HMRC - CFM97340 - Infrastructure: Qualifying Old Loan Relationship

TIOPA10/S439

A loan relationship is a qualifying old loan relationship of a qualifying infrastructure company (QIC) if the company entered into the loan relationship on or before 12 May 2016 and at 12 May 2016, at least 80% of the total value of the company’s future qualifying infrastructure receipts for the qualifying period was highly predictable by references to qualifying public contracts.

If it is a qualifying old loan relationship at 12 May 2016, a loan relationship will continue to be one, subject to amendments being made to the loan, and to changes in the assets held by the company which entered into that loan relationship.

Qualifying period

A qualifying period for the purposes of a qualifying old loan relationship means the period beginning on 12 May 2016 and ending on the earlier of 11 May 2026 and the date the loan relationship ceases.

Qualifying public contract

A qualifying public contract is a contract which was entered into at any time on or before 12 May 2016 and, at that time, was expected to have effect for at least 10 years and it was entered into with a relevant public body or following bids made in an auction conducted by a relevant public body.

For the purposes of the meaning of a qualifying public contract, bids made in an auction has its ordinary meaning.

Example 1

Ofgem, acting on behalf of the Gas and Electricity Market Authority (GEMA) appoints a system operator, to be responsible for ensuring operation of the whole UK electricity system. Offshore transmission operators contract directly with the system operator, which is not a relevant public body. However, to secure a contract with the system operator, companies must go through several rounds of bidding in competition, involving sealed bids.

This tender is run by Ofgem; as such the contract between the system operator and the offshore transmission partner (although not having a relevant public body as party to it) will be a qualifying public contract.

Example 2

Under the Governments Feed In Tariff (FIT) scheme, companies receive payments with tariff rates set by the Department of Business, Energy and Industrial Strategy (BEIS); these are for both generation (of electricity for the company’s own use) and export (into the national grid). For some generating installations, a company wishing to be part of the FIT scheme must obtain accreditation from Ofgem, acting on behalf of GEMA.

Whilst GEMA licenses a FIT company, and BEIS controls the tariffs it receives, the FIT company neither has a contract with a relevant public body, nor has it bid for a contract in an auction run by one. Therefore the contract with an energy supplier is not a qualifying public contract.

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