Taxation (International and Other Provisions) Act 2010

2010 CHAPTER 8

[F1PART 10]

[F1CORPORATE INTEREST RESTRICTION]

[F1CHAPTER 8

PUBLIC INFRASTRUCTURE

Overview

[F1432 Overview of Chapter

(1) This Chapter —

(a) alters the way in which this Part has effect in relation to companies (referred to as "qualifying infrastructure companies") that are fully taxed in the United Kingdom, and

(b) operates by reference to the provision of public infrastructure assets or the carrying on of certain other related activities.

(2) In addition to the requirement for the company to be fully taxed in the United Kingdom, the qualifying requirements are—

(a) a requirement designed to ensure that the company's income and assets are referable to activities in relation to public infrastructure assets, and

(b) a requirement for the company to make an election (which may be revoked, subject to a 5-year rule in relation to the revocation and the ability to make a fresh election).

(3) Two different types of asset meet the definition of a "public infrastructure asset", namely—

(a) tangible assets forming part of the infrastructure of the United Kingdom (or the UK sector of the continental shelf) that meet a public benefit test, and

(b) buildings (or parts of buildings) that are part of a UK property business and are let (or sub-let) on a short-term basis to unrelated parties.

(4) In either case an asset counts as a public infrastructure asset only if—

(a) it has had, has or is likely to have an expected economic life of at least 10 years, and

(b) it is shown in a balance sheet of a member of the group that is fully taxed in the United Kingdom.

(5) The detail of the above tests is set out in sections 433 to 437.

(6) The substantive rules provide that an amount does not count as a tax-interest expense amount if—

(a) the creditor in relation to the amount is an unrelated party or another qualifying infrastructure company or the amount is in respect of a loan relationship entered into on or before 12 May 2016 (see sections 438 and 439), and

(b) the recourse of the creditor in relation to the amount is limited to the income or assets of, or shares in or debt issued by, a qualifying infrastructure company (ignoring certain financial assistance and certain non-financial guarantees).

(7) In addition—

(a) provision is made for adjusting the operation of this Part to take into account the effect of the above rules (for example, the tax-EBITDA of a qualifying infrastructure company is treated as nil (see section 441)),

(b) provision is made modifying the operation of this Chapter in the case of joint venture companies or partnerships or other transparent entities (see sections 444 to 447), and

(c) provision is made in relation to the decommissioning of a public infrastructure asset (see section 448).**]**

Textual Amendments

F1 Pt. 10: the existing Pt. 10 renumbered as Pt. 11 (except for ss. 375, 376 which are repealed), the existing ss. 372-374, 377-382 renumbered as ss. 499-507 and a new Pt. 10 (ss. 372-498) inserted (with effect in accordance with Sch. 5 para. 25(1)-(3) of the amending Act) by Finance (No. 2) Act 2017 (c. 32), Sch. 5 para. 1, **10(1)(2)(a)(3)** (with Sch. 5 paras. 27, 32-34)

Changes to legislation:
There are currently no known outstanding effects for the Taxation (International and Other Provisions) Act 2010, Section 432.