HMRC - CFM97290 - Infrastructure: Effect Of Section 435 Election On Anti-Cycling Provisions

TIOPA10/S435(10)

Where the majority (i.e. more than half) of the members of a joint infrastructure election under s435 have been qualifying infrastructure companies (QICs) for five years or more, all members are able to revoke the election to be a QIC to have effect from that time, regardless of whether their individual election to be a QIC has had effect for five years or more (i.e. regardless of the anti-cycling provisions).

Example

Companies A, B and C are members of the same worldwide group, and have each been subject to QIC and s435 elections with effect from 1 January 2018.

Company D is acquired by Company C on 1 January 2020. It is a QIC and has been since 1 January 2019. An election is made with effect from 1 January 2020 for it to become a member of the A, B and C joint infrastructure election under s435.

Companies C and D wish to revoke their elections to be QICs at the same time. Without the effect of s435, the earliest this could have effect from is 1 January 2024 (the beginning of the accounting period starting five years after Company D’s election to be a QIC).

As the majority of the members of the joint infrastructure election under s435 have had their election to be a QIC in effect for a period of five years at 31 December 2022, Company C and D may revoke their election to be a QIC with effect from 1 January 2023.

Previous page

Next page