

General Anti Avoidance Rule Study Group
Study Programme

The terms of reference for the study were published on 6 December. These terms included a number of key objectives which will frame the study programme. The Study programme will include the following:

- (1) The Courts' current approach to statutory interpretation
- (2) The Courts' current approach to interpretation of tax statutes
- (3) The nature and stability of the Courts' current approach to transactions perceived to be tax avoidance schemes
- (4) Consideration of representations made in response to the Government's informal consultation on a GAAR in 2010
- (5) Consideration of existing experience with GAARs and other general anti avoidance principles (such as abuse of law) in other jurisdictions, with particular reference to the judicial approach to the interpretation/application of such rules, and academic and professional commentaries on those rules, in those jurisdictions
- (6) Consideration of academic/professional commentaries relating to a possible GAAR for the UK
- (7) In the light of the foregoing, consideration of what (if anything) a UK GAAR could usefully achieve, and what should be a GAAR's basic approach in order to achieve it
- (8) If it is thought that a GAAR could be effective in the UK, consideration of
 - the relationship of the GAAR with detailed rules in the tax code, including existing targeted anti avoidance rules
 - who should bear the burden of proof
 - the scope of its application
 - whether a clearance procedure is necessary/desirable to ensure certainty about the tax treatment of transactions, and if so what the optimum procedure should be
 - its detailed terms to ensure that it can operate in a way that provides certainty without undue compliance costs for businesses and HMRC, and ensure that the rules work fairly and would not erode the UK tax regime's attractiveness to business.