HMRC - INTM285010 - Foreign Permanent Establishments Of UK Companies: Capital Allowances: Plant & Machinery: Introduction

Qualifying activities

Capital Allowances are made available in respect of capital expenditure on the provision of plant and machinery for the purposes of qualifying activities. Activities of a company can only be qualifying activities for capital allowances purposes to the extent that profits or gains from the activity are chargeable to UK tax. See the Capital Allowances Manual for detailed coverage of the CA rules.

Where a company carries on a business through permanent establishments outside the UK (foreign permanent establishments) and an election for exemption is made under CTA09/S18A, the business carried on in the PE is treated as a separate activity whose profits and gains are not chargeable to tax. No actual capital allowances can be claimed by the company in respect of any past capital expenditure on assets being used for the purposes of PE activity.

This is the case whether or not the profits (or losses) of the PE activity are treated as exempt. For example, if the Anti-Diversion rule in CTA09/S18G (see INTM286000 onwards) is engaged and prevents the PE profits from being exempt for a particular period, then for capital allowances purposes the PE activity should still be treated as a separate activity from the UK activity, in relation to which no actual capital allowances can be claimed. But notional capital allowances are given, i.e. the capital allowances that could be claimed if they were available -see INTM285020.

This ensures that profits of a UK company which remain chargeable to UK tax cannot be reduced by any CAs in respect of any activities of the company’s exempt foreign PE. Also, there is a single transition point for capital allowances purposes, avoiding the complexity and ongoing tax effects which could otherwise arise if PE profits or losses are treated as exempt in one period but not in a subsequent period.

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