



HM Revenue
& Customs

Hybrid and other Mismatches

Consultation Document

Publication date: 19 March 2020

Closing date for comments: 29 May 2020

Subject of this consultation:	Impact of the double deduction rules and the acting together rules within the Hybrid and other Mismatches regime at Part 6A TIOPA 2010.
Scope of this consultation:	<p>Stakeholders have raised concerns that:</p> <ul style="list-style-type: none"> - the rules in relation to double deductions are disproportionate. - the acting together rules are too widely drawn, and that in some cases taxpayers are unable to obtain the necessary third party information required in order to fully comply with the legislative requirements. - the impact of tax exempt investors in hybrid entities can be disproportionate. <p>We welcome comments on both the technical application of the rules and impact of the policy as enacted, with particular note given to facilitating taxpayer compliance and ensuring that the rules operate proportionately, as intended.</p>
Who should read this:	Taxpayers who are involved in cross-border arrangements, utilising hybrid financial instruments, hybrid entities or permanent establishments and those who provide advice in relation to such arrangements. This could include lawyers, tax advisers and accountants among others.
Duration:	The consultation will last 10 weeks from 19 March 2020 to 29 May 2020
Lead official:	Hybrid Mismatch Consultation, Base Protection Policy Team
How to respond or enquire about this consultation:	<p>Electronic responses to hybrids.mailbox@hmrc.gov.uk</p> <p>Written responses should be addressed to: Hybrid Mismatch Consultation Base Protection Policy Team – Hybrids, BAI S0862, Floor 4 Rear, Central Mail Unit, Newcastle, NE98 1ZZ</p>
Additional ways to be involved:	As this is a largely technical issue with specialist interests HMRC will engage directly with existing stakeholder networks. In addition, submissions to HMRC should be supported by detailed numerical examples illustrating entity types, transactional flows and associated tax effects to demonstrate any disproportionate effects of the legislation.
After the consultation:	A summary of responses will be published after the consultation which will include information on next steps.
Getting to this stage:	The hybrid and other mismatches legislation came into effect on 1 January 2017. It is intended to discourage taxpayers from using hybrid structures to generate mismatch outcomes. A small number of technical changes were introduced in 2017, 2018 and 2019 to ensure that the rules operated as intended and comply with EU Anti-tax Avoidance Directive (ATAD).

**Previous
engagement:**

Consultation: 3 December 2014 to 11 February 2015 to consider introduction of hybrid mismatch rules in accordance with recommendations of Action 2 of the G20-OECD BEPS project.

Consultation: 9 December 2016 to 10 March 2017 on draft guidance on the hybrids mismatch legislation.

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1. Introduction

- 1.1 Bearing down on tax avoidance is a key part of the Government's strategy to ensure that everyone pays their fair share of tax. This is essential to provide funding for the UK's vital public services, and to maintain public confidence in the tax system.
- 1.2 A crucial element of this strategy has been the adoption of the recommendations of Action 2 of the OECD Base Erosion and Profit Shifting (BEPS) project on neutralising hybrid and branch mismatches.
- 1.3 The Hybrid and other Mismatches legislation at Part 6A TIOPA 2010 (hybrid rules) came into force on 1 January 2017. All legislative references in this consultation document refer to the legislation at Part 6A.
- 1.4 It seeks to tackle tax avoidance arrangements which take advantage of the difference in tax treatment between two or more jurisdictions. In the absence of the hybrid rules, such arrangements could allow a deduction to be claimed twice for the same expense (double deductions), or a deduction in one jurisdiction without a matching taxable receipt in another jurisdiction (deductions/non-inclusions). In relation to branches, mismatches could be generated by payments between separate parts of a company, or where a branch is recognised by one jurisdiction but disregarded by another.
- 1.5 The primary purpose of the hybrid rules is to discourage taxpayers from using hybrid structures and hybrid financial instruments to generate mismatch outcomes (double deductions, deductions/non-inclusions and branch mismatches). Where taxpayer structures or instruments generate such mismatches the legislation is intended to counteract that mismatch.
- 1.6 In certain cases, a counteraction may be prevented by offsetting the mismatch against dual inclusion income, 259ID income (chapter 9: hybrid entity double deductions only) or where the mismatch has already been neutralised by equivalent legislation in another jurisdiction. The purpose is to prevent disproportionate outcomes in situations where there is corresponding income that has been taxed twice, income has been included and taxed but no deduction allowed or the mismatch has already been counteracted by the counterparty jurisdiction.
- 1.7 The United Kingdom was the first jurisdiction to fully implement the OECD recommendations. A small number of technical changes were made to the rules in 2017 and 2018 to ensure that they operated as intended. Two further changes were made in 2019 to ensure compliance with the EU Anti-Tax Avoidance Directive (ATAD).
- 1.8 Stakeholders have raised concerns that the rules allowing the offset of taxable amounts in relation to double deductions are not working as expected. In certain cases, the structures used suffered an inclusion without deduction that did not meet the dual inclusion income criteria and therefore could not be offset. Following informal consultation, some changes were made to these rules in Finance Act 2018 which were intended to prevent this from happening.
- 1.9 However, stakeholders continue to express the view that those changes (in particular section 259ID Part 6A TIOPA 2010) did not go far enough, and that the rules as they

stand are not working for existing group structures, and may in some cases lead to effective double taxation.

- 1.10 There are concerns that the impact of foreign tax costs prohibits the hybrid entity structures from being unwound. In such instances it may not be possible to obtain credit for UK tax against foreign tax liabilities.
- 1.11 As the rules currently stand, an additional tax burden is imposed on certain UK based entities which could have an economic impact on their UK operations, and influence their location decisions.
- 1.12 The acting together provisions are intended to ensure that the hybrid rules can apply to certain arrangements where parties are connected via commonality of ownership, or are otherwise acting as if they are. It has been suggested that the acting together rules are too widely drawn, with the consequence that the legislation can apply in cases where there is no such cooperation. Furthermore, it has been suggested that in these cases taxpayers are unable to obtain the necessary third party information required in order to fully comply with the legislative requirements. Stakeholders have argued that narrowing the scope of the acting together rules would better target the hybrid rules (as well as ensuring compliance with them is achievable) without reducing their effectiveness.
- 1.13 Stakeholders have also expressed concern that the hybrid rules impose counteractions in cases where payments are made to hybrid entities whose investor bases include tax exempt entities. Their view is that it is not appropriate for the legislation to deny a deduction to the extent a payment traces through to such an exempt entity given that the hybridity of the intermediate entity offers no potential tax saving to that exempt entity which by its nature does not pay tax.
- 1.14 This consultation sets out HMRC's understanding of these issues along with the relevant legislation and seeks evidence of their impact in order to determine what response is required.
- 1.15 The UK will not consider any changes to the hybrid rules that would increase the risk of tax avoidance, or reduce in any way our adherence to international tax standards as set at the OECD, including those that tackle Base Erosion and Profit Shifting (BEPS).

2. Double deduction rules

- 2.1 Chapters 9 and 10 of the hybrid rules deal with double deduction mismatches referable to hybrid entities and dual resident entities / foreign branches respectively.
- 2.2 In both cases, the double deduction amount may not be deducted from a company's income for UK corporation tax purposes unless it is deducted from dual inclusion income.
- 2.3 Broadly speaking dual inclusion income is a single amount of ordinary income that is recognised twice for tax purposes, either by two entities in different jurisdictions (chapter 9) or by a single entity in two jurisdictions (chapter 10), where the entities and jurisdictions involved correspond to those that benefit from a double deduction. The policy intention is that a double deduction does not need to be counteracted to the extent it is matched by a double inclusion because in such circumstances the taxpayer does not gain any advantage from the hybrid arrangements.
- 2.4 Some changes were made to these rules in Finance Act 2018 which were intended to deal with concerns raised that whilst the structures generated double deduction mismatches they did not generate dual inclusion income but rather inclusion of income without a corresponding deduction.
- 2.5 The government is sympathetic to the view that where a disadvantageous mismatch in the form of an inclusion/no deduction outcome arises as an intrinsic feature of a commercial structure, it should be possible to net its effect off by way of reduced counteraction of the double deduction. Accordingly, section 259ID was introduced with the intention of alleviating this issue.
- 2.6 Section 259ID has four conditions and applies where there is a counteraction and the hybrid entity is within the charge to corporation tax.
 - (2) *Condition A is that –*
 - (a) *the investor in the hybrid entity makes a payment to the hybrid entity, and*
 - (b) *no amount is deductible, under the law of the investor jurisdiction, from the income of the investor in respect of the payment.*
 - (3) *Condition B is that, as a result of the payment, an amount of ordinary income arises to the hybrid entity for the hybrid entity deduction period.*
 - (4) *Condition C is that the payment is made in direct consequence of a payment made to the investor by a person (“the unrelated party”) who is not related (see section 259NC) to the investor or the hybrid entity.*
 - (5) *Condition D is that, as a result of the payment made by the unrelated party, an amount of ordinary income arises to the investor.*
 - (6) *For the purposes of section 259IC “section 259ID income” is an amount of income of the hybrid entity equal to the lesser of –*
 - (a) *the amount of the payment made by the investor to the hybrid entity, and*
 - (b) *the amount of the payment made by the unrelated party to the investor.*

- 2.7 HMRC guidance published on 16 December 2019 covers section 259ID income at INTM557085 and includes the following:
- Within this section 'payment' takes its ordinary meaning and not that as defined at section 259BB.*
- Section 259NC defines related person.*
- The phrase 'in direct consequence' is not defined and takes its ordinary meaning i.e. an effect that is a result of an event or occurrence suggesting something that follows on, there is a prescribed order to the events.*
- Note that the legislation refers specifically to 'the' investor and should not be interpreted more widely to include 'any' investor.*
- 2.8 Section 259ID was deliberately tightly drafted. If section 259ID income is relaxed to include income from any investor or group member it becomes difficult to evidence that the third party income has been fully taxed without deduction, exemption or relief.
- 2.9 Inclusion of the phrase 'in direct consequence' is intended to ensure that the payment made to the hybrid entity arises from the third party income without additional blending of other income or allocations. If additional blending is permitted, it becomes more difficult to evidence the link to the third party payment given the complex, global structures employed and the fungibility of money.
- 2.10 It has been suggested that the 2018 changes do not fully allow entities to utilise inclusion/no deduction outcomes which arise as an intrinsic feature of their structure, and the additional tax burden may make UK operations uneconomic.
- 2.11 Stakeholders have raised concerns that the dual inclusion income rules as they stand are incompatible with the way in which certain groups are structured for commercial reasons, and in some cases may lead to double taxation or impose an additional cost.
- 2.12 HMRC understands that taxpayers have specific concerns regarding the drafting of section 259ID regarding the interpretation of 'in direct consequence' and 'the investor'. The reasons being that third party income received by the group often arises to entities above or lateral to the investor in the hybrid entity that is making the payment which is subject to inclusion/no deduction.
- 2.13 HMRC is receptive to exploring the case for change in this area and in order to do so would like to better understand the structures for which this issue is most relevant, the obstacles to those structures being adjusted and the extent to which the issue is mitigated by foreign tax credits.
- 2.14 In most cases within chapter 9 where a double deduction is counteracted it is as a defensive measure because the mismatch has not been counteracted in the other jurisdiction. In these cases HMRC would expect that additional CT paid would be available as a foreign tax credit to investors thereby alleviating the burden of additional taxation. HMRC would welcome evidence and explanation of cases where this is not the case.
- 2.15 More generally, HMRC seeks evidence from stakeholders who express concerns as to the scale of the problem with 259ID, including the barriers to restructuring mentioned above.

Q1. Can you identify and describe in detail structures that are disproportionately impacted by the double deduction rules due to their also involving inclusion/no deduction income? Please provide full group/jurisdictional context, nature of entities and scale of impact.

Q2. Can you identify which of the conditions of section 259ID are too restrictive? If a case could be made such that these were to be amended, what level of evidence of inclusion without deduction or disproportionate outcomes would you suggest is necessary?

Q3. What would be the impact of utilising non-hybrid entities in these structures so that no counteraction would be required? Please consider and describe any economic, regulatory and foreign tax impacts.

Q4. Are foreign owned groups able to get relief for additional tax arising in the UK in consequence of applying the hybrid rules? If not, why not?

Q5. What mitigating steps have businesses undertaken in the 3 years since Part 6A came into effect?

Q6. What impact have other jurisdictions' corporate tax reforms had on the extent of the use of hybrid entities?

Q7. Would a broader change, enabling inclusion/no deduction income to be treated in the same way as dual inclusion income for the purposes of the double deduction mismatch rules, be a more appropriate solution to the concerns raised? In considering this point please consider the consistency of any proposal with OECD principles.

3. Acting together definition

- 3.1 A person is taken to “act together” with a third party in relation to an investment in the circumstances set out in section 259ND(7). Additionally, acting together is covered in guidance at INTM550620.
- 3.2 The acting together test is relevant to the analysis under most chapters of the hybrid rules.
- 3.3 The general policy intention behind the hybrid rules is to counteract CT deductions arising from a hybrid arrangement where a UK person is part of the same group as another party to that arrangement, or otherwise has substantial commonality of ownership or control with that other party. Additionally the hybrid rules apply in the absence of such connection between the parties where there is a structured arrangement in place.
- 3.4 The acting together rules are designed to bring into the regime connected parties and prevent otherwise unconnected parties from working together or being used to circumvent the impact of the hybrid rules. Accordingly the acting together rules apply in the first instance to transactions between parties where there is sufficient commonality of ownership that they are treated as connected. However, additional conditions of the definition are necessary to catch arrangements where despite the lack of a sufficient ownership relationship to trigger connection, the parties have nonetheless bound themselves together in such a way that there is a control relationship akin to that which would arise if they were connected.
- 3.5 However, HMRC is aware that the breadth of the rules defining persons as acting together – specifically section 259ND(7)(c) - is such that parties between whom there is no relationship of the type described above may be taken to be acting together.

Section 259ND(7)(c) provides that P acts together with T, in relation to an investment in U if:

- (c) *P and T are party to any arrangement that –*
- (i) *it is reasonable to suppose is designed to affect the value of any of T’s rights or interests in relation to U, or*
 - (ii) *relates to the exercise of any of T’s rights in relation to U,*

Where P is a person, T is a third party and U is an investment.

- 3.6 HMRC recognises that section 259(7)(c) as currently drawn is broad, and would like to appreciate the extent and form of arrangements where it is believed that this section applies dis-proportionately, in particular, in targeting the risk that parties with no or minimal commonality of ownership may benefit from hybrid based tax advantages which are not structured arrangements.

- 3.7 HMRC is also aware that in practice, in situations where the acting together rules do apply, it is often very difficult for taxpayers to obtain the information as to their counterparties' structures which is necessary in order to assess the application of the wider hybrid provisions, in cases where there is no, or minimal, commonality of ownership between the taxpayer and its counterparty. A lender which is independent from its borrower, for example, will usually refuse to provide that borrower with any information about its structure, especially if the loan was in place prior to the introduction of the hybrid rules so the possible need for this information would not have been discussed between the parties when the loan was negotiated.
- 3.8 HMRC is prepared to consider the case for change in respect of the scope of section 259ND(7)(c) such that some arrangements which would otherwise come within scope of the current definition of "acting together" would not be treated in that way.
- 3.9 At this stage HMRC is aware of two types of arrangement that give rise to "acting together" in situations as discussed above:
- loans subject to inter-creditor agreements or including group-wide behavioural covenants; and
 - parent company guarantees fettering to some extent the parent's usual discretion to direct its subsidiary's actions.

In both these cases there would likely be arrangements between the third party and the parent which relate to the exercise of the parent's rights in relation to its subsidiary, in the form of behavioural covenants. In some cases – most arguably in relation to an inter-creditor agreement designed to ensure that a loan from a parent company is fully subordinated to third party debt – those arrangements are also likely to be designed to affect the value of the parent's rights in relation to the subsidiary too. Section 259ND(7)(c) would therefore be likely to treat the parent (P) and the third party (T) to be acting together such that the hybrid rules would be engaged in relation to payments made by the subsidiary (U). However, in neither case would there generally be a level of control of the payer by its counterparty, akin to group membership, that should be taken to give rise to acting together. These are just restrictions designed to protect the value of the third party's contractual interest.

- 3.10 If the rules were amended to reduce the scope of acting together, the TAAR in chapter 13 would apply in the event that arrangements intended to benefit from any such amendments were put in place for non-commercial reasons. Additionally, if the relevant conditions were met it would still be possible for such arrangements to be structured arrangements (and so engage the hybrids legislation without acting together being necessary).

Q8. Do you recognise the concerns raised and consider that a change would be beneficial in better targeting the application of the hybrid rules? Please identify and describe the circumstances that reflect these concerns.

Q9. What modifications do you consider would address your concerns and how would you anticipate these acting in practice?

Q10. Are there any other commercial arrangements which should be considered in the same way as loans and guarantees as described above?

Q11. Having regard to the purpose of the legislation, can you identify and describe any situations potentially caught by the other heads of the “acting together” test in sections 259ND(7)(a), (b) and (d) which in your view should be modified? How would you suggest these rules should be modified and why?

4. Exempt investors in hybrid entities

- 4.1. Under the hybrid rules as they stand, where a tax exempt entity invests in a hybrid entity which the UK regards as transparent but the exempt entity's tax regime regards as opaque, a counteraction will be applied in respect of an otherwise deductible payment to the hybrid entity proportionate to the exempt entity's interest in the hybrid entity. Effectively the hybrid rules attribute the non-taxability of the receipt of the payment to the presence of the hybrid entity, even if the investor in that entity could have received the payment directly and not been taxed.
- 4.2. HMRC is sympathetic to the view that this outcome is not desirable where the exempt entity is a pension fund or similar body which is not subject to tax for wider public policy reasons. However, HMRC remains concerned that the effectiveness of the hybrid rules could be undermined if a carve-out from its operation were offered in all cases where an investor in a hybrid entity would not have been subject to tax had it received direct payment of the amount paid to the hybrid entity.
- 4.3. Accordingly, HMRC is willing to contemplate the case for amending the hybrid rules to provide an exemption from counteractions of the type described above. At this stage we would envisage that such an amendment could take one of the following forms but equally we are interested in exploring other potential options:
 - (a) a "white list" of entities which would be accepted as qualifying to prevent counteractions;
 - (b) a blanket exemption from counteraction for entities which would not be subject to tax on a direct payment, coupled with a "black list" of entity types which would not qualify for the exemption; or
 - (c) a principles-based definition of the characteristics of an entity that would qualify as not giving rise to counteractions.

Q12. Do you agree that a change of the type described above would be beneficial?

Q13. What entities other than pension funds might qualify for the exemption (whether implemented via principles-based definition or lists)?

Q14. What evidential requirements would be necessary to back up a taxpayer's contention that a new exemption of this type was available? Would the "reasonable to suppose" test suffice or would it be appropriate to require something different?

5. Assessment of Impacts

Summary of Impacts

This consultation seeks to understand context and scope where stakeholders believe that the hybrid rules apply disproportionately and carries no impact at this stage. Consideration of next steps including potential legislative changes will be costed once responses are reviewed.

Exchequer impact (£m)	2019 -20	2020 -21	2021 -22	2022 -23	2023 - 2024
	Any Exchequer impact will be estimated following consultation, final scope and design, and will be subject to scrutiny by the Office for Budget Responsibility.				
Economic impact	The economic impacts will be identified following consultation and final design of the policy.				
Impact on individuals, households and families	There is expected to be no impact on individuals as this consultation only affects businesses. There is expected to be no impact on family formation, stability or breakdown.				
Equalities impacts	It is not anticipated that there will be impacts for those in groups sharing protected characteristics.				
Impact on businesses and Civil Society Organisations	This consultation seeks to explore the impact of the double deduction rules and the acting together rules within the Hybrid and other Mismatches regime. There is no direct impact on businesses at present. We will advise of any future impacts to businesses subject to legislative outcomes proposed following consultation. There is expected to be no impact on businesses' customer experience as there are no impacts to businesses at present. There is expected to be no impact on civil society organisations.				
Impact on HMRC or other public sector delivery organisations	This measure carries no costs to HMRC at this stage. We will be able to advise on any future funding requirement depending on the outcome of the consultation.				
Other impacts	Other impacts have been considered and none have been identified.				

Q15. Having considered the areas discussed, do you think if changes were introduced they would have any impact on administrative burdens and costs? If so, please provide details, including any one-off and on-going costs.

16. Having considered the areas discussed, do you think if changes were introduced they would have any additional impact on small and micro businesses, not already covered? If so, please provide details, including any one-off and on-going costs.

6. Summary of Consultation Questions

Double deduction rules

Q1. Can you identify and describe in detail structures that are disproportionately impacted by the double deduction rules due to their also involving inclusion/no deduction income? Please provide full group/jurisdictional context, nature of entities and scale of impact.

Q2. Can you identify which of the conditions of section 259ID are too restrictive? If a case could be made such that these were to be amended, what level of evidence of inclusion without deduction or disproportionate outcomes would you suggest is necessary?

Q3. What would be the impact of utilising non-hybrid entities in these structures so that no counteraction would be required? Please consider and describe any economic, regulatory and foreign tax impacts.

Q4. Are foreign owned groups able to get relief for additional tax arising in the UK in consequence of applying the hybrid rules? If not, why not?

Q5. What mitigating steps have businesses undertaken in the 3 years since Part 6A came into effect?

Q6. What impact have other jurisdictions' corporate tax reforms had on the extent of the use of hybrid entities?

Q7. Would a broader change, enabling inclusion/no deduction income to be treated in the same way as dual inclusion income for the purposes of the double deduction mismatch rules, be a more appropriate solution to the concerns raised? In considering this point please consider the consistency of any proposal with OECD principles.

Acting together definition

Q8. Do you recognise the concerns raised and consider that a change would be beneficial in better targeting the application of the hybrid rules? Please identify and describe the circumstances that reflect these concerns.

Q9. What modifications do you consider would address your concerns and how would you anticipate these acting in practice?

Q10. Are there any other commercial arrangements which should be considered in the same way as loans and guarantees as described above?

Q11. Having regard to the purpose of the legislation, can you identify and describe any situations potentially caught by the other heads of the "acting together" test in sections 259ND(7)(a), (b) and (d) which in your view should be modified? How would you suggest these rules should be modified and why?

Exempt investors in hybrid entity

Q12. Do you agree that a change of the type described above would be beneficial?

Q13. What entities other than pension funds might qualify for the exemption (whether implemented via principles based definition or lists)?

Q14. What evidential requirements would be necessary to back up a taxpayer's contention that a new exemption of this type was available? Would the "reasonable to suppose" test suffice or would it be appropriate to require something different?

Customer Impacts

Q15. Having considered the areas discussed, do you think if changes were introduced they would have any impact on administrative burdens and costs? If so, please provide details, including any one-off and on-going costs.

Q16. Having considered the areas discussed, do you think if changes were introduced they would have any additional impact on small and micro businesses, not already covered? If so, please provide details, including any one-off and on-going costs.

7. The Consultation Process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 2 of the process. The purpose of the consultation is to seek views on specific aspects of the legislation as enacted in order to consider areas that may not operate proportionately as intended.

How to respond

Closing date for comments: 29 May 2020

A summary of the questions in this consultation is included at chapter 5.

Responses, requests for hard copies, and general queries about the content or scope of consultation can be sent by email to

hybrids.mailbox@hmrc.gov.uk

Or by post to:

Hybrid Mismatch Consultation,
HMRC

Base Protection Policy Team – Hybrids,

Business, Assets & International

S0862, Floor 4 Rear, Central Mail Unit, Newcastle, NE98 1ZZ

Please do not send consultation responses to the Consultation Coordinator.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC's GOV.UK pages](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018, General Data Protection Regulation (GDPR) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs.

Consultation Privacy Notice

This notice sets out how we will use your personal data, and your rights. It is made under Articles 13 and/or 14 of the General Data Protection Regulation.

Your Data

The data

We will process the following personal data:

Name

Email address

Purpose

The purpose(s) for which we are processing your personal data is consultation in respect of certain aspects of the hybrid rules at Part 6A TIOPA 2010.

Legal basis of processing

The legal basis for processing your personal data is that the processing is necessary for the exercise of a function of a government department.

Recipients

Your personal data will be shared by us with HM Treasury.

Retention

Your personal data will be kept by us for six years and will then be deleted.

Your Rights

- You have the right to request information about how your personal data are processed, and to request a copy of that personal data.

- You have the right to request that any inaccuracies in your personal data are rectified without delay.
- You have the right to request that any incomplete personal data are completed, including by means of a supplementary statement.
- You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.
- You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.

Complaints

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
0303 123 1113
casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Contact details

The data controller for your personal data is HM Revenue and Customs. The contact details for the data controller are:

HMRC
100 Parliament Street
Westminster
London SW1A 2BQ

The contact details for HMRC's Data Protection Officer are:

The Data Protection Officer
HM Revenue and Customs
7th Floor, 10 South Colonnade
Canary Wharf, London E14 4PU
advice.dpa@hmrc.gsi.gov.uk

Consultation Principles

This call for evidence is being run in accordance with the government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website:
<http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

John Pay, Consultation Coordinator, Budget Team, HM Revenue and Customs, 100
Parliament Street, London, SW1A 2BQ.

Please do not send responses to the consultation to this address.

Annex: Relevant Government Legislation and Guidance

Hybrid and Other Mismatches legislation – [Part 6A TIOPA 2010](#)

The HMRC published guidance in relation to Part 6A of TIOPA 2010 is available as a PDF file in the International Manual at [INTM850000](#). The numbering within the guidance PDF starts at INTM550000. The most recent iteration was published on 16 December 2019.