HMRC - CFM97130 - Infrastructure: Public Infrastructure Asset

TIOPA10/S436(2)-(4) and TIOPA10/S437(1)

To be a qualifying infrastructure company the company must, among other things, meet the public infrastructure income test. This test depends on there being qualifying infrastructure activities, which includes the provision of a ‘public infrastructure asset’.

An asset is a public infrastructure asset if it meets all of the following conditions:

it is, or is to be, a tangible asset forming part of the infrastructure of the UK, or the UK sector of the continental shelf;

it meets the public benefit test;

the asset has had, has or is likely to have, an expected economic life of at least 10 years; and

the asset meets the group balance sheet test.

Tangible asset for the purposes of these conditions, has its ordinary meaning i.e. an asset which has a physical form, and is not a reference to an accounting term of tangible fixed asset.

In addition, there are separate rules which mean that certain buildings within a UK property business are also public infrastructure assets.

Examples of infrastructure

Examples of infrastructure for these purposes are included in TIOPA10/S437(1) and include any of:

water, electricity, gas, telecommunications or sewerage facilities;

oil pipelines, oil terminals or oil refineries;

railway facilities (including rolling stock), roads or other transport facilities;

health or educational facilities;

facilities or housing accommodation provided for use by members of any of the armed forces or of any police force;

court or prison facilities;

waste processing facilities; and

buildings (or parts of buildings) occupied by any relevant public body.

This list is not intended to be exhaustive, but illustrative.

UK Sector of the Continental Shelf

The UK sector of the continental shelf means the areas designated by Order in Council under section 1(7) of the Continental Shelf Act 1964.

This comprises those areas of the sea bed and subsoil beyond the territorial sea over which the UK exercises sovereign rights of exploration and exploitation of natural resources.

Example 1

An offshore wind farm located 20 nautical miles to the east of the UK coast in the North Sea, whilst being outside the UK territorial waters (which extends at most 12 nautical miles from the coastline) would be considered infrastructure of the UK, as it would be within the UK’s continental shelf.

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