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10 Reasons to use the UK in International Tax Planning

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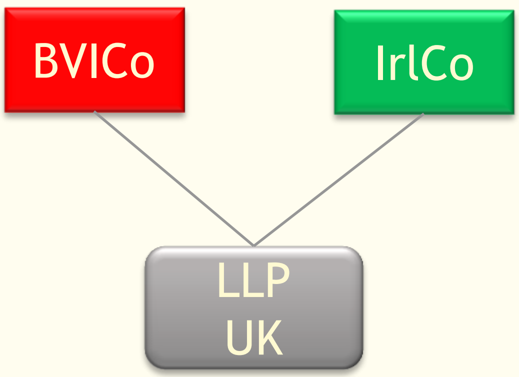
Contents of Presentation

Overview of the UK Tax System

- UK tax legislation is 13,000 pages long
- Reliefs, exemptions and quirks
- Worldwide system of taxation
- Exemption method rather than credit
- Not territorial
- Many features attractive to international businesses:
  - Corporation tax is 21% < 20% in 2015
  - Dividends and capital gains realised on subsidiaries largely exempt
  - No withholding tax on outbound dividends
  - CFC regime complex but fair
  - Excellent network of DTAs
- The UK is not tax blacklisted
- London = [financial] capital of the world

Reason 1: The UK LLP



- UK LLP is a body corporate
- Has separate legal personality to its partners
- Is tax transparent but offers limited liability to partners
- LLP with two non-UK partners is tax-neutral provided it:
  - does not trade in the UK
  - has no UK source income
  - has no UK PE
- Entity recognition also provides opportunities:
  - UK LLP is regarded as opaque for Irish tax purposes
  - As Ireland has no CFC rules UK LLP can act as tax-exempt cash box
- No tax resident certificate
- No DTA benefits

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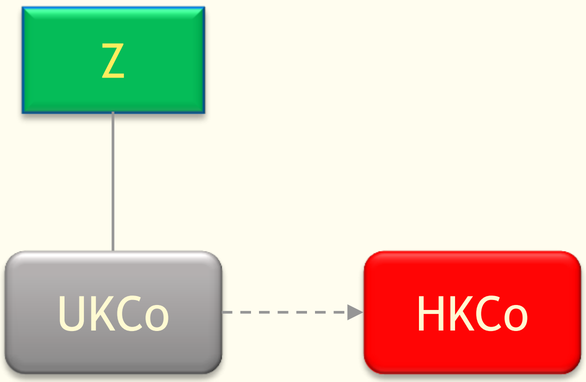
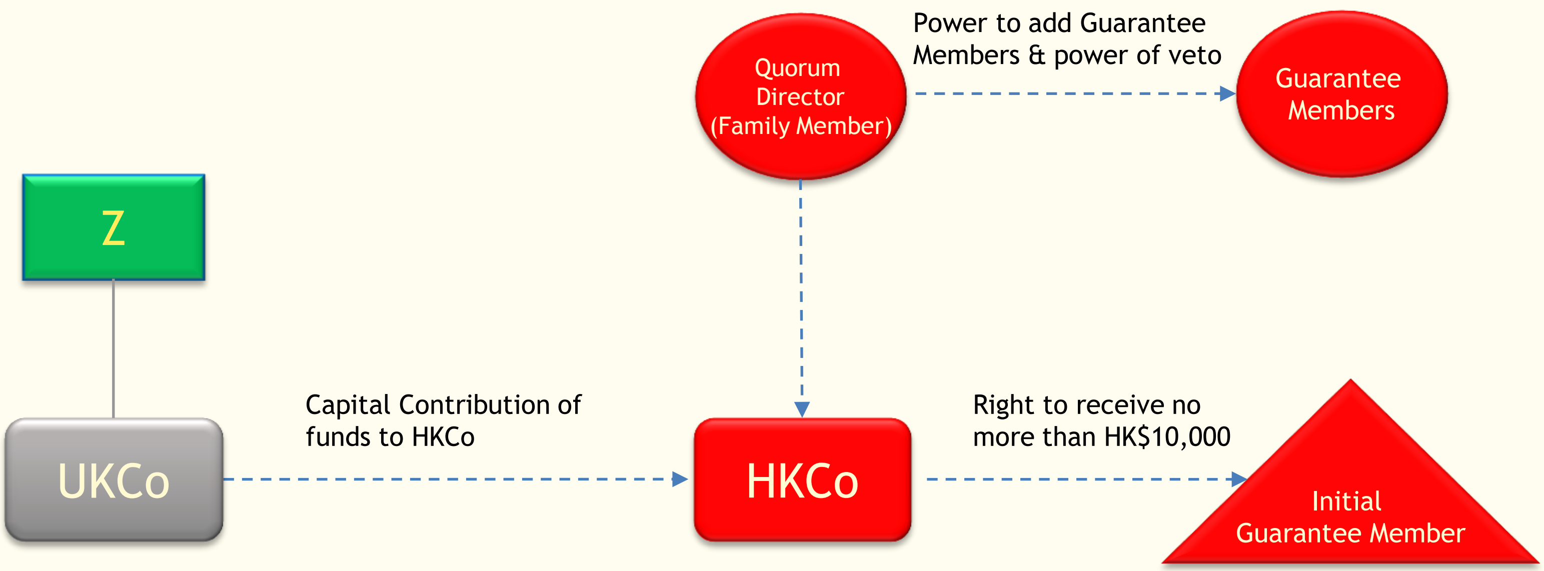
Reason 2: The UK "Stepping Stone"



- Z is a Brazilian national concerned about the threat of kidnap / blackmail / extortion
- Wants to put cash assets into a safe haven
- Need a whitelisted jurisdictions / entity
- UKCo is incorporated in the UK
- Z subscribes for 1,000 ordinary shares of £50 each (i.e. £50,000 investment) in UKCo
- Z transfers balance of the cash to UKCo as a capital contribution to the capital contribution reserve account
- The capital contribution reserve account is subsequently transferred by way of capital contribution to HKCo
- HKCo is limited by guarantee
- Z reports on his tax return an investment of £50,000 in UKCo
- HKCo is structured so it is "off balance sheet"

Hong Kong Guarantee Company



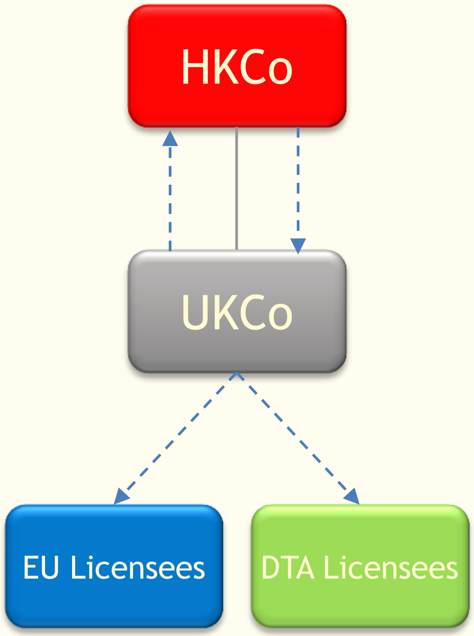
Reason 3: The Dual Resident Company

- A UK company is resident for tax purposes by virtue of incorporation
- A foreign company can be resident in UK under POEM rule:
  - Chrysler Fiat / Publicis Omnicom
- Low UK tax rates (21%) can be further reduced by placing POEM in:
  - Cyprus (12.5%)
  - Hong Kong (16.5% < 0%)
  - Malta (35% < 5% < 0%)
- To establish POEM :
  - have a majority of directors in the target
  - hold all Board meetings in the target
  - put decisions into effect in the target jurisdiction
  - exercise management and control from the target jurisdiction
- Note that Malta is effective but relies on imputation system for 5% rate
- If passive income then UK/Malta tax charge is on remittance basis
- See “Titbits” slide for Malta Trading Trust thoughts

Reason 4: The UK Patent Box Company

- The Patent Box was introduced in 2012 (effective April 2013) in answer to:
  - Luxembourg (5.76%)
  - Netherlands (5.0%)
  - France (15%)
  - Belgium (6.8%)
  - Others (e.g. Spain, Hungary, Malta, Cyprus etc)
- Pfizer Astrazeneca
- Applies to UK companies and PE's
- 10% tax rate (phased in over 4 years) on patent income:
  - sales of the patented product
  - worldwide licence fees & royalties
  - income from the sale or disposal of qualifying IP rights
- IP must be owned & developed by the UK company or exclusively licensed to the UK company by group affiliate
- UK and EU patents only. However R&D need not be located in the UK
- Also applies to know-how, trade secrets and some software copyrights associated with a qualifying patent. Other IP (e.g. TMs & registered designs) excluded
- Taxpayer must make an election to benefit Patent Box regime

Reason 5: The UK Licensing Company



- UK CIT is low: 21%
- Excellent DTA network
- EU Interest & Royalties Directive
- No WHT on outbound royalties with a foreign source
- Non-UK © not liable to UK WHT
- Non-UK patents not liable to WHT
- Ideally UKCo should receive such income into a non-UK bank account
- No WHT on outbound dividends
- Payment of royalties is a tax deductible expense
- TP exemptions available
- Potential issue re DTA beneficial ownership requirement
- R&D tax credits

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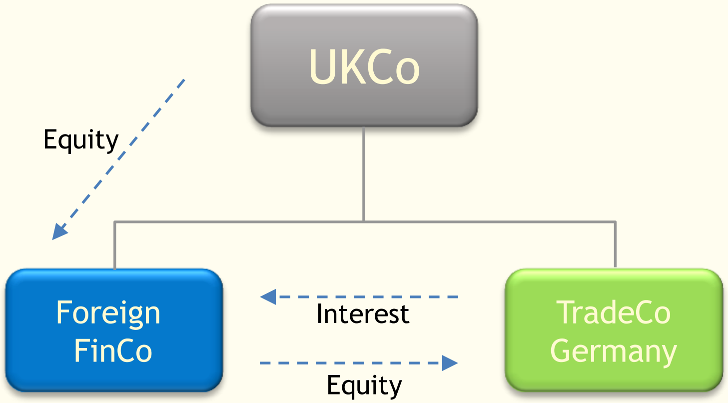
Reason 6: Exemption for Foreign Finance Companies (CFC Regime)



- FinCo established low/no tax jurisdiction
- Funded with equity
- FinCo lends to high tax sister
- TradeCo gets deduction against 35% tax rate
- No pick up in FinCo
- 25% of FinCo profit attributed to UKCo
- ETR of c.5%
- Substance required in FinCo
- Anti-avoidance:
  - Anti-debt pull up
  - Anti-debt push down
- If DTA access required:
  - Double Dutch / Lux
  - Irish interest free loan
  - Quoted Eurobond

Reason 7: Transfer Pricing Exemptions

- Transfer pricing rules apply to almost all forms of related party transactions
- Arm's length principle & OECD's Transfer Pricing Guidelines
- Exemptions available to small and medium sized entities:
  - Small: < 50 employees / < £6.5mn net T/O or < £3.9mn gross balance sheet
  - Medium: < 250 employees / < £25.9mn net T/O or < €15.5mn gross balance sheet
- These figures are calculated on a group basis
- HMRC has a reserve power iro medium sized companies if significant tax at risk.
- Exemptions only apply to companies benefiting from a DTA with the UK
- DTA must contain a suitable non-discrimination article
- Advance Pricing Agreements (APA) are available only for complex cases:
  - "unilateral" APA in which only the taxpayer and HMRC are involved (including UK to UK transactions)
  - "bilateral" APA in cross border cases.
  - where there is a DTA and the tax authorities of the relevant treaty

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Reason 8: UK Investor Visa

- UK immigration consists of a five-tier based system for VISA application
- Tier 1 – UK Investor VISA, investing > £1mn
- Available to individuals outside the EEA and Switzerland
- Two options:
  - Invest > £1mn in UK Govt bonds, share capital or loan capital in active UKCo; or
  - Personal net worth is > £2mn and you have a £1mn loan from a UK bank
- Allows stay of 3 years and 4 months
- 2 year extension followed by indefinite leave / citizenship (i.e. 5 years)
- Invest £5mn apply to settle after 3 years
- Invest £10mn apply to settle after 2 years
- Documentation required:
  - Current passport or valid travel identification
  - Passport-sized photograph

Reason 9: The Remittance Basis of Taxation

- The UK has a beneficial regime for “non-doms”
- Who qualifies?
- Non-doms can elect to be taxed on “remittance basis”
- UK source income and gains subject to UK tax
- Non-UK source income and gains exempt unless remitted to the UK
- Election is made on a year by year basis
- For long term-residents (7/9 years) a fee of £30,000 p.a. is applicable
- Increases to £50,000 p.a. for those resident more than 12 years
- Definition of remittance is very wide and numerous traps
- Beware “mixed funds”
- Business Investment Relief
- Domicile new focus for HMRC

Reason 10: The Investment Manager Exemption

- Investment Manager Exemption (IME) ensures that:
  - Overseas investors / funds are not exposed to UK tax via PE or POEM
  - Fees received by a UK tax resident investment manager for services performed for the non-resident are fully chargeable to UK tax
- IME applies to:
  - corporate managers (s152 & Sch26 FA 2003)
  - individuals (s127 & Sch23 FA 1995)
- Conditions that must be met:
  - Investment manager is in the business of providing investment management services
  - Ordinary course of that business
  - Acts independently capacity
  - The 20% test
  - Arm's length remuneration ("2 & 20")

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"Titbits"

- Malta trading trust
  - An alternative to an incorporated company
  - Maltese trust established by non-Maltese settlor
  - Non-Maltese beneficiaries
  - One Maltese trustee & one non-Maltese trustee
  - Provided foreign source income then deemed to be that of beneficiary
  - Zero Maltese Tax

- Transfer of Assets Abroad: Gibraltar and the EU
  - UK TAA provisions now include an EU defence
  - Is Gibraltar a Member State for these purposes?
  - Exemption applies as to transfers between Member States
  - *Fisher* case (Stan James) is awaited…in May?

Our Awards

- **Taxation Awards 2013**
  - *Winner: Best International Tax Team UK*
- **Taxation Awards 2012**
  - *Finalist: Best International Tax Team UK*
- **European Tax Awards 2010 and 2012**
  - *Finalist: Best Newcomer Europe*
- **Corporate International Global Awards 2010**
  - *Winner: Corporate Tax Advisory Award*
- **Taxation Awards 2009**
  - *Winner: Best International Tax Team UK*
- **The Lawyer Awards 2009**
  - *Finalist: Niche Firm of the Year UK*

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