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What's next for the general anti-avoidance rule in Canada

Partner and lead of Torsys' Tax Controversy and Litigation practice [Martha MacDonald](#) authored the lead article in the March 2024 issue of Canadian Tax Foundation's Perspectives on Tax Law and Policy newsletter.

In the article titled "[GAAR in 2024 and Beyond](#)", Martha explored the general anti-avoidance rule (GAAR) and takes a look at its history, recent developments and what you can expect to see in its future.

An excerpt from the article is below.

It's not unusual for Parliament, before reviewing and significantly amending a new legislative regime, to give the courts some time to interpret the regime. GAAR has just arrived at that point.

Following GAAR's enactment in the late 1980s, it took several years for the first GAAR cases to be decided, and over 15 years passed before the first SCC GAAR case (*Canada Trustco Mortgage Co. v. Canada*, 2005 SCC 54). To date, almost 500 judicial decisions have considered GAAR, including six SCC decisions that have pronounced on it. Although the Crown won about half of these cases (including more than half of the SCC cases), the government expressed concern in its 2022 consultation paper (Modernizing and Strengthening the General Anti-Avoidance Rule) that GAAR required changes "so that it better meets its objective of preventing abusive tax avoidance".

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