HMRC - CFM97140 - Infrastructure: Public Benefit Test

TIOPA10/S436(2)(b)&(3)

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.

To be a public infrastructure asset the asset must meet the public benefit test. This test is met by a tangible asset which is infrastructure of the UK where it is, or is to be:

procured by a relevant public body; or

used in the course of a regulated activity.

Procured by a relevant public body

Infrastructure of the UK is procured by a relevant public body where the relevant public body contracts with a company to provide that infrastructure in exchange for consideration.

Example 1

A NHS Trust invites bids for a contract to design, build, finance, maintain and operate a new hospital over a period of 40 years. The successful bidder will enter the contract in exchange for consideration payable over that 40 year term. For the purposes of the public benefit test, the hospital (health facility) has been procured by a relevant public body (a health service body within the meaning given by CTA09/S986).

Used in the course of a regulated activity

An asset is used in the course of a regulated activity if its use is:

regulated by an infrastructure authority; or

could be regulated by an infrastructure authority if the authority exercises any of its powers.

Infrastructure authorities for the purposes of Chapter 8 are identified in S437(2).

Example 2

The owner and operator of the majority of the rail network has the price it can charge its customers set by the Department for Transport. It is therefore regulated by an infrastructure authority.

Previous page

Next page