SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Source: sooperkanoon.com/act/455900

Finance Act, 2008

Section 96 - Withdrawal of group relief

1) Part 1 of Schedule 7 to FA 2003 (group relief) is amended as follows. (2) In paragraph 3(5), for "paragraph 4" substitute "paragraphs 4 and 4ZA". (3) In paragraph 4 (cases in which group relief not withdrawn)- (a) omit sub-paragraphs (2) and (3), and (b) in sub-paragraph (5), for "sub-paragraphs (3) and (4)" substitute "subparagraph (4)". (4) After that paragraph insert- "Group relief not withdrawn where vendor leaves group 4ZA (1) Group relief is not withdrawn under paragraph 3 where the purchaser ceases to be a member of the same group as the vendor because the vendor leaves the group. (2) The vendor is regarded as leaving the group if the companies cease to be members of the same group by reason of a transaction relating to shares in- (a) the vendor, or (b) another company that- (i) is above the vendor in the group structure, and (ii) as a result of the transaction ceases to be a member of the same group as the purchaser. (3) For the purpose of sub-paragraph (2) a company is "above" the vendor in the group structure if the vendor, or another company that is above the vendor in the group structure, is a 75% subsidiary of the company. (4) But if there is a change in the control of the purchaser after the vendor leaves the group, paragraphs 3, 4(6) and (7), 5 and 6 have effect as if the purchaser had then ceased to be a member of the same group as the vendor (but see sub-paragraph (7)). (5) For the purposes of this paragraph there is a change in the control of the purchaser if- (a) a person who controls the purchaser (alone or with others) ceases to do so, (b) a person obtains control of the purchaser (alone or with others), or (c) the purchaser is wound up. (6) For the purposes of sub-paragraph (5) a person does not control, or obtain control of, the purchaser if that person is under the control of another person or other persons. (7) Sub-paragraph (4) does not apply where- (a) there is a change in the control of the purchaser because a loan creditor (within the meaning of section 417(7) to (9) of the Taxes Act 1988) obtains control of, or ceases to control, the purchaser, and (b) the other persons who controlled the purchaser before that change continue to do so. (8) In this paragraph references to "control" shall be interpreted in accordance with section 416 of the Taxes Act 1988 (subject to subparagraph (6))." (5) In paragraph 4A (withdrawal of group relief in certain cases involving successive transactions)- (a) in sub-paragraph (1), in the words following paragraph (d), for "and 4" substitute ", 4 and 4ZA", (b) after that sub-paragraph insert- "(1A) Sub-paragraph (1) has effect subject to sub-paragraph (3A).", (c) in sub-paragraph (3)- (i) for "sub-paragraph (1)(a)" substitute "this paragraph", and (ii) for "this sub-paragraph" substitute "this paragraph", and (d) after sub-paragraph (3) insert- "(3A) Sub-paragraph (1) does not apply where- (a) there is a change in the control of the purchaser because a loan creditor (within the meaning of section 417(7) to (9) of the Taxes Act 1988) obtains control of, or ceases to control, the purchaser, and (b) the other persons who controlled the purchaser before that change continue to do so." (6) The amendments made by this section have effect in relation to transactions with an effective date on or after 13 March 2008.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com