



Finance Act 2013

2013 CHAPTER 29

PART 5

GENERAL ANTI-ABUSE RULE

Modifications etc. (not altering text)

- C1** Pt. 5 extended (with effect in accordance with s. 10(7) of the amending Act) by [National Insurance Contributions Act 2014 \(c. 7\), s. 10\(1\)](#) (with s. 10(7))

206 General anti-abuse rule

- (1) This Part has effect for the purpose of counteracting tax advantages arising from tax arrangements that are abusive.
- (2) The rules of this Part are collectively to be known as “the general anti-abuse rule”.
- (3) The general anti-abuse rule applies to the following taxes—
 - (a) income tax,
 - (b) corporation tax, including any amount chargeable as if it were corporation tax or treated as if it were corporation tax,
 - (c) capital gains tax,
 - (d) petroleum revenue tax,
 - [^{F1}(da) diverted profits tax,]
 - [^{F2}(db) apprenticeship levy,]
 - (e) inheritance tax,
 - (f) stamp duty land tax, and
 - (g) annual tax on enveloped dwellings.

Status: Point in time view as at 10/06/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 5. (See end of Document for details)

Textual Amendments

- F1** S. 206(3)(da) inserted (with effect in accordance with s. 116(1) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 115\(1\)](#)
- F2** S. 206(3)(db) inserted (15.9.2016) by [Finance Act 2016 \(c. 24\), s. 104\(2\)](#) (with s. 117)

Modifications etc. (not altering text)

- C2** S. 206(3) modified (with effect in accordance with s. 10(7) of the amending Act) by [National Insurance Contributions Act 2014 \(c. 7\), s. 10\(2\)](#) (with s. 10(7))

207 Meaning of “tax arrangements” and “abusive”

- (1) Arrangements are “tax arrangements” if, having regard to all the circumstances, it would be reasonable to conclude that the obtaining of a tax advantage was the main purpose, or one of the main purposes, of the arrangements.
- (2) Tax arrangements are “abusive” if they are arrangements the entering into or carrying out of which cannot reasonably be regarded as a reasonable course of action in relation to the relevant tax provisions, having regard to all the circumstances including—
 - (a) whether the substantive results of the arrangements are consistent with any principles on which those provisions are based (whether express or implied) and the policy objectives of those provisions,
 - (b) whether the means of achieving those results involves one or more contrived or abnormal steps, and
 - (c) whether the arrangements are intended to exploit any shortcomings in those provisions.
- (3) Where the tax arrangements form part of any other arrangements regard must also be had to those other arrangements.
- (4) Each of the following is an example of something which might indicate that tax arrangements are abusive—
 - (a) the arrangements result in an amount of income, profits or gains for tax purposes that is significantly less than the amount for economic purposes,
 - (b) the arrangements result in deductions or losses of an amount for tax purposes that is significantly greater than the amount for economic purposes, and
 - (c) the arrangements result in a claim for the repayment or crediting of tax (including foreign tax) that has not been, and is unlikely to be, paid,
 but in each case only if it is reasonable to assume that such a result was not the anticipated result when the relevant tax provisions were enacted.
- (5) The fact that tax arrangements accord with established practice, and HMRC had, at the time the arrangements were entered into, indicated its acceptance of that practice, is an example of something which might indicate that the arrangements are not abusive.
- (6) The examples given in subsections (4) and (5) are not exhaustive.

Modifications etc. (not altering text)

- C3** S. 207 modified (with effect in accordance with s. 10(7) of the amending Act) by [National Insurance Contributions Act 2014 \(c. 7\), s. 10\(3\)](#) (with s. 10(8)-(10))

Status: Point in time view as at 10/06/2021.

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208 Meaning of “tax advantage”

A “tax advantage” includes—

- (a) relief or increased relief from tax,
- (b) repayment or increased repayment of tax,
- (c) avoidance or reduction of a charge to tax or an assessment to tax,
- (d) avoidance of a possible assessment to tax,
- (e) deferral of a payment of tax or advancement of a repayment of tax, and
- (f) avoidance of an obligation to deduct or account for tax.

209 Counteracting the tax advantages

- (1) If there are tax arrangements that are abusive, the tax advantages that would (ignoring this Part) arise from the arrangements are to be counteracted by the making of adjustments.
- (2) The adjustments required to be made to counteract the tax advantages are such as are just and reasonable.
- (3) The adjustments may be made in respect of the tax in question or any other tax to which the general anti-abuse rule applies.
- (4) The adjustments that may be made include those that impose or increase a liability to tax in any case where (ignoring this Part) there would be no liability or a smaller liability, and tax is to be charged in accordance with any such adjustment.
- (5) Any adjustments required to be made under this section (whether by an officer of Revenue and Customs or [^{F3}anyone else]) may be made by way of an assessment, the modification of an assessment, amendment or disallowance of a claim, or otherwise.

[^{F4}(6) But—

- (a) the effect of adjustments made by an officer of Revenue and Customs by virtue of this section is suspended until the procedural requirements of Schedule 43, 43A or 43B have been complied with, and
- (b) the power to make adjustments by virtue of this section is subject to any time limit imposed by or under any enactment other than this Part.

The provision made by this subsection needs to be read with sections 209AA to 209AC and has no effect on adjustments so far as made otherwise than by virtue of this section.]

[^{F5}(6A) The procedural requirements mentioned in subsection (6)(a) include any procedural requirements which apply under or by virtue of Schedule 43D (which makes provision in relation to partnerships).]

(7) Any adjustments made under this section have effect for all purposes.

[^{F6}[^{F7}(8) Where a matter is referred to the GAAR Advisory Panel under paragraph 5 or 6 of Schedule 43 in relation to any tax arrangements, no GAAR-related adjustments may be made in the period (“the closed period”) that—

- (a) begins with the 31st day after the end of the 45 day period mentioned in paragraph 4(1) of Schedule 43, and
- (b) ends immediately before the day on which the notice under paragraph 12 of Schedule 43 is given in relation to the tax arrangements.

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- (9) Where a pooling notice or notice of binding has been given in relation to any tax arrangements, no GAAR-related adjustments may be made in the period (“the closed period”) that—
- (a) begins with the 31st day after the day on which the notice is given, and
 - (b) ends immediately before the day on which a notice under paragraph 8(2) or 9(2) of Schedule 43A, or a notice under paragraph 8(2) of Schedule 43B, is given in relation to the tax arrangements (as the case may be).]
- (10) In this section “GAAR-related adjustments” means—
- (a) for the purposes of subsection (8), adjustments which give effect (wholly or in part) to the proposed counteraction set out in the notice under paragraph 3 of Schedule 43 [^{F8}or paragraph 5 of Schedule 43D.];
 - (b) for the purposes of subsection (9), adjustments which give effect (wholly or partly) to the proposed counteraction set out in the notice of pooling or binding (as the case may be).]

Textual Amendments

- F3** Words in s. 209(5) substituted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 32 para. 3\(2\)](#)
- F4** S. 209(6) substituted (with effect in accordance with Sch. 14 paras. 10, 15 of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [Sch. 14 para. 2](#)
- F5** S. 209(6A) inserted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 32 para. 3\(3\)](#)
- F6** S. 209(8)-(10) inserted (15.9.2016) (with effect in accordance with s. 158(15) of the amending Act) by [Finance Act 2016 \(c. 24\)](#), [s. 158\(4\)](#)
- F7** S. 209(8)(9) substituted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 32 para. 3\(4\)](#)
- F8** Words in s. 209(10)(a) inserted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 32 para. 3\(5\)](#)

Modifications etc. (not altering text)

- C4** S. 209 modified (with effect in accordance with s. 10(7) of the amending Act) by [National Insurance Contributions Act 2014 \(c. 7\)](#), [s. 10\(4\)](#) (with s. 10(7))

[^{F9}209A] ~~Protective GAAR notices~~

- (1) An officer of Revenue and Customs may give a written notice (a “protective GAAR notice”) to a person stating that the officer considers—
 - (a) that a tax advantage might have arisen to the person from tax arrangements that are abusive, and
 - (b) that, on the assumption that the advantage does arise from tax arrangements that are abusive, it ought to be counteracted under section 209.
- (2) The protective GAAR notice must be given within the ordinary assessing time limit applicable to the proposed adjustments.
- (3) But if—
 - (a) a tax enquiry is in progress into a return made by the person, and
 - (b) the return relates to the tax in respect of which the specified adjustments under the protective GAAR notice are made,

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the protective GAAR notice must instead be given no later than the time when the enquiry is completed.

- (4) The protective GAAR notice must—
 - (a) specify the arrangements and the tax advantage, and
 - (b) specify the adjustments that, on the assumption that the advantage does arise from tax arrangements that are abusive, the officer proposes ought to be made.
- (5) The adjustments specified in the protective GAAR notice have effect as if they are made by virtue of section 209.
- (6) Notice of appeal may be given against the adjustments specified in the protective GAAR notice (whether or not the adjustments are also made otherwise than by virtue of section 209).
- (7) Any appeal against the specified adjustments (whether made by virtue of section 209 or otherwise) is, as a result of this subsection, stayed—
 - (a) for a period of 12 months beginning with the day on which the protective GAAR notice is given, or
 - (b) if a final GAAR counteraction notice is given before the end of that period, for a period ending with the day on which the final GAAR counteraction notice is given.
- (8) If, in the case of the specified adjustments (whether made by virtue of section 209 or otherwise)—
 - (a) notice of appeal is not given or notice of appeal is given but the appeal is subsequently withdrawn or determined by agreement, and
 - (b) no final GAAR counteraction notice is given,the protective GAAR notice has effect for all purposes (other than the purposes of section 212A) as if it had been given as a final GAAR counteraction notice (and, accordingly, as if the GAAR procedural requirements had been complied with).
- (9) In any case not falling within subsection (8)—
 - (a) the specified adjustments have no effect (so far as they are made by virtue of section 209) unless they (or lesser adjustments) are subsequently specified in a final GAAR counteraction notice, but
 - (b) the giving of the protective GAAR notice is treated as meeting the requirements of section 209(6)(b) in the case of that final GAAR counteraction notice.]

Textual Amendments

- F9** S. 209AA inserted (with effect in accordance with Sch. 14 paras. 11, 15 of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [Sch. 14 para. 3](#)

[^{F10}209A] Adjustments under section 209: notices under Schedule 43 or 43A

- (1) This section applies in the case of any particular adjustments in respect of a particular period or matter (“the adjustments concerned”) if—
 - (a) a person is given a notice under paragraph 3 of Schedule 43 or a pooling notice or notice of binding under Schedule 43A (“the Schedule 43 or 43A notice”)

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- that specifies the adjustments concerned (whether or not other adjustments are specified),
- (b) the Schedule 43 or 43A notice is given within the relevant time limit applicable to the adjustments concerned, and
 - (c) the adjustments concerned have not been specified in a provisional counteraction notice under section 209A, or a protective GAAR notice under section 209AA, given before the time at which the Schedule 43 or 43A notice is given.
- (2) The Schedule 43 or 43A notice is given within the relevant time limit if—
- (a) it is given within the ordinary assessing time limit applicable to the adjustments concerned, or
 - (b) if a tax enquiry is in progress into a return made by the person and the particular adjustments concerned relate to the matters contained in the return, it is given no later than the time when the enquiry is completed.
- (3) The adjustments concerned have effect as if they are made by virtue of section 209.
- (4) If, in the case of the specified adjustments (whether made by virtue of section 209 or otherwise)—
- (a) notice of appeal is not given or notice of appeal is given but the appeal is subsequently withdrawn or determined by agreement, and
 - (b) no final GAAR counteraction notice is given,
- the Schedule 43 or 43A notice has effect for all purposes (other than the purposes of section 212A) as if it had been given as a final GAAR counteraction notice (and, accordingly, as if the GAAR procedural requirements had been complied with).
- (5) In any case not falling within subsection (4)—
- (a) the adjustments concerned have no effect (so far as they are made by virtue of section 209) unless they (or lesser adjustments) are subsequently specified in a final GAAR counteraction notice, but
 - (b) the giving of the Schedule 43 or 43A notice is treated as meeting the requirements of section 209(6)(b) in the case of that final GAAR counteraction notice.]

Textual Amendments

F10 S. 209AB inserted (with effect in accordance with Sch. 14 paras. 12, 15 of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [Sch. 14 para. 4](#)

[^{F11}209AB] **Adjustments under section 209: notices under Schedule 43D**

- (1) This section applies in the case of any particular adjustments in respect of a particular period or matter (“the adjustments concerned”) if, in relation to a partnership—
- (a) the responsible partner is given a notice under paragraph 5 or 10 of Schedule 43D (“the Schedule 43D notice”) that specifies the adjustments concerned (whether or not other adjustments are specified),
 - (b) the Schedule 43D notice is given within the relevant time limit applicable to the adjustments concerned, and
 - (c) the adjustments concerned have not been specified in a protective GAAR notice given before the time at which the Schedule 43D notice is given.

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- (2) The Schedule 43D notice is given within the relevant time limit if—
- it is given within the ordinary assessing time limit applicable to the adjustments concerned, or
 - in a case where a tax enquiry is in progress into a partnership return made by the responsible partner and the particular adjustments concerned relate to the matters contained in the return, it is given no later than the time when the enquiry is completed.
- (3) The adjustments concerned have effect as if they are made by virtue of section 209.
- (4) If, in the case of the specified adjustments (whether made by virtue of section 209 or otherwise)—
- notice of appeal is not given or notice of appeal is given but the appeal is subsequently withdrawn or determined by agreement, and
 - no final GAAR counteraction notice is given,
- the Schedule 43D notice has effect for all purposes (other than the purposes of section 212B) as if it had been given as a final GAAR counteraction notice (and, accordingly, as if the GAAR procedural requirements had been complied with).
- (5) In any case not falling within subsection (4)—
- the adjustments concerned have no effect (so far as they are made by virtue of section 209) unless they (or lesser adjustments) are subsequently specified in a final GAAR counteraction notice, but
 - the giving of the Schedule 43D notice is treated as meeting the requirements of section 209(6)(b) in the case of that final GAAR counteraction notice.
- (6) In subsection (1) “protective GAAR notice” means a protective GAAR notice given under section 209AA or paragraph 4 of Schedule 43D.
- (7) In this section “the responsible partner” and “partnership return” have the same meaning as in Schedule 43D.]

Textual Amendments

- F11** S. 209ABA inserted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 32 para. 4](#)

[^{F12}209A Sections 209AA [^{F13}to 209ABA]: definitions

- (1) In sections 209AA [^{F14}to 209ABA]—
- “final GAAR counteraction notice” means a notice given under—
- paragraph 12 of Schedule 43,
 - paragraph 8 or 9 of Schedule 43A, or
 - paragraph 8 of Schedule 43B,
- “GAAR procedural requirements” means the procedural requirements of Schedule 43, 43A [^{F15}, 43B, or (as the case may be) 43D],
- “lesser adjustments” means adjustments specified in the final GAAR counteraction notice which assume a smaller tax advantage than was assumed in the protective GAAR notice or (as the case may be) the Schedule 43 or 43A notice [^{F16}(within the meaning of section 209AB) or the Schedule 43D notice (within the meaning of section 209ABA)], and

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“ordinary assessing time limit”, in relation to any adjustments, means the time limit imposed by or under any enactment other than this Part for the making of the adjustments.

- (2) Expressions which are used in section 202 of FA 2014 (“tax enquiry”, and its being “in progress”, and “return”) have the same meaning in sections 209AA [F17 to 209ABA] as they have in that section (and references to completing a tax enquiry are to be read accordingly).]

Textual Amendments

- F12** S. 209AC inserted (22.7.2020) by [Finance Act 2020 \(c. 14\)](#), [Sch. 14 para. 5](#)
- F13** Words in s. 209AC heading substituted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 32 para. 5\(2\)](#)
- F14** Words in s. 209AC(1) substituted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 32 para. 5\(3\)\(a\)](#)
- F15** Words in s. 209AC(1) substituted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 32 para. 5\(3\)\(b\)](#)
- F16** Words in s. 209AC(1) inserted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 32 para. 5\(3\)\(c\)](#)
- F17** Words in s. 209AC(2) substituted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 32 para. 5\(4\)](#)

F18 209A Effect of adjustments specified in a provisional counteraction notice

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Textual Amendments

- F18** Ss. 209A-209F omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 14 para. 6](#) (with [Sch. 14 para. 13](#))

F18 209B Notified adjustments: 12 month period for taking action if appeal made

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Textual Amendments

- F18** Ss. 209A-209F omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 14 para. 6](#) (with [Sch. 14 para. 13](#))

F18 209C Notified adjustments: case within section 209B(4)(c)

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Textual Amendments

- F18** Ss. 209A-209F omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 14 para. 6](#) (with [Sch. 14 para. 13](#))

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F18 209D Notified adjustments: case within section 209B(4)(d)

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Textual Amendments

F18 Ss. 209A-209F omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 14 para. 6](#) (with [Sch. 14 para. 13](#))

F18 209E Notified adjustments: case within section 209B(4)(e)

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Textual Amendments

F18 Ss. 209A-209F omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 14 para. 6](#) (with [Sch. 14 para. 13](#))

F18 209F Appeals against provisional counteractions: further provision

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Textual Amendments

F18 Ss. 209A-209F omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\)](#), [Sch. 14 para. 6](#) (with [Sch. 14 para. 13](#))

210 Consequential relieving adjustments

- (1) This section applies where—
 - (a) the counteraction of a tax advantage under section 209 is final, and
 - (b) if the case is not one in which notice of the counteraction was given under paragraph 12 of Schedule 43, ^{F19}paragraph 8 or 9 of Schedule 43A or paragraph 8 of Schedule 43B,] HMRC have been notified of the counteraction ^{F20}.....
- (2) A person has 12 months, beginning with the day on which the counteraction becomes final, to make a claim for one or more consequential adjustments to be made in respect of any tax to which the general anti-abuse rule applies.
- (3) On a claim under this section, an officer of Revenue and Customs must make such of the consequential adjustments claimed (if any) as are just and reasonable.
- (4) Consequential adjustments—
 - (a) may be made in respect of any period, and
 - (b) may affect any person (whether or not a party to the tax arrangements).
- (5) But nothing in this section requires or permits an officer to make a consequential adjustment the effect of which is to increase a person's liability to any tax.
- (6) For the purposes of this section—

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- (a) if the claim relates to income tax or capital gains tax, Schedule 1A to TMA 1970 applies to it;
 - (b) if the claim relates to corporation tax, Schedule 1A to TMA 1970 (and not Schedule 18 to FA 1998) applies to it;
 - (c) if the claim relates to petroleum revenue tax, Schedule 1A to TMA 1970 applies to it, but as if the reference in paragraph 2A(4) of that Schedule to a year of assessment included a reference to a chargeable period within the meaning of OTA 1975 (see section 1(3) and (4) of that Act);
 - (d) if the claim relates to inheritance tax it must be made in writing to HMRC and section 221 of IHTA 1984 applies as if the claim were a claim under that Act;
 - (e) if the claim relates to stamp duty land tax or annual tax on enveloped dwellings, Schedule 11A to FA 2003 applies to it as if it were a claim to which paragraph 1 of that Schedule applies.
- (7) Where an officer of Revenue and Customs makes a consequential adjustment under this section, the officer must give the person who made the claim written notice describing the adjustment which has been made.
- (8) For the purposes of this section the counteraction of a tax advantage is final when the adjustments made to effect the counteraction, and any amounts arising as a result of those adjustments, can no longer be varied, on appeal or otherwise.
- (9) Any adjustments required to be made under this section may be made—
- (a) by way of an assessment, the modification of an assessment, the amendment of a claim, or otherwise, and
 - (b) despite any time limit imposed by or under any enactment other than this Part.
- [^{F21}(10) For the purposes of subsection (1)(b), HMRC must be notified—
- (a) in a case where Schedule 43D applies, by the responsible partner (within the meaning of that Schedule), and
 - (b) in any other case, by the person to whom the tax advantage would have arisen.]

Textual Amendments

- F19** Words in s. 210(1)(b) inserted (15.9.2016) (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(5\)](#)
- F20** Words in s. 210(1)(b) omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 32 para. 6\(a\)](#)
- F21** [S. 210\(10\)](#) substituted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 32 para. 6\(b\)](#)

Modifications etc. (not altering text)

- C5** S. 210 modified (with effect in accordance with s. 10(7) of the amending Act) by [National Insurance Contributions Act 2014 \(c. 7\), s. 10\(5\)](#) (with s. 10(6)(7))

211 Proceedings before a court or tribunal

- (1) In proceedings before a court or tribunal in connection with the general anti-abuse rule, HMRC must show—
- (a) that there are tax arrangements that are abusive, and

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- (b) that the adjustments made to counteract the tax advantages arising from the arrangements are just and reasonable.
- (2) In determining any issue in connection with the general anti-abuse rule, a court or tribunal must take into account—
- (a) HMRC's guidance about the general anti-abuse rule that was approved by the GAAR Advisory Panel at the time the tax arrangements were entered into, and
 - (b) any opinion of the GAAR Advisory Panel^{F22} given—
 - (i) under paragraph 11 of Schedule 43 about the arrangements or any tax arrangements which are, as a result of a notice under paragraph 1 or 2 of Schedule 43A, the referred or (as the case may be) counteracted arrangements in relation to the arrangements, or
 - (ii) under paragraph 6 of Schedule 43B in respect of a generic referral of the arrangements.]
- (3) In determining any issue in connection with the general anti-abuse rule, a court or tribunal may take into account—
- (a) guidance, statements or other material (whether of HMRC, a Minister of the Crown or anyone else) that was in the public domain at the time the arrangements were entered into, and
 - (b) evidence of established practice at that time.

Textual Amendments

F22 Words in s. 211(2)(b) substituted (15.9.2016) (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(6\)](#)

212 Relationship between the GAAR and priority rules

- (1) Any priority rule has effect subject to the general anti-abuse rule (despite the terms of the priority rule).
- (2) A “priority rule” means a rule (however expressed) to the effect that particular provisions have effect to the exclusion of, or otherwise in priority to, anything else.
- (3) Examples of priority rules are—
- (a) the rule in section 464, 699 or 906 of CTA 2009 (priority of loan relationships rules, derivative contracts rules and intangible fixed assets rules for corporation tax purposes), and
 - (b) the rule in section 6(1) of TIOPA 2010 (effect to be given to double taxation arrangements despite anything in any enactment).

^{F23}212A Penalty

- (1) A person (P) is liable to pay a penalty if—
- (a) P has been given a notice under—
 - (i) paragraph 12 of Schedule 43,
 - (ii) paragraph 8 or 9 of Schedule 43A, or
 - (iii) paragraph 8 of Schedule 43B,stating that a tax advantage arising from particular tax arrangements is to be counteracted,

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- (b) a tax document has been given to HMRC on the basis that the tax advantage arises to P from those arrangements,
 - (c) that document was given to HMRC—
 - (i) by P, or
 - (ii) by another person in circumstances where P knew, or ought to have known, that the other person gave the document on the basis mentioned in [^{F24}paragraph (b)], and
 - (d) the tax advantage has been counteracted by the making of adjustments under section 209.
- (2) The penalty is 60% of the value of the counteracted advantage.
- (3) Schedule 43C—
- (a) gives the meaning of “the value of the counteracted advantage”, and
 - (b) makes other provision in relation to penalties under this section.
- (4) In this section “tax document” means any return, claim or other document submitted in compliance (or purported compliance) with any provision of, or made under, an Act.
- (5) In this section the reference to giving a tax document to HMRC is to be interpreted in accordance with paragraph 11(g) and (h) of Schedule 43C.]

Textual Amendments

- F23** S. 212A inserted (15.9.2016) (with effect in accordance with s. 158(15) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 158\(2\)](#)
- F24** Words in s. 212A(1)(c)(ii) substituted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 32 para. 7](#)

[^{F25}212B Penalty: partnerships

- (1) This section applies if, in respect of a partnership—
 - (a) the responsible partner has been given a notice under—
 - (i) paragraph 12 of Schedule 43,
 - (ii) paragraph 8 or 9 of Schedule 43A, or
 - (iii) paragraph 8 of Schedule 43B,
 stating that a tax advantage is to be counteracted, and
 - (b) the tax advantage, so far as arising to a partner (P) in the partnership, has been counteracted by the making of adjustments under section 209.
- (2) P is liable to pay a penalty of an amount equal to 60% of the value of the counteracted tax advantage.
- (3) Schedule 43C—
 - (a) gives the meaning of “the value of the counteracted tax advantage”, and
 - (b) makes other provision in relation to penalties under this section.
- (4) For the meaning of “the responsible partner” see paragraph 2 of Schedule 43D.]

Status: Point in time view as at 10/06/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 5. (See end of Document for details)

Textual Amendments

F25 S. 212B inserted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\)](#), [Sch. 32 para. 8](#)

213 Consequential amendment

- (1) Section 42 of TMA 1970 (procedure for making claims etc) is amended as follows.
- (2) In subsection (2), for “(3ZB)” substitute “(3ZC)”.
- (3) After subsection (3ZB) insert—

“(3ZC) Subsection (2) also does not apply in relation to any claim under section 210 of the Finance Act 2013 (claims for consequential relieving adjustments after counteraction of tax advantage under the general anti-abuse rule).”

214 Interpretation of Part 5

[^{F26}(1) In this Part—

“abusive”, in relation to tax arrangements, has the meaning given by section 207(2) to (6);

“arrangements” includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable);

“the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;

[^{F27}“designated HMRC officer” has the meaning given by paragraph 2 of Schedule 43;”.]

“the GAAR Advisory Panel” has the meaning given by paragraph 1 of Schedule 43;

“the general anti-abuse rule” has the meaning given by section 206;

“HMRC” means Her Majesty's Revenue and Customs;

[^{F27}“notice of binding” has the meaning given by paragraph 2(2) of Schedule 43A [^{F28}or paragraph 10 of Schedule 43D (as the case may be)];

^{F29}
...

[^{F27}“pooling notice” has the meaning given by [^{F30}paragraph 1(3) of Schedule 43A or paragraph 10 of Schedule 43D (as the case may be)];

^{F31}
...

“tax advantage” has the meaning given by section 208;

^{F32}
...

“tax arrangements” has the meaning given by section 207(1).]

[^{F27}“tax enquiry” has the meaning given by section 202(2) of FA 2014.]

[In this Part references to any “opinion of the GAAR Advisory Panel” about any tax ^{F33}(2) arrangements are to be interpreted in accordance with paragraph 11(5) of Schedule 43.

- (3) In this Part references to tax arrangements which are “equivalent” to one another are to be interpreted in accordance with paragraph 11 of Schedule 43A.]]

Status: Point in time view as at 10/06/2021.

Changes to legislation: There are currently no known outstanding effects for the Finance Act 2013, PART 5. (See end of Document for details)

Textual Amendments

- F26** S. 214(1): s. 214 renumbered (15.9.2016) as s. 214(1) (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(8\)](#)
- F27** Words in s. 214(1) inserted (15.9.2016) (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(9\)](#)
- F28** Words in s. 214(1) inserted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 32 para. 9\(a\)](#)
- F29** Words in s. 214(1) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\), Sch. 14 para. 7\(a\)](#)
- F30** Words in s. 214(1) inserted (with effect in accordance with s. 124(2) of the amending Act) by [Finance Act 2021 \(c. 26\), Sch. 32 para. 9\(b\)](#)
- F31** Words in s. 214(1) omitted (22.7.2020) by virtue of [Finance Act 2020 \(c. 14\), Sch. 14 para. 7\(b\)](#)
- F32** Words in s. 214(1) omitted (with effect in accordance with s. 124(2) of the amending Act) by virtue of [Finance Act 2021 \(c. 26\), Sch. 32 para. 9\(c\)](#)
- F33** S. 214(2)(3) inserted (15.9.2016) (with effect in accordance with s. 157(30) of the amending Act) by [Finance Act 2016 \(c. 24\), s. 157\(10\)](#)

215 Commencement and transitional provision

- (1) The general anti-abuse rule has effect in relation to any tax arrangements entered into on or after the day on which this Act is passed.
- (2) Where the tax arrangements form part of any other arrangements entered into before that day those other arrangements are to be ignored for the purposes of section 207(3), subject to subsection (3).
- (3) Account is to be taken of those other arrangements for the purposes of section 207(3) if, as a result, the tax arrangements would not be abusive.

Status:

Point in time view as at 10/06/2021.

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 2013, PART 5.