HMRC - OT15450 - Receipts - Transactions Not At Arm's Length

OTA83\Sch2\Para5

There are special rules which apply when the transaction giving rise to the disposal or the tariffs is between connected persons (see OT15580), or made otherwise than at arm’s length.

The transaction giving rise to the disposal or the tariffs will either fall within

OTA83\Sch2\Para5(1), which limits the amount of the disposal or tariff receipts to be taken into account in certain circumstances or

OTA83\Sch2\Para5(3) which substitutes open market value for the actual receipts.

Limit on Tariff and Disposal Receipts, OTA83\Sch2\Para5(1)

Basically OTA83\Sch2\Para5(1) provides for a corresponding adjustment to the receipts when the expenditure of the purchaser or payer is subject to restriction under OTA75\Sch4\Para2 (see OT14620) and the purchaser or payer will only use the asset in connection with its own taxable field (i.e. any tariff earning use is excluded).

When the following conditions are met the amount of the chargeable tariff or disposal receipt is limited to the ‘relevant expenditure’ on the qualifying asset:

both parties are participators in a taxable field (either the same field or different taxable fields) and

the use of the asset by the purchaser, or in the case of tariffs the payer, will be wholly in connection with a taxable field in which it is a participator and

the use by the purchaser or the tariff payer will not give rise to tariff receipts.

‘Relevant expenditure’ is the expenditure incurred by the participator in acquiring, bringing into existence, or enhancing the value of the asset that was not incurred in transactions with connected persons or under transactions made other than at arm’s length. Interest and other costs of obtaining loans or other credit are specifically excluded from the relevant expenditure (OTA83\Sch2\Para5(2)).

Use of Open Market Value, OTA83\Sch2\Para5(3)

If disposal or tariff receipts are received or receivable by a participator in a taxable field (or the transaction is made for no consideration) in circumstances in which OTA83\Sch2\Para5(1) does not apply, OTA83\Sch2\Para5(3) substitutes the ‘open market value’ for any actual receipts.

OTA83\Sch2\Para5(5) defines ‘open market value’ as the consideration which might reasonably have been obtained as a tariff or for the disposal had the transaction been one at arm’s length or not between connected persons.

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