

# Armstrong

— Financial Services —

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Friday, February 10th, 2023

**Attn: Client Memo**

Re: GAAR 2.0

**Proposed amendments to the GAAR**

In the 2020 Fall Economic Statement, the Federal Government committed to modernizing Canada's anti-avoidance rules. Following this, the Government released a Consultation Paper with proposed amendments to these rules, which was followed by a public consultation from August 9 to September 30, 2022. The Consultation Paper proposed the following changes:

- Amending the definition of "tax benefits" to include tax attributes.
- Providing an interpretive rule to specify what is not a "bona fide" purpose (a transaction or series of transactions that results in a tax benefit is not subject to the GAAR if it may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than to obtain the tax benefit).
- Extending the definition of "transaction" to include a choice.
- Changing the definition of an "avoidance transaction" so that it applies where "one of the main purposes" for undertaking the transaction (or series) is to obtain the tax benefit" rather than requiring that it be undertaken primarily to obtain the tax benefit.
- Modifying the "misuse and abuse analysis", including shifting the judicially established onus to taxpayers, thereby requiring them to demonstrate that the tax benefit would be consistent with the object, spirit and purpose of the provisions relied upon by the taxpayer.

The Federal Government will likely table legislation with amendments to the GAAR in 2023.

Sincerely,  
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