



Serial tax avoidance regime – general information

The serial tax avoidance regime (STAR) is designed to deter people from using tax avoidance arrangements to gain a tax advantage that is not intended by the legislation. The term 'arrangements' includes any agreement, understanding, scheme, transaction or series of transactions. We explain what we mean by 'tax advantage' on page 2.

You should read this factsheet if you have personally used tax avoidance arrangements, or if a person linked to you has used them. Persons are linked if they're both one of the following:

- companies in the same group of companies
- associates
- members of a partnership when it used tax avoidance arrangements in a Partnership Tax Return

You can find more information about the special rules that apply when a person is linked to you in the section 'Partnerships, groups of companies, and associates in STAR' on page 5 of this factsheet. We explain what we mean by 'used' on that page too.

The term 'tax' in this factsheet means the taxes, levies and contributions to which STAR applies. These are listed on page 6 of this factsheet.

This factsheet is one of a series. For the full list of factsheets in the series, go to www.gov.uk and search for 'Compliance checks factsheets'.

When STAR applies

STAR only applies when certain types of tax avoidance arrangements are defeated. It applies when we defeat arrangements:

- that are disclosable under the disclosure of tax avoidance schemes (DOTAS) legislation – we refer to these as DOTAS arrangements
- that are disclosable, or have been disclosed, under the VAT disclosure regime (VADR) – we refer to these as VADR arrangements
- that are disclosable under the disclosure of tax avoidance schemes – VAT and other indirect taxes (DASVOIT) legislation – we refer to these as DASVOIT arrangements
- for which we have given a follower notice, and the denied advantage to which that follower notice relates has been counteracted and is final - we give a follower notice if there's been a court ruling in another person's case, and we believe that ruling is also relevant to the arrangements to which the follower notice relates
- for which we have given a notice of final decision, stating that the tax advantages arising from those arrangements are to be counteracted under the general anti-abuse rule (GAAR)

STAR will apply if the defeated arrangements were entered into:

- on or after 15 September 2016
- before 15 September 2016, and we defeat them on or after 6 April 2017 – except if the person who used them did one of the following before 6 April 2017
 - fully disclosed to us details of their use of the arrangements
 - contacted us to commit to fully disclosing details of their use of the arrangements, and then did so within the time limit that we set

We explain what we mean by 'defeated' on page 5.

How STAR works

When we defeat tax avoidance arrangements you used, or that were used by a person linked to you, we'll send you a warning notice that tells you we have put you into STAR

The warning notice and warning period

We have to give you a warning notice within a period of 90 days beginning with the day we defeat the arrangements that STAR applies to.

The warning notice will tell you that you're in a 5-year warning period. You have to give us information about certain tax avoidance arrangements that you personally use during the warning period. To do this you'll have to send us written notices. We call these 'information notices'.

We split the 5-year warning period into shorter periods called 'reporting periods'. You'll have to give us an information notice for each reporting period.

The warning notice will tell you:

- when your warning period starts and ends
- when each of your reporting periods starts and ends
- what details you'll need to give us in each of your information notices

The warning notice will also tell you about the sanctions we can impose if you use other tax avoidance arrangements while you're in a warning period, and we defeat those arrangements. You can find more about these in the section 'Sanctions under STAR'.

We'll extend your warning period if we give you another warning notice during the period.

Information notices

You'll need to send each of your information notices to us no later than 30 calendar days after the end of the reporting period to which it relates. If we do not receive your information notice on time, or if it's inaccurate or incomplete, we may extend the warning period by up to a further 5 years.

In each information notice, you'll have to tell us about any DOTAS, VADR or DASVOIT arrangements that you personally used to achieve a tax advantage:

- on returns, or in claims, elections, declarations or applications for approval, that you sent us in the reporting period
- by failing to meet an obligation that you would otherwise have had in the reporting period – for example, you needed to register for VAT, but you thought that, by using VADR arrangements, you did not need to

You'll have to explain how the arrangements enabled you to achieve a tax advantage including, if relevant, how they mean you do not have an obligation to do something. You'll also have to tell us the amount of tax advantage your use of the arrangements enables you to obtain.

When you send your information notice, you'll need to tell us if you failed to make a return that was due in the period. If a return is due in the warning period, but you do not send it to us until after the warning period has ended, you'll still have to tell us about any arrangements you use on that return. We may ask you to do this on a supplementary information notice.

What is a tax advantage

In general terms, a tax advantage is the difference between the amount of tax that would be payable with and without the use of the tax avoidance arrangements. Depending on the arrangements you used, it may not be as straightforward as that.

Sanctions under STAR

We'll consider imposing sanctions on you if you're in a warning period, and you personally use new tax avoidance arrangements that we defeat. New arrangements are tax avoidance arrangements that were entered into on or after 15 September 2016. For sanctions, it does not matter whether or not the defeat happened during the warning period, as long as you used the new arrangements during the warning period.

We may impose any or all of the following sanctions:

- charging you a penalty
- publishing your details to identify you as a serial tax avoider
- stopping you from claiming certain direct tax reliefs

Which sanctions we'll consider

The sanctions that we may impose will depend on why you're already in that warning period.

If you're in it because we gave you a warning notice for arrangements used by:

- you personally
- persons linked to you in your capacity as a partner or as a group company

then we may impose any one or more of the sanctions.

However, if you're in that warning period because we gave you a warning notice for arrangements used by a person linked to you in your capacity as an associate, then the only sanction we can consider is publishing your details.

Prior warning notices when we're considering sanctions

If we're considering imposing sanctions on you, we'll look at how many other warning notices we have given you for defeats of new arrangements that either:

- you personally used during the warning period
- were used during the same warning period, by persons linked to you

We refer to these notices as 'prior warning notices'. The prior warning notices we'll take into account will depend on the sanction we're considering. If we're considering:

- publishing your details to identify you as a serial tax avoider, we'll take into account all prior warning notices we have given to you
- charging you a penalty or stopping you from claiming certain direct tax reliefs, we'll take into account prior warning notices we have given you for arrangements used by:
 - you personally
 - persons linked to you in your capacity as a partner or as a group company

Where a prior warning notice covers 2 or more defeats, we'll treat this as if we'd given separate warning notices for each defeat.

When we may charge you a penalty

If you personally use new arrangements during a warning period and we defeat them, we'll give you a warning notice for that defeat and charge you a penalty. The penalty will be calculated as a percentage of the counteracted advantage. The counteracted advantage is normally the additional tax due for the defeat that the penalty relates to, but we'll tell you more about this at the time.

The penalty percentage rate will depend on how many prior warning notices we have given you, either for arrangements you have used or for arrangements used by persons linked to you in your capacity as a partner or as a group company. We'll charge a penalty of 20% if we have not given you a prior warning notice. The penalty rate rises to 40% if we have given you one prior warning notice, or to 60% if we have given you 2 or more.

When we may publish your details

We'll consider publishing your details if both of the following apply during your warning period:

- you personally used new arrangements during your warning period, and we have given you a warning notice for the defeat of those arrangements
- we have given you 2 or more prior warning notices

The information we publish can include:

- your name and address (including any trading name, previous name or other name that you use)
- the nature of your business, if you have one
- the amount of tax you have tried to avoid, and the amount of any penalty that we have charged you under STAR
- the period or periods for which you used the tax avoidance arrangements
- any other details we think are necessary to clearly identify you

If we publish details about a company that's part of a group of companies, we may also publish the names, addresses and nature of the business of other members of the group, and the trading name of the group. If we publish details about a person carrying on a trade or business in partnership, we may also publish names and addresses of the other partners, and the trading name of the partnership.

When we may stop you from claiming direct tax reliefs

Direct tax reliefs are those reliefs relating to direct taxes. The direct taxes to which STAR applies are listed under the section 'General information' on page 6 of this factsheet.

We'll give you a relief restriction notice that will stop you from claiming or making use of direct tax reliefs for 3 years (the 'restricted period'), if all of the following apply:

- you personally used new arrangements during your warning period, and we have given you a warning notice for the defeat of those arrangements
- we have given you at least 2 prior warning notices, either for arrangements you have used or for arrangements used by persons linked to you in your capacity as a partner or a group company
- the new arrangements that you used, and the new arrangements for which at least 2 of the prior warning notices were given, all involved the misuse of direct tax reliefs
- for the new arrangements that you used, and the new arrangements for which the 2 prior warning notices were given, one of the following applies:
 - the arrangements were counteracted on the basis of a particular avoidance related rule
 - the misused relief was a loss relief

An avoidance-related rule is any tax rule, however worded, that refers to either of the following:

- the purpose or expected benefit of a transaction, act or other element of the arrangements being tax avoidance, or to obtain a tax advantage
- a transaction, act or other element of the arrangements having or not having a commercial purpose

'Loss relief' means any Income Tax loss relief (under Part 4 of the Income Tax Act 2007) or Corporation Tax loss relief and group relief (under Parts 4 and 5 of the Corporation Tax Act 2010).

You can find full details of the types of reliefs that we can stop people from claiming or using in Part 4 of Schedule 18 to the Finance Act 2016. Future changes to tax legislation may mean that we need to change the types of direct tax reliefs that we can stop people from claiming or using.

The relief restriction notice will tell you when your restricted period starts and ends. While you're in your restricted period, if you use new arrangements that involve the misuse of direct tax reliefs and we defeat them, we'll extend your restricted period by 3 years beginning with the day of the new defeat.

Your rights when we're considering sanctions

You cannot appeal against our decision to give you a warning notice. However, you can appeal to an independent tribunal if we charge you a penalty under STAR, or give you a relief restriction notice, and you disagree with our decision.

We'll let you know if we're considering publishing your details to identify you as a serial tax avoider. At the same time, we'll give you the opportunity to make representations about whether or not we should publish the information. But you would not have any right to appeal against our decision to publish your details.

If you think you have a reasonable excuse

When we're considering charging you a penalty under STAR or stopping you from claiming direct tax reliefs, your use of the tax avoidance arrangements we have defeated is considered to be a failure to meet a tax obligation.

If you have a reasonable excuse for this failure, we will not charge you a penalty under STAR, or stop you from claiming direct tax reliefs in respect of your use of the defeated arrangements.

A reasonable excuse is something that stopped you from meeting a tax obligation that you took reasonable care to meet. Whether or not you have a reasonable excuse depends on the circumstances that stopped you meeting that obligation, and on your abilities. Once the reasonable excuse has ended, you must put things right without delay.

For more information, go to www.gov.uk and search for 'disagree with a tax decision' and then select 'reasonable excuses'.

If you think you have a reasonable excuse, please tell us.

Benefits of settling your use of tax avoidance arrangements

You may be able to adjust or settle your tax affairs for DOTAS, VADR or DASVOIT arrangements that you have used - without them being counted as a defeat for the purposes of STAR. To do this you'd need to correct your tax position. However, you can only do this if:

- you have no reason to believe that we have started, or are about to start, a check of your tax affairs for the tax that the arrangements affect - this might be referred to as a compliance check, enquiry, investigation, review or similar term
- the arrangements are not counteracted under the GAAR
- we have not sent you a follower notice for the arrangements

If you want to correct your tax position, you should adjust your return or claim, if you can. If you cannot - for example because the time limit has passed for amending your return - then contact us straightaway and we'll tell you what information we need to be able to adjust it for you. If you do not provide that information, and we later defeat the arrangements, that defeat will still count for the purposes of STAR.

If you have used DOTAS, VADR or DASVOIT arrangements but you cannot come out of them in the way described above - for example, because we have started a check of your tax affairs - then you can still settle now. Settling your affairs is a defeat for the purposes of STAR, so we'd still have to give you a warning notice. But if you have used more than one set of arrangements and you settle everything at once, we can give you all the warning notices at the same time. This means we do not have to keep extending your warning period.

If you do not settle all your arrangements at once, we'll give you another warning notice for each defeat. If the defeats happen while you're in a warning period, we'll keep extending your warning period for each defeat. If you want to settle, please contact us straightaway. Settling would involve you agreeing that your use of the arrangements does not enable you to obtain the tax advantage.

What we mean by 'used' and 'defeated'

Tax avoidance arrangements are 'used' if a person has done one or more of the following:

- sent us a tax return, claim or election that relies on tax avoidance arrangements to reduce their liability to tax, or to increase tax reliefs or rights to repayments of tax
- sent us a Partnership Tax Return that relies on tax avoidance arrangements to reduce the partners' liability to tax, or to increase tax reliefs or rights to repayments of tax
- failed to meet their tax obligations as a result of tax avoidance arrangements, for example, by not registering for VAT when they should have

Tax avoidance arrangements are 'defeated' when the tax advantage has been counteracted and the counteraction has become final. It's been counteracted when either:

- we have made adjustments to the person's tax position to remove the tax advantage
- the person has made adjustments to their own tax position
- we have entered into a contract settlement with the person
- a tribunal or court makes adjustments to the person's tax position to remove the tax advantage

A counteraction becomes final when the adjustments, and any additional tax resulting from those adjustments, can no longer be varied – either on appeal or otherwise. If we make adjustments to a person's tax position, it would normally involve us doing one of the following:

- making adjustments to the person's tax returns or claims
- giving the person one or more tax assessments, decision notices or determinations that show the adjustments and the additional tax that results from the adjustments

If we give a person a follower notice for arrangements they have used, the tax advantage is counteracted when they take corrective action in response to that follower notice. If they do not take corrective action and we, or a tribunal or court, make (or have already made) adjustments to their tax position, the tax advantage is counteracted once that adjustment becomes final.

Partnerships, groups of companies, and associates in STAR

Partnerships

When we have defeated a partner's use of tax arrangements that were used on a Partnership Tax Return, we'll look at all those who were partners during the period covered by the return. Those who were partners during this period will be given a warning notice and put into STAR, if they're not already in it and have not already settled or fully disclosed. But the timing of these other warning notices will depend on whether or not they tried to obtain a tax advantage from the use of the arrangements. For partners who:

- did not try to obtain a tax advantage we'll give the warning notice when one partner's use is defeated

- did try to obtain a tax advantage we'll give the warning notice when we defeat their use of the arrangements

We'll also require the partnership to give us 'partnership information notices'. We'll nominate a partner, known as the 'appropriate partner', to do this and we'll tell them what they need to do. A partnership includes a limited liability partnership. A Partnership Tax Return is one that's made under section 12AA of the Taxes Management Act 1970.

Groups of companies

For STAR, 2 companies are members of the same group of companies if one is a 75% subsidiary of the other, or both are 75% subsidiaries of a third company.

If we give a warning notice to a company in a group, we also have to give a warning notice to all the companies in the group. However, instead of giving a separate warning notice to each company, we may give a single warning notice that applies to the whole group. Also, we may allow a group to give us one information notice for each reporting period that combines the information for the whole group.

If we have given a warning notice to a company before it joins a group, and it's still in the warning period when it joins, that warning period will only apply to that company - not to the other companies in the group. However, if we later give a warning notice to another company in the group, or another warning notice to the company that joined the group, the warning notice given to the company before it joined the group will be counted as a prior warning notice for all the companies in the group when we're considering sanctions.

If a company is only in a warning period because another company in the same group used tax avoidance arrangements that we defeated, that company's warning period will end if it leaves the group.

There are special rules for VAT group registrations. For STAR, a VAT group is treated as if it were a single person. And a defeat of tax avoidance arrangements used on a VAT group's VAT return is treated separately from any defeats of arrangements used on other types of returns by individual companies within the group. This is the case even if the membership of the VAT and corporate group is the same. If this applies to you, we'll tell you.

Associates

If we have given a warning notice to a person because we have defeated their use of arrangements, we'll also give warning notices to those persons who, at the time we give that notice, are that person's associates. For STAR, 2 persons are associates if one of them is a body corporate (for example, a company) controlled by the other, or if they're both bodies corporate under common control. Two bodies corporate are under common control if they're both controlled in one of the following ways:

- by one person
- by 2 or more, but fewer than 6, individuals
- by any number of individuals carrying on a business in partnership

Companies that are in the same group will not be treated as associates.

General information

If you need extra support

If you have any health or personal circumstances that may make it difficult for you to deal with us, please tell us. We'll help you in whatever way we can. For more information about this, go to www.gov.uk and search for 'get help from HMRC if you need extra support'.

Taxes, levies and contributions to which STAR relates

Direct taxes - Annual Tax on Enveloped Dwellings; Apprenticeship Levy; Capital Gains Tax; Corporation Tax (CT) (including any amount chargeable as if it were CT, or treated as if it were CT); Diverted Profits Tax; Income Tax; Inheritance Tax; National Insurance contributions; Petroleum Revenue Tax, and Stamp Duty Land Tax.

Indirect taxes - Value Added Tax (VAT), Insurance Premium Tax, General Betting Duty, Pool Betting Duty, Remote Gaming Duty, Machine Games Duty, Gaming Duty, Lottery Duty, Bingo Duty, Air Passenger Duty, Hydrocarbon Oils Duty, Tobacco Products Duty, duties on spirits, beer, wine, made-wine and cider, Soft Drinks Industry Levy, Aggregates Levy, Landfill Tax, Climate Change Levy, customs duties