



General Anti-Abuse Rule

UAE CORPORATE TAX LAW



Article 50 - General Anti-abuse Rule (“GAAR”)



Intention - Disregard a transaction or an arrangement designed mainly with the objective of obtaining Corporate Tax (CT) advantage



Applicability:

Upon fulfilment of following **twin conditions**:

- Entering into the transaction or an arrangement, without valid commercial rationale or economic reality,
- AND**
- The main purpose or one of the main purposes is to obtain a CT advantage

CT advantage includes:

- Incorrect or excess refund claim;
- Non-payment or short payment of CT;
- Deferral of CT payment or advancement of refund ;
- Non withholding of tax



Implications:

The **FTA can counteract or adjust CT advantages obtained**, which may include:

- Allowing or disallowing any exemption / deduction / relief;
- Allocation of exemption / deduction or relief to other person;
- Re-characterisation of nature of any payment;
- Disregarding effect of other CT provisions ;
- Adjustments to CT liability of any other person;

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Determination – Factors to be considered

For application of GAAR to any transaction / arrangement, following must be considered:

- Manner in which it was entered / carried out;
- The form and substance;
- The timing;
- The result;
- Any existing / prospective change in the financial position of the Taxable Person or another person;
- Creation of abnormal rights between the parties
- Any other relevant information and circumstances.



Key takeaways

Activities requiring evaluation from GAAR perspective, before implemented:

- Decision for changing the financial year
- Any planning or restructuring activities
- Any changes in the transaction with related parties on account of CT Law.



MCA Comments

- *GAAR provisions are applicable immediately.*
- *No value threshold to apply GAAR provisions.*
- *Severe implications, if GAAR applied.*
- *GAAR provisions need to be considered even for preparation of opening balance sheet for CT purpose.*



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UAE Corporate Tax (CT) Law has been recently introduced. In order to facilitate understanding of the key aspects of CT law, MCA is planning to release snippets covering the various key aspects. This is a summarised version of the CT law sections and it is advised to refer to the detailed law provisions prior to initiating any decisions.