



Revenue Scotland and Tax Powers Act 2014

2014 asp 16

PART 5

THE GENERAL ANTI-AVOIDANCE RULE

Artificial tax avoidance arrangements

64 Meaning of “artificial”

- (1) A tax avoidance arrangement is artificial if condition A or B is met.
- (2) Condition A is met if the entering into or carrying out of the arrangement is not a reasonable course of action in relation to the tax provisions in question having regard to all the circumstances, including—
 - (a) whether the substantive results of the arrangement are consistent with—
 - (i) any principles on which those provisions are based (whether express or implied), and
 - (ii) the policy objectives of those provisions,
 - (b) whether the arrangement is intended to exploit any shortcomings in those provisions.
- (3) Condition B is met if the arrangement lacks economic or commercial substance.
- (4) Each of the following is an example of something which might indicate that a tax avoidance arrangement lacks economic or commercial substance—
 - (a) whether the arrangement is carried out by a person in a manner which would not normally be employed in reasonable business conduct,
 - (b) whether the legal characterisation of the steps in the arrangement is inconsistent with the legal substance of the arrangement as a whole,
 - (c) whether the arrangement includes elements which have the effect of offsetting or cancelling each other,
 - (d) whether transactions are circular in nature,

Changes to legislation: Revenue Scotland and Tax Powers Act 2014, Section 64 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (e) whether the arrangement results in a tax advantage that is not reflected in the business risks undertaken by the taxpayer.
- (5) The fact that—
- (a) a tax avoidance arrangement accords with established practice, and
 - (b) Revenue Scotland had, at the time the arrangement was entered into, indicated its acceptance of that practice,
- is an example of something that might indicate that the arrangement is not artificial.
- (6) The examples given in subsections (4) and (5) are not exhaustive.
- (7) Where a tax avoidance arrangement forms part of any other arrangements, regard must also be had to those other arrangements.

Commencement Information

II S. 64 in force at 1.4.2015 by S.S.I. 2015/110, art. 2(1)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 141(3A)(3B) inserted by [2017 asp 2 Sch. 2 para. 2\(2\)](#)
- s. 215A-215G and cross-headings inserted by [2017 asp 2 Sch. 2 para. 21](#)
- s. 223(1)(d)(e) inserted by [2017 asp 2 Sch. 2 para. 24](#)
- s. 233(1)(j) inserted by [2017 asp 2 Sch. 2 para. 25\(2\)](#)
- s. 233(3A) inserted by [2017 asp 2 Sch. 2 para. 25\(3\)](#)