HMRC - OT03535 - FA93 - Fixed Assets And Dedicated Mobile Assets - Attribution Of Income And Expenditure

As mentioned above at OT03530 the rules for apportioning expenditure (OTA83\SCH1\PARA5) are dealt with at OT11400 and were not amended by FA93. Where therefore an asset is used exclusively for “taxable” fields the pre FA93 rules continue to run. If on the other hand an asset is used exclusively for “non-taxable” fields, it is, following FA93, outwith the ambit of PRT.

Rules are however needed where an asset is used for both “taxable” and “non-taxable” fields. In this case the existing OTA83 rules and the FA93 changes are brought together as follows:

Apply the OTA83 rules first. As mentioned above the basic rules for attributing income and expenditure continue to operate (OTA83\S8 and OTA83\SCH1\PARA5(2)). All fields (whether “taxable” or “non-taxable”) need to be considered and income and expenditure is attributed to the appropriate fields (FA93\s185(6) (see OT03530).

Expenditure Relief will then apply to any expenditure attributed to a “taxable” field. An amount apportioned to a “non-taxable” field will not qualify for relief (OTA75\S185(4)(e) & (6)).

A charge to PRT will similarly arise if tariffs and\or disposal receipts are attributed to a “taxable” field. Otherwise no charge will arise (FA1993\S185(3)(b)).

FA93\S190 introduced a number of consequential changes to certain parts of the pre FA93 legislation which were concerned with apportionment of expenditure by reference to field\non- field use. Those changes adjust the existing rules for transactions across the PRT boundary to reflect its new location. Following FA93 such apportionment now needs to be considered by reference to taxable field\other use. They are as follows:

Use in a taxable field following use in a non-taxable field

The brought-in asset rules (OTA83\SCH1\PARA 7 (see OT11500) have been amended so that expenditure on an asset used in a “taxable field” following use in a “non-taxable” field is to be reduced by the amount of “non-taxable” field use (S190(3)).

Use in a non-taxable field following use in a taxable field

Where an asset used in a taxable field is subsequently used in a “non-taxable” field without there being a disposal then relief is restricted by reference to “taxable” field use (OTA83\SCH1\PARA 8 (see OT11600). If too much relief has been given, the excess will be a disposal receipt in the taxable field (S190(4)). This is to ensure that where relief is given for the whole cost of an asset which is later used in connection with, for example, a “non-taxable” field, relief will be clawed back as appropriate.

Acquisition by a connected person for non-taxable field use.

FA93\S190(5) amends OTA83\SCH2\PARA5 (see OT15450) (which requires a corresponding restriction in the amount charged under either OTA83\S6 or S7 where a qualifying asset is sold or tariffed to a participator in circumstances in which OTA75\SCH4\PARA2 applies to restrict that participator’s relief). Where such a transaction involves the purchase of an asset by a connected person for use in connection, or partly in connection, with a non-taxable field, receipts will be charged on a market value basis. This revision is designed to prevent PRT avoidance by assets moving across the new PRT boundary at deliberately low value.

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