



DAC6: EU Mandatory Disclosure Regime

New tax transparency initiative increases reporting requirements

The EU is introducing a new regime to increase the level of transparency surrounding potential loopholes and harmful tax practices. With stricter disclosure applicable from June 2018 and entering into force for certain EU countries by mid-2020 (subject to an optional 6 month deferral), this represents one of the most significant changes for tax advisors, service providers and taxpayers in recent years.

The sixth version of the EU Directive on administrative cooperation (DAC6) aims to provide Member States tax authorities with additional information in order to assist them to more rapidly close perceived loopholes in tax legislation and harmful tax practices. Taxpayers and intermediaries entering into or advising on cross border arrangements involving EU jurisdictions will need to monitor where reporting will be required and disclose as necessary.

Who does it affect?

Certain organisations will meet the definition of an EU intermediary, which can include financial institutions that process payments on behalf of customers and financial advisors that provide tax and legal advice. EU intermediaries will have the primary obligation to disclose reportable cross border arrangements (RCBAs) that involve at least one EU Member State, where certain 'hallmarks' are met. Even where organisations do not expect to meet the intermediary definition, they need to closely monitor any RCBAs that they enter into. Firstly, the responsibility for disclosure can fall to the taxpayer, for example, where an advisor is

located outside of the EU, subject to legal professional privilege or the arrangement arises from in-house activity. Secondly, tax authorities may require taxpayers to reference RCBAs on annual returns or answer follow up questions on reported transactions, raising the importance for organisations to record transactions reported by third parties.

Timeline

The directive initially provided a one-off reporting deadline in August 2020 for arrangements implemented between 25 June 2018 and 1 July 2020, with a 30-day rolling window for reporting new arrangements from then onwards. In June 2020, the European Council announced an optional six-month delay to reporting deadlines and exchange of information until the beginning of 2021. Certain member states have opted to implement this delay into domestic law whereas others are maintaining the initial deadline, resulting in differing reporting timelines across the EU. Failure to meet these requirements and deadlines may result in financial penalties and reputational damage.



How can we help?

Deloitte is working closely with tax authorities and industry bodies to track implementation of DAC6 across the EU. There are certain steps that businesses should be planning for now:



Strategy:

Mobilising your business' response to the requirements, discussing policy and raising awareness at board level and establishing a plan for efficient compliance.



Impact assessment:

Identifying transactions or structures potentially affected by the hallmarks and considering where reporting responsibility will reside.



Technology:

Selecting a solution for capturing arrangements that aligns with local requirements, and integrates with reporting.



Training:

Raising awareness within the business through eLearning modules as well as bespoke training programmes.



Monitoring:

Tracking regulatory changes and to make the relevant source information accessible to affected intermediaries and taxpayers.

Technology

Deloitte's web-based solution, **MDR Reporter**, will provide users with a portal through which they will be able to log arrangements, help decision makers to determine reportability and facilitate processors filing reports. The 'capture' phase based on the hallmarks set out in the Directive is available to demonstrate. As Member States publish and finalise their reporting requirements and filing processes these country specific adaptations will be integrated.

Deloitte's MDR Reporter tool is accessed through myInsight, Deloitte's digital platform, a secure online customisable hub which:

- Simplifies navigation between projects;
- Facilitates efficient collaboration and sharing; and
- Visualises workflow and key information on a bespoke dashboard.

MDR Reporter is built using our Enterprise List database solution, designed to:

- Capture relevant information in a structured format;
- Incorporate local jurisdiction knowledge and guidance;
- Enable review and sign-off of entries; and
- Integrate with reporting.

Provided as a hosted solution it allows swift deployment, low set-up and run costs and efficient updates as rules evolve globally.

Secure. Flexible. Integrated.

Contacts

To discuss the implications of DAC6 on your business in more detail please **contact us**.

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