INFORMATION SHEET No. 122

## UK entities in International Tax Structuring

*March 2014*

### Introduction

The UK is one of the world's leading and most reputable international business and financial centres. UK entities, whether that is companies or partnerships, are being used by foreigners not only for business within the UK but also for international transactions or investments.

The main elements that constitute the UK as a preferred prime jurisdiction are:

- Well-respected legal system, based on the principles of common law and equity
- Favourable tax regime for foreign investors
- Having one of the most extended double tax treaty networks
- Access to benefits of relevant EU Directives
- Stable political environment
- Highest level of professional services
- London is the world's leading financial services centre
- English is the international language of business
- Geographical location and world-class transport network
- Leading location for establishing headquarters and for relocation of executives and key staff

### The UK Corporate Regime

The UK corporate regime provides for several types of business entities, with the private limited liability company being the most commonly used vehicle. Limited liability partnerships are also used in international tax structures. Both are registered at the UK Companies House.

**Private Limited Company ("LTD")**

LTDs have a legal personality distinct from their shareholders, whose liability is limited to the amount of share capital. LTDs must have at least one physical person as director and at least one shareholder (who can be either a physical or legal person). Use of nominee / trustee shareholders is possible.

**Limited Liability Partnership ("LLP")**

This form of business entity offers limited liability to its partners and embraces features similar to a limited company, whilst at the same time it retains the organizational flexibility and tax status of a partnership. An LLP must have at least two partners (physical or legal persons).

### The UK Tax Regime

The UK has an attractive corporate tax rate of 21%, combined with tax exemptions in whole or in part on certain types of income such as dividends, capital gains and income from patents. There is no UK withholding tax on outgoing dividend payments to non-UK residents. At the same time, foreign withholding taxes on incomes received at the level of the UK company may be reduced or eliminated.

## UK Tax Aspects

**Corporation Tax:**

Companies tax resident in the UK are subject to UK corporation tax on their worldwide income, while non-UK resident companies trading in the UK through a permanent establishment are subject to UK corporation tax only on UK sourced income. A company is considered to be tax resident in the UK mainly on the basis of the 'management and control' and 'effective place of management' tests.

The **main UK corporate tax rate** for the 2014/15 tax year is 21% (this rate is expected to be reduced to 20% as from 2015/16). The UK tax year is not in line with the calendar year and covers the period of April 1st to March 31st of each year.

Double tax relief is available, whereby foreign tax suffered on a foreign sourced income may be used as credit against the resulting UK tax.

**Tax exemptions:**

Certain types of income can be tax exempt in full (e.g. dividends, gains from sale of shares and branch profits) or in part (e.g. income from patents) subject to the fulfillment of certain conditions.

**Foreign withholding taxes on incomes received in the UK:**

Foreign withholding taxes on various incomes received at the level of the UK company may be reduced or eliminated by access to benefits of applicable double tax treaties or EU Directives. The UK has an impressive double tax treaty network, with more than 130 tax treaties in force (full list in Appendix 1). In addition, as an EU member, the UK has access to provisions of the EU Parent-Subsidiary and Interest & Royalties Directives.

**UK withholding taxes on payments made from the UK:**

- Dividends: 0% if paid to non-UK residents (physical or legal persons)
- Interest: 20% (certain exemptions apply)
- Royalties: 20% (certain exemptions apply)

Any applicable UK withholding tax may be reduced or eliminated through an applicable double tax treaty or through the provisions of the Interest & Royalties EU Directive as implemented in the UK.

**Value Added Tax (VAT):**

The standard rate of VAT is 20%, reduced to 5% or 0% depending on the product. Certain supplies are VAT exempt. UK businesses should register and account for VAT provided their taxable turnover for VAT exceeds GBP 79,000. Non-UK businesses trading in the UK should register for VAT regardless of turnover.

**IMPORTANT NOTE:**

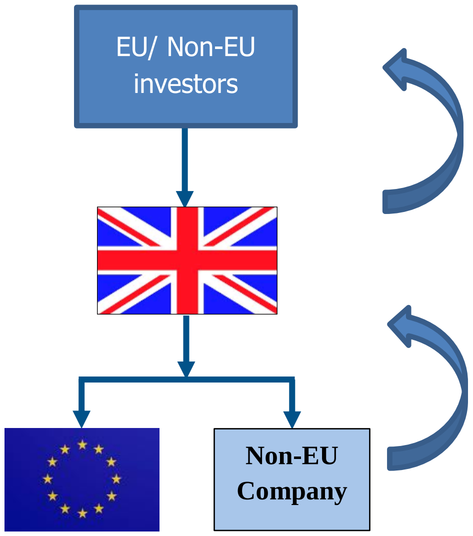
The UK tax system and its application is quite complex and may also involve certain anti-abuse related provisions (e.g. CFC rules, thin capitalization, transfer pricing) that need to be considered on each case.

## Uses of UK Companies

The status of the UK as an international business and financial centre, combined with its commercial, practical and tax elements, constitute UK entities very attractive for international structures. UK companies and partnerships have various efficient uses, some of which are outlined below.

### UK Holding Company:

A UK resident company can efficiently be used to hold shares in EU and non-EU entities.




- No UK WHT on dividend payments to foreign investors

- Dividend income may be tax exempt in the UK
- Gains from sale of shares may be tax exempt in the UK
- Low UK corporate tax rate of 21% on taxable revenue

- Foreign WHT on dividend reduced or eliminated through access to DTT or EU Directive benefits (Note: Full DTT list on Appendix 1)

WHT = withholding tax    DTT = Double Tax Treaty

### UK Trading Vehicles using:

- **UK company**

UK companies are often used for international trading and provision of services. Such companies are subject to the relatively attractive corporate UK tax rate of 21%. At the same time they have the strong commercial status of the UK, an EU VAT number, and provided they are structured correctly they can avoid potential foreign anti-avoidance/abuse rules that often apply to offshore and low-tax jurisdictions.

- **Agency Structure**

A UK company can act as an agent for and on behalf of an international company by way of an agency agreement. The UK company receives a commercially justifiable commission for its service (taxable in the UK), whereas the non-UK resident principal (e.g. an offshore company) is not subject to UK tax on the trading income it receives through the UK agent company. In such structure, the UK agent is the contracting party with the clients without the non-UK principal necessarily being known to the clients.

- **UK Limited Liability Partnerships ("LLP")**

Trading and provision of services may be made through a UK LLP. For UK tax purposes, the partnership is treated as transparent. As such, partners (members) who are non-UK tax residents are only liable to UK tax on UK sourced income. A UK LLP with non-UK tax resident partners, trading and operating outside the UK is not subject to UK taxation on its members. Each non-UK resident partner may have reporting and tax obligations in his country of tax residence.

- **UK company which is non-UK tax resident**

A UK incorporated company may be considered as a tax resident of another country, if its effective management and control is exercised in a country with which the UK has a double tax treaty providing for tax residency based on the company's place of effective management.

**Cyprus** has a double tax treaty with the UK thereby extending important tax planning opportunities in combining the well-respected legal personality of a UK company and Cyprus' favourable tax regime (which has one of the lowest corporate tax rates of 12,5%). In practice, there are many UK incorporated companies operating outside the UK which are Cyprus tax resident.

**As an IP Company:**

Under the UK Patent Box regime, UK companies deriving a profit from the exploitation of patented inventions may be entitled to benefit from a reduced UK corporate tax rate of 10%. At the same time, royalty income from the use of this IP can benefit from reduced or eliminated foreign withholding taxes through access to double tax treaty and the EU Interest & Royalties Directive benefits.

## APPENDIX 1

### List of UK Double Tax Treaties

| | | | | | |
|---|---|---|---|---|---|
| Algeria | Antigua & Barbuda | Argentina | Armenia | Australia | Austria |
| Azerbaijan | Bahrain | Bangladesh | Barbados | Belarus | Belgium |
| Belize | Bolivia | Bosnia Herzegovina | Botswana | Brazil | Brunei |
| Bulgaria | Burma | Cameroon | Canada | Cayman Islands | Chile |
| China | Croatia | Cyprus | Czech Republic | Denmark | Egypt |
| Estonia | Ethiopia | Falkland Islands | Faroes | Fiji | Finland |
| France | Gambia | Georgia | Germany | Ghana | Greece |
| Grenada | Guernsey | Guyana | Hong Kong | Hungary | Iceland |
| India | Indonesia | Iran | Ireland | Isle of Man | Israel |
| Italy | Ivory Coast | Jamaica | Japan | Jersey | Jordan |
| Kazakhstan | Kenya | Kiribati | Korea | Kuwait | Latvia |
| Lebanon | Lesotho | Libya | Liechtenstein | Lithuania | Luxembourg |
| Macedonia | Malawi | Malaysia | Malta | Mauritius | Mexico |
| Moldova | Mongolia | Montenegro | Montserrat | Morocco | Namibia |
| Netherlands | New Zealand | Nigeria | Norway | Oman | Pakistan |
| Panama | Papua New Guinea | Philippines | Poland | Portugal | Qatar |
| Romania | Russia | St.Kitts - Nevis | Saudi Arabia | Serbia | Sierra Leone |
| Singapore | Slovak Republic | Slovenia | Solomon Islands | South Africa | Spain |
| Sri Lanka | Sudan | Swaziland | Sweden | Switzerland | Taiwan |
| Tajikistan | Thailand | Trinidad & Tobago | Tunisia | Turkey | Turkmenistan |
| Tuvalu | Uganda | Ukraine | USA | U.S.S.R | Uzbekistan |
| Venezuela | Vietnam | Zaire | Zambia | Zimbabwe | |

***NOTES:***

The above is intended to provide a brief guide only. It is essential that appropriate professional advice is obtained prior to the implementation of any corporate actions in order to achieve the required result. Totalserve Management Ltd will be glad to assist you in this respect. Please do not hesitate to contact us.