

Part E notes on amendments to 31 March 2017 GAAR guidance with effect from 28 March 2018

Minor changes were made to the legislation in 2017 (Statutory Instrument 1090 of 2017) with respect to certain procedural issues.

To reflect this the guidance has been updated. Most of the changes are in Part E, which covers procedural matters. No changes have been made to Part D and only one change has been made to Parts A, B and C.

A small number of other amendments have been made. These are intended for clarification only and do not reflect any changes of view by HMRC.

In particular, the guidance has been changed to reflect the following:

- the pool has an existence separate from the lead arrangements, so that the pool may be created or increased even if the lead arrangements have taken corrective action
- where the user of the lead arrangements has itself used equivalent arrangements, it is possible to issue a pooling notice, or notice of binding to bind those equivalent arrangements, in relation to the lead arrangements
- there does not need to have been a pool in order to issue a notice of binding
- the pooling notice or notice of binding needs to be issued as soon as reasonably possible after the Designated Officer (rather than HMRC) becomes aware of the relevant facts
- if a case takes relevant corrective action they will not be issued with a pooled arrangements opinion notice
- the report of the opinion referred to in the pooled arrangements opinion notice will normally be the published, anonymised, version of the opinion
- a taxpayer may take relevant corrective action without having made a tax appeal
- the designated HMRC officer can only make one determination that notices of proposal to make a generic referral in relation to any one pool are to be given. (The guidance previously said they could only give one notice of proposal, but one is given in respect of each set of arrangements)
- it is made clear that HMRC may only choose a taxpayer who has made a proposal volunteering to be the lead to issue a paragraph 3 notice to
- if HMRC does choose a volunteer, and they then settle before referral to the GAAR Advisory Panel, HMRC must then make a generic referral

If you need to know what changes have been made to paragraphs, or if you think there's been a change of meaning not explained by the changes in legislation, email:

gaar.enquiries@hmrc.gov.uk