Like a duck to water: Why fund managers are turning to UK QAHCs

The UK's new Qualifying Asset Holding Company (QAHC) regime provides fund managers with an alternative structuring option to those offered in other European jurisdictions, and one that is being explored by a growing number of UK resident managers and investment funds. In this article, we explore the advantages of QAHCs, and the requirements to apply for – and maintain – QAHC status.

Ever since being passed into UK legislation in 2022, interest in QAHCs has steadily grown. Introduced following UK government consultations to develop a new regime for Asset Holding Companies (AHCs), QAHCs provide managers with an alternative UK option to rival European Fund Centres like Luxembourg and Ireland. It eliminates the need to build substance in European jurisdictions, which will be increasingly costly following the introduction of the ATAD III substance requirements, expected next year.

What is a QAHC?

Put simply, a QAHC is a non-listed, UK tax resident company that can take advantage of significant tax benefits. Newly incorporated companies can register for QAHC status, though the legislation does also allow for the regime to be applied retrospectively to existing companies.

Originally introduced on 1 April 2022, there has been growing interest in QAHCs ever since. At Aztec we've seen a steady increase in clients applying for QAHC status for their UK resident holding companies, with 15 under our administration at time of writing, and that number set to grow further.

Delivering on substance

Substance requirements will be familiar to fund managers used to operating within Europe and the offshore centres, however for UK based managers the regime may be less so.

In short, directors of a QAHC must not only be physically present in the UK, they must also be able to demonstrate that true mind and management is taking place in the jurisdiction. Consideration should be given to the number of meetings directors hold per year, whether these meetings are held in-person and where documents are signed.

This isn't a tick-box exercise, good governance needs to be demonstrated on an on-going basis. Holding companies will need to take responsible steps to monitor their QAHC's ongoing compliance, particularly regarding the Activity Condition and the Ownership Condition, which includes the annual submission of a QAHC Information Return to HMRC.

It is possible to incorporate a company in another jurisdiction such as Jersey or Guernsey and apply for and obtain UK QAHC status, as long as the company is tax resident in the UK. However, this could leave the structure more open to challenge from foreign tax authorities who may consider the country of incorporation to be one of the indicators of substance. This is an example of the challenge we might expect to see in the future, from tax authorities in other jurisdictions.

> *"In order to have substance in the UK and be a UK tax resident, you would want the directors on your board to be mainly in the UK."*
>
> *Sarah Fuller, Associate Director, Real Assets.*
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> ***Listen to the webinar in full here.***

There are several advantages that QAHCs present, including:

1. Providing companies with an alternative option to European jurisdictions, therefore eliminating the need to build substance in already costly jurisdictions, in line with the EU's incoming ATAD III requirements.
2. QAHC is only taxed proportionate to the activities it performs – investors are taxed as if they had invested into the underlying assets directly.
3. Exemption from corporation tax on income and gains from qualifying assets, increasing the competitiveness of the UK's fund and corporate services industry.

4. Leveraging the UK's extensive double tax treaty network.
5. Ability to apply for QAHC status for both existing and newly incorporated companies.
6. Simple structure with significant tax advantages, as below.

The 6 potential tax advantages:

1. Exemption for gains on disposal of qualifying shares and overseas property.
2. Exemption for income derived from overseas property.
3. No withholding tax on interest paid.
4. Returns of value to investors treated as capital rather than income.
5. No stamp duty tax on share or loan note repurchases.
6. Enhanced remittance basis for managers.

It's too early to tell, but the tax benefits that we believe will be the most attractive to companies are the exemption for gains on disposal of qualifying shares and overseas property, as well as the tax-efficient ability to return capital to investors.

Registering for QAHC status – what should I do next?

While there are many potential benefits to applying for QAHCs status, not all will apply to your Holdco. It's important, therefore, to speak to your tax adviser in the first instance to ensure applying for QAHC status is the right option for you.

If applying for QAHC status is the right move, you will first need to incorporate a company, which Aztec can assist you with. Once your company is incorporated – or if you already have a company for which you want to apply – submit an application for QAHC status to HMRC.

There are several criteria you'll need to meet if you want to apply for QAHC status:

1. The company must be tax resident and have substance in the UK.
2. It can't be a UK REIT (real estate investment trust).
3. None of the company's equity securities can be publicly listed or traded.
4. Its main activity is the carrying on of investment business.
5. Its investment strategy does not involve the acquisition of listed or traded securities (or interests deriving their value from them).
6. It must have less than 30% of 'Category A' investors with 'relevant

interests' in the QAHC.

"There's no such thing as a free duck a l'orange and that's the case here, as it were. So, once you've got your QAHC tax status, it doesn't stop there. You do need to monitor that qualifying status on an ongoing basis."

Julie Fairclough, Jurisdictional Head of Corporate Services, UK.

Listen to the webinar in full here.

Ongoing maintenance

If your company has been granted QAHC status, you'll need to monitor its status on an ongoing basis.

This includes considerations around the activities of the QAHC, which must be primarily investment related; structurally, ensuring those activities are ring fenced; and maintaining the Ownership Condition. Companies must take reasonable steps to monitor their QAHCs' ongoing compliance with the Ownership Condition, including the submission of a QAHC Information Return on an annual basis. This would normally be produced by whoever prepares and submits your corporation tax return, i.e., your tax specialist.

Perhaps most important to note is that if a company unintentionally breaches the criteria to retain QAHC status, there is a 90-day grace period within which to notify HMRC and demonstrate how the breach will be remedied. Similarly, if a company finds that a QAHC isn't for them, rescinding the status takes nothing more than a notification to HMRC.

QAHCs Explained – read our quick guide on UK QAHCs here.

For more information on how the Aztec Group can support you once you have QAHC status, please contact Sarah.