

LAND TRANSACTION TAX AND ANTI-AVOIDANCE OF DEVOLVED TAXES (WALES) ACT 2017

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 – General Anti-Avoidance Rule

Section 66 - General anti-avoidance rule

Section 81C TCMA - Artificial tax avoidance arrangements

88. This section sets out the tests for deciding whether a tax avoidance arrangement is artificial. Subsection (1) provides that an arrangement is artificial if the entering into or carrying out of it is not a reasonable course of action in relation to the tax legislation in question.
89. Subsections (2)(a) and (2)(b) make further provision to assist in determining the question. In subsection (2)(a) regard may be had to whether the arrangement lacks economic or commercial substance (other than obtaining a tax advantage). In subsection (2)(b) regard may be had to whether the arrangement resulted in a different amount of tax chargeable than what was anticipated when the tax legislation was enacted.
90. Subsection (3) provides for a particular case where an arrangement is not artificial. This is where the arrangement was consistent with generally prevailing practice at the time it was entered into and WRA had indicated its acceptance of that practice.
91. Subsection (4) provides that, where a tax avoidance arrangement forms part of any other arrangements, then, in determining whether it is artificial or not, these other arrangements must also be considered.
92. Subsection (5) provides the meaning of “Welsh tax legislation” being the Welsh Tax Acts (as defined by section 192(2) TCMA) and any subordinate legislation made under those Acts.