

Part E Notes on amendments to 15 April 2013 GAAR guidance with effect from 30 January 2015

E3.1.1

References to 'Anti-Avoidance Group' deleted and 'Counter-Avoidance Directorate' inserted following restructuring of HMRC.

E3.3.2

Paragraph inserted after last bullet point because the GAAR Advisory Panel issued a new document 'Procedures for dealing with referred cases'. New text 'The content of the notice will take into account the information the Advisory Panel has indicated they will require from HMRC as set out in Section 3 of the Advisory Panel's guidance on procedures for dealing with referred cases.'

Final sentence inserted 'HMRC will send a copy of the GAAR Advisory Panel document 'Procedures for dealing with referred cases' to the taxpayer with the notice'. HMRC have agreed to distribute the document with the notices.

E3.3.3

Inserted new second sentence 'Section 4 of the Advisory Panel's guidance sets out the best practice regarding the content of those representations' again to reflect the publication of the procedures.

E3.5.5

Inserted new first sentence 'The Advisory Panel is not a fact finding body' to clarify the role of the Advisory Panel.

Inserted 'give the Advisory Panel the information set out in sections 3 and 4 of the Advisory Panel's guidance on procedures for dealing with referred cases (without unnecessarily voluminous evidence to back up their case) and' into second sentence following issue of 'Procedures for dealing with referred cases' by the GAAR Advisory Panel.

E3.6.2

Inserted 'and the Panel will be expected to draw appropriate inferences when there is no, or an inadequate response' at end of final sentence to make clear that the Panel will make inferences if sufficient further information is not provided.

E3.6.6

Inserted 'the final communication from HMRC and the tax payer or (where no response is received) from the end of the period given for a response.' into second sentence in place of 'a referral' after to make clear the point from which the expected response time will commence.

Second sentence now ends after this revised text with the deletion of 'but'. What was the end of the second sentence is now the third sentence. This change was to remove readability.

Inserted into this third sentence 'amongst other factors the complexity of the case and the Advisory's Panel's workload' to replace 'whether the taxpayer uses the further opportunity to make representations after the matter has been referred to the sub panel, and whether the sub panel has invited the taxpayer or designated officer to supply further information' to explain factors that may affect the response time.

E3.8.2

NIC included within the examples of the relevant tax

E4.2.2

Inserted 'a suitably experienced three member panel' to replace 'three panel members' in first sentence and deleted 'with expertise relevant to the particular arrangements' to more accurately reflect how a sub panel will be selected.

E4.2.6

Inserted 'does not believe it' before, and deleted 'not' after, 'has' in first sentence to make it clear it is a matter for the sub-panel to decide.

E4.2.8

Inserted 'which has been approved by the sub-panel' into first sentence to reflect the procedure which has been agreed by the Advisory Panel and HMRC.

E4.3.3

E.4.3.3. is deleted from the amended guidance because anonymised Advisory panel opinions will be published (see E.4.2.8 above).

E6.5.3

Deleted 'of' in final sentence and inserted 'on' to correct typographical error.

E6.11.3

Inserted 'are' and deleted 'will be' after 'assessments' to reflect that FA 2013 became law on 17 July 2013.

E6.12 – E6.12.8

Whole new section inserted because the GAAR applies to National Insurance Contributions from 13 March 2014 when the National Insurance Contributions Act 2014 received Royal Assent.