HMRC - INTM285050 - Foreign Permanent Establishments Of UK Companies: Capital Allowances: Plant & Machinery: Leasing

Treatment of permanent establishment profits or losses from leasing

If actual CAs have been obtained by the company or a connected company in respect of expenditure on the provision of any plant or machinery for leasing, then any PE profits or losses of the leasing remain within the charge to UK tax and are excluded from the relevant profits or losses amounts in CTA09/S18A. Notional capital allowances are given automatically as a deduction in arriving at the consequent UK taxable profits attributable to the permanent establishment (see INTM285020).

Where no actual capital allowances have been obtained by the company or a connected company in respect of expenditure on the provision of any plant or machinery for leasing, the profits from leasing carried on by a foreign permanent establishment can benefit from exemption.

Whether or not the profits (or losses) of the PE leasing activity are treated as exempt, the PE activity will cease to be a qualifying activity for the purpose of CAA01/Part II. This will trigger a CA disposal event requiring a capital allowances disposal value to be brought into account for plant and machinery being used for the purposes of PE activity. The disposal value will be either the tax written down value or the market value of the plant and machinery (see INTM285030).

From 1 January 2013 CAA01/S15(2B) is inserted into CAA01 to ensure that CAA01/S15(2A) does not apply to plant or machinery leases where the company is a lessor if profits or losses arising from the lease are excluded from the relevant profits or losses amount by virtue of CTA09/S18C(3).

S18C(3) applies to leave out of account amounts arising from a lease if the lessor or a connected company has claimed UK capital allowances. It is those amounts that are left out of the exempt relevant profits or losses amount for the foreign permanent establishment. CAA01/S15(2B) overrides the general rule in S15(2A) which states that a business carried on by a foreign permanent establishment covered by an exemption election under CTA09/S18A is considered activity separate from any other activity of the company and that any profits arising are treated as not chargeable to tax.

In cases where leasing profits are excluded from the relevant profits or losses amount of a foreign permanent establishment by virtue of CTA09/S18C(3) this adjustment to CAA01 ensures that those leasing activities can still be qualifying activities for the purposes of the capital allowance rules.

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