**INTM489825 - CHART 2B: ‘Excepted’ Avoided PE (Section 86(5))**

NO

Is the activity of the avoided PE such that, as a result of section 1144 CTA10, the foreign company would not be treated as carrying on a trade in the UK through a permanent establishment by reason of that activity?

**1142 Agent of independent status**

(1) A company is not regarded as having a permanent establishment in a territory by reason of the fact that it carries on business there through an agent of independent status acting in the ordinary course of the agent's business.

(2) Sections 1145 to 1151 apply for the purpose of supplementing subsection (1) in relation to transactions carried out on behalf of a non-UK resident company by a person in the United Kingdom acting as—

(*a*) a broker (section 1145),

(*b*) an investment manager (sections 1146 to 1150), or

(*c*) a members' or managing agent at Lloyd's (section 1151).

**1144 Alternative finance arrangements**

(1) Subsection (2) applies if alternative finance return is paid to a non-UK resident company.

(2) The company is not regarded as having a permanent establishment in the United Kingdom merely by virtue of anything done for the purposes of the alternative finance arrangements—

(*a*) by the other party to the arrangements, or

(*b*) by any other person acting for the company in relation to the arrangements.

(3) In subsection (1) “alternative finance return” means alternative finance return within the application of—

(*a*) section 564I, 564K or 564L(2) or (3) of [ITA 2007,](http://home.active.hmrci/yhb/5567ac726cba40ea9370578a97dc8c53.html) or

(*b*) section 511, 512 or 513(2) or (3) of [CTA 2009](http://home.active.hmrci/yhb/3f1c6f2d770540078729c981959dc6f5.html).

(4) In subsection (2) the reference to “the alternative finance arrangements” is a reference to the alternative finance arrangements under which the alternative finance return mentioned in subsection (1) is paid.

The avoided PE **IS** ‘excepted’.

Is the avoided PE regarded for the purposes of section 1142(1) as an agent of independent status by virtue of sections 1145, 1146 or 1151 of CTA10?

The avoided PE is **NOT** ‘excepted’ by section 86.

‘**Avoided PE**’ as per section 86(1)(c):

*“a person (“the avoided PE”), whether or not UK resident, is carrying on activity in the United Kingdom in that period in connection with supplies of services, goods or other property made by the foreign company in the course of that trade”*

Are the foreign company and the avoided PE connected at any time in the relevant accounting period?

Is the activity of the avoided PE such that, as a result of section 1142 CTA10, the foreign company would not be treated as carrying on a trade in the UK through a permanent establishment by reason of that activity?

YES

YES

NO

YES

NO

NO