



Would your transactions pass the general anti-avoidance rule based assessment?

Failure could have significant consequences on your business!

On November 10, 2017, Quebec's Finance Minister announced new measures to address aggressive tax planning.

If your transactions do not pass the test, the consequences could translate into significant penalties for you and your tax advisor. In addition, you could be prohibited from doing business with the Quebec government.

Increased penalties

When a final assessment based on the Quebec general anti-avoidance rule (GAAR) applies, the penalties increased:

1. the existing **amount for an assessment issued on the basis of the GAAR went from 25% to 50%** of the amount of the tax benefit denied;
2. the existing **penalty for the promoter¹** of a transaction or series of transactions for which a GAAR-based assessment is issued **went from 12.5% of the fees paid to the promoter to 100% of these fees.**

Prohibited contracts with Quebec governmental bodies

In addition, a **taxpayer** having carried out a transaction or a **promoter** of a transaction that resulted in the issuance of a final GAAR-based assessment, subject to the above penalties, **will not be able** to obtain authorization from the Autorité des marchés financiers **to enter into public contracts.**

This also applies to **any member of a partnership**, such as Deloitte, for which such an assessment is issued. Neither the partner nor the firm will be able to enter into public contracts.

These new measures do not only apply to Quebec resident taxpayers; all taxpayers doing business in Quebec are liable to Quebec provincial tax.

What you need to do

- You must be **extremely prudent** when entering into transactions that may potentially be subject to GAAR-based assessment in Quebec.
- Any **reorganization or transaction** that you are contemplating should be discussed and reviewed with your tax advisor.
- In order to protect yourself and your tax advisor from these new exposures, **you may file the prescribed disclosure form.** Each year, as part of its oversight activities, the tax authorities choose—among the companies that submitted this type of form—a certain number that will be subject to an audit.

Do not hesitate to reach out to your Deloitte tax partners for any questions related to these new measures.

¹ The definition of a promoter is very broad and while it should not extend to a professional services firm providing tax compliance services, **it extends to a firm that is paid for providing tax advice on a transaction that is found to be subject to GAAR.**