The UK Holding Company in light of recent developments

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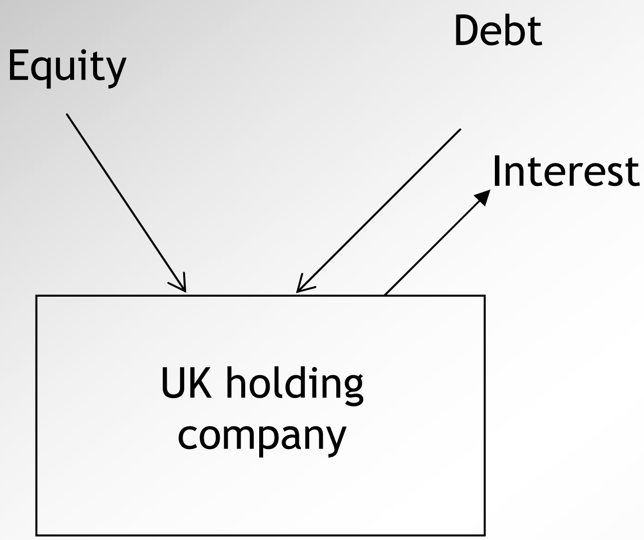
UK Holding Company



- Upon incorporation of a UK company neither stamp duty nor similar taxes apply;
- A UK company can be financed with equity and/or debt capital. Where a UK company is financed with debt capital it is necessary to look at several provisions that might prevent the tax deductibility of related interest payments;
- Interest deductions might be disallowed if the interest exceeds a reasonable commercial return regardless of the place of abode of the lender;
- When a UK company is financed by its 75% corporate shareholder or when the UK borrowing company and its lender are 75% subsidiaries of a third company, interest payments are fully deductible provided they are not taken to be excessive;

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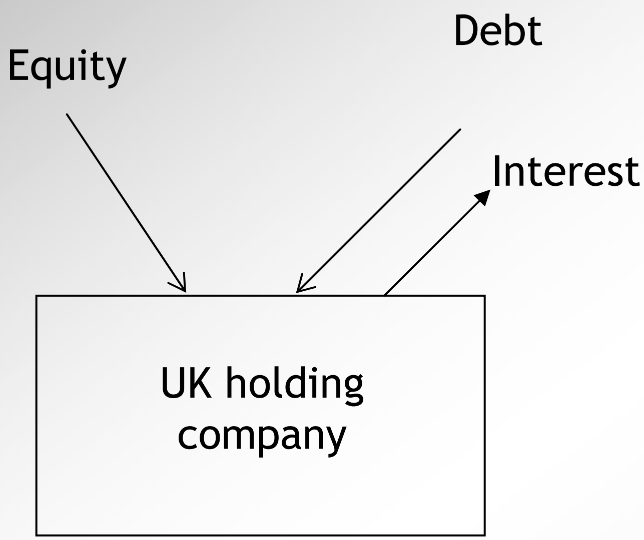

- In order to determine whether interest payments are excessive it is necessary to consider the level of the UK company's borrowing, whether or not the loan would have been made in an arm's length situation and the terms of the loan including the rate of interest;
- Debt:equity ratios of 1:1 are regarded as satisfactory but ratios of up to 25:1 can be negotiated in particular circumstances. However, interest payments can be disallowed as excessive even if a UK company is not 'thinly capitalised';
- Interest payments should not be excessive to prevent UK withholding tax at 20% from applying to interest paid to non-UK resident lenders under the terms of a relevant double tax treaty;

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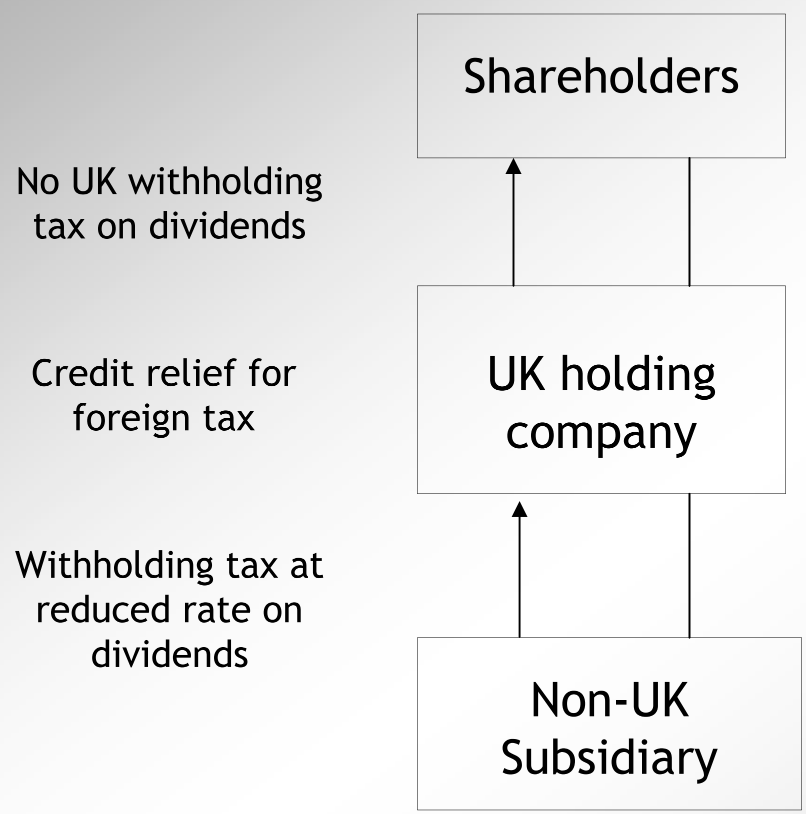
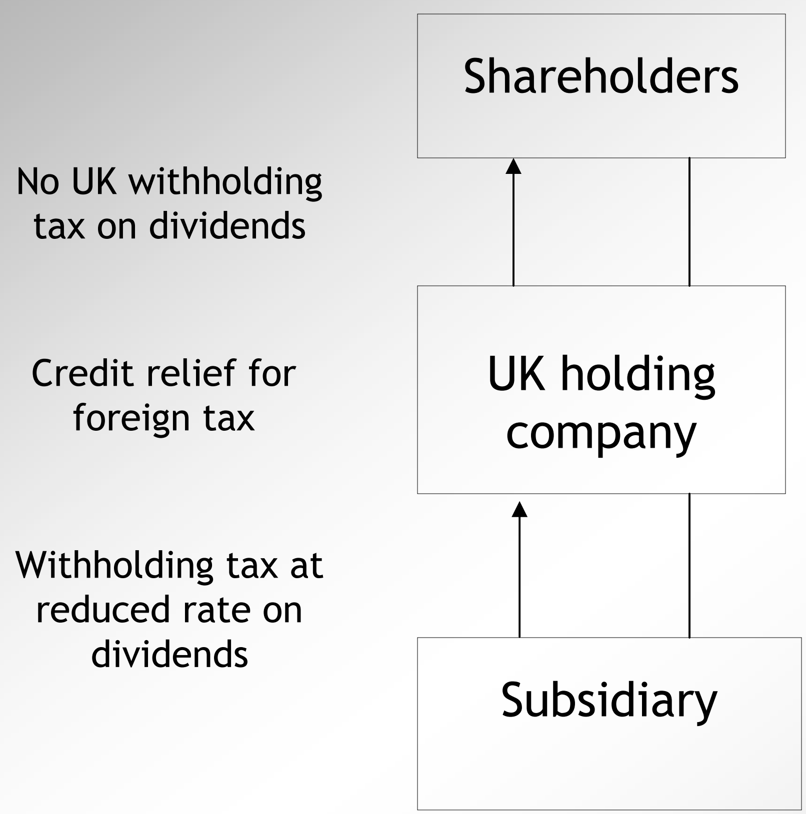


- A UK holding company can benefit from withholding tax at nil or reduced rate when it receives dividends from companies resident in a EU Member State or in a treaty country. In fact, a UK resident company can benefit from more than 100 double tax treaties;
- Dividends distributed to a UK resident company by overseas companies are subject to UK corporation tax of 30%. However, the UK receiving company can claim a credit against its UK corporation tax liability on the dividend received for foreign tax;

UK holding company



- Credit for foreign tax can be claimed for both any overseas tax withheld on the dividend and the overseas tax (‘underlying tax’) levied on the profits out of which the dividend is paid by the overseas company to the UK company;
- The amount of underlying tax for which credit relief may be claimed in the UK is capped at 30%. However, certain foreign tax (‘eligible unrelieved foreign tax’) that cannot be credited against UK corporation tax on the dividend income may be credited against UK tax payable on other overseas dividends, carried forward or back to different periods, or surrendered to other group members;

UK holding company

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Subsidiary 1

Subsidiary 2

Profits before tax = 100
Foreign tax = 20
Profits after tax = 80

Gross dividend = 80+20=100

UK Corporation Tax = 100x30%=30

UK corporation tax payable =30-20=10

UK corporation tax payable after deducting EUFT =10-10=0

Profits before tax = 100
Foreign tax = 40
Profits after tax = 60

Mixer cap = (60+40)x30% = 30

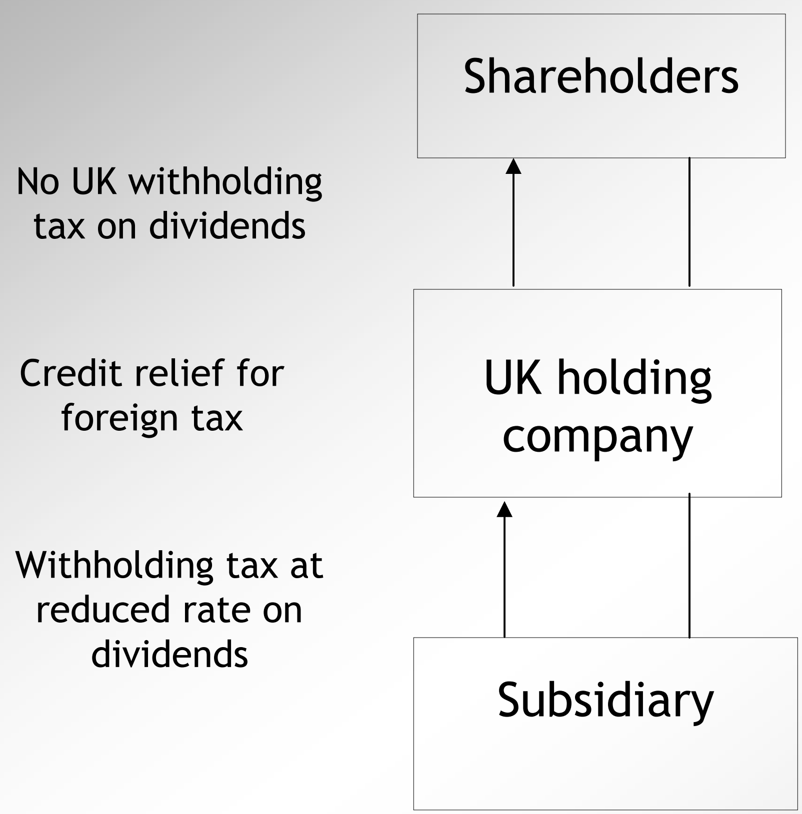
Eligible unrelieved foreign tax (EUFT) = (40-30) = 10

Gross dividend = 60+40=100

UK corporation tax = 100x30%=30

UK corporation tax payable = 30-30=0

UK holding company



- In order for a UK resident company to claim credit relief for overseas tax, the UK resident company has to hold at least 10% of the voting power in the overseas company;
- Under certain UK double tax treaties a UK resident company is able to claim from the overseas paying company’s tax authorities a refund of all or part of the foreign credit attached to the dividends received;
- Dividends paid out by a UK company to its own shareholders are subject to no UK withholding tax or similar tax regardless of where the UK company’s shareholders are resident for tax purposes;

UK holding company

- Starting from 1 April 2002 capital gains realised by a UK resident company upon disposal of shares in other companies is not subject to UK corporation tax provided the relevant conditions are satisfied;
- The new legislation introduces an exemption from UK corporation tax for capital gains realised upon disposal of shares in qualifying companies such as trading companies or holding companies of trading groups or subgroups;
- A UK resident company can benefit from the exemption provided qualifies itself as a trading company or a member of a trading group both before and after the disposal of the shares;
- In order to qualify for the exemption the UK company must have held at least 10% of the ordinary share capital throughout a 12 month period beginning not more than two years before the day on which the disposal of shares takes place.

UK holding company: comparative anlysis

		NL	LUX	BEL	E	UK
1.	Capital duty upon incorporation	v	v	v	v*	x
2.	Thin capitalisation	v*	v*	v*	v	v*
3.	Interest deductibility	x	v	v	v	v
4.	Taxation of inbound dividends	x	x	x	x	v*
5.	Taxation of capital gains	x	x	x	x	x
6.	Taxation of outbound dividends	v	v	v	x*	x
7.	Stamp duty upon share tranfers	x	x	x	x	v
8.	Treaty network	vv	v	v	v	vv

UK holding company: comparative analysis

Treaty countries	NL	LUX	BEL	E	UK
Argentina	v	x	v	v	v
Brazil	v	v	v	v	x
China	v	v	v	v	v
India	v	x	v	v	v
Japan	v	v	v	v	v
Mexico	v	v	v	v	v
USA	v	v	v	v	v
Venezuela	v	x	v	x	v

Thank You

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