

Singapore GAAR

Enhanced measures

Under prevailing Singapore law, the anti-avoidance rules (commonly known as GAAR) provide for tax adjustments to counter any tax avoidance arrangements. Although penalties may apply to GAAR adjustments under general provisions (e.g. the inaccurate filing of tax returns, etc.), there are no specific and mandatory penalty provisions for such adjustments.

In order to further deter tax avoidance arrangements, the Ministry of Finance (MOF) has now proposed certain amendments to the GAAR provisions. The key features of the proposed amendments are as follows:

- a. the introduction of a 50% surcharge on additional tax arising from any GAAR adjustments from YA 2023 onwards;
- b. the inclusion of group relief within the scope of GAAR; and
- c. mandating the application of GAAR to deny any tax benefits, where the Comptroller is satisfied that an arrangement has been implemented for the purpose of tax avoidance.

Even before the above specific provisions comes into force, the IRAS has already been examining the arrangements lacking commercial rationale or substance from a GAAR perspective, as evident from certain recent court rulings. The proposed amendments further corroborate the intention of the MOF and IRAS to stringently deal with the tax avoidance arrangements.

Considering potentially far-reaching impact of these amendments, taxpayers should ensure that the business arrangements have due commercial rationale and substance, particularly where they entail any tax benefits (e.g. group relief, loss offset, tax exemptions, rebates, treaty benefits, etc). In such cases, a taxpayer should also proactively maintain the relevant documentation to substantiate the commercial rationale as if the authorities will eventually audit such arrangements.

At Dhruva Advisors, we have the relevant experience in advising on GAAR implications across multiple jurisdictions, with respect to restructuring, M&A, cross-border and other transactions.

Please do not hesitate to contact us, if you have any questions on this emerging topic.

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