DOTAS Update

By Mary Ashley[1]

INTRODUCTION

1. This talk covers the following:
    a. The Inheritance Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations (SI 2017/1172);
    b. The changes made by Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) (Amendment) Regulations (SI 2016/99); and
    c. Applications by HMRC under sections 306A and 314A Finance Act 2004.

DOTAS UPDATE

Legislative Context of DOTAS

2. The Disclosure of Tax Avoidance Schemes ("DOTAS") regime is found in both primary and secondary legislation. HMRC has also provided detailed guidance on the topic.

3. The bulk of the DOTAS provisions are found in part 7 of the Finance Act 2004 ("FA 2004"). The hallmarks are found in regulations which provides for the notification or disclosure to HMRC of certain tax arrangements and proposals.

4. DOTAS was designed to give HMRC early information about tax avoidance schemes, giving it the opportunity to consider change to the law, to close loopholes or to challenge schemes that it believes do not work.

5. Since 2013, there have been a series of anti-avoidance regimes which has made DOTAS even more important. In particular, DOTAS is key in the upfront payment of tax potentially saved in avoidance schemes.

6. When the DOTAS regime was initially introduced with effect from August 1, 2004, it was limited in its application. From 1 August 2006, it was significantly widened to cover the whole of income tax, corporation tax and capital gains tax; to stamp duty land

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tax on high value transactions from 2005; to National Insurance Contributions from May 1, 2007; to inheritance tax ("IHT") (in relation to the settlement entry charge) from April 6, 2011; and to the annual tax on enveloped dwellings from November 4, 2013.

7. DOTAS operates by creating a requirement to disclose where the conditions in section 306 FA 2004 are met:

   306 Meaning of "notifiable arrangements" and "notifiable proposal"

   (1) In this Part *"notifiable arrangements"* means any arrangements which—

   (a) fall within any description prescribed by the Treasury by regulations,

   (b) enable, or might be expected to enable, any person to obtain an advantage in relation to any tax that is so prescribed in relation to arrangements of that description, and

   (c) are such that the main benefit, or one of the main benefits, that might be expected to arise from the arrangements is the obtaining of that advantage.

   (2) In this Part *"notifiable proposal"* means a proposal for arrangements which, if entered into, would be notifiable arrangements (whether the proposal relates to a particular person or to any person who may seek to take advantage of it).

8. Sections 308, 309 and 310 FA 2004 require certain persons to provide information to HMRC about schemes falling within a hallmark. It will usually fall on the person within the meaning of "promoter" who must explain how the scheme works within a very limited time frame.

Inheritance Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2017/1172

9. On 29 November 2017, the Treasury made the Inheritance Tax Avoidance Schemes (Prescribed Descriptions of Arrangements Regulations 2017 (SI 2017/1172) ("**the 2017 Regulations**").

What are they?

10. The 2017 Regulations revoke and replace the original IHT regulations for DOTAS, the Inheritance Tax Avoidance Schemes (Prescribed Description of Arrangements) Regulations 2011 ("**the 2011 Regulations**").

What is the background to the 2017 Regulations?

11. On 31 July 2014, the government published a consultation document ("Strengthening the Tax Avoidance Disclosure Regimes"). The consultation contained a number of proposals to strengthen DOTAS, including extending the IHT hallmark to other types of IHT arrangements.

12. On 16 July 2015, the government published draft regulations for a technical consultation. The responses to the consultation indicated that the draft hallmark was too wide and risked catching ordinary tax planning arrangements which the government had stated they had specifically sought not to include.

13. On 20 April 2016, the government published a further draft of the regulations. The general response to this was still that the proposed hallmark was too widely drawn and would catch ordinary IHT planning.

14. The consultation closed on 13 July 2016. Whilst the 2017 Regulations have now been made and will come into force, the government has yet to publish the summary of responses to the most recent consultation.

What arrangements are currently caught?

15. IHT was originally brought into DOTAS with effect from 6 April 2011 to detect a specific type of IHT avoidance involving the use of trusts. The current hallmark is found in regulation 2(2) of the 2011 Regulations:

    (2) Arrangements are prescribed if —

    (a) as a result of any element of the arrangements property becomes relevant property; and

    (b) a main benefit of the arrangements is that an advantage is obtained in relation to a relevant property entry charge.

16. It is only so-called "new" schemes which are caught. Regulation 3 of the 2011 Regulations excludes arrangements that are the same or substantially the same as arrangements from before 6th April 2011:

    3. Arrangements are excepted from disclosure under these Regulations if they are of the same, or substantially the same, description as arrangements—

(a) which were first made available for implementation before 6th April 2011; or

(b) in relation to which the date of any transaction forming part of the arrangements falls before 6th April 2011; or

(c) in relation to which a promoter first made a firm approach [1] to another person before 6th April 2011.

17. According to HMRC guidance, evidence of grandfathering would include (see 13.6 of the HMRC DOTAS Guidance):

    the existence and substance of the arrangement being clearly described in tax manuals or publications
    the production of an affidavit where evidence that the grandfathering rule applies is subject to legal professional privilege
    a practitioner's own record as to when they made, or learnt that competitors were making, an arrangement available

18. HMRC also provides a list of the schemes which they consider are currently grandfathered at paragraph 13.7 of the DOTAS Guidance as well as examples of arrangements which are not exempt (see paragraph 13.8). This may change under the new regulations so watch out for the guidance.

19. There were very few disclosures under this hallmark because: the hallmark is narrow in scope; and many schemes are substantially the same as schemes first used before April 2011 so do not have not be disclosed.

What arrangements will be caught going forward?

20. Regulation 4 provides for what will be caught going forward. Arrangements fall within the description in the regulation if it would be reasonable to expect an informed observer (having studied the arrangements and having regard to all relevant circumstances) to conclude that condition 1 and condition 2 are met (regulation 4(1) of the 2017 Regulations).

21. Condition 1 sets out four different hallmarks. The main purpose or one of the main purposes of the arrangements is to enable a person to obtain one or more of the following tax advantages (regulation 4(2) of the 2017 Regulations):

    a. the avoidance or reduction of a relevant property entry charge.

This is an amended version of the existing IHT hallmark.

b. the avoidance or reduction of a charge to inheritance tax under section 64, 65, 72 or 94 of IHTA 1984;
   Section 64 is the ten-yearly charge.
   Section 65 is the exit charge.
   Section 72 is the exit charge from certain employee benefit trusts and newspaper trusts.
   Section 94 is the charge on participators (transfers of value by close companies).

c. the avoidance or reduction of a charge to inheritance tax arising from the application of section 102, 102ZA, 102A or 102B of the Finance Act 1986 in circumstances where there is also no charge to income tax under Schedule 15 to the Finance Act 2004 (charge to income tax on benefits received by former owner of property);
   This brings gifts with reservation where there is also not a pre-owned asset tax charge into DOTAS.

d. a reduction in the value of a person's estate without giving rise to a chargeable transfer or potentially exempt transfer.
   This would include planning undertaken to reduce the value of an estate on death.

22. In addition, to coming within one of the hallmarks, condition 2 must also be satisfied. Condition 2 is that the arrangements involve one or more contrived or abnormal steps without which the tax advantage could not be obtained.

23. There is no legislative definition of "contrived or abnormal". The current DOTAS Guidance suggests that "contrived or abnormal" takes its "normal" meaning.

Are there any carve-outs?

24. Regulation 5 excepts certain arrangements from being prescribed

    5. (1) Arrangements are excepted from being prescribed under regulation 3 if they—

    (a) implement a proposal which has been implemented by related arrangements; and

(b) are substantially the same as the related arrangements.

(2) In this regulation “related arrangements” means arrangements which—

(a) were entered into before 1st April 2018; and

(b) at the time they were entered into, accorded with established practice of which HMRC had indicated their acceptance.

25. This is the new grandfathering provision. Throughout the consultation it did not appear that there would necessarily be a grandfathering provision, so this is a welcome development. In the draft regulations, instead of a grandfathering provision, there was a schedule listing certain arrangements which were acceptable.

26. Precisely what is meant by 5(2)(b), however, is unclear. Hopefully this will be clarified in the guidance.

When do they take effect?

27. This is the most important and helpful aspect of the 2017 Regulations. They take effect from 1 April 2018.

28. Regulation 1(2) provides:

(2) These Regulations do not have effect—

(a) for the purposes of section 308(1) of the Finance Act 2004 (duties of promoter relating to any notifiable proposal), if the relevant date falls before 1st April 2018;

(b) for the purposes of section 308(3) of the Finance Act 2004 (duties of promoter relating to any notifiable arrangements), if the date on which the promoter first becomes aware of any transaction forming part of notifiable arrangements falls before 1st April 2018;

(c) for the purposes of section 309(1) of the Finance Act 2004 (duty of person dealing with promoter outside the United Kingdom), and of section 310 of that Act (duty of parties to notifiable arrangements not involving promoter), if the date on which any transaction forming part of notifiable arrangements is entered into falls before 1st April 2018.

What can be done?

29. Plan ahead by planning now.

30. Keep an eye out for an update to the guidance.

Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) (Amendment) Regulations (SI 2016/99)

31. The Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) (Amendment) Regulations (SI 2016/99) were introduced as part of a series of measures to strengthen the hallmarks describing schemes which must be disclosed.

Inheritance Tax

32. Regulation 6 (description 1: confidentiality in cases involving a promoter) and regulation 8 (description 3: premium fee) of the Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2006 (SI 2006/1543) were expanded to include IHT from 23 February 2016.

Standardised tax products

33. Description 5: standardised tax products is prescribed by regulations 10 and 11 of the Tax Avoidance Schemes (Prescribed Descriptions of Arrangements) Regulations 2006 (SI 2006/1543). This hallmark was strengthened with effect from 23 February 2016 by SI 2016/99.

34. The changes made to the standardised tax products hallmark were to ensure that promoters could no longer argue that small changes to documentation, to a sequence of transactions or the way in which a product is described make the product non-standardised.

35. In addition to that, the grandfathering provision was removed which had previously exempted schemes from disclosure if the same or a substantially similar scheme was made available by any person before the hallmark was introduced.

36. Description 5 now reads as follows:

    10.— Description 5: standardised tax products

    (1) Subject to regulation 11, arrangements are prescribed if a promoter makes the arrangements available for implementation by more than one person and the conditions in paragraph (2) are met.

    (2) The conditions are that an informed observer (having studied the arrangements and having regard to all relevant circumstances) could reasonably be expected to conclude that—

(a) the arrangements have standardised, or substantially standardised, documentation—

(i) the purpose of which is to enable a person to implement the arrangements;

(ii) the form of which is determined by the promoter; and

(iii) the substance of which does not need to be tailored, to any material extent, to enable a person to implement the arrangements;

(b) a person implementing the arrangements must enter into a specific transaction or series of specific transactions;

(c) the transaction or series of transactions is standardised, or substantially standardised, in form; and

(d) either the main purpose of the arrangements is to enable a person to obtain a tax advantage or the arrangements would be unlikely to be entered into but for the expectation of obtaining a tax advantage.

11.— Arrangements excepted from Description 5

…

(2) The following arrangements are excepted from being prescribed under regulation 10 —

(a) arrangements which consist solely of one or more plant or machinery leases;

(b) an enterprise investment scheme (Part 5 of ITA 2007 and Schedule 5B to TCGA 1992);

(c) arrangements using a venture capital trust (see Part 6 of ITA 2007 and Schedule 5C to TCGA 1992);

(d) arrangements qualifying under the corporate venturing scheme (see Schedule 15 to the Finance Act 2000);

(e) arrangements qualifying for community investment tax relief (see Schedules 16 and 17 to the Finance Act 2002);

(f) an account which satisfies the conditions in the Individual Savings Account Regulations 1998;

(g) an approved share incentive plan (see Chapter 6 of Part 7 of, and Schedule 2 to, ITEPA 2003);

(h) an approved share option scheme (see Chapter 7 of Part 7 of, and Schedule 3 to, ITEPA 2003);

(i) an approved CSOP scheme (see Chapter 8 of Part of, and Schedule 4 to, ITEPA 2003);

(j) the grant of one or more qualifying options which meet the requirements of Schedule 5 to ITEPA 2003 (enterprise management incentives)—

(i) together only with such other steps as are reasonably necessary in all the circumstances for the purposes of facilitating it, or

(ii) which fall to be notified to the Board in accordance with Part 7 of that Schedule;

(k) a registered pension scheme (see section 150(2) of FA 2004);

(l) an overseas pension scheme in respect of which tax relief is granted in the United Kingdom under section 615 of ICTA 1988 (exemption from tax for superannuation payments in respect of persons not resident in the United Kingdom or in respect of trades carried on wholly or partly outside the United Kingdom);

(m) a pension scheme which is a relevant non-UK pension scheme within the meaning given by paragraph 1(5) of Schedule 34 to FA 2004;

(n) a scheme to which section 731 of ITTOIA 2005 applies (periodical payments of personal injury damages);

(o) arrangements which would be prescribed by regulation 19 but for regulation 21.

Description: Loss schemes

37. Changes to the loss schemes hallmark were made to prevent promoters from arguing that the projection of a theoretical profit at some point in the distant future means they are not required to disclose the scheme.

38. Regulation 12 is updated as follows:

(b) an informed observer (having studied the arrangements and having regard to all relevant circumstances) could reasonably be expected to conclude that—

(i) the main benefit or one of the main benefits which could be expected to accrue to some or all of the individuals participating in the arrangements is the provision of losses, and

(ii) the arrangements (including the way they are structured) contain an element which is, or elements which are, unlikely to have been entered into by the individuals concerned were it not for the provision of those losses, and

(iii) those individuals would be expected to use those losses to reduce their liability to income tax or capital gains tax.

New Description 9: Financial products

39. The new financial products hallmark was introduced to catch schemes using financial products where there is a direct link between the financial product and the gaining of the tax advantage.

40. To come within this hallmark, condition 1 must be met and it would be reasonable to expect an informed observer (having studied the arrangements and having regard to all relevant circumstances) to conclude that—

    (i) condition 2 is met, and

    (ii) either condition 3 or condition 4 is met.

41. Condition 1 is that the arrangements include at least one financial product specified in regulation 20(1) (a "specified financial product"). Those specified financial products are as follows:

    (a) a loan,

    (b) a share,

    (c) a derivative contract within the meaning given by section 576 of CTA 2009,

    (d) a repo in respect of securities within the meaning given by section 263A(A1) of TCGA 1992,

    (e) a creditor repo, creditor quasi-repo, debtor repo or a debtor quasi-repo (within the meanings given by sections 543, 544, 548 and 549 of CTA 2009 respectively),

    (f) a stock lending arrangement within the meaning given by section 263B(1) of TCGA 1992,

    (g) an alternative finance arrangement within Chapter 6 of Part 6 of CTA 2009 or Part 10A of ITA 2007,

    (h) a contract which, whether alone or in combination with one or more other contracts—

        (i) is in accordance with generally accepted accounting practice required to be treated as a loan, deposit or other financial asset or obligation, or

        (ii) would be required to be so treated by the person entering into the arrangements were that person a company to which the Companies Act 2006 applies.

42. Condition 2 is that the main benefit, or one of the main benefits, of including a specified financial product in the arrangements is to give rise to a tax advantage.

43. Either of the following conditions must also be met:

    a. Condition 3 is that a specified financial product included in the arrangements contains at least one term which is unlikely to have been entered into by the persons concerned were it not for the tax advantage.

b. Condition 4 is that the arrangements involve one or more contrived or abnormal steps without which the tax advantage could not be obtained.

44. For the purposes of this regulation condition 3 is treated as not having been met if:

(a) the specified financial product includes a term requiring that it is held for a minimum period of time before it is redeemed and—

(i) section 135 or 136 of TCGA 1992 applies to the specified financial product, and

(ii) condition 3 is met only by virtue of that term; or

(b) the specified financial product includes a term whereby the issuing company can secure that the date for redemption falls before the end of the permitted period and—

(i) but for that term, the specified financial product would be an equity note, and

(ii) condition 3 is met only by virtue of that term.

45. The meaning of "contrived or abnormal" is qualified by subsection 8:

(8) For the purposes of condition 4 a step is not to be treated as being contrived or abnormal if—

(a) that step involves only the transfer of an asset to which the condition in paragraph 15A(2)(b) of Schedule 7AC to TCGA 1992 applies; or

(b) that step involves only the issue of shares and—

(i) that step is taken to eliminate or substantially reduce the economic risk of holding a loan relationship or a derivative contract, or part of such a loan relationship or a derivative contract, which is attributable to fluctuations in exchange rates, and

(ii) the shares are treated for accounting purposes as a liability of the company in accordance with generally accepted accounting practice.

46. Certain arrangements are excepted from the financial products hallmark:

21. Arrangements are excepted from being prescribed under regulation 19 if—

(a) a promoter is a participating entity, or is part of a participating group, within the meaning of section 286 of the Finance Act 2014; and

(b) HMRC has confirmed, or could reasonably be expected to confirm, to the promoter that the arrangements are acceptable transactions under the Code of Practice on Taxation for Banks (as published by the Commissioners for Her Majesty's Revenue and Customs on 31st May 2013).

When did they take effect?

47. It is important to take note as to when these specific regulations take effect.

(2) These Regulations do not have effect—

(a) for the purposes of section 308(1) of the Finance Act 2004 (duties of promoter relating to any notifiable proposal), if the relevant date falls before 23rd February 2016;

(b) for the purposes of section 308(3) of the Finance Act 2004 (duties of promoter relating to any notifiable arrangements), if the date on which the promoter first becomes aware of any transaction forming part of notifiable arrangements falls before 23rd February 2016;

(c) for the purposes of section 309(1) of the Finance Act 2004 (duty of person dealing with promoter outside United Kingdom), and of section 310 of that Act (duty of parties to notifiable arrangements not involving promoter), if the date on which any transaction forming part of notifiable arrangements is entered into falls before 23rd February 2016.

Applications under section 306A / 314A FA 2004

48. Sections 306A and 314A FA 2004 were introduced in section 108 of the Finance Act 2007. They are some of a number of powers which were made available to HMRC where they suspect that a person is the promoter of a notifiable proposal or notifiable arrangements which have not been fully disclosed.

49. HMRC considered that the new powers were necessary because there was evidence that a significant minority of promoters were failing to comply with their obligations under the disclosure regime.

50. Whilst HMRC have had these powers at their disposal for many years they only appear to have been scarcely used until relatively recently. It seems that HMRC's general approach to these applications is to try to get an order under section 314A and in the alternative under section 306A.

Section 306A FA 2004

What power is contained in section 306A FA 2004?

51. Under section 306A, HMRC may apply to the tribunal for an order that a scheme is to be treated as notifiable. The tribunal may only make the order if they are satisfied that HMRC have taken all reasonable steps to establish whether the scheme is notifiable and have reasonable grounds for suspecting that the scheme may be notifiable.

52. As compared with their powers under section 314A, section 306A is a bit easier for HMRC. Section 306A seems to go beyond a basic enforcement mechanism, and in effect expands the scope of the disclosure regime. This is because it can make promoters subject to the disclosure regime not only where they actually fall within DOTAS but also where HMRC reasonably suspect that they do.

53. Under section 306A, HMRC may apply to the tribunal for an order that
    a. A proposal <u>is to be treated</u> as notifiable; or
    b. Arrangements <u>are to be treated</u> as notifiable.

What information must an application contain?

54. Section 306A(2) FA 2004 provides that an application must specify the following:
    a. the proposal or arrangements in respect of which the order is sought, and
    b. the promoter.

When may a tribunal make an order?

55. Following section 306A(3), a tribunal may only make the order if it is satisfied that HMRC:
    a. have taken all reasonable steps to establish whether the proposal or arrangements are notifiable, and
    b. have reasonable grounds for suspecting that the proposal or arrangements may be notifiable.

56. Under subsection 4, reasonable steps may (but need not) include taking action under section 313A or 313B. Sections 313A and 313B are themselves part of the measures introduced by Finance Act 2007.

57. Section 313A is the power of HMRC to make a pre-disclosure enquiry which requires the person to explain whether in their opinion a proposal or arrangement is notifiable and if not, the reasons for their opinion.

58. Section 313B enables HMRC to obtain supporting information if a person provides a statement as to why a proposal or an arrangement is not notifiable.

59. Subsection 5 provides example of what grounds for suspicion may include:

a. the fact that the relevant arrangements fall within a description prescribed under section 306(1)(a);
b. an attempt by the promoter to avoid or delay providing information or documents about the proposal or arrangements under or by virtue of section 313A or 313B;
c. the promoter's failure to comply with a requirement under or by virtue of section 313A or 313B in relation to another proposal or other arrangements.

What is the consequence of the order?

60. Under subsection 6, where an order is made under section 306A the prescribed period, being the period within which a promoter must provide prescribed information for the purposes of section 308(1) or (3) in so far as it applies by virtue of the order
    a. shall begin after a date prescribed for the purpose, and
    b. may be of a different length than the prescribed period for the purpose of other applications of section 308(1) or (3).

61. Further, under subsection 7, an order under section 306A in relation to a proposal or arrangements is without prejudice to the possible application of section 308, other than by virtue of this section, to the proposal or arrangements.

Penalties?

62. Where a penalty is imposed under section 98C(1) of the Taxes Management Act 1970 (“TMA 1970”) following the making of an order under section 306A FA 2004, the amount specified in section 98C(1)(b) TMA 1970 (the daily penalty) is increased to £5,000 (regulation 3 of the Tax Avoidance Schemes (Penalty) Regulations 2007 (SI 2007/3104)).

63. If it becomes apparent that a scheme was disclosable the whole time under section 306 FA 2004, and that it should have therefore been disclosed before the tribunal made its order under section 306A, then HMRC may apply to the tribunal to backdate the penalty.

What can be done?

64. In the event that there are concerns that an order under section 306A may be forthcoming, then it may better to avoid being obstructive. If all of the information

which HMRC require has been provided to them, then it may be more difficult for HMRC to convince a tribunal to make the order.

65. The approach that the tribunal will take in each application is relatively untested. That being said, Colin Bishopp comments on section 306A FA 2004 in *HMRC v Root2tax* [2017] UKFTT 0696:

> ***The alternative application***
> *49 I do not need to deal with this application, but will nevertheless make some comments in case I am found elsewhere to have fallen into error in respect of the preferred application. As I have said, the test is different, but the only real point of contention is whether, as s 306A(3) puts it, HMRC 'have taken all reasonable steps to establish whether the proposal or arrangements are notifiable' and 'have reasonable grounds for suspecting that the proposal or arrangements may be notifiable'. It is clear from my earlier findings of fact that the second limb of that test is satisfied, and I do not need to say any more about it.*
> *50 It was plain both from his witness statement and oral evidence and from the correspondence that Mr Hole and his colleagues had attempted to engage with the respondents and their agents in order to ascertain what the arrangements were, how they were implemented, who had taken advantage of them, and with what result. I formed the impression that Mr Hole had been very patient in the face of an unwillingness to be forthcoming; it would be unfair to describe the responses he received as stonewalling, but they can only be considered to represent an attempt to deflect him. I am left in no doubt that HMRC have taken all the reasonable steps contemplated by s 306A(3) and, had I not made the preferred order, I would make the alternative order.*

<u>Section 314A FA 2004</u>

66. Section 314A FA 2004 enables HMRC to apply to the tribunal for an order that a scheme is notifiable.

67. A key factor that is helpful for individuals who find themselves responding to an application under this section is that the burden of proof is on HMRC to show that the scheme is notifiable and that the defendant is a promoter.

68. This means that there can be multiple lines of defence in these cases.

What Order can be made?

69. The order that is made under section 314A is that either:

    a. a proposal is notifiable; or

b. arrangements are notifiable.

70. Notice the difference between 306A and 314A – under 306A, the arrangements are *treated as* notifiable.

What must the application by HMRC contain?

71. Under subsection 2, the application must specify both:
    a. The proposal or arrangements in respect of which the order is sought, and
    b. The promoter.

What must HMRC prove for the application to be successful?

72. Under subsection 3, the tribunal may make the order only if satisfied that section 306(1)(a) to (c) applies to the relevant arrangements.

73. The approach that was adopted by Colin Bishopp in *HMRC v Root2tax* [2017] UKFTT 0696 was a thorough examination of whether or not the transaction is notifiable. This puts a large burden on HMRC as it was only once Colin Bishopp was satisfied that all of the conditions were met did he make the preferred order

Penalty?

74. If a penalty is imposed under section 98C(1) TMA 1970 after the making of an order under section 314A FA 2004, then the amount specified in 98C(1)(B) TMA 1970 section 98C(1)(B) is increased to £5000 / day.

What to do?

75. Show that the particular arrangements or proposal are not in fact notifiable. Important for Accelerated Payment Notices purposes.

76. Other ways to defend?