HM Revenue & Customs

General anti-abuse rule

Who is likely to be affected?

Users and promoters of abusive tax avoidance schemes.

General description of the measure

The measure will counteract tax advantages arising from abusive tax avoidance arrangements. The general anti-abuse rule (GAAR) will apply to income tax, National Insurance contributions (NICs), corporation tax (including amounts treated as corporation tax), capital gains tax, inheritance tax, petroleum revenue tax and stamp duty land tax. It will also apply to the annual tax on enveloped dwellings due to be enacted with effect from 1 April 2013.

Policy objective

The measure supports the Government's objective of promoting fairness in the tax system by deterring taxpayers from entering into abusive schemes that might succeed under current law. The GAAR will provide that tax advantages arising from such arrangements are counteracted on a just and reasonable basis.

Background to the measure

An independent study led by Graham Aaronson QC recommended the introduction of a general anti-abuse rule targeted at artificial and abusive tax avoidance schemes. The Government announced at Budget 2012 that it accepted the recommendation.

A consultation ran from 12 June 2012 to 14 September 2012. The Government's response was published on 11 December 2012.

This Tax Information and Impact Note (TIIN) updates and replaces the TIIN published on 11 December 2012.

Detailed proposal

Operative date

The measure will apply to abusive tax arrangements entered into on or after Royal Assent to Finance Bill 2013. Separate NICs legislation will be introduced after the Royal Assent to Finance Bill 2013 when parliamentary time allows.

Current law

The GAAR will provide an additional means for HM Revenue & Customs (HMRC) to tackle abusive tax avoidance schemes. No changes are proposed to current tax rules except to the extent needed to fit with the new legislation. All forms of tax avoidance (including both abusive tax avoidance to which the GAAR may apply, and tax avoidance that does not fall within the meaning of abusive tax avoidance that is the target of the GAAR) will continue to be challenged and counteracted using existing means.

Proposed revisions

Legislation will be introduced in Finance Bill 2013 whereby the GAAR will provide for the counteraction of tax advantages arising from tax arrangements that are abusive. Counteraction by HMRC must follow certain procedural requirements: counteraction must first be notified by a designated HMRC officer and, unless having considered any representations made by the taxpayer a designated HMRC officer decides that counteraction ought not to apply, the arrangements must be referred to an Advisory Panel, to be established by the Commissioners for HMRC for the purpose, for its opinion(s).

Counteraction will be on a just and reasonable basis and may take a number of forms, appropriate to the particular tax in question. Where counteraction has taken place, it will be possible for taxpayers to claim such consequential relieving adjustments as are just and reasonable.

Summary of impacts

<table>
<tr><td rowspan="3">Exchequer impact (£m)</td><td>2013-14</td><td>2014-15</td><td>2015-16</td><td>2016-17</td><td>2017-18</td></tr>
<tr><td>nil</td><td>+60</td><td>+50</td><td>+40</td><td>+85</td></tr>
<tr><td colspan="5">These figures are set out in Table 2.1 of Budget 2013 and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside the Budget.

This measure supports the Exchequer in its commitment to protect revenue.</td></tr>
<tr><td>Economic impact</td><td colspan="5">The measure is not expected to have any significant macroeconomic impacts.</td></tr>
<tr><td>Impact on individuals and households</td><td colspan="5">The impact on individuals will be on those participating in abusive avoidance schemes.</td></tr>
<tr><td>Equalities impacts</td><td colspan="5">The GAAR will have no direct equality impacts. However the GAAR's aim of promoting fairness within the tax system will indirectly affect equality between taxpayer groups (both individual and corporate) as the GAAR will mainly affect those who are more inclined to consider entering into abusive tax avoidance schemes.</td></tr>
<tr><td>Impact on business including civil society organisations</td><td colspan="5">The GAAR will only impact on businesses participating in abusive schemes.

This measure will have no impact on businesses and civil society organisations who are undertaking normal commercial transactions.</td></tr>
<tr><td>Operational impact (£m) (HMRC or other)</td><td colspan="5">The impact on HMRC's costs is expected to be limited. There will be a small cost of providing administrative support to the GAAR Advisory Panel and producing guidance but, in the longer term, there is a possibility of operational cost savings when abusive avoidance is deterred or countered more effectively.</td></tr>
<tr><td>Other impacts</td><td colspan="5"><u>Small firms impact test</u>: small firms will only be affected by the GAAR to the extent that they participate in abusive tax avoidance schemes. It is expected that a negligible number of small firms will be affected.

Other impacts have been considered and none have been identified.</td></tr>
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Monitoring and evaluation

The measure will be monitored through:

- the numbers of abusive schemes disclosed under the avoidance disclosure regulations (DOTAS);
- intelligence via disclosure/other sources of attempts to circumvent the measure;
- the number of potential GAAR cases identified, how many of those cases are authorised for counteraction under the GAAR with a separate record of cases successfully litigated or settled by agreement using a GAAR challenge; and,
- regular communication with taxpayers and practitioners affected by the measure.

Consideration will be given to evaluating how effective the GAAR has been at discouraging as well as stopping abusive avoidance schemes.

Further advice

If you have any questions about this change, please contact Carolyn Comben on 020 7147 0086 (email: carolyn.comben@hmrc.gsi.gov.uk).