Advantages of Jersey / Guernsey companies as UK 'qualifying asset holding companies' (QAHCs)

March 2023

On 1 April 2022, the UK introduced a new tax advantaged corporate structure, a "qualifying asset holding company" ("QAHC"), which benefits from a number of UK tax breaks.

A crucial requirement for QAHC eligibility is that the company is UK tax-resident, but not that it is a UK company.

There are additional advantages for QAHC's established as Jersey or Guernsey companies, mostly relating to the Islands' company law regimes and their more flexible approach to returning money to shareholders.

Definitions and benefits of the QAHC regime

A new regime took effect from 1 April 2022 for QAHCs and certain payments they make.

A QAHC is an unlisted UK tax resident company that is owned at least 70% by diversely-owned funds, or certain institutional investors ("**Category A Investors**") and mainly carrying out investment activity.

The aim of the new regime is to ensure that Category A Investors can invest in a tax efficient matter in share, debt and non-UK real estate. The QAHC regime also includes tax benefits for individuals that manage them.

The QAHC must be UK tax resident (not necessarily UK incorporated), but various existing UK tax rules are "switched off" so that the QAHC has a number of tax benefits, including:

- exempting gains on disposals of certain shares and non-UK real estate by QAHCs
- allowing deductions for interest payments on profit-participating loans that would usually be disallowed as they would be treated as distributions, meaning that a QAHC could have very low taxable profits (transfer pricing still applies)
- complete exemption from corporation tax on profits of a non-UK real estate business (to the extent taxed abroad) as well as on profits from related loan relationships and derivatives
- no UK withholding tax on interest payments
- capital returns to investors can be facilitated by switching 'off' tax rules that treat premiums on share buy-backs as distributions
- switching 'off' the late paid interest rules so that interest payments are deducted on the accruals basis rather than the paid basis
- entry and exit provisions, including the rebasing of certain assets to market value and the creation of a new accounting period when a company enters and exits the regime
- no stamp taxes on share or loan note repurchases
- the remittance basis of tax is available to non-UK domiciled managers for non-UK source QAHC returns, even though the QAHC is UK tax resident.

In addition:

- the UK (and therefore a QAHC) is outside the EU Anti-Tax Avoidance Directives
- there is no UK withholding tax on dividends
- a properly structured QAHC will benefit from the UK's double tax treaties network

Benefits of establishing a Jersey or Guernsey company as a QAHC

In addition to the tax benefits flowing from QAHC status, there are benefits to be gained by setting up a QAHC as a Jersey or Guernsey company.

UK company law requires that distributions are made only from "distributable profits", whereas directors of Jersey and Guernsey companies are able to pay a dividend provided that the company is solvent immediately after the payment of the dividend.

The Jersey and Guernsey company regimes also allow for great flexibility in paying out capital, with reductions of capital, redemptions and share buybacks all being possible with the requirement that the company is solvent immediately following the capital reduction, redemption or buyback. Financial assistance is also permitted.

Both Jersey and Guernsey allow for the incorporation of no-par value companies. Mergers and amalgamations of Jersey and Guernsey companies are also possible.

Establishing UK tax-residency for a Jersey or Guernsey company is straight-forward – Jersey and Guernsey companies can be tax resident in the UK where the central management and control of the company takes place in the UK, and where board decisions are taken in the UK by a majority-UK resident board of directors. UK tax residence allows the Jersey/Guernsey tax residence to be switched off, so that a Jersey/Guernsey incorporated QAHC can be solely tax resident in the UK. Provided that the share register of the QAHC is retained outside the UK, transfers of shares in the QAHC can be made free of UK stamp duty or stamp duty reserve tax.

Additional benefits of using Jersey and Guernsey companies include separate legal identity, limited liability for shareholders and ease of transfer of ownership, as well as the excellent quality of professional service providers and the flexible and well-developed legal and regulatory framework.

About Walkers

The Walkers Investment Funds & Corporate teams in Jersey and Guernsey are experienced in all aspects of the establishment and use of corporate holding structures, including QAHCs, and have strong links with onshore counsel and tax advisers.

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