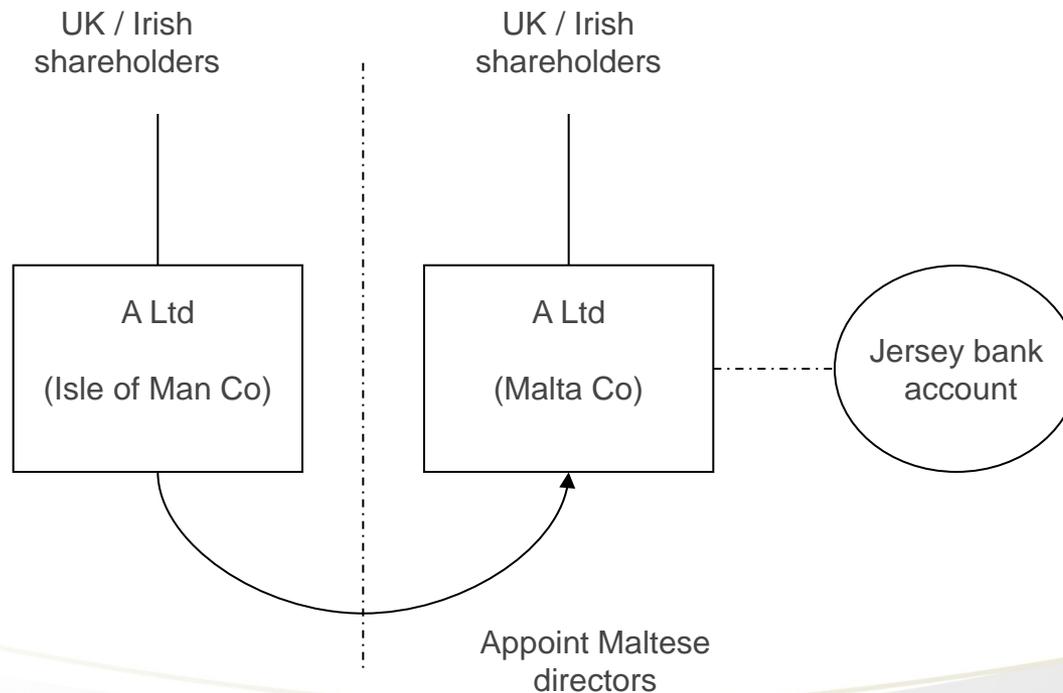
- We have recently been involved in the following structuring activities:
 - Re-domiciling companies to Malta
 - Maltese tax resident non-domiciled companies
 - Relocation from the UK
 - Malta as a holding company jurisdiction
 - Maltese royalty companies
 - Maltese trading companies
 - Intellectual property structures
 - Asset protection structures e.g. trusts and luxury asset holding structures

Re-domiciling a Company to Malta

- Re-domiciliation allows a company registered in a particular jurisdiction to transfer their statutory seat to another jurisdiction.
- If a company re-domiciles from one jurisdiction to another it will maintain the same corporate personality
- For example a Jersey incorporated and tax resident company that transfers its statutory seat to Malta will cease to be a Jersey entity and, from the date of re-domiciliation, will be treated as a Maltese incorporated entity
- This is different to transferring the tax residence of a company to Malta
- Opportunities if only transfer tax residence.....

Maltese Tax Resident Non-domiciled Companies

- Opportunities for UK or Irish shareholders
- Isle of Man incorporated company with a Jersey bank account
- Transfer tax residence to Malta.....why?



Maltese Tax Resident Non-domiciled Companies

- Malta taxes companies on the remittance basis for companies
- If a company is not Maltese incorporated but it is Maltese tax resident then the company is subject to tax in Malta on:
 - (i) Maltese source income, and
 - (ii) non Maltese source income to the extent that it is remitted in to Malta
- Non Maltese income held in a bank account outside of Malta should not be liable to Maltese tax
- Potential tax deferral opportunities for UK and Irish tax resident clients
- Speak to Forbes Dawson

Individuals Relocating from the UK

- Exchange of information
- FATCA
- High taxation and complicated rules in home jurisdiction
- Increasingly aggressive tax authorities
- Mobile HNWI
- Low tax countries (e.g. Isle of Man) or special regimes for expatriates (e.g. Malta)
- Clarity of tax position
- Structuring opportunities for HNWI or their family members
- Other jurisdictions Switzerland, Jersey, Guernsey, Ireland, Monaco, Gibraltar, Hong Kong, Singapore.....

Relocation to Malta

- Non-domiciled regime
- Tax on “remittance basis” at a flat rate of 15% on income. Capital gains arising outside of Malta are not taxed in Malta even if they are remitted
- No minimum stay requirement in Malta but the person cannot live in any other one jurisdiction for more than 183 days
- Various schemes: HNWI, Highly Qualified Individuals etc
- Language
- Connections into Europe
- Low cost of living
- Weather

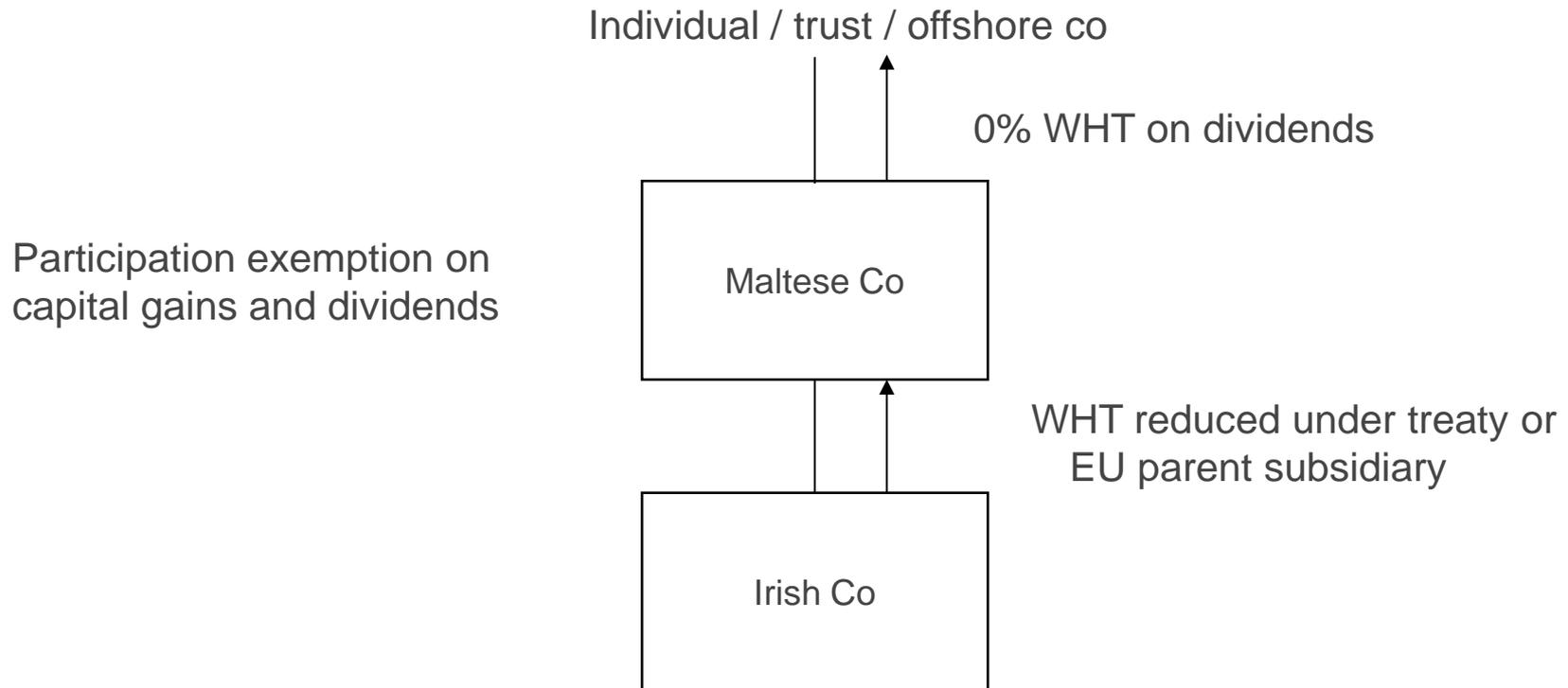
Relocation to the Isle of Man

- Higher rate of personal tax for individuals is 20%
- Effective rate is generally less than 20%
- Tax Cap (i.e. maximum income tax liability) of £120,000 pa
- No capital gains tax
- No stamp duty, inheritance tax or wealth taxes
- No restriction on residency
- No property restrictions and normal prices
- Immigration rules broadly similar to the UK

Malta as a Holding Company Jurisdiction

- Malta is a popular EU Holding Company Jurisdiction due to its favourable tax regime
- In Malta there is no distinction between a holding company and a trading company from a legal or tax perspective
- Participation exemption available to all Maltese companies in respect of their holding activities
- Therefore typical holding company benefits are available even if the main additional activities are treasury, financing, royalties, trading etc

Malta as a Holding Company Jurisdiction



Malta as a Holding Company Jurisdiction

- Participation exemption for capital gains and dividends
 - No Maltese tax on capital gains realised upon the disposal by the Maltese company of shares in a subsidiary
 - No Maltese tax on dividend income received by the Maltese company from a subsidiary
- No Maltese tax on dividends, interest, royalties or other expenses distributed by the Maltese company
- No Maltese tax on capital gains realised on the disposal of shares in the Maltese company
- Advanced rulings can be obtained from the Maltese Revenue if so required
- Over 60 double tax treaties based on the OECD Model
- No transfer pricing, thin capitalisation or controlled foreign company rules

Malta as a Holding Company Jurisdiction

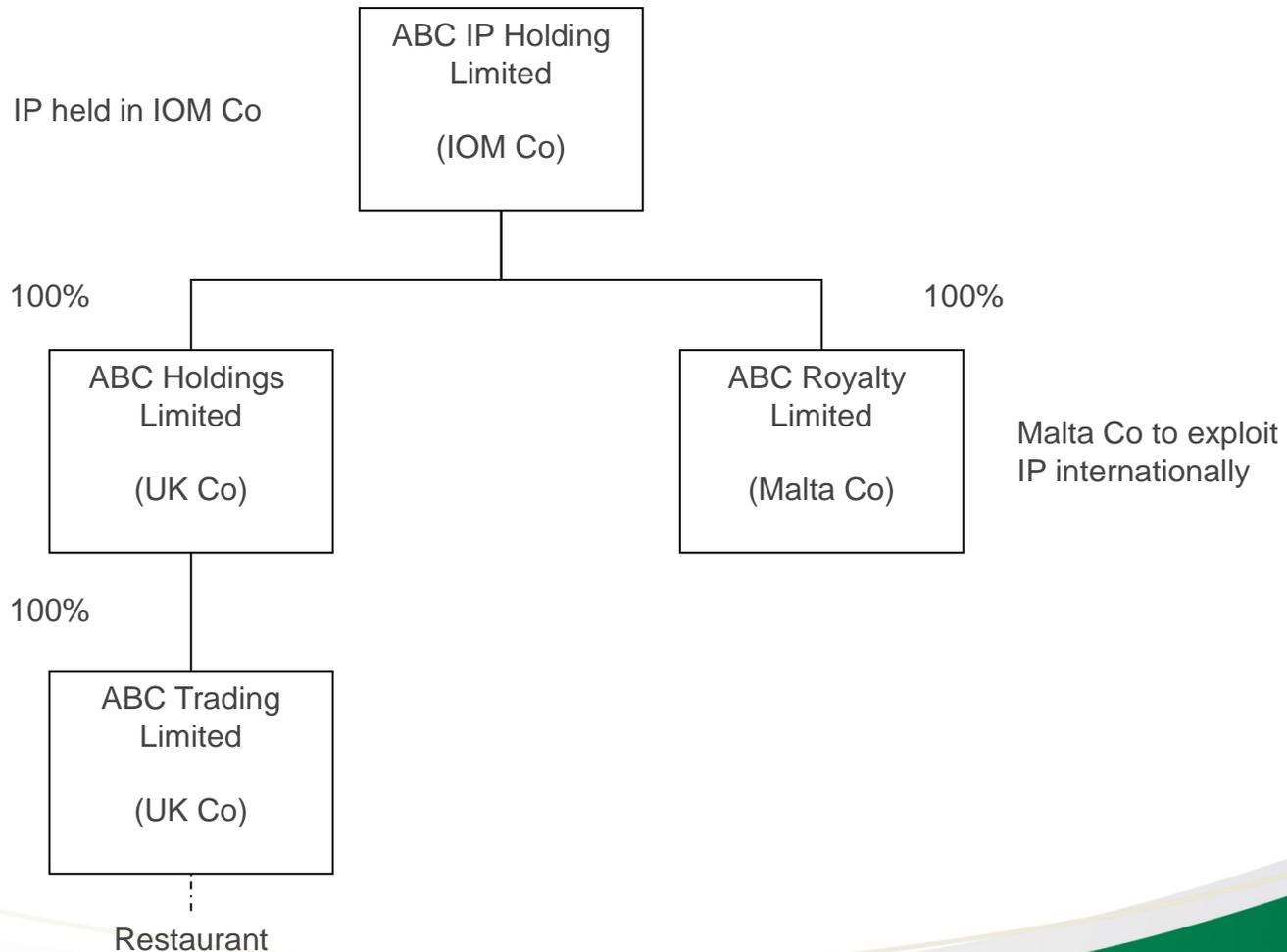
- The Maltese participation exemption generally applies if:
 - Maltese company holds at least 10% or more of the equity share capital of the overseas co, **or**
 - The value of the equity shareholding exceeds Euro 1.2 million and is held for at least 183 days, **or**
 - The Maltese company is entitled to be represented on the Board of the overseas company, **or**
 - The shares are held for the furtherance of the business of the Maltese company and not held as trading stock

Maltese Royalty Companies

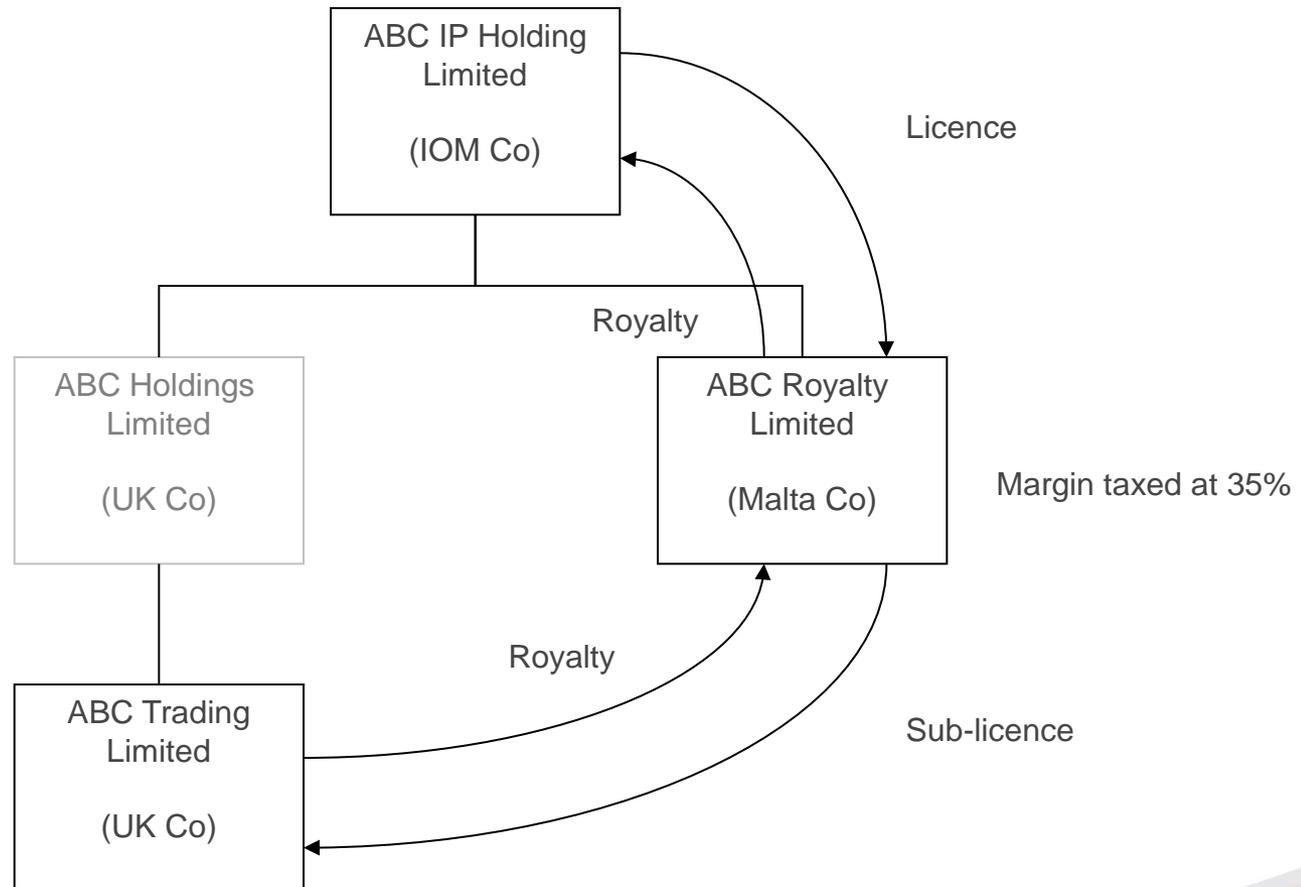
- Withholding tax on inward royalty payments reduced or nil
- No withholding taxes on outbound payments from Malta
- Low effective rates of tax on any margin retained in a Maltese royalty company
- Intellectual Property Box regime is available if Intellectual Property (“IP”) held beneficially by a Maltese company
- No specific transfer pricing legislation
- Advanced rulings can be obtained from the Maltese Revenue
- Maltese domestic IP legislation protects trademarks, patents, design and copyright and Malta is a member of the World Intellectual Property Organisation (WIPO) and has signed up to various other IP agreements

- Practical case study...

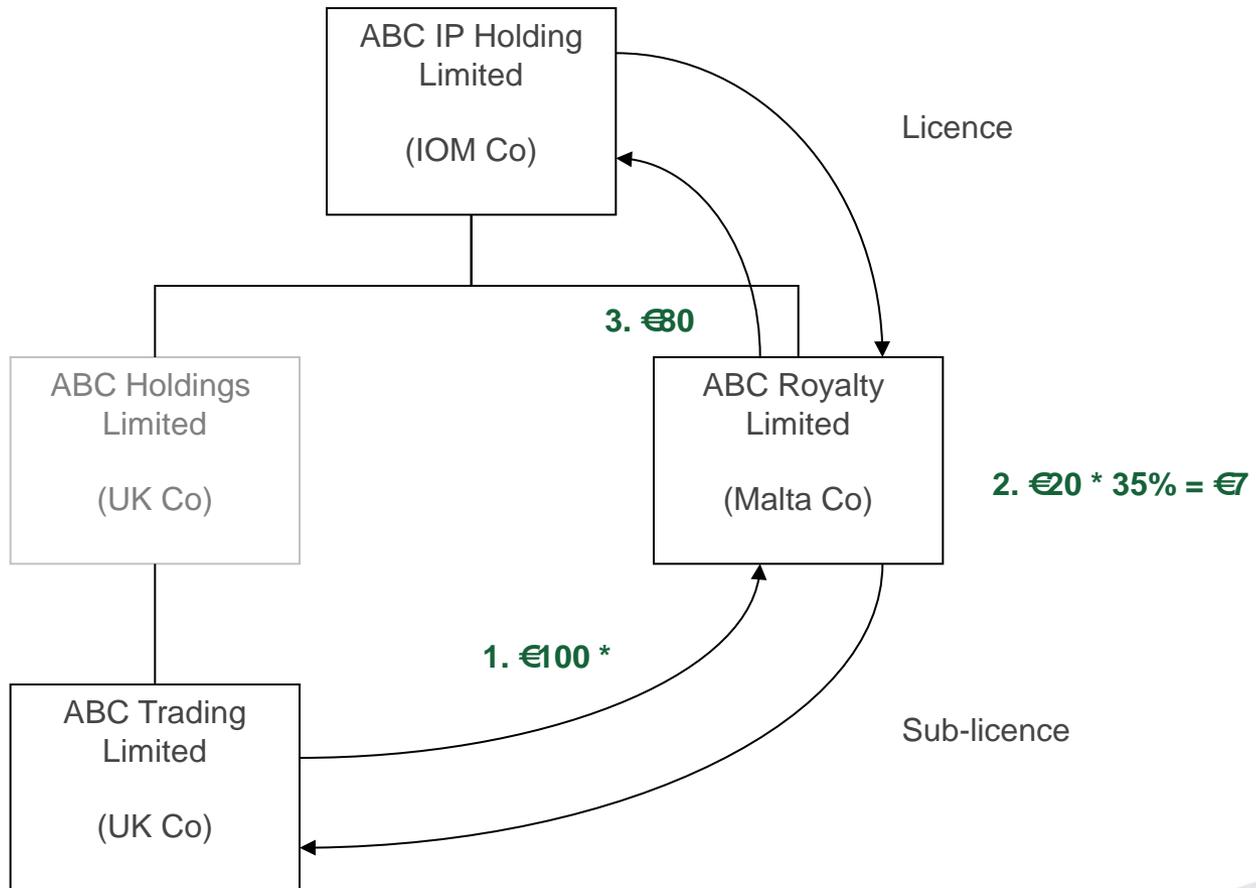
Maltese Royalty Structure for UK Business



Maltese Royalty Structure for UK Business

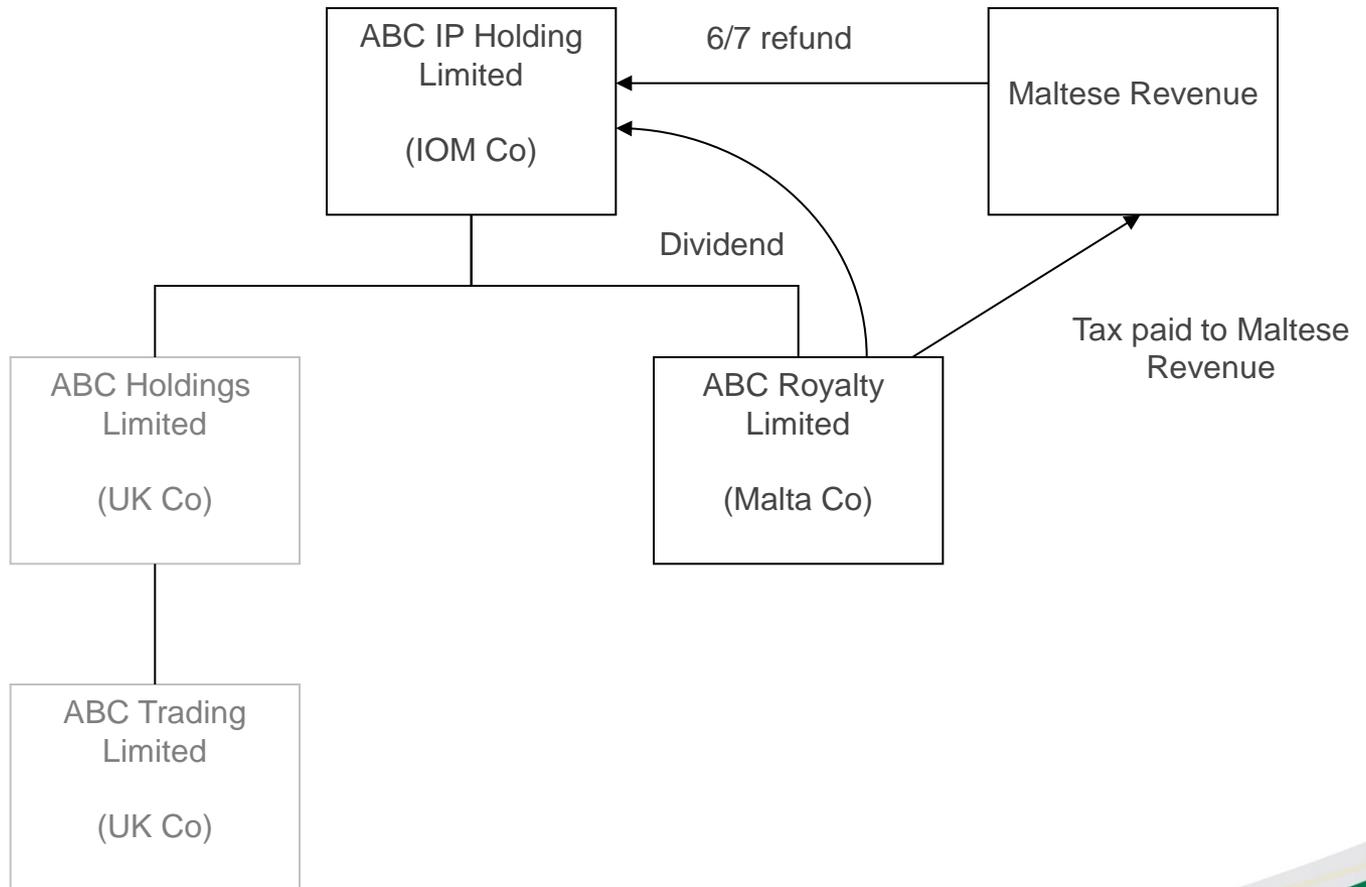


Maltese Royalty Structure for UK Business

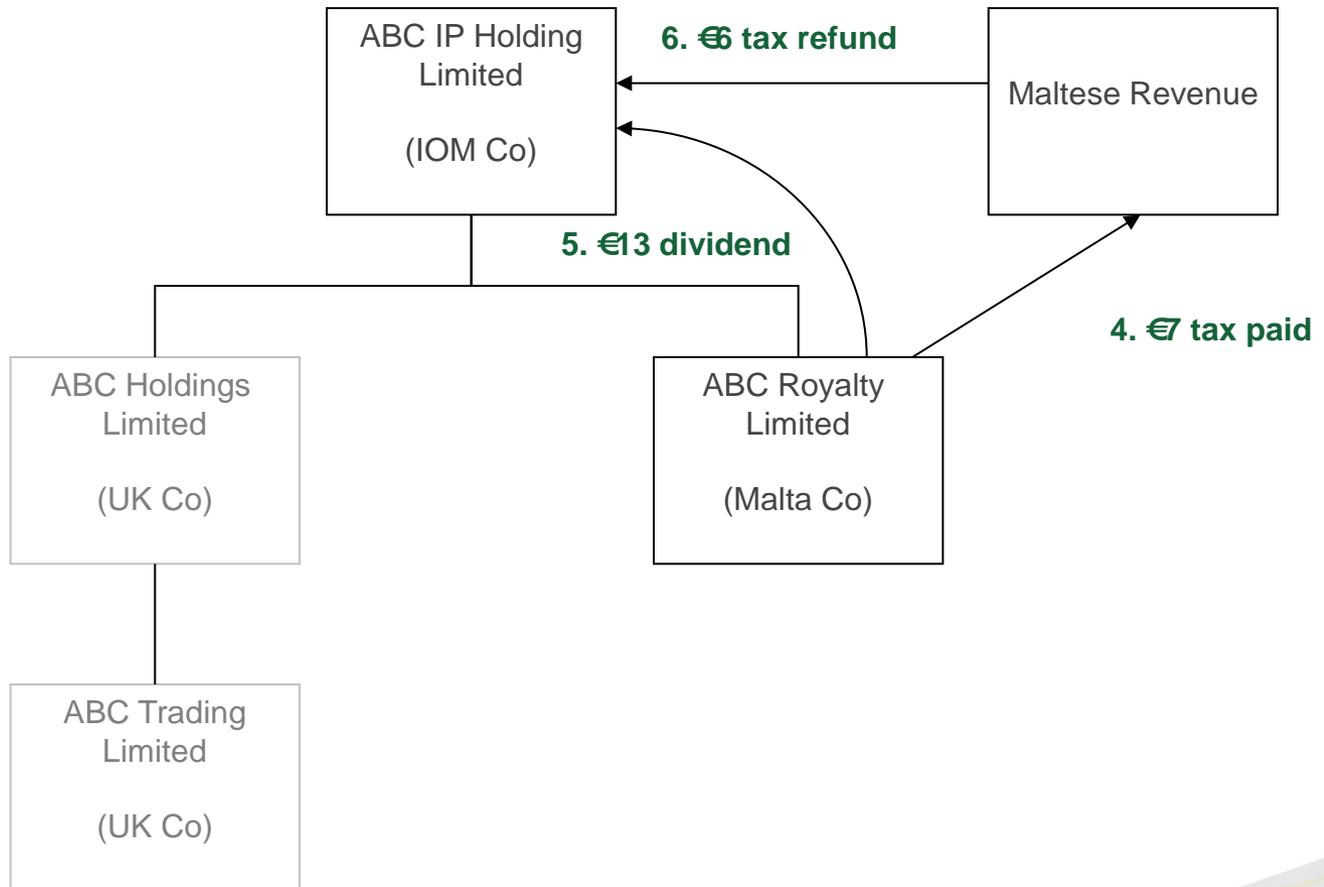


*Assuming no royalty withholding tax under EU Interest and Royalties Directive

Maltese Royalty Structure for UK Business



Maltese Royalty Structure for UK Business



Maltese Royalty Structure for UK Business

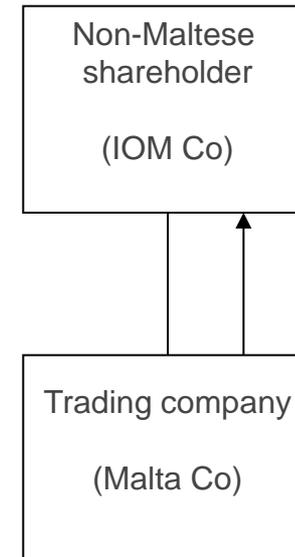
	EURO	%
Royalty income (1.)	100	
Less royalties payable (3.)	-80	
Less other expenses related to the royalty income *	0	
Chargeable Income for Maltese tax purposes (2.)	20	
Malta Tax at 35% (to be paid) (2.)	7	7%
6/7ths refund of Malta tax may be claimed by shareholder of the company upon a distribution of a dividend ** (6.)	-6	
Effective rate of tax	1	1%

* the Malta tax charge will be lower in the event that there are expenses directly related to the royalty income and which qualify as a deduction for Malta tax purposes

** assuming there are enough distributable profits for this purpose

Maltese Trading Companies

- Malta does not distinguish between holding and trading companies
- The full imputation system allows persons carrying out trading activities in or from Malta to secure the lowest net effective tax rates available in the European Union
- 35% headline rate but 5% effective rate of tax
- Substance requirements



Summary

- Equiom are well placed to assist with clients structuring requirements
- Offices in the Isle of Man, Jersey, Malta and Cyprus
- Tax planning is increasingly complex
- But structuring opportunities do exist
- Each case needs to be considered separately
- It is essential that you take appropriate tax advice at every stage from tax specialists

- Speak to Forbes Dawson.....then speak to Equiom



Equiom

A partnership built on trust

Thank you

Contact Details

Ali Stennett, Tax Director

Ali has over 12 years experience working within the taxation profession. A Chartered Tax Advisor (CTA) and a member of the Chartered Institute of Taxation Ali commenced his career with KPMG in London where he trained and qualified before moving to the Isle of Man in 2006. Ali has considerable knowledge of the Trust & Corporate services industry and works closely with our clients to assist them and their advisers with the planning and implementation of their structures and transactions.

Ali has a wealth of experience in managing international client relationships with a particular focus on cross border issues including double tax treaties, withholding taxes, reporting requirements and exchange of information. Involvement on a number of significant restructuring projects for Russian and ex CIS clients have further expanded Ali's international knowledge and expertise.



Career Highlights:

- A member of the Chartered Institute of Taxation
- Appointed to the role of Director aged 34
- Regularly sought out to speak at key industry events

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Equiom

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Client Case Study: Moving UK business to Malta



26 June 2013

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Case study - overview

Background

- UK shareholders
- UK financial services businesses, online, rapid growth
- IP – affiliate relationships (worldwide), consumer data, software development
- Highly automated process
- Low staff numbers

Tax exposures

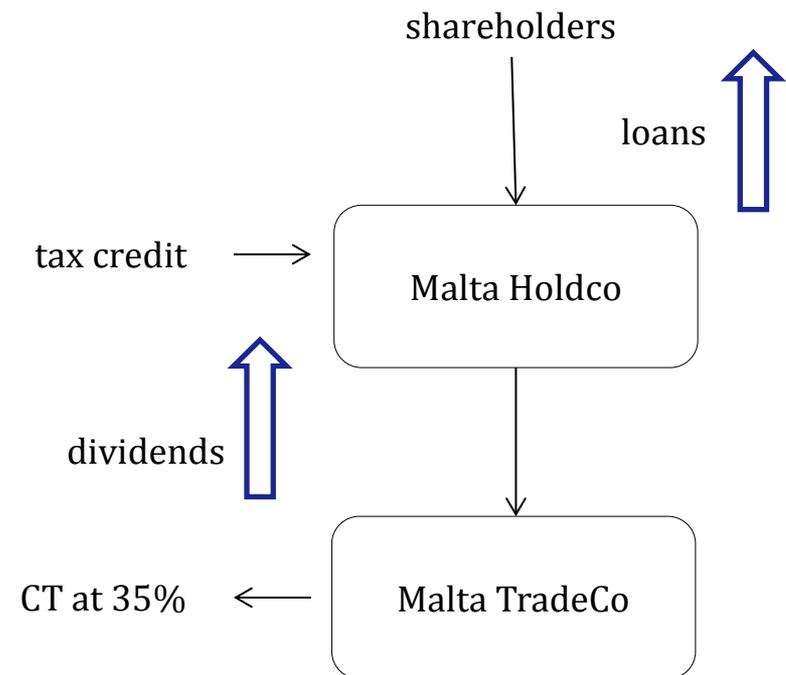
- 23% CT on profits
- Income tax - 30.55% on dividends; 45% on remuneration
- Had been actively looking for tax planning ideas

Considerations...

- Regulated trading activities in UK
- Some to remain in UK; offshore activities may need licence depending on extent
- Complex CFC anti-avoidance rules – prefer direct ownership by shareholders
- Favourable IP regimes not appropriate

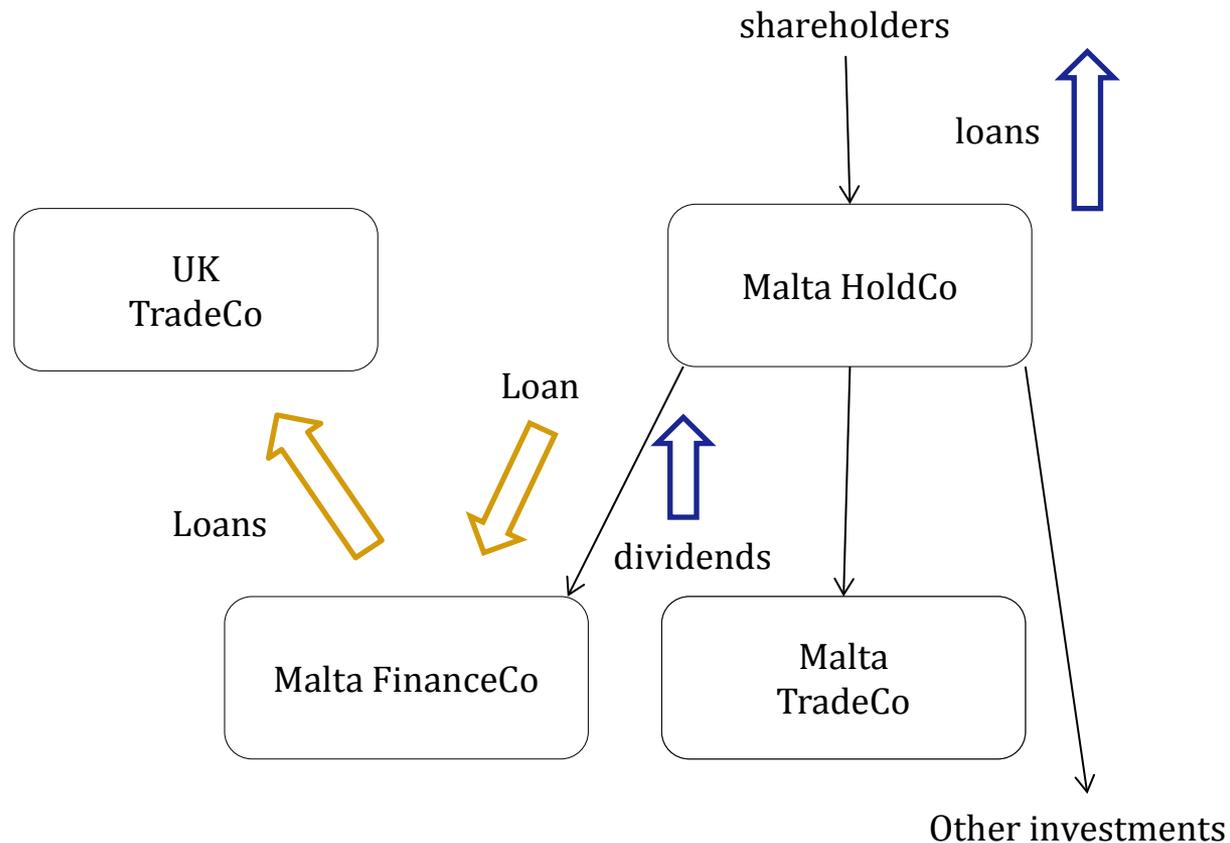
Why Malta?

- 5% effective rate of CT on distributed trading profits
- No s.455 charge on shareholder loans, unlike UK
- Annual tax charge on deemed interest shareholder loans balance (effective tax rate 2.8% p.a.) as in UK
- Effective way to extract funds until exit
- ER available on eventual share sale



Treasury company role in Maltese structure

- Loans to related UK co.s
- No transfer pricing regulations in Malta
- No withholding tax on interest or royalties from UK 'associated companies'
- Use distributed cash for other investments
- No withholding tax on UK dividends



Commercial substance in Malta

- Maltese activities – exploitation/development of IP initially
- Lending to UK regulated companies - requires Maltese Financial Services licence
- Robust evidence of commercial substance (MFSA requirements re presence)
- Initial revenues from
 - UK related companies for IP use and finance
 - Formalise affiliate relationships
 - Consumer database
 - Web development services
 - Loaning funds by Maltese finance co.

Richmond Fiduciary Group

**A day in the life of a
Guernsey fiduciary**

Introduction

- Definition of the word fiduciary.
- What do fiduciary companies do?
- The types of entities we create and administer.
- Unusual Guernsey opportunities
 - Protected Cell companies
 - Incorporated cell companies
 - Image Rights Legislation
- Case studies.

Definition of Fiduciary

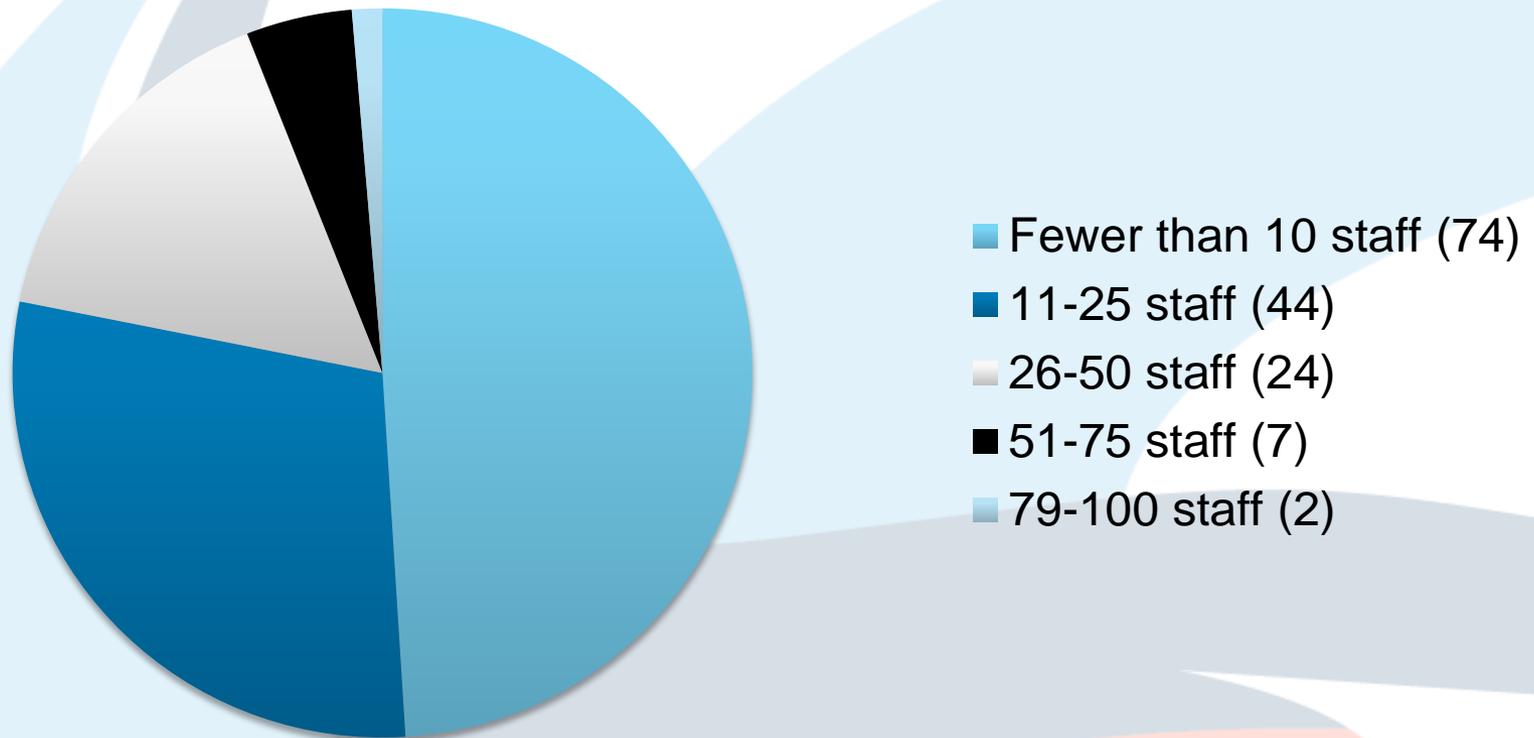
“An individual [or company] in whom another has placed the utmost trust and confidence to manage and protect property or money. The relationship wherein one person [or company] has an obligation to act for another's benefit”.

What do fiduciary companies do?

- Create and administer
 - Trusts
 - Companies
 - Foundations
 - Limited Partnerships
- We administer trusts, companies and foundations on behalf of beneficiaries and shareholders and ensure “Central Management and Control” of each entity remains in Guernsey.
- To achieve the above we work closely with firms like Forbes Dawson
- We control all assets held by the structure including:
 - Bank accounts
 - Properties
 - Investment portfolios
 - Chattels

Full Fiduciary Licence Holders in Guernsey

Number of Fiduciary Licenses per total number of staff



The types of entities we create and administer (1)

- Trusts
 - Discretionary
 - Life Interest
 - Accumulation and Maintenance
 - Pre-Immigration
- Private Trust Companies
 - Dedicated to the affairs of one family
- Managed Trust Companies
 - Lawyers
 - Accountants

The types of entities we create and administer (2)

- Companies

Types

- Stand alone
- Protected Cell Companies
- Incorporated Cell Companies

Activities undertaken

- To own and develop property
- Investment Holding
- Trading
- Act as registered owner of Image Rights

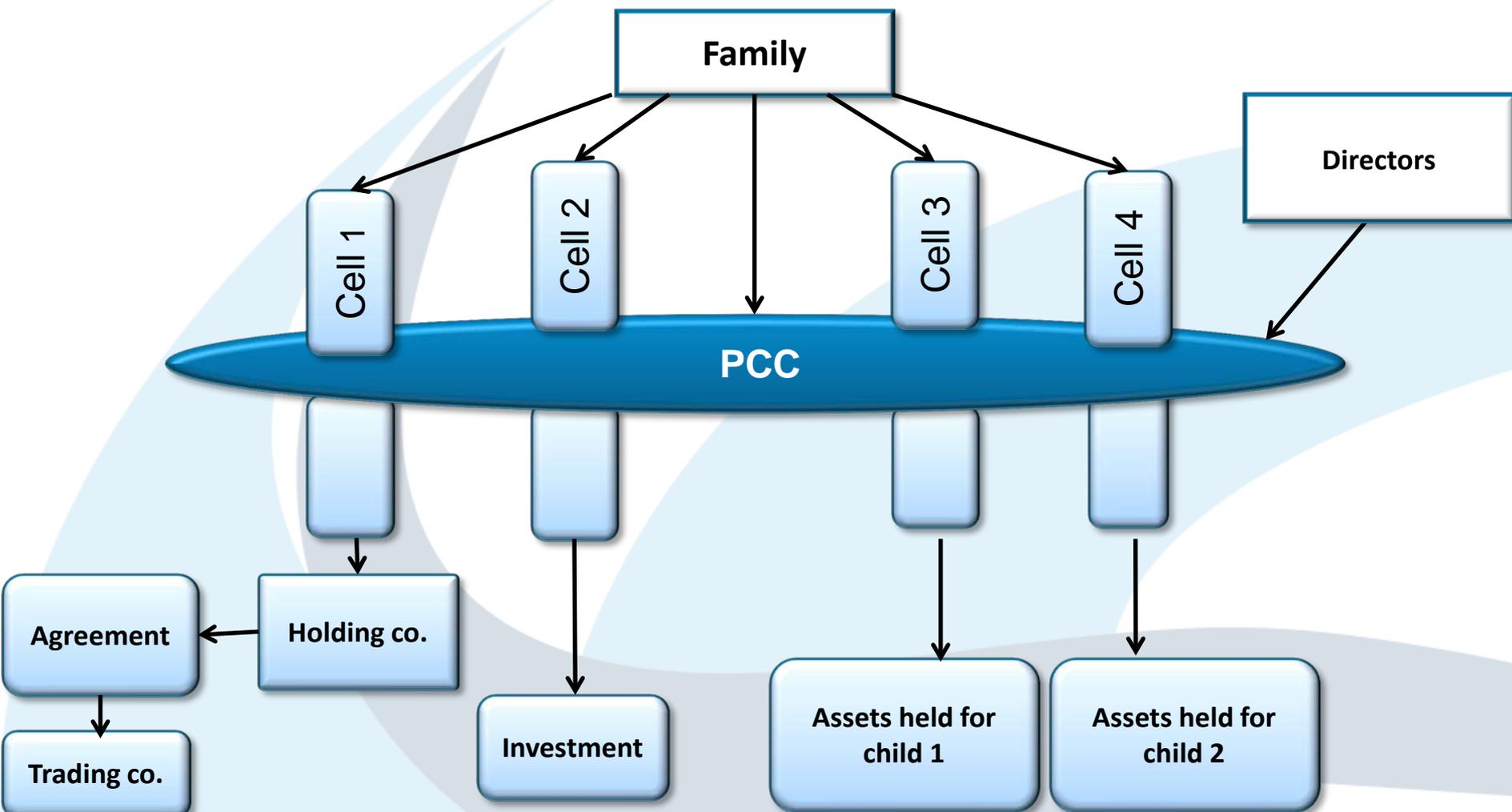
The types of entities we create and administer (3)

- Foundations
 - Charitable
 - Philanthropic
 - Family holding structures
 - Family Office
 - Private Trust Company structures

Unusual Guernsey opportunities

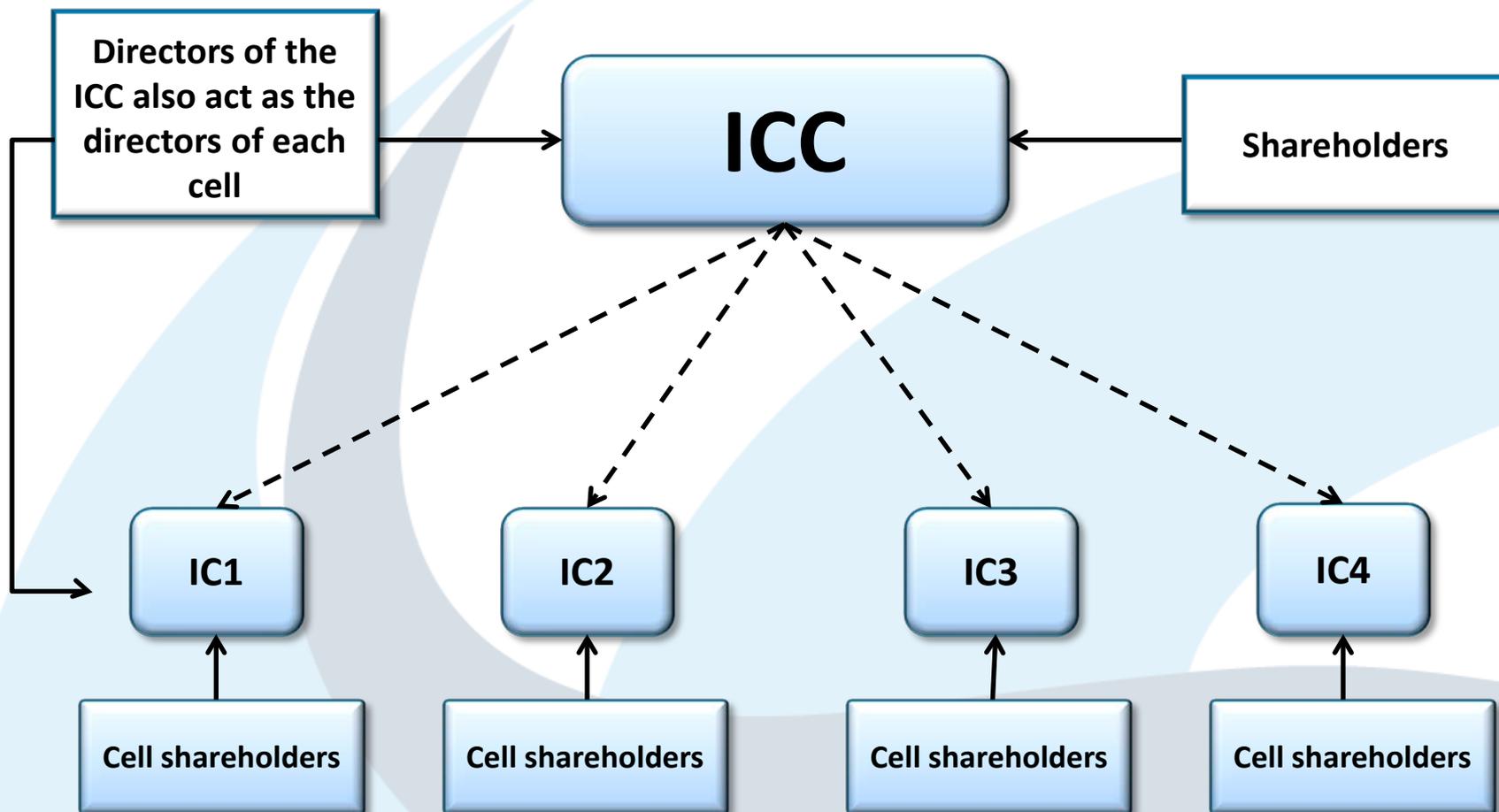
- Protected Cell Companies
- Incorporated Cell Companies
- Globally unique Image Rights legislation

A basic PCC structure



Note: Cells can be owned by the PCC or by separate individuals or companies

A basic ICC structure



Note: Cells can be owned by the ICC or by separate individuals or companies

Guernsey's unique Image Rights Legislation (1)

- The Image Rights (Bailiwick of Guernsey) Ordinance 2012
- Personnage
 - A natural person
 - A legal person
 - Two or more natural or legal people
 - A group of natural or legal people
 - A human or non-human fictional character

Note: The above groups can include deceased natural persons and extinct legal persons so long as they were alive or existed in the previous 100 years.

All of the above can register their 'Personality'

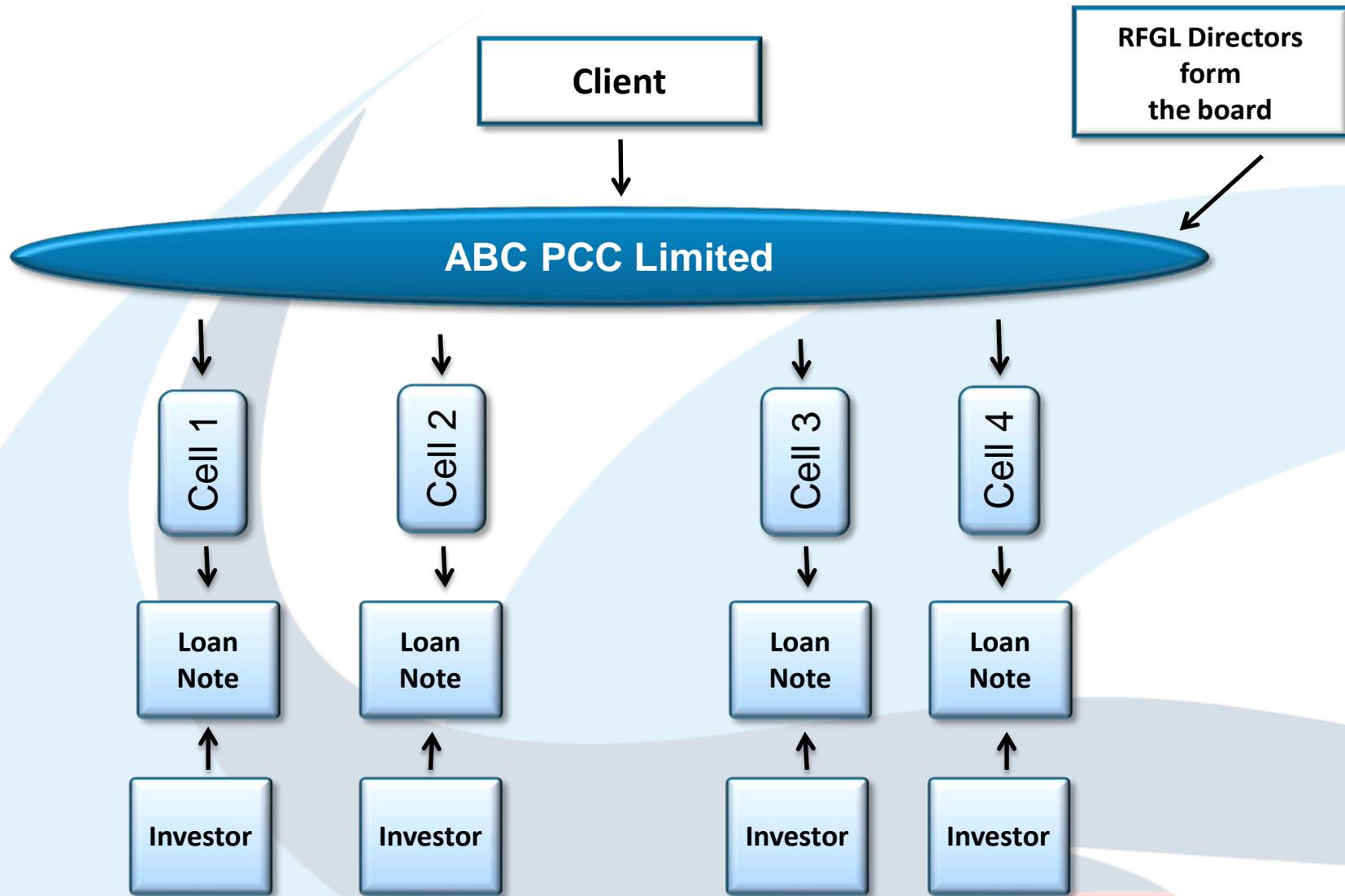
Guernsey's unique Image Rights legislation (2)

- As well as the ability to register their personality a personage can register an image to include
 - Alias that the person is also known by
 - Voice
 - Signature
 - Likeness
 - Expressions, gestures and mannerisms
 - Photographs, illustrations, moving images, electronic or other representations of, or associated with, registered personality
- Personality – Registered for 10 years
- Image – Registered for 3 years

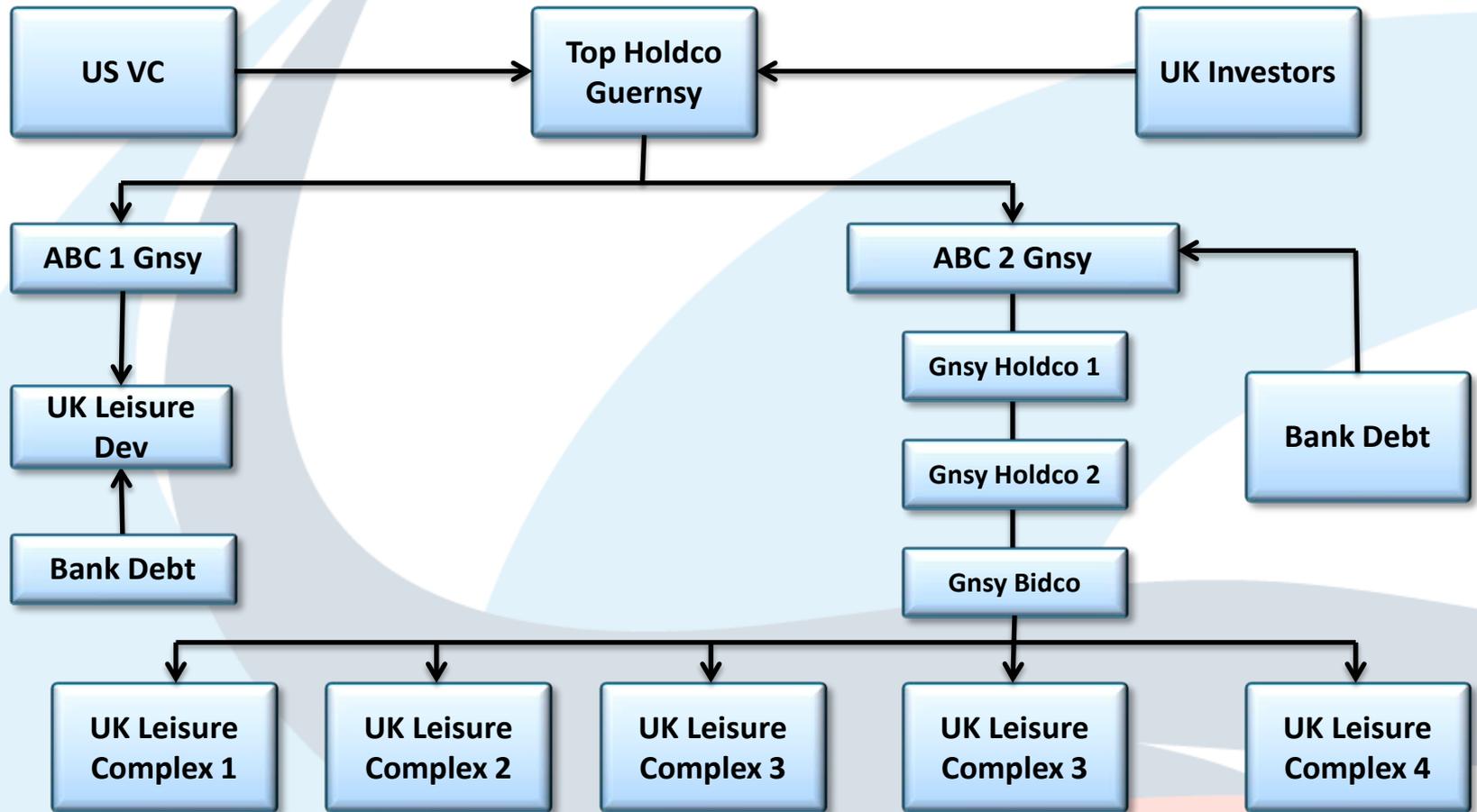
Guernsey' unique Image Rights Legislation (3)

- Registration of an Image Right will:
 - Add greater weight to the individuals assets
 - Offering greater security; and
 - A way to enforce the misuse of a personality or image
 - If registered in a Guernsey Company
 - Fees can be collected in a tax neutral jurisdiction
 - Administered by a professional administrator
- Annual costs
 - Government fees – nominal
 - Company administration costs will vary and will be dependant on the activity of the individual concerned.

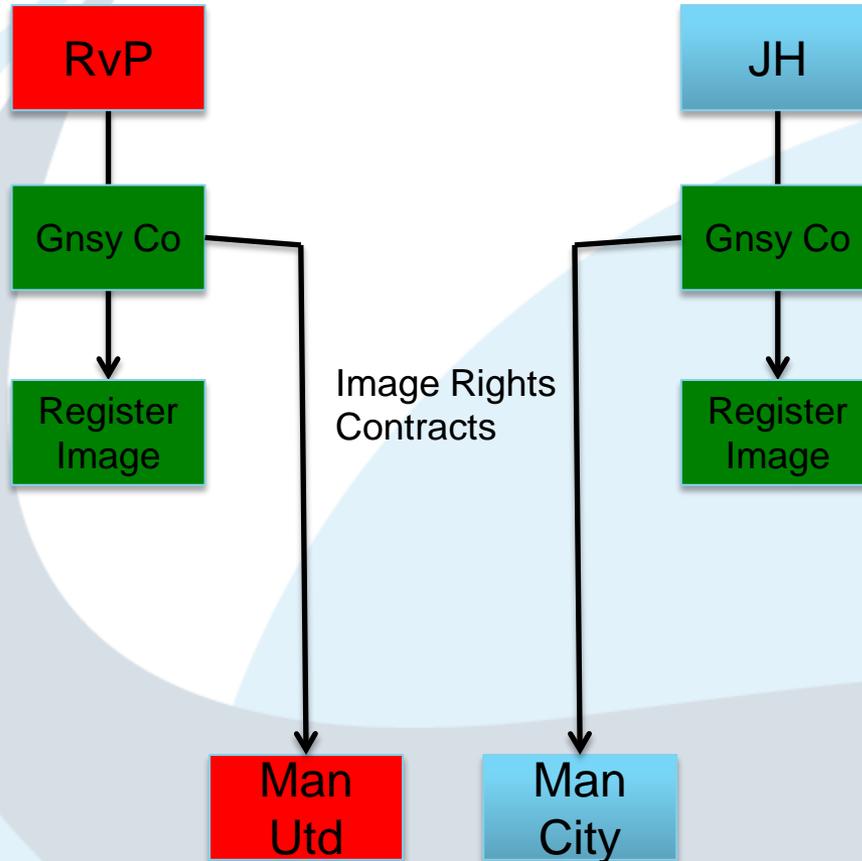
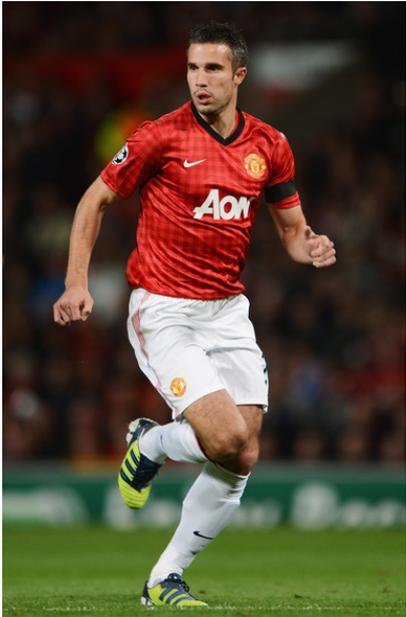
Case Study 1 - Debt Purchase



Case Study 2 – Leisure Company

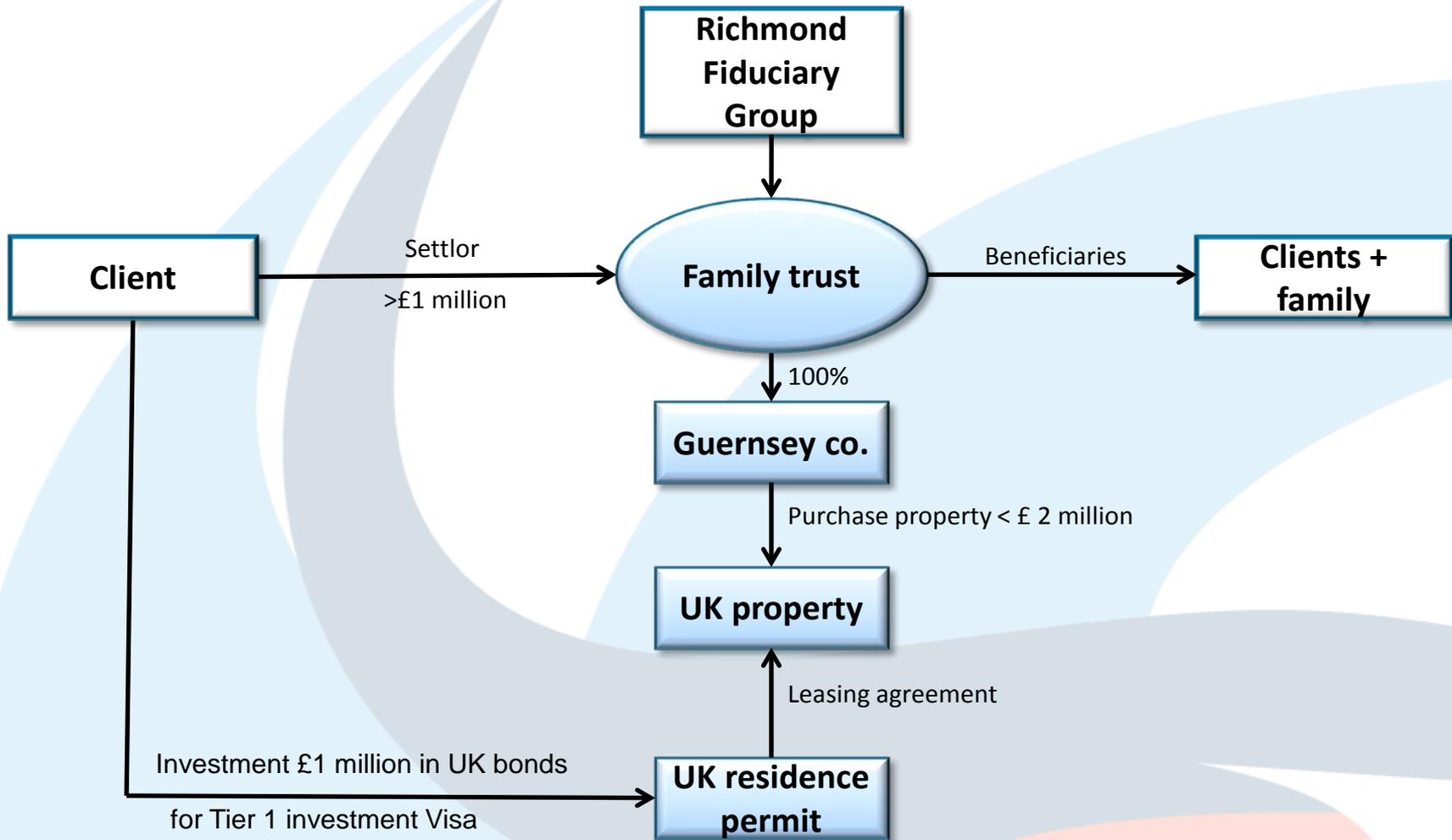


Case Study 3 – Image Rights



Case Study (4)

Pre-immigration Structure for UK



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Luxembourg: An attractive investment hub

Presentation by:

William JEAN-BAPTISTE

Luxembourg: An attractive investment hub

Part .1

General introduction on Luxembourg
and
main legal/tax features

Why Luxembourg ? ... *At a glance*

- Business-friendly environment: a close working relationship between the business community, the Government and the legislator underpins the innovative legal framework of the Grand Duchy
- Political stability
- Strong culture of investor protection
- Legal flexibility
- Wide range of eligible investment vehicles:
 - Regulatory aspects
 - Regulated entities
 - lightly regulated entities
 - unregulated entities
 - Tax aspects
 - Tax exempt or fully taxable vehicles with base erosion arrangements
 - In compliance with domestic and international arm's length standards
- Tradition of financial expertise across all related professions
- Ideally situated in the heart of Europe

Why Luxembourg ? ... *a competitive tax regime*

- Access to double tax treaties and EU Directives
 - Parent Subsidiary directive
 - Interest and Royalties directive
 - 64 double tax treaties into force - 14 in negotiation
- Tax rate for domestic corporations: 29,22% - Net wealth tax: 0,5% on net worth
- VAT rate: 15% - No VAT on management services to regulated investment funds
- Limited taxation on incorporation of companies: EUR 75
- No stamp duty on disposal of shares
- Competitive IP regime:
 - Effective tax rate on inbound royalties and gains on IP assets: 5,84 %
 - No withholding tax on outbound royalties
- No withholding tax on interest payments, dividends and liquidation proceeds paid to UK companies (subject to conditions)
- No or low taxation on exit strategies

Why Luxembourg ? ... *a competitive tax regime*

- No CFC rules
- Fiscal unity regime (tax consolidation)
- Minimum flat tax of :
 - EUR 3.000 for companies whose aggregate financial assets (including shares, receivables, bank deposits) exceed 90 per cent of their total balance-sheet
 - Other Luxembourg companies are subject to a progressive minimum income tax depending on the total assets on their balance sheet. The tax ranges from EUR 500 (for a total balance sheet up to EUR 350,000) to EUR 20.000 (for a total balance sheet exceeding EUR 20 million).
 - Creditable against any future corporate income tax charge, any excess is non-refundable.
- Advance tax request system:
 - To secure upfront the Luxembourg tax treatment of the envisaged structure, e.g.
 - ✓ Tax status of companies involved
 - ✓ Deductibility of interest paid under debt-like repatriation instrument
 - ✓ Absence of withholding tax on hybrid instruments,
 - ✓ Compliance with transfer pricing requirements (transactions at arm's length)
 - ✓ Amount of taxable spread
 - Written confirmation within 3-8 weeks

Luxembourg investment vehicles: *Corporate and regulatory aspects*

Type of vehicle	Suitable for ...
UCITS	Highly regulated vehicle – benefit from the European passport in accordance with EU Directive on UCITS
Part II Funds	Useful when the requirement of the EU Directive on UCITS are not met
SIF	Hedge Funds Private Equity Real estate Fund Private Wealth Management
SICAR	Private Equity Venture Capital
Securitization vehicles	Securitization of a portfolio of securities Intra-group financing Real estate securitization
SOPARFI	Holding company Private Equity Intra-group financing Private Wealth Management

Luxembourg investment vehicles: *Corporate and regulatory aspects*

	Eligible investors	Eligible assets
UCITS	Unrestricted	<ul style="list-style-type: none"> • Transferrable securities • Money market instruments • Units of UCITS or UCI • Bank deposits • Financial derivative instruments • Hedge funds indices
Part II Funds	Unrestricted	Unrestricted
SIF	Well-informed investors	Unrestricted
SICAR	Well-informed investors	Investments in assets representing risk capital
Securitization vehicles	Unrestricted	Unrestricted
SOPARFI	Unrestricted	Unrestricted

Luxembourg investment vehicles: *Corporate and regulatory aspects*

Vehicle	Risk Diversification	NAV Calculation and redemption frequency
UCITS	<ul style="list-style-type: none"> • Not more than 10% of assets invested in transferable securities or money market instruments issued by the same issuer • Not more than of its net assets in deposits made with the same body <p>(non exhaustive)</p>	At least twice a month
Part II Funds	Not more than 20% of its net assets in securities issued by a sole issuer	At least once a month
SIF		At least once a year
SICAR	No requirement	Not required
Securitization vehicles	No requirement	Not required
SOPARFI	No requirement	Not required

Legal forms available for investment vehicles

Commonly used form of companies:

- *Société Anonyme* (= PLC)
- *Société à responsabilité limitée* (= plc)
- *Société en commandite par actions* (= Limited partnership by shares)

Selection criteria:

- Number of shareholders ?
- Limited liability for investors and/or managers ?
- Type of management ?
- Control ?
- Variable capital?
- Public bond issue ?
- Shareholder's agreement?

Luxembourg: An attractive investment hub

Part .2

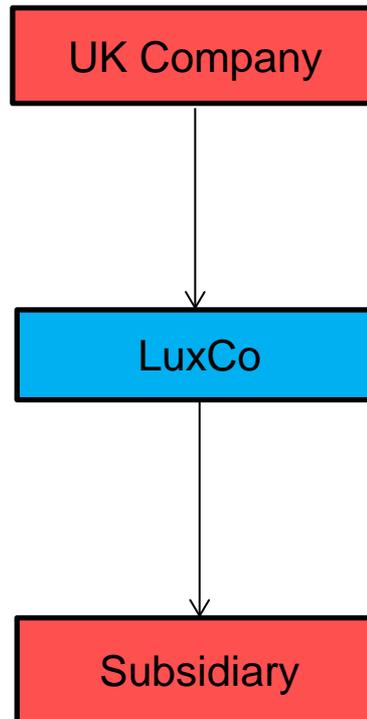
Case Studies

Case Studies - Introduction

- The following case studies are examples of planning techniques in Luxembourg
- Purpose → achieving a reduction of the effective tax rate for inbound/outbound investments through Luxembourg – mitigating withholding tax issues
- When properly structured, effective income tax rate on shareholding or financing activity can be lowered to 0,15 bps or less, in compliance with arm's length requirements.

Participation exemption – Equity investment

Established as (i) an EU company
or (ii) any company subject to tax
at rate at least equal to 10,5%



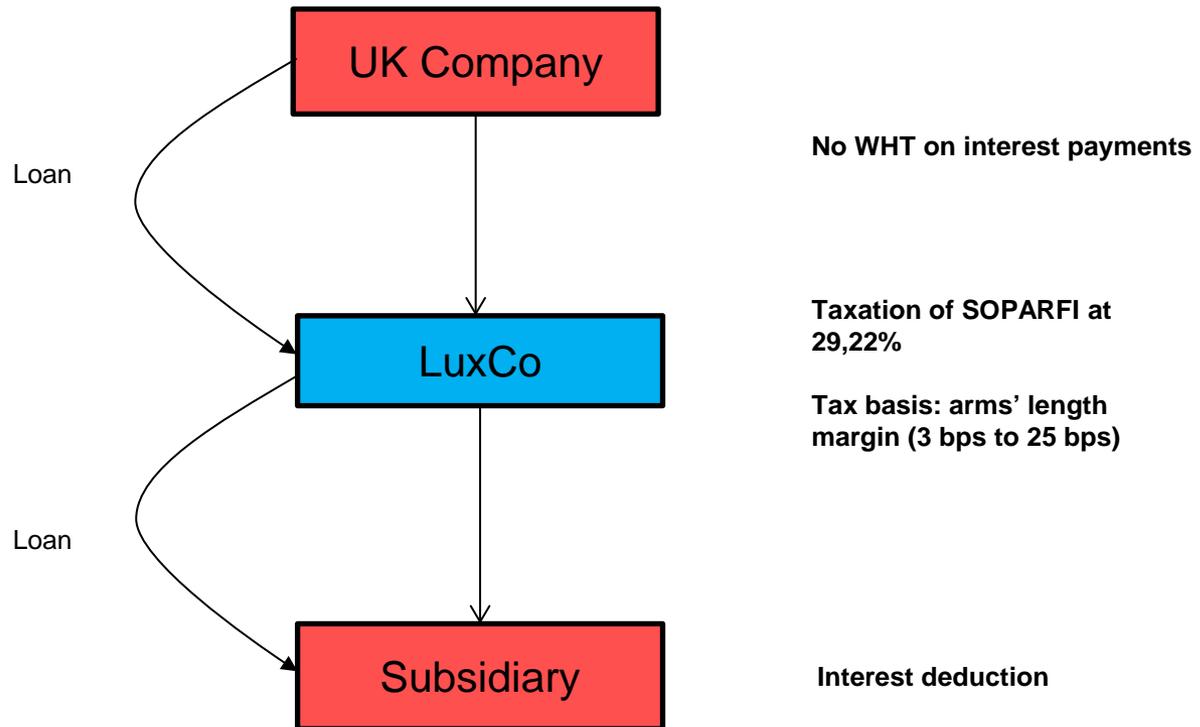
No WHT on dividends paid to
if:

- min. 10% or EUR 1,2 M
- at least 12 months

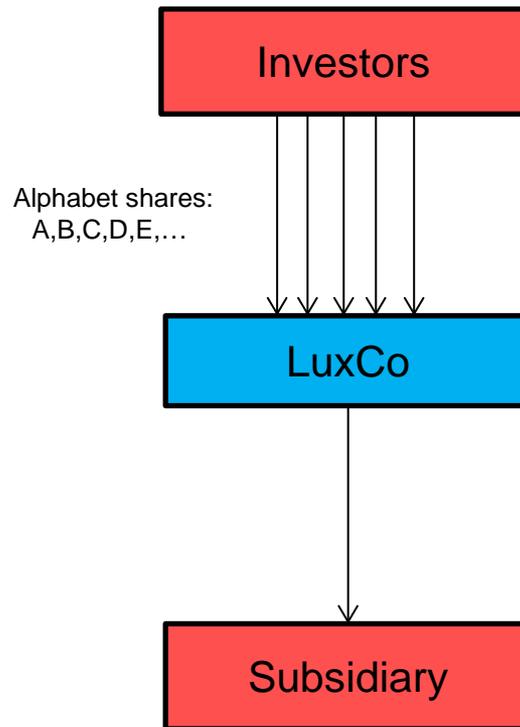
Dividend and/or capital gain exemption
if:

- min. 10% or EUR 1,2 M (dividends)
or EUR 6 M (gains)
- At least 12 months

Debt/Loan financing



Alphabet Shares



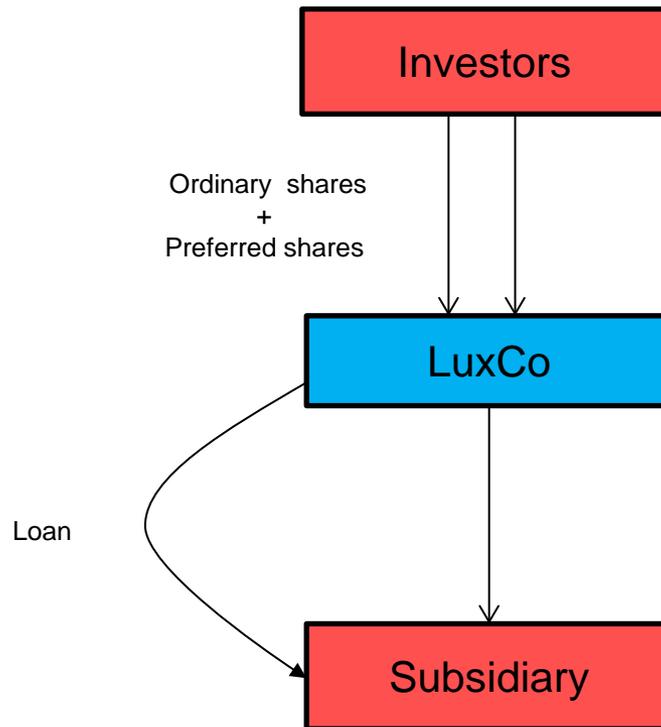
Steps

- LuxCo is fully capitalized (no leverage) and issue several classes of shares

Benefits:

- Repatriation of proceeds through redemption of class of shares should qualify as a partial liquidation
- (Partial) liquidations are not subject to Luxembourg withholding tax
- Suitable for carried interest arrangements

Preferred Shares



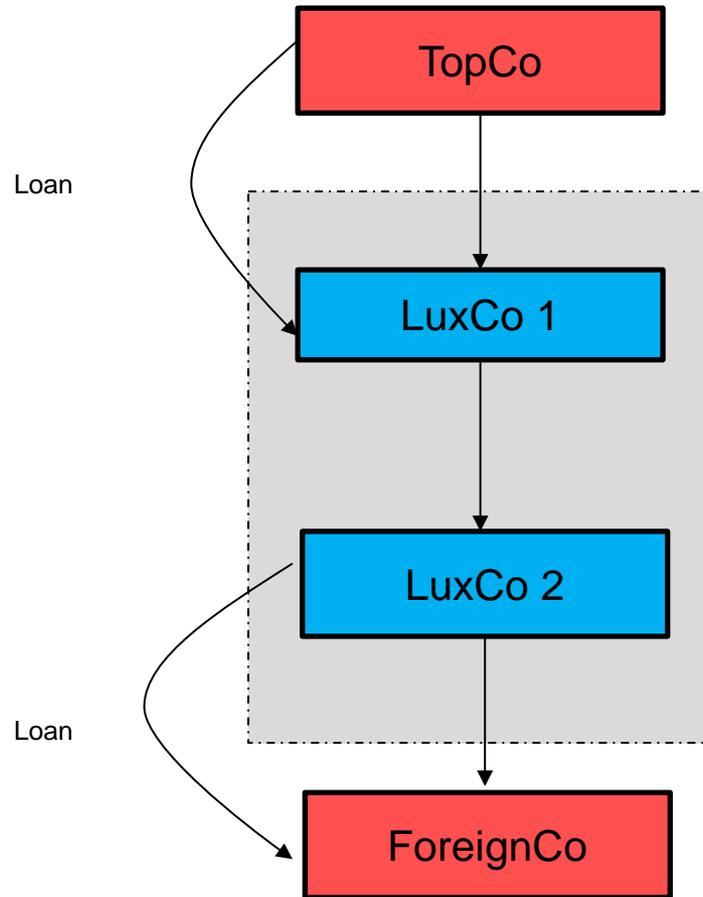
Steps

- LuxCo is fully capitalized (no leverage) and issue ordinary shares and preferred shares with mandatory redemption features

Benefits:

- Payment of dividend under the preferred shares treated as interest in Luxembourg (i.e. tax deductible and offset taxable income received by LuxCo) but as dividends in the Investors' jurisdiction (i.e. possible exemption)
- No WHT on such payment of preferred dividend

Fiscal unity - Debt financing



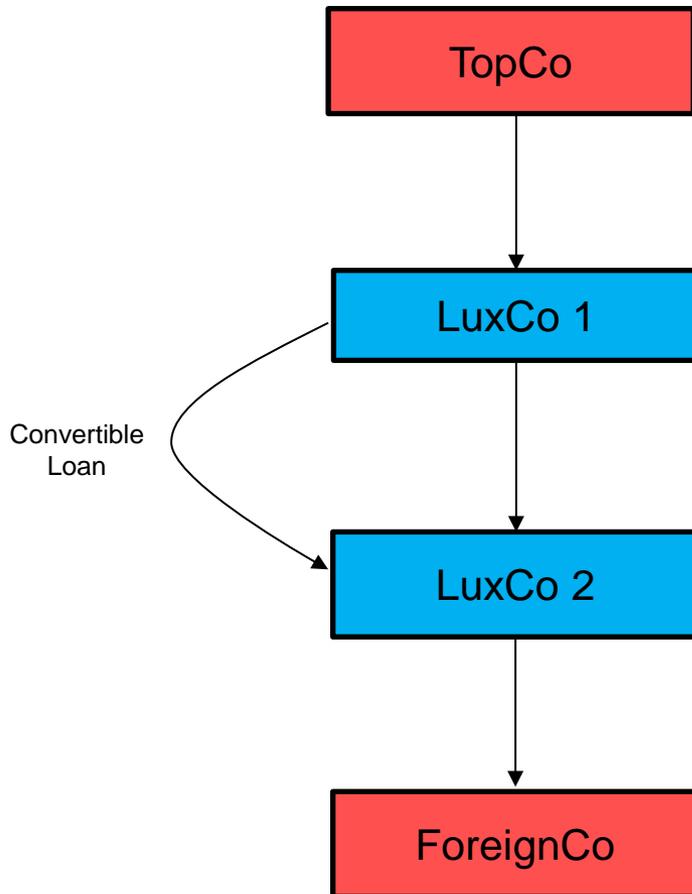
No WHT on interest payments

The Luxembourg companies are under a fiscal unity regime

Taxation limited to a spread realized by LuxCo 1

Interest deduction

Double tier structure with convertible loan



Steps

- TopCo incorporates LuxCo1
- LuxCo1 incorporates LuxCo2 and funds it with 1% equity and 99% debt
- With the funds received, LuxCo 2 acquires any type of assets or finances other companies

Features of Debt:

- Creditor (LuxCo1) may force LuxCo2 to convert debt into shares of LuxCo2 (according to a ratio established upon set up of the structure)
- Creditor may force LuxCo2 to redeem the convertible debt at fair market value

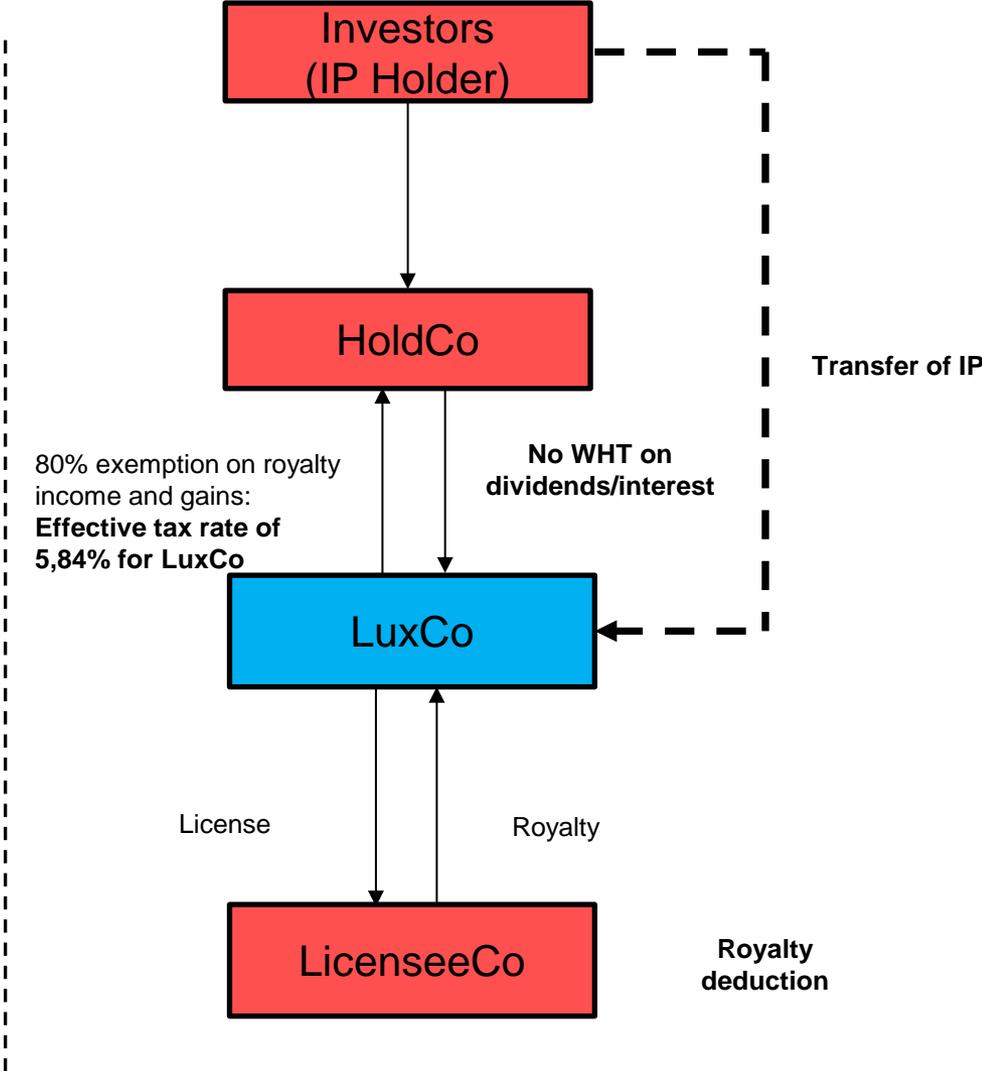
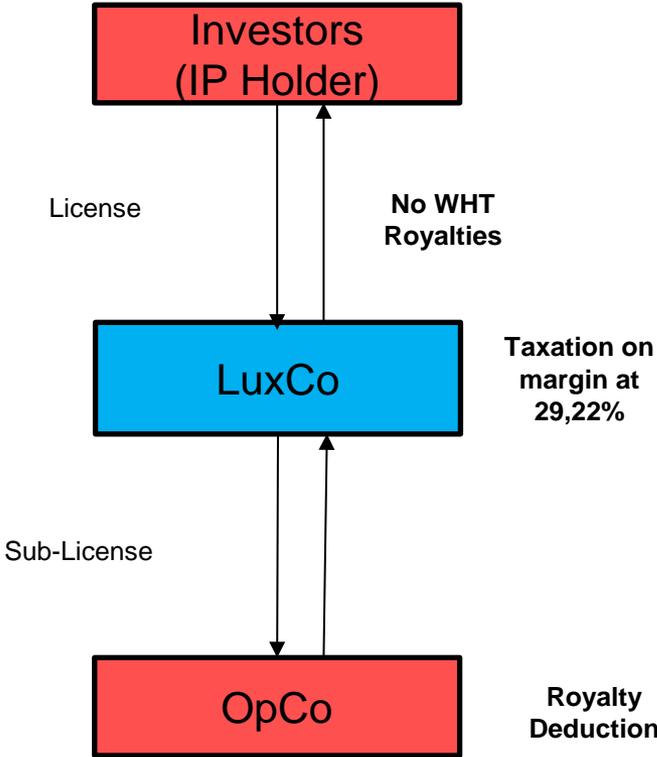
Benefits:

- No WHT upon repatriation
- No taxation of income in Luxembourg (except for spread)
- No need to redeem debt to create loss (provision)
- Good economic ownership arguments

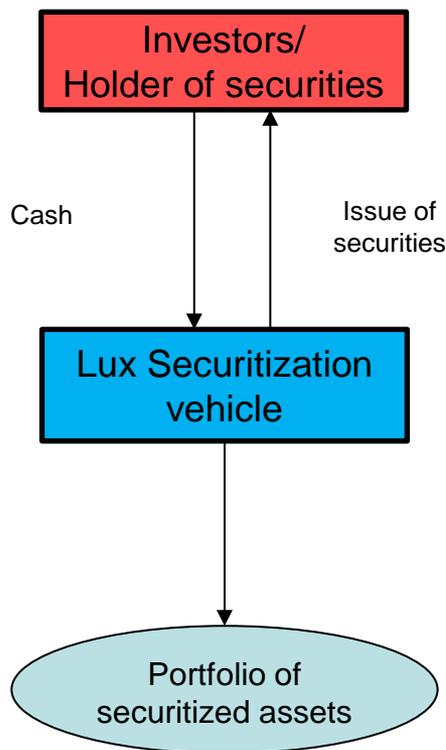
Points of attention:

- Since the Convertible Loan would be an asset at LuxCo1 level, the latter would be subject to Net Wealth Tax in Luxembourg at a rate of 0.5% on its net asset value as of January 1st of each year
- The Net Wealth Tax exposure could be avoided using a third Luxembourg entity

IP BOX



Securitization vehicle



Financing aspects

- Issuance of securities to the capital market, or
- Intragroup transactions

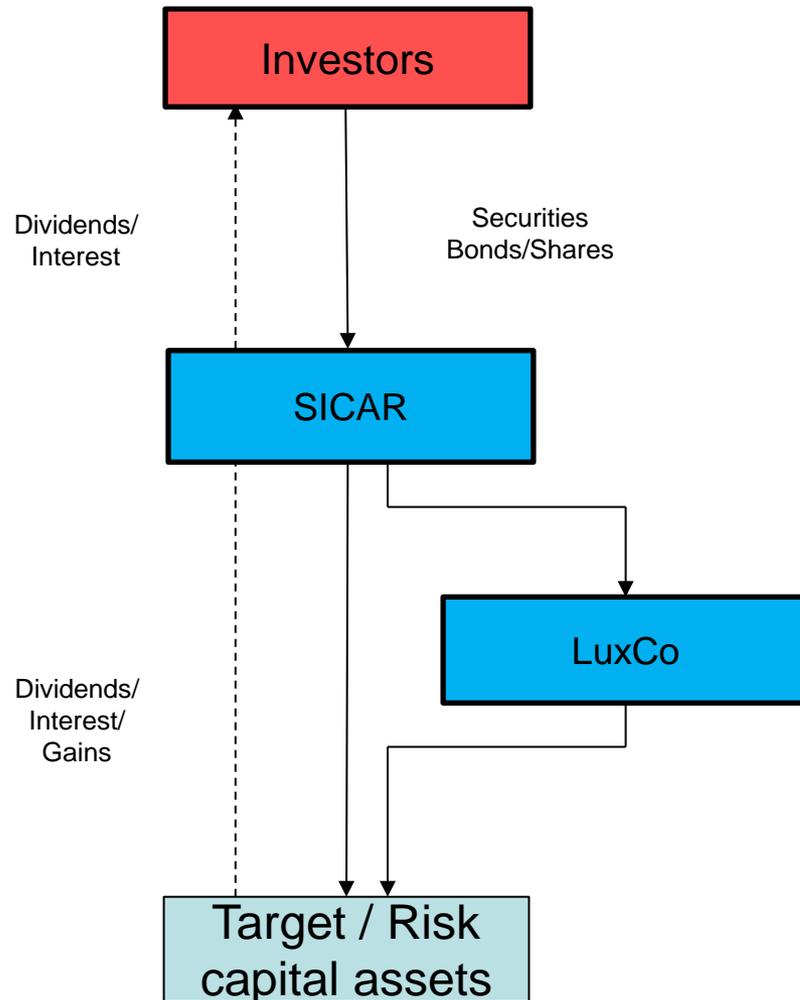
Legal aspects:

- No license required, unless notes are offered to the public more than 3 times/year
- Performance of notes (e.g. tranches) linked to the performance of the portfolio
- Security package
- Either corporate form or fund
- Issuance of securities (other leverage limited)

Tax treatment:

- No capital duty upon incorporation
- Fully taxable but all commitments towards the investors are deductible
- No WHT on securities issued
- Management services to SV exempt from VAT

SICAR - Investment in Risk Capital



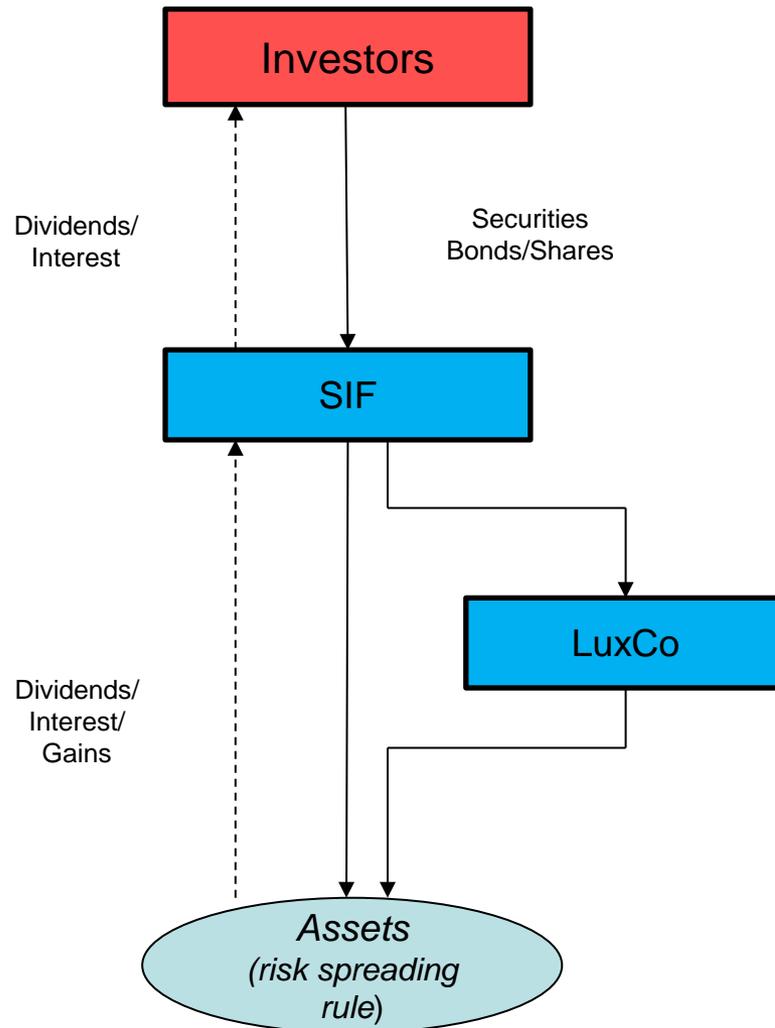
Legal aspects:

- Established as corporation or partnership
- Open to well-informed investors;
- Open ended or closed-ended;
- Compartments – fully segregated

Tax treatment:

- No capital duty upon incorporation
- Fully taxable but exempt from tax on income from investments in transferable securities
- No withholding tax on income allocated to investors
- Management services to SICAR exempt from VAT
- No Luxembourg taxation upon disposal of SICAR
- LuxCo could be incorporated for Treaty purposes

Investment Funds - SIF



Legal aspects:

- Corporate or contractual form
- Open to well-informed investors;
- Open ended or closed-ended;
- Compartments – fully segregated

Tax treatment:

- No capital duty upon incorporation
- Not subject to corporate taxes in Luxembourg
- No withholding tax on income allocated to investors
- Management services to SIF exempt from VAT
- No Luxembourg taxation upon disposal of SIF
- LuxCo could be incorporated for Treaty purposes

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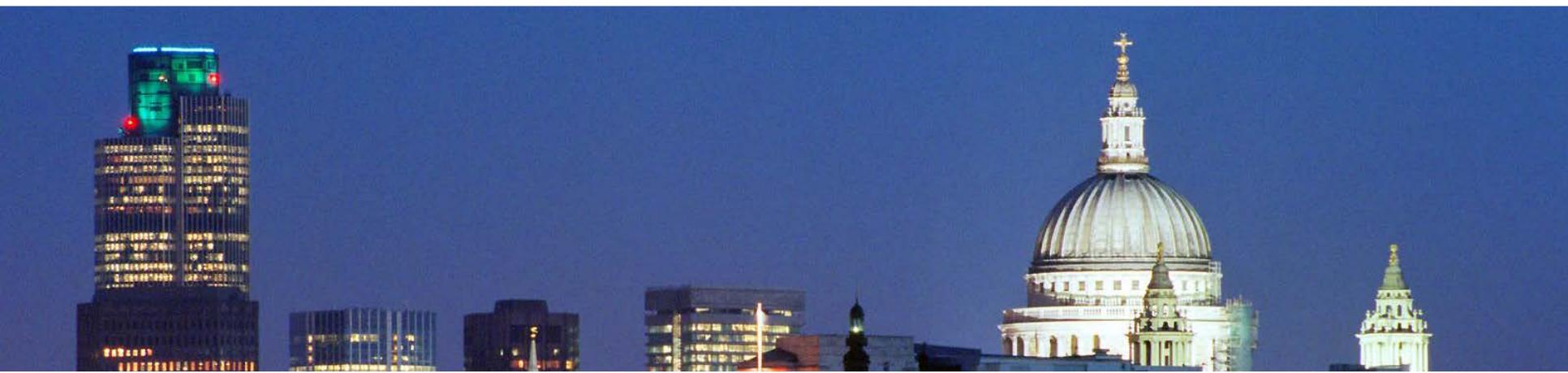
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Offshore EBTs and Pension Schemes



26 June 2013

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EBT's and Overseas Pension Schemes – Current Issues

- Ever changing legislation and case law
- Problems and opportunities
- Our recent experiences

Employee Benefit Trusts

- Disguised remuneration post April 2011
- HMRC approach
 - “link to employment – PAYE/NI determinations
 - No link – deny CT relief

HMRC Settlement Opportunity

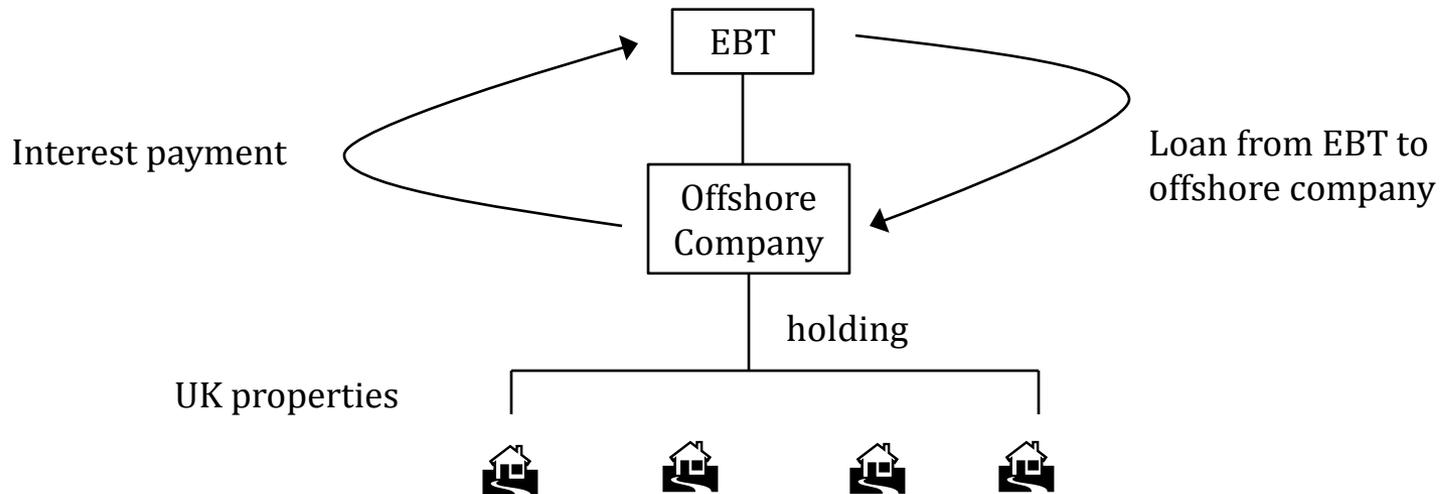
Attractive for:

- Old trusts with inbuilt gains and out of time assessments
- Companies with no assets?
- Proposed company sales to avoid retentions.

Are EBTs Dead in Water?

- For loan arrangements - Yes
- For “family trust use” - No
 - Ongoing tax deferral
 - Plus IHT protection

EBT Structure



Offshore Pension Schemes

UK regulated schemes – increasing restrictions

- Lifetime allowance - £1.8m to £1.5m to £1.25m
- Annual allowance - £255k to £50k to £40k (for 2014/15)

Current Opportunities – Offshore Pension Schemes

- Company schemes (EFRBS) – subject to disguised remuneration and no IHT protection
- QNUPS – personal schemes
 - IHT exemption
 - Tax deferral
 - Use to shelter growing assets?

QROPS – Transfer from UK Regulated Schemes

- History of abuse
- Regulations tightened
- Create crystallisation event to avoid future charge
- Advantages on death?

Closing Remarks and Questions



26 June 2013

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