

# Subsidiaries and Associated Companies

## Difference between subsidiary and division.

The distinction between the terms 'division' and 'subsidiary' are more often than not purely the difference between legal phrasing and colloquial English. Most lawyers will use the term 'subsidiary' to refer to a limited company whose shares are owned by a parent company (written S.736 of the 1985 Companies Act). The word 'division' can sometimes be used in the same way. However, it may not always be a separate firm and may be an alternative way of saying 'department' for internal accounting purposes. Generally, lawyers will use the word 'subsidiary' in preference to any other when referring to separate companies with shares owned by a parent.

### **Subsidiary:**

For UK 1985 Companies Act purposes S.736 shows that a company is deemed to be a subsidiary of another company if:

- that other company either:
  1. holds a majority of the voting rights in it...or...
  2. is a member of it and has the right to appoint or remove a majority of its board of directors
  3. is a member of it and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in it...or...
- the first mentioned company is a subsidiary of any company which is that other's subsidiary.

### **Control:**

For taxation purposes, the Income and Corporation Taxes Act 1988, has two sections defining 'Control' (also covering 'associated company' for tax purposes) and S.840, in slightly different ways for the purposes of those sections.

Legal advice should be sought at an early stage if there may be an issue arising relating to whether a company is a subsidiary company for company law purposes or an associated company for tax purposes and whether there is 'Control'.