Introduction

A new wave of reporting rules will be effective in the European Union on 1 July 2020, with retroactive effect to 25 June 2018. These new requirements were introduced by the latest amendments to the EU Directive on Administrative Cooperation in the field of taxation, commonly known as DAC 6.

It will soon be required to disclose all cross-border arrangements/structures meeting the criteria and hallmarks of DAC 6. Although the implementing deadline of 31 December 2019 has already passed, only 21 countries have implemented these rules into their domestic legislation, while 6 countries are still at the implementation drafting stage. Greece has not yet unveiled its proposal to introduce the DAC 6 package into its legislative landscape.

On 24 January 2020, the European Commission sent formal notices 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 these formal notices in the next two months, the Commission should issue a reasoned opinion. However, there is no information published that reveals which aspects of the DAC 6 implementation the Commission is not satisfied with specifically.

On 26 June 2020, a directive amending the DAC 6 rules was published in the Official Journal. It provides Member States with an option to defer the time limits for filing and exchanging the following information by up to six months:

01. automatic exchanges of information on financial accounts of which the beneficiaries are tax residents in another Member State; and
02. reportable cross-border tax planning arrangements. Depending on how the COVID-19 pandemic evolves, the amended directive also allows the Council to extend the deferral period once for a maximum of three months.
## Recent developments

**Belgium**
On 3 June, the Belgian Federal Public Service-Finance announced the following extensions of the DAC 6 reporting deadlines:

01. deadline extension to 28 February 2021 for arrangements reportable between 25 June 2018 and 30 June 2020; and
02. the 30-day time limit for reporting will begin on 1 January 2021, for arrangements reportable by parties or intermediaries between 1 July 2020 and 31 December 2020.

In addition, they published a webpage dedicated to the XML tool. A Royal Decree related to the penalties for non-compliance with the DAC 6 reporting obligations has been published in the Official Gazette. On 26 June, the Federal Public Service-Finance announced the publication of a FAQ related to DAC 6.

**Croatia**
On 18 June, the Tax Administration announced that deadlines for the submission of information on financial accounts (CRS) have been extended until 30 September 2020, and the reporting obligation for cross-border structures (DAC 6) will take effect on 1 January 2021 instead of 1 July 2020.

**Czech Republic**
The Czech Financial Administration has announced that, due to delays in transposing the DAC 6 cross-border arrangement reporting requirements and the impact of COVID-19, it expects that the reporting requirements will not apply from 1 July 2020 as originally intended. The announcement also notes the optional six-month extension at the EU level, which has since been approved.

**Denmark**
The Executive Order (BEK) No. 1049 of 29 June 2020 extended by 6 months the reporting deadline for DAC 6.

**Finland**
On 18 June, the Finnish Ministry of Finance announced that it will not postpone the DAC 6 reporting deadlines. On 22 June, the Finnish Tax Authorities published some English-language guidelines on the reporting.

**France**
On 25 June, the French government submitted a draft law to the parliament amending the DAC 6 legislation. The proposal will clarify the existing rules and endorse a six-month extension of the reporting deadlines.

**Hungary**
The Hungarian National Assembly is currently reviewing a draft law that includes a provision amending the DAC 6 legislation. § 91 of this proposal should extend the DAC 6 reporting deadlines by six months.

**Ireland**
On 4 June, the Irish Revenue confirmed the delay of reporting requirements for CRS, DAC 6 and FATCA. The DAC 6 filing portal will be open from 1 January 2021.

**Latvia**
On 29 June, the Latvian Ministry for Finance announced that they will trigger the optional six-month deferral of reporting on cross-border arrangements (DAC 6) and provide a three-month deferral for financial account reporting (CRS).

**Luxembourg**
On 4 June, the Luxembourg Ministry of Finance announced the deadline extension and the postponement of two directives on administrative cooperation due to the COVID-19 pandemic. The announcement includes:

01. a six-month postponement for reporting certain cross-border tax arrangements under DAC 6; and
02. a three-month deadline extension for the exchange of financial account information (CRS).

On 22 June, the Luxembourg Tax Authorities also issued a newsletter related to the extension of the reporting deadlines.

**Netherlands**
On 26 June 2020, the Dutch Tax Authorities announced that the reporting obligation for cross-border structures (DAC 6) will take effect on 1 January 2021 instead of 1 July 2020 due to the consequences of the COVID-19 pandemic. Further to this decision, the Dutch Tax Administration, updated on 1 July their FAQs related to the implementation of DAC 6. On 30 June, guidance was published in the Staatscourant—notably using examples to describe the hallmarks and the main benefit test as well as the notion of intermediary.

**Poland**
On 18 June, the Polish Senate adopted a bill implementing the rules related to hybrid mismatches with third countries (ATAD II) and completing the transposition of the DAC 6 rules in its domestic legislation. The law was published on 25 June in the Official Gazette.

**Portugal**
On 19 June, the Portuguese parliament passed Decree No. 30/XIV implementing the EU directive on the mandatory automatic exchange of information for cross-border tax arrangements. The law will enter into force the day after its publication.

**Sweden**
On 5 June, the law implementing the EU directive on the mandatory automatic exchange of information for reportable cross-border arrangements (DAC 6) has been published in the Swedish Official Gazette. The Swedish tax administration has updated its guidance regarding the DAC 6 reporting obligations. The guidance addresses the following issues:

01. the purpose of the new legislation;
02. which arrangements need to be reported;
03. who needs to report the information;
04. what information needs to be provided and
05. when and in what form the information needs to be submitted to the Swedish tax administration.


**United Kingdom**
On 16 June, HMRC published guidance related to the six-month deferral of reporting deadlines for DAC 6.
Local specificities

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

**Germany**
Whereas the Directive distinguishes between promoters and service providers giving aid, assistance or advice, currently the German bill does not specifically reference 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 financial institutions will be considered as intermediaries for CRS purposes.

**Poland**
Includes broadened disclosure requirements including domestic arrangements and all taxes. Hallmarks are more broadly defined than DAC 6 standards require. Guidance published on 31 January 2019 provides some clarity on the interpretation of the Polish legislation and also sets out how the tax authorities anticipate the reporting process to operate.

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

**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.

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

**Sweden**
The law includes domestic arrangements in its scope.

Useful links

- Global Tax alert on tax intermediaries directive
- Luxembourg Tax Alert on DAC 6 implementation
- Understanding DAC 6 - EU tax directive 2018/822 and its effects on cross-border tax arrangements
- DAC 6 law voted by the Luxembourg parliament

Previous editions

- Issue 1 (6 December 2019)
- Issue 2 (17 January 2020)
- Issue 3 (10 March 2020)
- Issue 4 (20 May 2020)