HMRC - CFM97160 - Infrastructure: Group Balance Sheet Test

TIOPA10/S436(2)(d),(5)(d),(10)

In order to be a qualifying infrastructure company the company must, among other things, meet the public infrastructure income test. This test depends on there being a company which carries out qualifying infrastructure activities. In particular, this would include the provision of a public infrastructure asset.

To be a public infrastructure asset an asset (whether part of UK infrastructure, or a building or part of a building within a UK property business) must pass the group balance sheet test in respect of the company carrying out the qualifying infrastructure activities.

The group balance sheet test applies at each point in time. It requires that the asset is recognised on the balance sheet of the company, or a company within the worldwide group, or would be recognised on such a balance sheet if one was drawn up at that time. The company which recognises the asset must be subject to UK Corporation Tax in respect of all sources of its income. As such it must not have:

made an election to exempt its profits or losses from an overseas permanent establishment (under CTA09/S18A) which has effect for the accounting period spanning that time; nor

made a claim for double taxation relief (under TIOPA10/Part 2/Chapter 2) for that same accounting period.

Example

An gas interconnector (a physical link allowing the transfer of gas across borders), connecting the UK transmission network, with a mainland European countries network is owned by a UK company subject to corporation tax on all of its income. A European tax authority considers that 50% of the interconnector is considered a permanent establishment in its territory and subjects a similar proportion of income to its own corporation tax in its territory. If the UK company claims relief for this double taxation, the interconnector cannot be considered a public infrastructure asset.

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