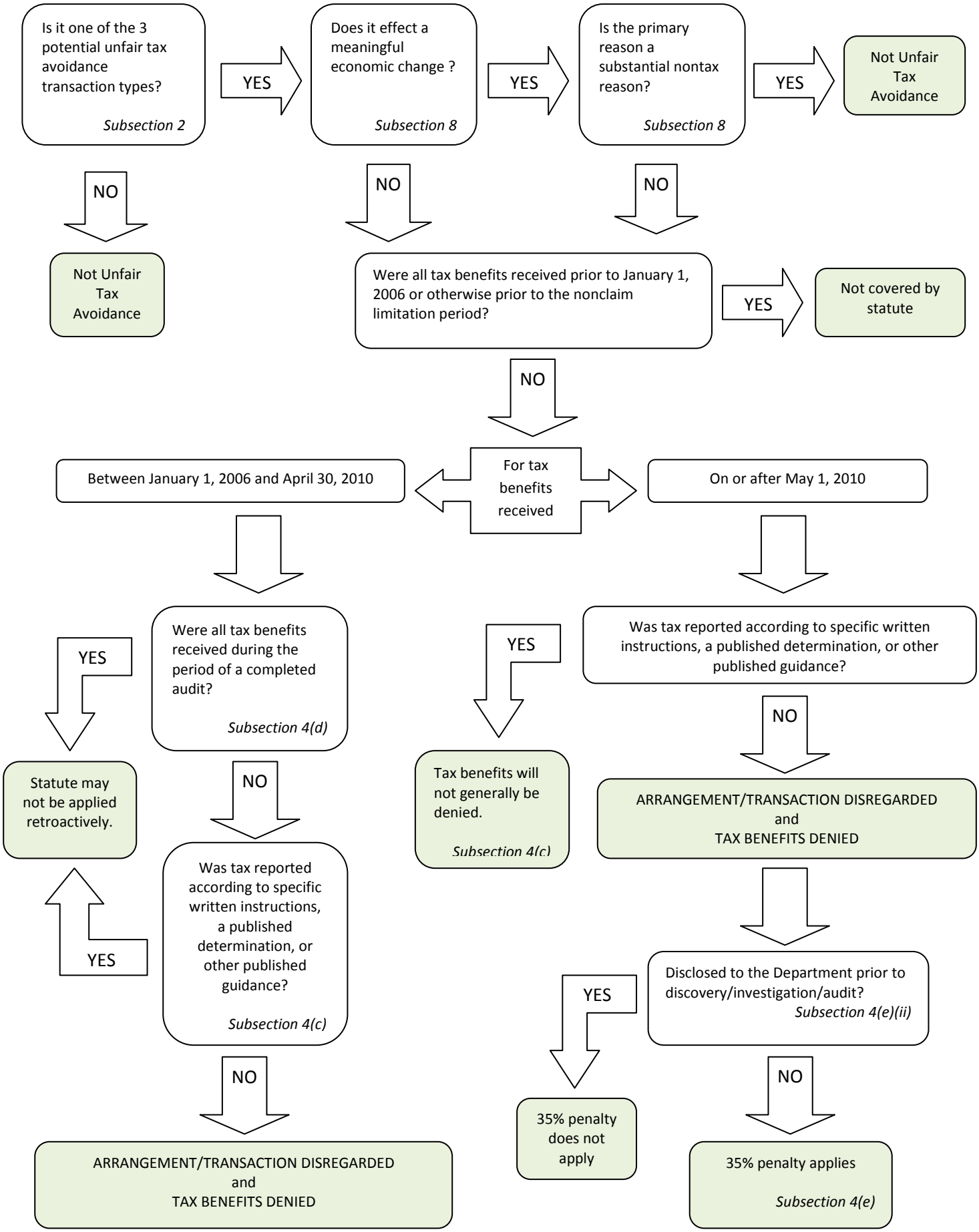
Is it one of the 3 potential unfair tax avoidance transaction types?
Subsection 2
YES
Does it effect a meaningful economic change ?
Subsection 8
YES
Is the primary reason a substantial nontax reason?
Subsection 8
YES
Not Unfair Tax Avoidance
NO
Not Unfair Tax Avoidance
NO
NO
Were all tax benefits received prior to January 1, 2006 or otherwise prior to the nonclaim limitation period?
YES
Not covered by statute
NO
For tax benefits received
Between January 1, 2006 and April 30, 2010
On or after May 1, 2010
Were all tax benefits received during the period of a completed audit?
Subsection 4(d)
YES
Statute may not be applied retroactively.
NO
Was tax reported according to specific written instructions, a published determination, or other published guidance?
Subsection 4(c)
YES
NO
ARRANGEMENT/TRANSACTION DISREGARDED and TAX BENEFITS DENIED
YES
Tax benefits will not generally be denied.
Subsection 4(c)
Was tax reported according to specific written instructions, a published determination, or other published guidance?
NO
ARRANGEMENT/TRANSACTION DISREGARDED and TAX BENEFITS DENIED
Disclosed to the Department prior to discovery/investigation/audit?
Subsection 4(e)(ii)
YES
35% penalty does not apply
NO
35% penalty applies
Subsection 4(e)