HMRC - CFM97400 - Infrastructure: Interaction With The Transitional Provisions

F(No.2)A17/SCH10/PARA33(3)

Where a company fails one of the conditions required to be qualifying infrastructure company (QIC), but is able to make a valid election for an accounting period subject to the transitional rules the amounts treated as exempt, or nil, for the purposes of the fixed ratio method and group ratio method are altered.

The amounts of the QIC which would otherwise be treated as exempt or nil are only treated as so on a just and reasonable basis, to the extent to which that company meets the public infrastructure income test and public infrastructure asset test in that transitional accounting period.

The amounts not considered or exempt or nil will form party of the calculation of the fixed ratio method and group ratio method.

Example

A group company (Holdco) holds shares and loans in ten companies incorporated as special purpose companies (‘SPCs’) to hold individual investment properties. It funds its investment with a loan from a bank. Holdco and the SPCs all have 12 month accounting periods ending 31 May 2018.

For the purposes of the example, the value of the shares and loans recognised on the balance sheet of Holdco are attributable equally amongst its ten subsidiaries. Each company generates the same amount of income in each period.

Seven of the companies are qualifying infrastructure companies, by virtue of holding buildings within a UK property business which are let to unrelated persons on a short term basis. Three are not. Holdco fails the public infrastructure asset test in the accounting period ended 31 May 2018.

Nonetheless, Holdco and each of the seven qualifying infrastructure companies make a section 434 election on 31 January 2018. This followed Holdco disposing of its shares and loans in the three subsidiaries which were not qualifying infrastructure companies, and used the funds to acquire three more companies which were qualifying infrastructure companies. If any accounting period began after this date, it only holds assets and accrues income which would allow it to pass the public infrastructure income and asset tests for that accounting period; therefore the transitional rules apply.

Considering Holdco in the period to 31 January 2018, only amounts in relation to the proportion of the loan which was used to purchase the seven qualifying infrastructure companies should be considered exempt amounts. In the period from 31 January all amounts of interest could be considered exempt.

If Holdco had EBITDA or interest income, a similar split would be required.

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