

Part D notes on amendments to 30 January 2015 GAAR guidance approved by the GAAR Advisory Panel with effect from 31 March 2017.

General

Amendments have been made to:

- bring the guidance into line with Government guidance applicable to GOV.UK generally
- reflect new legislation on GAAR procedures introduced in Finance Act 2016
- reflect new taxes brought within the GAAR

There hasn't been a substantive technical review of the guidance. In particular, there hasn't been a substantive review of the examples.

As well as the changes listed below, there've been a substantial number of minor changes to improve the clarity of the text and make it easier to read. Those changes do not alter the meaning of the guidance and are not listed separately. If you need to know what changes have been made to paragraphs or if you think there's been a change of meaning, Email: gaar.enquiries@hmrc.gov.uk

The updated guidance has been approved by the GAAR Advisory Panel.

Changes to reflect new legislation introduced in Finance Act 2015 and in Finance Act 2016

New guidance is included at D37.3 (with consequential renumbering after that) to reflect new legislation introduced by Finance Act 2015 and Finance Act 2016. It relates to the inclusion of new taxes within the GAAR. With the addition of new taxes and to avoid confusion, the wording in D37 is now the same as used in B18 and C10.

Examples altered as they were potentially confusing in the light of changes to legislation or practice since the original publication of the guidance.

D.2.3.2 This example has been altered to reflect that legislation was introduced in Finance Act 2015 to remove the tax advantage from special purpose share schemes. The following wording was deleted from the end of the paragraph "and giving choice when a listed company is returning funds to shareholders as to whether those funds come out in capital or in income form (so that certain so-called B share schemes would come into this category."

D6 This example has had a note added to reflect that the legislation referred to in the example has been amended since the original publication of the guidance (so that the outcome of the arrangements would now be different). An explanation has been added immediately before D6.1 "Please be aware the corporation tax legislation described below has been amended since the original publication of this guidance: this example is included to demonstrate the underlying principles."

D26 This example has had a note added to reflect that the legislation referred to in the example has been amended since the original publication of the guidance (so that the outcome of the arrangements would now be different). An explanation has been added immediately before D26.1 “Please be aware the IHT legislation described below has been amended since the original publication of this guidance: this example is included to demonstrate the underlying principles.”

For the avoidance of doubt, legislation and practice will change over time. The examples are included to demonstrate the principles of the GAAR only and should not be relied on with regards to the treatment under other legislation.