
STATUTORY INSTRUMENTS

2005 No. 3440

The Finance Act 2002, Schedule 26 (Parts
2 and 9) (Amendment No. 3) Order 2005

Amendment of Part 9 of Schedule 26

13. After paragraph 45L insert—

“Elections under paragraph 45L(2A): further provisions

45LA.—(1) In this paragraph “a disapplication election” means an election under paragraph 45L(2A).

(2) Where—

- (a) a company makes a disapplication election in relation to its contracts, and
- (b) another company, which is a member of the same group as the company making the election, is a party to a contract to which the election applies,

the other company shall be treated, in relation to that contract, as if it had also made a disapplication election.

(3) Where—

- (a) a company (“the electing company”) makes a disapplication election in relation to its contracts,
- (b) another company (“the transferee”) becomes party to a contract, to which paragraph 2(3) applies, in place of the electing company (whether before or after the disapplication election is made), and
- (c) the transferee is a member of the same group of companies as the electing company at the time of the transfer,

the transferee shall be treated, in relation to the contract referred to in paragraph (b), as if it had also made a disapplication election.

(4) Where—

- (a) a company (“A”) is treated under paragraph 2(4) as party to a relevant contract to which paragraph 45L(1) applies,
- (b) another company (“B”), becomes a party to that contract in place of A,
- (c) A and B are members of the same group of companies when B becomes a party to the contract, and
- (d) paragraph 45L(1) does not apply to B’s other relevant contracts by reason of a disapplication election (whenever made),

sub-paragraph (5) applies, unless A, subsequent to B’s becoming party to the contract, makes a disapplication election.

(5) Where this sub-paragraph applies B shall be treated, in relation to the contract referred to in sub-paragraph (4)(b), as if paragraph 45L(1) applied to it.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(6) In this paragraph references to companies being members of the same group of companies shall be construed in accordance with section 170 of the Taxation of Chargeable Gains Act 1992(1).”.