

# TAX EFFICIENT HOSTING

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# INTERNATIONAL TAXING PRINCIPLES

Taxation generally based on 2 principles:

- ▶ Where are you resident?
  - Individuals – where is "home"?"days spent" test
  - Companies – place of incorporation or central management and control (Board of Directors)

# INTERNATIONAL TAXING PRINCIPLES (CONTD)

- ▶ Where do your profits arise?
  - Passive income – source of royalties/dividends etc
  - Active income – trading presence/permanent establishment

# TAXATION OF UK-BASED BUSINESS

- ▶ UK company/UK business operations
  - Company resident in UK and profits arise in UK ∴ corporation tax @ 30% (max rate) on profits
- ▶ UK shareholders
  - Distribution of post-tax profits taxed at effective rate of 25%
- ▶ Total (max) effective tax rate 47.5%!

# TYPICAL OFFSHORE TAX REGIMES

- ▶ Corporate income tax
  - 0%
  
- ▶ Personal income tax –
  - 20% (max) Jersey/Guernsey
  - 18% (£100,000 max) Isle of Man
  - 0% (Monaco/Cayman Islands/Bermuda)
  
- ▶ So... how do you go from 47.5% to 18% (or 0%!)?

## THE ANSWER.....

- ▶ With a traditional business, difficult unless entire business operations move lock, stock & barrel
- ▶ E.G. consider a widget manufacturing business carried on by a UK resident company with UK shareholders
- ▶ Manufacturing, distribution & sales all in UK

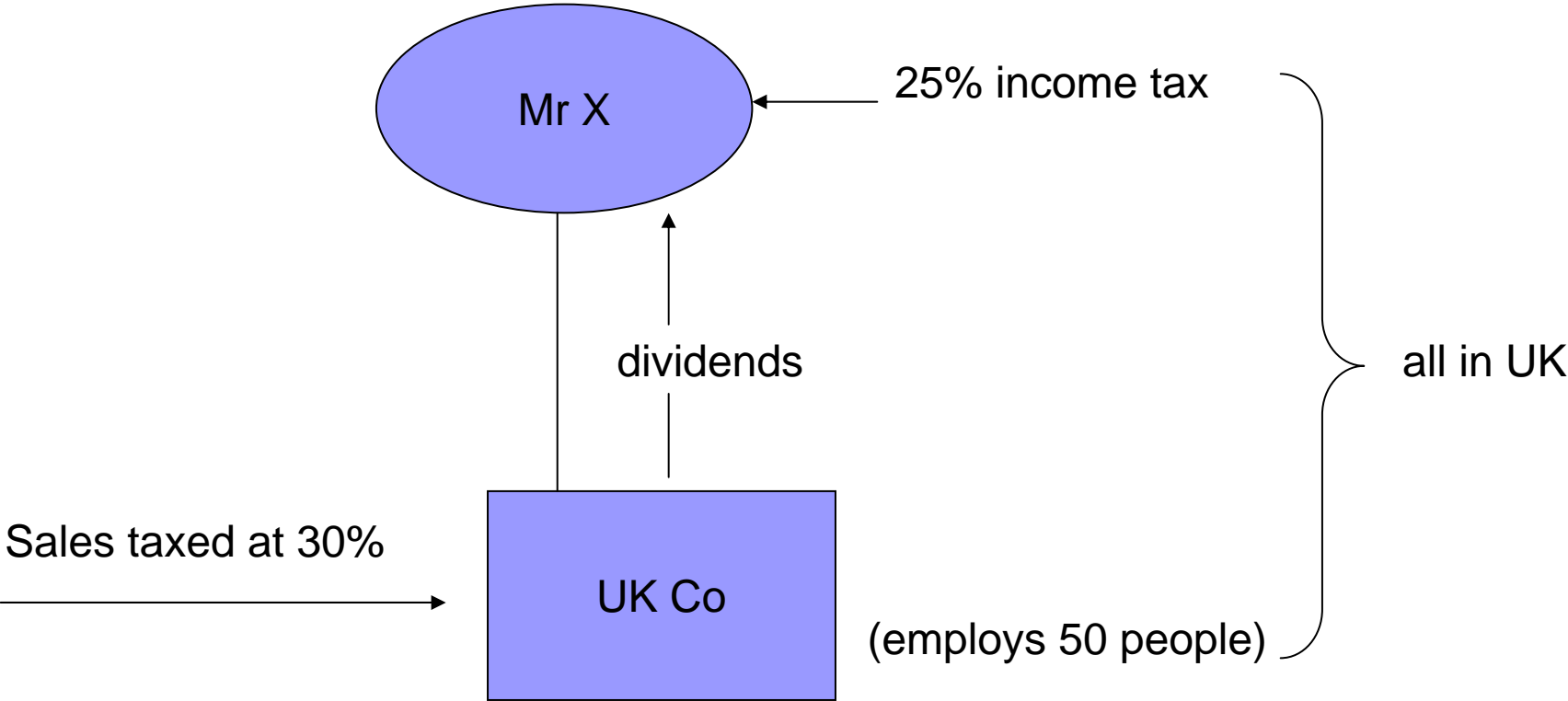
## THE ANSWER.....

- ▶ Hence if transfer ownership of business to offshore co, will still have trading presence in UK – profits taxed at 30% - even if shareholders move abroad
- ▶ With a business transacted online the key profit making aspects of the business can be relocated offshore more easily
- ▶ Website hosted by an offshore service provider via server located offshore and owned by an offshore company – trading profits generated offshore when customer confirms order online – taxed at offshore rates

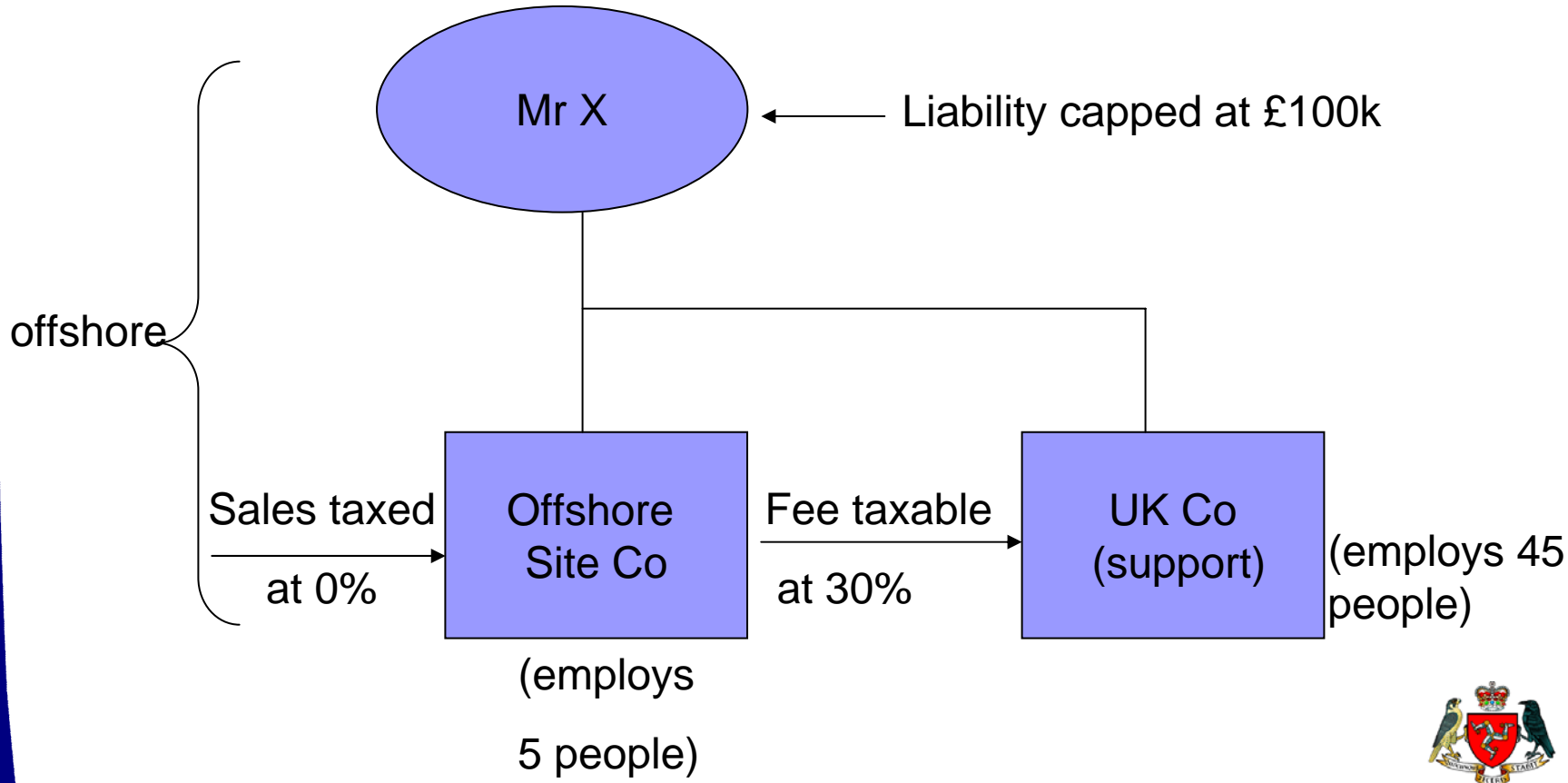
## THE ANSWER.....

- ▶ Other business functions perform a supporting role – can leave in UK and charge fee based on e.g. "cost plus" – UK tax ∴ restricted to (small) profit on these activities
- ▶ Avoids need to relocate marketing/sales/admin functions
- ▶ Relocation of proprietors/senior management offshore

# HENCE – BEFORE.....



# AFTER.....



## A WORD (OR 2) OF WARNING

- ▶ Ensure offshore company central management & control/board meetings outside UK
- ▶ Ensure offshore company does not carry on business in UK
- ▶ Beware anti-avoidance rules if proprietors remain in UK:
  - s739 ICTA 1988 for individual owners
  - "Controlled foreign company" rules for corporate owners

(broad effect where either of these apply is to treat offshore company profits as belonging to UK interested parties)

## A WORD (OR 2) OF WARNING

- ▶ Beware tax cost of dismantling/relocating existing business (e.g. capital gain on disposal of goodwill)
- ▶ Ensure offshore company pays arm's length price for UK support services
- ▶ Take advice... early!

# TAX EFFICIENT HOSTING CONSIDERATIONS: THE BOXES YOU NEED TO TICK

- ▶ Choose the right jurisdiction
  - reliable telecommunications infrastructure
  - reliable and resilient fibre connections
  - competitive bandwidth costs
  
- ▶ Do the tax planning
  - functional analysis: what can we leave in UK
  - management & control offshore
  - arm's length charges paid to UK support/cost centre
  - beware anti-avoidance
  
- ▶ Ensure point of sale/transaction server in offshore location

# TAX EFFICIENT HOSTING CONSIDERATIONS: CHOOSING THE RIGHT JURISDICTION

- ▶ The Isle of Man – a case study – why it is ideal?
  - World's oldest continuous parliament
  - Absence of party politics
  - Not on OECD blacklist
  - Endorsements by UK Home Office (the Edwards Report), the Financial Action Task Force (FATF) and the Financial Stability Forum (FSF) and the International Monetary Fund (IMF)
  - Tolerant cosmopolitan society

# TAX EFFICIENT HOSTING CONSIDERATIONS: CHOOSING THE RIGHT JURISDICTION

- ▶ The Isle of Man – a case study – why it is ideal?
  - No residency or property owning restrictions
  - No national debt
  - Standard & Poor's and Moodys "AAA" credit rating
  - Manx Telecom and Cable and Wireless as telco providers
  - £50 million invested by Manx Telecom over last 5 years

# TAX EFFICIENT HOSTING CONSIDERATIONS: CHOOSING THE RIGHT JURISDICTION

- ▶ The Isle of Man – a case study – why it is ideal?
  - World's second third generation mobile phone service (UMTS)
  - Europe's first super fast HSDPA 3G mobile phone network
  - High quality hosting providers, including Manx Telecom, Domicilium, Continent 8 and Netcetera
  - All digital exchanges have been ADSL enabled
  - 100% Island wide broadband coverage

# TAX EFFICIENT HOSTING CONSIDERATIONS: CHOOSING THE RIGHT JURISDICTION

- ▶ The Isle of Man – a case study – why it is ideal?
  - Two self healing (SDH) fibre optic rings
  - 1.2 tera bits capacity with 0.02% utilisation on main MT/BT fibre cable
  - 40% grants for hardware, software, new buildings, rents payable, R&D, relocation, consultancy, marketing and 50% grants available for training
  - Corporate tax rate 0% with effect from April 2006
  - Personal tax rates Higher 18%, Standard 10%, Max £100K

# ONLINE GAMBLING – A SPECIFIC EXAMPLE POST UK BUDGET:

## ▶ UK

Duty : 5% based on Gross Profits

Licence Fee: Yet to be determined

Corporate Tax: 34%

## ▶ IOM

Duty: 1.5% on first £20 million retained gross yield

0.5% on second £20 million retained gross yield

0.1% above £40 million retained gross yield

Licence Fee: £35,000 per annum

Corporate Tax : 0%

NB Retained is very important as it allows legitimate above line costs such as Affiliate Revenue Shares to be deducted before duty calculations

# ANY QUESTIONS?

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