Introduction

A new wave of reporting rules is becoming effective in the European Union on 1 July 2020 with retroactive effect to 25 June 2018.

These new requirements were introduced by the last amendments to the EU Directive on Administrative Cooperation in the field of taxation, commonly known as DAC 6.

Disclosure will soon be required for all cross-border arrangements/structures meeting the criteria and hallmarks mentioned by DAC 6. Although the implementation deadline of 31 December 2019 has passed, only 20 countries have implemented these rules into their domestic legislation and 7 countries (including Luxembourg) are still at the stage of the draft law. Greece had not yet unveiled its proposal to introduce the DAC 6 package into its landscape.

The European Commission has sent formal notices on 24 January 2020 to Belgium, Cyprus, Czech Republic, Estonia, France, Greece, Italy, Latvia, Luxembourg, Poland, Portugal, Romania, Spain, Sweden and the United Kingdom regarding the implementation of DAC 6. If these countries do not follow up on the formal notices within the next 2 months, the Commission will issue a reasoned opinion. There is, however, no information available that would reveal which aspects of the implementation of DAC 6 the Commission is not satisfied with specifically.

Recent developments

**European Union**
The European Commission published on 12th February 2020 a proposal for the codification of the Council Directives on administrative cooperation in the field of taxation. The full text of the proposal is available here. Annexes can be accessed in a separate document.

**France**
The Tax Authorities launched a public consultation from 9 March to 30 April 2020 on the ordinance that implemented the DAC 6 requirements into its domestic legislation.

**Gibraltar**
On 30th January 2020, the Government of Gibraltar published the Income Tax (Amendment) Regulations 2020 in order to implement into its domestic legislation mandatory disclosures rules about cross-border arrangements. These rules are broadly aligned to the DAC 6 requirements.

**Ireland**
The Irish Revenue Commission updated on 4th February 2020 its guidelines related to the main purpose tests in order to include reference to the EU mandatory disclosure regime (DAC 6).

**Isle of Man**
The Parliament passed on 10th December 2019 the legislation to implement mandatory disclosure rules for common reporting standard avoidance arrangements and opaque offshore structures. It requires disclosure within six months of entry into force of the regulations for arrangements and structures implemented between 29th October 2014 and the entry into force date of the these regulations, if their value exceeds $1 million.

**Italy**
The Council of Ministers published on 29th January 2020 a revised version of the draft legislation related to the implementation of DAC 6. The new version aligns the reporting period to the dates defined by the DAC 6. An explanatory memorandum of the current draft legislation can be accessed here.

**Latvia**
The Latvian Official Gazette published on 5 March the law implementing the directive on the mandatory automatic exchange of information in tax matters relating to cross-border arrangements.

**Luxembourg**
Further to the comments of the State Council and the Luxembourg Bar Association, the draft law implementing the DAC 6 legislation has been amended by the Chamber of Representatives. The new version extends the waiver from reporting information to auditors and accountants (already granted to lawyers) and also remove from the draft law the requirement to provide basic information to tax authorities by the intermediaries benefiting from the legal privilege. In addition, the Luxembourg Government also approved a Grand Ducal Decree aimed at dealing with the filing process with the Tax Administration and the Chamber of Commerce already issued an opinion on the revised version of the draft law. The State of Council issued on 10 March its opinion on the revised version of the draft law. It is expected that the Chamber of Representatives approve the DAC 6 legislation during the third week of March.

**Mexico**
The government introduced mandatory disclosure rules in order to prevent aggressive tax planning. The new article 199 of the Federal Fiscal Code provides 14 hallmarks that trigger reporting to the Tax Administration service. These rules apply from 1st January
2021 and include the oldest reporting schemes where the tax benefit is obtained on or after 1st January 2020.

**Netherlands**
The Dutch Tax Administration posted on 17th January 2020 an FAQ related the implementation of DAC 6. The topics covered include:

01. The requirements for intermediaries and taxpayers to disclose and report cross-border tax arrangement information;
02. The exceptions from the disclosure requirements for intermediaries;
03. The conditions that require taxpayers to report their own potentially tax-evasive arrangements;
04. The deadlines for reporting tax-evasive international arrangements;
05. The taxes to which DAC6 applies;
06. The reporting procedures for cross-border arrangements;
07. The penalties.

**Poland**
On 5th February 2020, the Council of Ministers submitted to the parliament a bill including various tax measures. The proposal aimed notably at completing the implementation of DAC 6 with regard to the reporting rules. It introduces a distinction in the way to report domestic and cross-border arrangements. Once adopted, the measures should be in force as from 1st April 2020.

**Portugal**
The Portuguese Government published on 31st January 2020 a revised draft legislation implementing DAC 6. Contrary to the first draft that only subjected to consulation, the revised legislation will be now be subject to the formal legislative process. The current draft legislation does not grant the legal professional privilege reporting waiver. It creates a subsidiary system where an intermediary, which may be subject to a legal professional privilege, has to notify the reporting requirement to the taxpayer who has to present to this intermediary the proof that they fulfilled the reporting obligation. Otherwise, the intermediary bearing the legal privilege has the requirement to report the arrangement to the tax authorities.

**Romania**
The Romanian Official Gazette published on 31st January 2020 an ordinance implementing the EU directive on cross-border arrangements.

**Sweden**
The draft law for the implementation of DAC 6 on reportable was submitted on 4th February 2020 to the Swedish Parliament. The proposal is in line with the draft presented by the Ministry of Finance in December 2019.

**United Kingdom**
The UK Government laid the legislation addressing the implementation of DAC 6 before Parliament and sent a formal notice to the European Commission as regards the implementation of DAC 6. The UK legislation will enter into force on 1st July 2020 and will be effective from this date. An explanatory memorandum has been published with the regulations. As well as the final regulations, a summary of responses to the consultation launched last year has been published by HMRC.

### Local specificities

**Estonia**
Includes additional hallmarks regarding arrangements affecting the exchange of information on financial accounts included in the implementing law.

**France**
The French legislation exempts permanent establishments of French intermediaries located outside France from the reporting requirement when the arrangement is related to their activity.

**Germany**
Whereas the Directive makes a distinction between promoters and service providers giving aid, assistance or advice, the bill provides currently no specific reference to the service provider. If an intermediary has a German nexus, it will trigger a reporting obligation in Germany regardless of the relevant taxpayer's residence and where the tax advantage arises.

**Italy**
Italian PIs for CRS purposes will be considered as intermediaries.

**Poland**
Included broadened disclosure requirements including domestic arrangements and all taxes. Hallmarks are defined much broader than DAC6 standards require. A guidance published on 31st January 2019 provides some clarity on the interpretation of the Polish legislation and sets out how the tax authorities anticipate the reporting will operate.

**Portugal**
The proposal includes domestic arrangements and VAT inside its scope as well as additional hallmarks.

**Spain**
Individuals can be also considered as intermediaries according the current proposal

**Sweden**
The proposal includes domestic arrangements inside its scope.

### Useful links
- [Global Tax alert on tax intermediaries directive](#)
- [Luxembourg Tax Alert on the DAC 6 implementation](#)
- [Understanding DAC 6 - EU tax directive 2018/822 and its effects on cross-border tax arrangements](#)

### Previous editions
- [Issue 1 (6 December 2019)](#)
- [Issue 2 (17 January 2020)](#)
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