

Your manager has had a meeting with Bryce, the managing director of Grand Ltd. Extracts from the email prepared by your manager following the meeting, together with a schedule of information from Bryce, are set out below.

Extract from the email from your manager – dated 3 September 2018

Tax evasion and tax avoidance

Bryce and his daughter (who is a tax expert in the field of capital allowances) have drawn up a plan which they claim will enable a company to claim a tax deduction of 180% of the cost of new machinery. The plan is complicated in that it involves the creation of a new, wholly-owned subsidiary and a series of contracts involving the leasing and sub-leasing of the machinery between the two companies.

I have not looked at the plan in detail because, even if it would appear to have the intended tax effect, I am sure that it would fall within the general anti-abuse rule (GAAR).

Please prepare notes which:

- Distinguish between tax evasion and tax avoidance and state the purpose of the GAAR.
- Explain why the GAAR is likely to apply to this particular plan

Tax manager

Schedule of information from Bryce – dated 3 September 2018

Colca Ltd – details of assets

Colca Ltd uses both the Oribi and Atuel buildings in its trade.

	Oribi building	Atuel building	Machinery
Date of purchase	1 February 2012	1 April 2016	N/A
Purchase cost	£320,000 (note 1)	£255,000 (note 2)	(note 3)
Value added tax option to tax made?	No	No	N/A

Notes

1. On 1 December 2011, Colca Ltd sold a machine for £74,000 resulting in a chargeable gain of £17,000. This gain was rolled over against the purchase of the Oribi building.
2. Colca Ltd purchased the Atuel building from Sautso Ltd for £255,000, its market value at that time. As Colca Ltd and Sautso Ltd are both 100% subsidiaries of Grand Ltd, the transfer of the building took place at no gain, no loss.
Sautso Ltd had purchased the Atuel building, new and unused, for £340,000 on 1 January 2016.
3. All of the items of machinery are moveable. The sale of the machinery will give rise to a balancing charge of £12,100.

Most of the items of machinery are worth less than their original cost. However, a small number of items are particularly specialised, such that their current market value exceeds their original cost.

Required:

(b) Tax evasion and tax avoidance. (5 marks)

Professional marks will be awarded for the approach taken to problem solving, the clarity of the explanations and calculations, the effectiveness with which the information is communicated, and the overall presentation and style of the memorandum and notes. (4 marks)

Note: The following indexation factors should be used, where necessary.

November 2011 to December 2018	0·128
February 2012 to December 2018	0·121
January 2016 to April 2016	0·010
January 2016 to December 2018	0·039
April 2016 to December 2018	0·029