HMRC - IPT04930 - Protected Cell Companies

The Budget 2003, introduced an anti-avoidance measure concerning Protected Cell Companies (PCCs).

PCCs are a type of corporate body found offshore. They are also sometimes called divided companies or segregated asset companies. In many countries, they are restricted to the financial services sector, in particular insurance. The defining feature of these companies is that they have within them units that are usually called cells. These cells can be separately owned and they are segregated from one another’s assets and liabilities. In effect a cell can be run as if it was a separate company although it remains part of the larger corporate body, the PCC, which itself is a single legal entity.

Prior to the Budget measure, a PCC could be used to avoid the higher rate. Under the Taxes Act, a connected person, in the case of companies, is defined as one person having a controlling share of the company (normally this would be a 51% shareholding in the company). Because of the cellular structure of a PCC, it is possible for a person to wholly own a cell, but only have a minority shareholding in the PCC overall. Thus, a PCC could be set up in such a way that it would not be caught by the connected person definition and it could be used to avoid higher rate IPT.

To close this loophole the Budget measure introduced a new paragraph 3A to Schedule 6A of the Finance Act 1994, which extended the definition of connected persons in the higher rate IPT legislation. In practice this meant that to establish whether a PCC was connected for the purpose of the higher rate, you could look at the individual cells of the PCC and consider whether, if the cells were separate entities, they would meet the connected person test. If the answer to that question was yes, then the PCC was to be regarded as connected to the supplier.

The following illustrates how this might work in practice.

A PCC consists of 3 cells, A, B and C. (Remember that it is the PCC as a whole that is the corporate body).

Cell B has a 30% share in the PCC and has a 75% shareholding in an electrical retailer (a retailer of specified goods).

We treat the cells as individual entities when applying the connected persons test.

Because Cell B owns more than 51% of the shares in the electrical retailer the PCC as a whole is treated as a “connected person”.

Only contracts of insurance provided by the cell, which is directly connected to the supplier of specified goods (in our example Cell B), will be liable to the higher rate when the insurance is supplied in circumstances outlined in IPT04916. Other cells in the PCC remain unaffected.

To ensure all PCC type companies are covered, by whatever name they are known, the legislation uses the term divided companies.

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