**INTM489825 - CHART 2: Non-UK company avoiding a UK taxable presence (Section 86)**

NO

NO

NO

NO

NO

Is company - “the foreign company” - UK resident?

Has it carried on a trade during the period?

Is a person – “the avoided PE” – carrying on activity in the UK during the period in connection with supplies of services, goods or other property made by the foreign company in the course of its trade?

**Section 86 does NOT apply**

Does section 87 operate, i.e.

(i) are the UK related sales of the foreign company & any companies connected with it £10,000,000 or less? **or**

(ii) are the UK-related expenses of the foreign company & any companies connected with it £1,000,000 or less?

Is it reasonable to assume that any activity of the avoided PE or the foreign company is designed to ensure that the foreign company does not carry on a trade in the UK for the purposes of corporation tax?

Is the ‘**mismatch condition**’ of section 86(2) met? ***[see Chart 2A]***

Are arrangements in place the main purpose or one of the main purposes of which is to avoid or reduce a charge to corporation tax – is the ‘**tax avoidance condition’** of section 86(3) met?

Are both the avoided PE and the foreign company **SMEs** within the meaning of section 172 TIOPA10?

Is the avoided PE excepted by section 86(5)? ***[see Chart 2B]***

**Section 86 applies**

YES

YES

NO

YES

NO

NO

YES

NO

YES

YES

YES

YES

YES

YES