HMRC - IPT04340 - Establishment

“Establishment”, in relation to a business (“A”), means -

It will be necessary for the insurer to demonstrate that there is a clearly identifiable risk attaching to the establishment in order that the risk might be treated as located there. Our interpretation of this area of law was recently challenged at Tribunal.

DSG International Insurance Limited Lon/2006/9003 (DSG)The appeal concerned the nature and location of risk and related to a warranty scheme operated in Dixons Group stores - Dixons, Currys and PC World.

The warranty scheme was provided by a company based in the Isle of Man (ASL). Two companies in the Dixons Group acted as UK sales agent and administrator, selling the warranties in their stores and dealing with customer claims etc. The Isle of Man is outside the UK for IPT purposes and ASL had no presence here. ASL reimbursed Dixons for the costs of customer claims etc and in turn insured itself with an Isle of Man insurer - DSG (part of Dixons Group) against the total amount that it had to pay out.

We said that the location of the risk insured by DSG was the UK, because we argued that the risk was a customer making a claim under the warranty. We also said that the agency relationship that ASL had with Dixons created an establishment in the UK and it was this establishment that was most closely associated with the risk. Therefore, DSG was required to register and account for IPT on the premiums received from ASL.

The Tribunal accepted HMRC’s argument that the agency relationship was capable of creating a UK establishment. However, they went on to find that the risk was purely pecuniary or financial in nature and related solely to ASL having to reimburse Dixons. Therefore, the Tribunal concluded that the location of risk must be ASL’s office in the Isle of Man. Consequently the appeal was allowed and was not appealed further by HMRC.

There is more on the definition of establishment later in this guidance at IPT05850.

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