



DAC 6 Country by Country Guide

Now, for tomorrow

Reportable cross-border arrangements (DAC6)

Building on earlier initiatives and directives aimed at creating an environment for fair and transparent taxation, the European Union (EU) has expanded the scope of its Directive on Administrative Co-operation. With the introduction of Council Directive 2018/822 effective 25 May 2018, the EU creates mandatory disclosure rules for intermediaries and taxpayers with respect to potentially aggressive cross-border tax planning arrangements.

This new reporting obligation is expected to play a critical role in the relationship of (tax) advisors and their clients.



This document aims to provide an overview of the general framework of the mandatory reporting rules under DAC6 as well as country specific information.

What arrangements need to be reported?

The directive aims to capture “potentially aggressive cross-border tax planning arrangements”.

Cross-border means that it either concerns an arrangement where one EU member state is concerned or where an EU member state and a third country are involved and at least one of the following conditions is met:

- a) Not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction
- b) One or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction
- c) One or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment
- d) One or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction
- e) Such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

Considering the increased complexity of tax avoidance schemes and the continuous modifications to tax planning structures as a reaction to tax authorities’ countermeasures, the directive defines a number of hallmarks to judge whether an arrangement should be considered as potentially aggressive rather than defining a list of specific targeted arrangements.

Some of these hallmarks result in the arrangement automatically being considered as potentially aggressive, others require that one of the main benefits is obtaining a tax advantage.

A Generic hallmarks linked to the main benefit test

1. The taxpayer or a participant in the arrangement undertakes to comply with a condition of confidentiality which may require them not to disclose how the arrangement could secure a tax advantage vis-à-vis other intermediaries or the tax authorities.
2. The intermediary is entitled to receive a fee that is fixed by reference to the tax advantage.
3. Use of substantially standardised documentation and/or structures made available to different taxpayers without a need to be substantially customised for implementation.

B Specific hallmarks linked to the main benefit test

1. A participant in the arrangement takes contrived steps which consist in acquiring a loss-making company, discontinuing the main activity of such company, and using its losses in order to reduce its tax liability.
2. Converting income into capital, gifts or other categories of revenue which are taxed at a lower level or exempt from tax.
3. Circular transactions resulting in the round-tripping of funds, namely through involving interposed entities without other primary commercial function or transactions that offset or cancel each other or that have other similar features.

C Specific hallmarks related to cross-border transactions (only points 1 b) I., c) and d) linked to main benefit test)

1. Deductible cross-border payments made between two or more associated enterprises where at least one of the following conditions occurs:
 - a) The recipient is not resident for tax purposes in any tax jurisdiction
 - b) Although the recipient is resident for tax purposes in a jurisdiction, that jurisdiction either:
 - I. Does not impose any corporate tax or imposes corporate tax at the rate of zero or almost zero; or
 - II. Is included in a list of third-country jurisdictions which have been assessed by member states collectively or within the framework of the OECD as being non-cooperative.
 - c) The payment benefits from a full exemption from tax in the jurisdiction where the recipient is resident for tax purposes
 - d) The payment benefits from a preferential tax regime in the jurisdiction where the recipient is resident for tax purposes.
2. Deductions for the same depreciation on the asset are claimed in more than one jurisdiction.
3. Relief from double taxation in respect of the same item of income or capital is claimed in more than one jurisdiction.
4. Transfers of assets where there is a material difference in the amount being treated as payable in consideration for the assets in those jurisdictions involved.

D Specific hallmarks concerning automatic exchange of information and beneficial ownership

1. Undermining the reporting obligation under the laws implementing EU legislation or any equivalent agreements on the automatic exchange of financial account information, including agreements with third countries, or which takes advantage of the absence of such legislation or agreements.
2. Non-transparent legal or beneficial ownership chain with the use of persons, legal arrangements or structures:
 - a) That do not carry on a substantive economic activity supported by adequate staff, equipment, assets and premises; and
 - b) That are incorporated, managed, resident, controlled or established in any jurisdiction other than the jurisdiction of residence of one or more of the beneficial owners of the assets held by such persons, legal arrangements or structures; and

c) Where the beneficial owners of such persons, legal arrangements or structures, as defined in Directive (EU) 2015/849, are made unidentifiable.

E Specific hallmarks concerning transfer pricing

1. Use of unilateral safe harbor rules.
2. Transfer of hard-to-value intangibles.
3. Intragroup cross-border transfer of functions and/or risks and/or assets, if the projected annual earnings before interest and taxes (EBIT), during the three-year period after the transfer, of the transferor or transferors, are less than 50 % of the projected annual EBIT of such transferor or transferors if the transfer had not been made.

Please note that the above are the minimum requirements as defined by the Directive. Individual member states can decide to implement more stringent rules such as including additional hallmarks or expanding the scope to also include domestic arrangements. For more information, please consult the country specific information.

Who has to report?

1 Intermediaries

The primary reporting obligation lies with the intermediaries (e.g. accountants, tax consultants, lawyers, banks, etc).

Active intermediary

Any person that is involved in the design, marketing, organisation, making available for implementation or management of the implementation of reportable cross-border arrangements.

Passive intermediary

Any person that has provided aid, assistance or advice, either directly or by means of other persons, and could be reasonably expected to know that they have undertaken assistance or advice with respect to a reportable cross-border arrangement.

Each intermediary has the obligation to report and may only be exempted from disclosing if there is proof, in accordance with national law, that another intermediary has already reported the arrangement. An intermediary who can invoke professional privilege under the national law, is required to notify, without delay, any other intermediary of its reporting obligation. If there is no such intermediary, the reporting obligation lies with the relevant taxpayer.

2

Relevant tax payer

If there are no intermediaries involved or in case the intermediary is prevented from reporting due to a professional privilege, the relevant tax payer himself is responsible for reporting the arrangement with the competent authorities.

In the latter case, the intermediary should notify the taxpayer of his professional privilege.

In the event that a relevant taxpayer has a reporting obligation in multiple member states the directive foresees a set of tie breaker rules to determine where the arrangement must be reported.

Reporting deadlines

Any intermediary that has knowledge, possession or control of information on reportable cross-border arrangements must report that information with the competent authorities within 30 days beginning:

- a)** On the day after the reportable cross-border arrangement is made available for implementation; or
- b)** On the day after the reportable cross-border arrangement is ready for implementation; or
- c)** When the first step in the implementation of the reportable cross-border arrangement has been made; or for passive intermediaries
- d)** On the day after they provided, directly or by means of other persons, aid, assistance or advice,

whichever occurs first.

In the case of marketable arrangements, the intermediary is required to file a periodic report every 3 months.

The same deadlines apply for when the reporting obligation lies with the relevant tax payer.

What needs to be reported?

The following information needs to be reported:

- a)** The identification of intermediaries and relevant taxpayers, including their name, date and place of birth (in the case of an individual), residence for tax purposes, tax identification number and, where appropriate, the persons that are associated enterprises to the relevant taxpayer

- b)** Details of the hallmarks that make the cross-border arrangement reportable

- c)** A summary of the content of the reportable cross-border arrangement, including a reference to the name by which it is commonly known, if any, and a description in abstract terms of the relevant business activities or arrangements, without leading to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information the disclosure of which would be contrary to public policy

- d)** The date on which the first step in implementing the reportable cross-border arrangement has been made or will be made

- e)** Details of the national provisions that form the basis of the reportable cross-border arrangement

- f)** The value of the reportable cross-border arrangement

- g)** The identification of the member state of the relevant taxpayer(s) and any other member states which are likely to be concerned by the reportable cross-border arrangement

- h)** The identification of any other person in a member state likely to be affected by the reportable cross-border arrangement, indicating to which member states such person is linked.

When does DAC6 become applicable?

DAC6 officially enters into force on 1 July 2020 but will already apply to arrangements as of 25 June 2018. Historical information, being reportable arrangements with respect to the period from 25 June 2018 to 30 June 2020, is reportable by 31 August 2020 at the latest.

In view of the COVID-19 pandemic, the European Commission has submitted a proposal for a three-month extension, which defers the reporting deadline to 31 October 2020 for the reportable arrangements related to the period 1 July 2020 to 30 September 2020. Depending on the evolution of COVID-19 measures, another three-month extension could be possible.

Baker Tilly member firms can work with you to ensure compliance with this new reporting obligation. Please contact your local team for the latest status and information on DAC6.



Austria

DAC 6 Domestic Implementation

1

General Information

Territory	Austria
Tax authority	Austrian Federal Ministry of Finance
Status of legislation	Implemented. The Austrian Reporting Obligation Act (EU-Meldepflichtgesetz) will enter into force on 1 July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020. Administrative guidelines yet to be published (June 2020).
Taxes covered	Income tax, real estate transfer tax, miscellaneous duties
Taxes excluded	VAT, customs
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person and is in a position to exercise significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25 % of the voting rights; c) a person participates in the capital of another person through a right of ownership that (directly or indirectly) exceeds 25 % of the capital; d) a person is entitled to 25% or more of the profits of another person.
Marketable arrangement	A cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customised.

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- a) not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b) one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c) one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- d) one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- e) such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

The term "arrangement" shall also include a series of arrangements. An arrangement may comprise more than one step or part.

Intermediary**Any person that**

- a) designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement;
or
- b) having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a reportable cross-border arrangement.

In order to be an intermediary in Austria, a person shall meet at least one of the following additional conditions:

- a) be resident for tax purposes in Austria;
- b) no resident for tax purposes in any other Member State and
 - have a PE in Austria through which the services with respect to the arrangement are provided;
 - be incorporated in or governed by the relevant Austrian law;
 - be registered with a professional association related to legal, taxation or consultancy services in Austria.

Tax advantage	<p>The term "tax advantage" is defined in Sec. 3 para. 10 of the European Reporting Obligation Act (EU-Meldepflichtgesetz) as a</p> <ul style="list-style-type: none"> a) Prevention of the occurrence of the tax liability; or b) shift of the tax liability in another tax period in whole or in part; or c) reduction of the taxable base or the tax liability in whole or in part; or d) reimbursement/refund of a levy in whole or in part. <p>The tax advantage has to occur in Austria or in another Member State or in a third country.</p>
Made available for implementation	Currently no guidance has been given by the Austrian Ministry of Finance on this point.
Hallmark	There is no explicit definition.

3 Additional hallmarks

Additional hallmarks None

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

If the intermediary is bound by LPP and he has not been released from it, the reporting obligation is shifted to the relevant taxpayer (waiver).

In this case, the intermediary is required to notify another intermediary and also all relevant taxpayers that the reporting obligation rests with the other intermediary or relevant taxpayer. If the reporting obligation rests with the relevant taxpayer, the intermediary has to inform him about all relevant information he owns.

In case of a marketable arrangement, the LPP is not applicable to the reporting of the arrangement, because there is no communication between the intermediary and his client which has to be protected. Indeed, the periodic reporting for marketable arrangements disclosing all relevant taxpayers to which the arrangement is made available for implementation, the LPP applies and the waiver can be claimed.

5

Reporting deadline

Intermediaries

Within 30 days following:

- a) the day after the reportable cross-border arrangement is made available for implementation; or
- b) the day after the reportable cross-border arrangement is ready for implementation; or
- c) the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first.

In addition, intermediaries are also required to file information within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice.

If the intermediary is released from the LPP, the reporting deadline of 30 days begins the day after he has been released.

For marketable arrangements, the intermediary is required to file a periodic report with all new reportable information every 3 months.

Reportable transactions for which the first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020.

Users (where LPP applies)

Within 30 days following:

- a) the day after the reportable cross-border arrangement is made available for implementation to the relevant taxpayer; or
- b) the day after the reportable cross-border arrangement is ready for implementation by the relevant taxpayer; or
- c) the moment when the first step in the implementation of the reportable cross-border arrangement is made; or
- d) the day after he has been informed about the shift of the reporting obligation due to the waiver,

whichever occurs first.

Reportable transactions for which the first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report	If the Intermediary is not bound by LPP, he is obliged to report information that is within his knowledge, possession or control on reportable cross-border arrangements.
Obligation to inform user what data was communicated	No
Priority of reporting where multi member state reporting obligations exist	Where the intermediary is liable to file information on reportable cross-border arrangements with the competent authorities of more than one Member State, such information shall be filed only in the Member State of residence. There is no further priority.
Circumstances under which intermediary not required to report	<p>In case of multiple reporting obligations, the intermediary shall be exempt from filing if it has proof that the same information has been filed in another Member State or by another intermediary. In these cases, he is obliged to submit the reference number received from the first reporting to the Austrian Ministry of Finance.</p> <p>The intermediary shall also be exempt from filing the information if he is bound by legal professional privilege and has notified another intermediary and/or all relevant taxpayers.</p>
What will the tax authorities provide for the notification received	A reference number will be provided if it was the first reporting.

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report	<p>The relevant taxpayer is obliged to report if:</p> <ul style="list-style-type: none"> a) no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or b) the involved intermediary has no link to one Member State (no residence/ PE/incorporation/registration); or c) he has been notified by the intermediary that the intermediary is bound by legal professional privilege.
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Priority of reporting where multiple taxpayers are involved

Where the relevant taxpayer has an obligation to file information on the reportable cross-border arrangement with the competent authorities of more than one Member State, such information shall be filed only with the competent authorities of the Member State of residence. If the relevant taxpayer is not resident in any Member State, the information shall be filed in

- a) the Member State where the relevant taxpayer has a permanent establishment benefiting from the arrangement; or
- b) the Member State where the relevant taxpayer receives income or generates profits or carries on an activity, although the relevant taxpayer is not resident for tax purposes or has no permanent establishment in any Member State.

Circumstances under which taxpayer not required to report

Where there is a multiple reporting obligation, the relevant taxpayer shall be exempt from filing the information if it has proof, that the same information has been filed in another Member State or by another relevant taxpayer.

In these cases, he is obliged to submit the reference number received from the first reporting to the Austrian Ministry of Finance.

Proof that reporting obligation is satisfied by other taxpayer

The reference number of the first reporting

8 Reporting principles applicable to all

Language

German or English

However, the following information have to be reported in English:

- a) details of the hallmarks;
- b) a summary of the content of the reportable cross-border arrangement;
- c) if existing, a reference to the name by which it is commonly known and
- d) a description in abstract terms of the relevant business activities, without leading to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information the disclosure of which would be contrary to public policy.

9

Penalties

Circumstances in which penalties may apply

Late-, false-, incomplete- and non-filing as well as incomplete or no notification about the waiver

Remark: it can be expected that the first reporting date will be postponed to end September 2020. However, this is yet to be confirmed formally by the EU.

Amount

Up to EUR 50.000 for willful infringement

Up to EUR 25.000 for grossly negligent infringement

10

Country specifics

Country specifics / deviation from EU directive

The law defines the term “reportable arrangement” as a marketable or bespoke cross-border arrangement, which fulfills one of the hallmarks and – **as an additional requirement – has a risk of tax avoidance.**

The risk of tax avoidance was added limiting the wide scope to aggressive tax planning arrangements.

It is not a deviation from EU directive, because it should be covered by Art 3 para 20 (definition of hallmark).

There is also an extension of the reporting time in cases, where the intermediary has been released from the LPP.



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An aerial photograph of a city, likely Brussels, Belgium, showing a dense urban landscape. The foreground is dominated by a mix of old brick buildings with gabled roofs and newer, more modern structures. A prominent tall, white skyscraper stands out in the mid-ground. The sky is a mix of soft pinks, oranges, and blues, suggesting a sunset or sunrise. The overall tone is warm and atmospheric.

Belgium

DAC 6 Domestic Implementation

1

General Information

Territory	Belgium
Tax authority	FOD Financiën
Status of legislation	Implemented. In principle the legislation enters into force on 1 July 2020. However, in light of the COVID-19 pandemic, the Belgian authorities will apply an administrative tolerance and postpone the deadlines. For more information, see below. Royal Decree (with reporting formalities) and administrative guidelines yet to be published.
Taxes covered	Income tax, inheritance tax, transfer tax and miscellaneous duties
Taxes excluded	VAT
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person and is in a position to exercise significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25 % of voting rights; c) a person participates in the capital of another person through a holding that (directly or indirectly) exceeds 25 % of the capital; d) a person is entitled to 25 % or more of the profits of another person.

Marketable arrangement

Cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customized.

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- a)** not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b)** one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c)** one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- d)** one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- e)** such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

An arrangement shall also include a series of arrangements. An arrangement may comprise more than one step or part.

Intermediary

Any person that designs, markets, organizes or makes available for implementation or manages the implementation of a reportable cross-border arrangement. It also means any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organizing, making available for implementation or managing the implementation of a reportable cross-border arrangement.

Tax advantage

Not clarified in Belgian legislation or administrative guidance.

Made available for implementation

Currently no guidance has been given by the Belgian authorities on this point.

Hallmark

None

3 Additional hallmarks

Additional hallmarks None.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

When the intermediary is bound by LPP, he is required to notify any and all other intermediaries in writing that the reporting obligation automatically rests with them. If there are no other intermediaries, he should notify the relevant taxpayer in writing that the reporting obligation rests with the taxpayer.

LPP cannot be invoked to be exempt from the periodic reporting for marketable arrangements.

5 Reporting deadline

Intermediaries

Within 30 days following:

- a)** the day after the reportable cross-border arrangement is made available for implementation; or
- b)** the day after the reportable cross-border arrangement is ready for implementation; or
- c)** the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first.

In addition, intermediaries are also required to file information within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice. Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020.

In view of the COVID-19 pandemic, the abovementioned 30 days periods will only be deemed to start on the 1st January 2021 for reportable transactions for which the first implementation step took place between 1 July 2020 and 31 December 2020 by virtue of an administrative tolerance.

Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 in principle need to be reported by 31 August 2020. However, by virtue of the administrative tolerance, this deadline has been postponed until 28 February 2021.

For marketable arrangements, the intermediary is required to file a periodic report with all new reportable cross-border arrangements every 3 months.

Users (where LPP applies)

Within 30 days following:

- a)** the day after the reportable cross-border arrangement is made available for implementation; or
- b)** the day after the reportable cross-border arrangement is ready for implementation; or
- c)** when the first step in the implementation of the reportable cross-border arrangement has been made, whichever occurs first.

In view of the COVID-19 pandemic, the abovementioned 30 days periods will only be deemed to start on the 1st January 2021 for reportable transactions for which the first implementation step took place between 1 July 2020 and 31 December 2020 by virtue of an administrative tolerance.

Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 in principle need to be reported by 31 August 2020. However, by virtue of the administrative tolerance, this deadline has been postponed until 28 February 2021.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Intermediary is obliged to report information that is within their knowledge, possession or control on reportable cross-border arrangements.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

Where the intermediary is liable to file information on reportable cross-border arrangements with the competent authorities of more than one Member State, such information shall be filed only in the Member State that features first in the list below:

- a)** the Member State where the intermediary is resident for tax purposes;
- b)** the Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided;
- c)** the Member State which the intermediary is incorporated in or governed by the laws of;
- d)** the Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.

Circumstances under which intermediary not required to report

In case of multiple reporting obligations, the intermediary shall be exempt from filing if it has proof, in accordance with national law, that the same information has been filed in another Member State.

The intermediary shall also be exempt from filing the information if he is bound by legal professional privilege and has notified the other intermediaries or in absence thereof, the relevant taxpayer.

What will the tax authorities provide for the notification received

Further guidance to be provided by Belgian authorities

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is obliged to report if:

- a) no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or
- b) he has been notified by the intermediary that the intermediary is bound by legal professional privilege.

Priority of reporting where multiple taxpayers are involved

Where the relevant taxpayer has an obligation to file information on the reportable cross-border arrangement with the competent authorities of more than one Member State, such information shall be filed only with the competent authorities of the Member State that features first in the list below:

- a) the Member State where the relevant taxpayer is resident for tax purposes;
- b) the Member State where the relevant taxpayer has a permanent establishment benefiting from the arrangement;
- c) the Member State where the relevant taxpayer receives income or generates profits, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State;
- d) the Member State where the relevant taxpayer carries on an activity, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State.

Circumstances under which taxpayer not required to report

Where there is a multiple reporting obligation, the relevant taxpayer shall be exempt from filing the information if it has proof, in accordance with national law, that the same information has been filed in another Member State.

Proof that reporting obligation is satisfied by other taxpayer

Evidence to be provided in writing. Currently no further practical guidance as to reporting method is provided by the Belgian authorities.

8 Reporting principles applicable to all

Language

One of Belgium's official languages (Dutch, French or German) and in English for certain still to be determined sections of the reporting obligation.

9 Penalties

Circumstances in which penalties may apply

Incomplete, late - or non-filing.

For the reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 no penalties will be applied if they are reported by 31 August 2020.

Remark: it can be expected that the first reporting date will be postponed to end December 2020. However this is yet to be confirmed formally.

Amount

EUR 250 to EUR 12.500 for incomplete filing. EUR 2.500 to EUR 25.000 in case the intermediary / taxpayer acted in bad faith.

EUR 5.000 to EUR 50.000 for late or non-filing. EUR

12.500 to EUR 100.000 in case the intermediary / taxpayer acted in bad faith.

10 Country specifics

Country specifics / deviation from EU directive

None.



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Bulgaria

DAC 6 Domestic Implementation



1

General Information

Territory	Bulgaria
Tax authority	The Executive Director of the National Revenue Agency
Status of legislation	<p>Implemented.</p> <p>Entry in force on 01 July 2020.</p> <p>By 31 August 2020 should be reported reportable cross-border arrangements for which the first step of implementation took place between 25 June 2018 and 30 June 2020.</p> <p>The information on reportable cross-border arrangements shall be submitted electronically and in a format and under procedure approved by Order of the Executive Director of the National Revenue Agency, which shall be published on the website of the National Revenue Agency. (Not yet published as of 28 May 2020)</p>
Taxes covered	Any taxes, including local taxes, except for the explicitly excluded taxes and levies.
Taxes excluded	<ul style="list-style-type: none">- value added tax, excise duties and customs duties- mandatory social insurance contributions- state or municipal charges for issuance of certificates or other documents- receivables of contractual nature, including remuneration under contracts for services in the public interest
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer

Any person:

1. to whom a reportable cross-border arrangement is made available for implementation, or
2. who is ready to implement a reportable cross-border arrangement, or
3. who has implemented the first step of such a cross-border tax arrangement.

Associated enterprise

A person who is related to another person in at least one of the following ways:

- a)** a person participates in the management of another person by being in a position to exercise a significant influence over the other person;
- b)** a person participates in the control of another person through a holding that exceeds 25 % of the voting rights;
- c)** a person participates in the capital of another person through a right of ownership that, directly or indirectly, exceeds 25 % of the capital;
- d)** a person is entitled to 25 % or more of the profits of another person.

If more than one person participates, as referred to in points (a) to (d), in the management, control, capital or profits of the same person, all persons concerned shall be regarded as associated enterprises.

If the same persons participate, as referred to in points (a) to (d), in the management, control, capital or profits of more than one person, all persons concerned shall be regarded as associated enterprises.

For the purposes of this point, a person who acts together with another person in respect of the voting rights or capital ownership of an entity shall be treated as holding a participation in all of the voting rights or capital ownership of that entity that are held by the other person.

In indirect participations, the fulfilment of requirements under letter (c) shall be determined by multiplying the rates of holding through the successive tiers. A person holding more than 50 % of the voting rights shall be deemed to hold 100 % of the voting rights.

An individual, his or her spouse and his or her lineal ascendants or descendants shall be treated as a single person.

Marketable arrangement

A cross-border tax arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customised.

Cross-border arrangement

An arrangement that affects more than one Member State or a Member State and a third country, when at least one of the following conditions is met:

- 1.** not all participants in the arrangement are residents for tax purposes of one and the same jurisdiction;
- 2.** one or more of the participants in the arrangement are simultaneously residents for tax purposes of one and the same jurisdiction;
- 3.** one or more of the participants in the arrangement conduct business in another jurisdiction through a permanent establishment or fixed establishment and the arrangement covers part or all the business of the permanent establishment or fixed establishment;

4. one or more of the participants in the arrangement conduct business in another jurisdiction without being residents for tax purposes or without forming a permanent establishment or fixed establishment in that jurisdiction;
5. the arrangement may affect the automatic exchange of information or determination of the identification of the beneficial owner

Intermediary

Intermediary (consultant) shall be any person that designs, markets, organises or makes available for implementation or manages the implementation of a cross-border arrangement.

Tax advantage

Any benefit to a taxable person that may cover a reduction of the tax base or tax due, avoidance or deferral of tax payment, use of tax relief, or a tax relief in a higher amount than permissible, as well as any other advantages and benefits that could improve the tax status of the person.

Made available for implementation

Currently, there is no statutory definition or guidance of the Bulgarian tax authorities on this point.

Hallmark

Currently, Bulgarian law does not define "hallmark" for the purposes of reporting cross-border tax arrangements. Instead of that, Bulgarian law outlines fifteen categories of reportable cross-border tax arrangements with a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks None.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

When the consultant (intermediary) is bound by LLP, he is required immediately, but not later than 14 days from the date on which a reporting obligation arises therefor, to notify the other consultants on the tax arrangement of their obligation to provide information. If no other consultants are known to him, the consultant bound by LLP shall inform the taxpayer of the latter's obligation to provide information.

Regardless of the reporting exemption based on LLP, the consultant shall notify the Executive Director of the National Revenue Agency of the other consultants on the tax arrangement or of the taxpayer that shall provide information, regardless of the fact that the reporting obligation for them may arise in another Member State.

5

Reporting deadline

Intermediaries

A consultant (intermediary) shall report a cross-border tax arrangement within their knowledge, possession or control within 30 calendar days of the earlier of:

1. the day after the reportable cross-border arrangement is made available for implementation;
2. the day after the reportable cross-border arrangement is ready for implementation;
3. the day when the first step in the implementation of the reportable cross-border arrangement has been made.

When a consultant (intermediary) has been notified of a reporting obligation by a consultant bound by LLP, the 30 calendar days deadline for reporting shall be counted from the date of notification.

Notwithstanding the above, consultants (intermediaries) that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, know or could be reasonably expected to know that they have undertaken to provide, directly or through others, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a cross-border tax arrangements with a potential risk of tax avoidance, shall report the cross-border tax arrangement within 30 calendar days beginning on the day following the day on which they provided, directly or by means of others, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of the tax arrangement.

After the initial reporting, a consultant (intermediary) on a marketable tax arrangement shall provide every three months updated information on the arrangement, which information came to his knowledge after the previous reporting.

Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020.

Users (where LPP applies)

Where an obligation arises for a taxpayer to report a cross-border tax arrangement, the taxpayer shall file the information within 30 calendar days of the earlier of:

1. the day after the reportable cross-border arrangement is made available for implementation;
2. the day after the reportable cross-border arrangement is ready for implementation;
3. the day when the first step in the implementation of the reportable cross-border arrangement has been made.

Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report	A consultant (intermediary) shall report information that is within his knowledge, possession or control on a reportable cross-border tax arrangement.
Obligation to inform user what data was communicated	Yes
Priority of reporting where multi member state reporting obligations exist	<p>When a consultant (intermediary) is liable to report on one and the same tax arrangement in two or more Member States, the information shall be provided only to the competent authority of one Member State which shall be determined in the following priority:</p> <ol style="list-style-type: none"> 1. the Member State in which the consultant is a resident for tax purposes; 2. the Member State in which the consultant has a permanent establishment or a fixed establishment, through which the arrangement-related services are provided; 3. the Member State in which the consultant is incorporated or whose law governs it; 4. the Member State in which the consultant is registered as a member of a professional association related to legal, taxation or consultancy services.
Circumstances under which intermediary not required to report	<p>A consultant (intermediary) shall be exempt from the obligation to report on a cross-border tax arrangement if:</p> <ol style="list-style-type: none"> 1. he has proof that the same information on the cross-border tax arrangement has been filed by another consultant; or 2. he has proof that the same information has been filed in another Member State. <p>Notwithstanding the fact that another consultant has provided information on a cross-border tax arrangement to the Executive Director of the Bulgarian National Revenue Agency or to a competent authority of another Member State, a consultant shall not be exempt from the reporting obligation if the arrangement comprises more than one step or part, and any consultant shall design, market, organise, manage, make available for implementation, respectively provide assistance, aid or advice in reference to such activities, for the individual step or part of the arrangement.</p> <p>A consultant (intermediary) shall also be exempt from the obligation to report on a cross-border tax arrangement if he is bound by legal professional privilege to keep such information as confidential, unless the taxpayer has consented to provide it, and the consultant</p>

- has notified the other consultants on the tax arrangement of their reporting obligation, or

- if no other consultants are known to him, has informed the taxpayer of the latter's reporting obligation.

What will the tax authorities provide for the notification received

A unique number shall be issued upon the initial reporting on a cross-border tax arrangement, which shall serve for identification of the arrangement in all Member States. A consultant or a taxpayer who has initially provided information on a tax arrangement shall notify any other consultant or taxpayer on the arrangement of the unique number issued.

For any reporting by a consultant or a taxpayer, a unique number of the reporting shall be issued, which is part of an arrangement. The number shall serve to identify that specific reporting in all Member States.

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

Information on a cross-border tax arrangement shall be provided by a taxpayer in one of the following cases:

1. when there is no consultant on the arrangement, including when the arrangement is designed by an employee of the taxpayer;
2. when the consultant on the arrangement is exempt from the reporting obligation on the grounds of legal professional privilege, of which the taxpayer has been informed;
3. when the consultant on the arrangement:
 - a) is not a resident for tax purposes of a Member State;
 - b) has not a permanent establishment or a fixed establishment in a Member State through which the arrangement-related services are provided;
 - c) is not incorporated in, or governed by the laws of, another Member State;
 - d) is not registered with a professional association related to legal, taxation or consultancy services in another Member State.

Priority of reporting where multiple taxpayers are involved

When the reporting obligation arises for more than one taxpayer, including when the obligation arises in different Member States, information on the cross-border tax arrangement shall be provided to the competent authority by the taxpayer who is first from among the following:

1. the taxpayer who has agreed with the consultant on the relevant arrangement;
2. the taxpayer who manages the implementation of the arrangement.

Circumstances under which taxpayer not required to report

The taxpayer is not required to report on a cross-border tax arrangement if he has proof that:

1. he has provided the information in another Member State, or
2. another taxpayer has provided the same information on the tax arrangement.

Proof that reporting obligation is satisfied by other taxpayer

The unique numbers for initial reporting or any other reporting issued by the National Revenue Agency as well as the relevant unique numbers issued in another Member State shall be stated as proof that the information on the arrangement has been already reported in another Member State or by another taxpayer.

8 Reporting principles applicable to all

Language

The information shall be reported in the official Bulgarian language, to the extent that there is no legal rule or guidance of the Bulgarian tax authorities on this point.

9 Penalties

Circumstances in which penalties may apply

Failure of a consultant or a taxpayer:

- to report on cross-border arrangement when required to do so,
- to provide correct or complete information on cross-border arrangement,
- to notify the other consultants or the relevant taxpayer on the cross-border arrangement about the unique number assigned upon the initial reporting on that arrangement.

Failure of a consultant exempt from reporting obligation by reference to legal professional privilege:

- to duly notify the other consultants on the tax arrangement or the relevant taxpayer of their respective reporting obligation,
- to duly notify the Executive Director of the National Revenue Agency of the other consultants on the tax arrangement or the relevant taxpayer that will report on that cross-border tax arrangement.

Amount

Penalties applicable to any person with reporting obligation:

- For failure to report: BGN 2000 to BGN 5000 – for individuals or BGN 5000 to BGN 10000 – for legal entities and sole traders.

- For failure to provide correct or complete information - BGN 1000 to BGN 3000 – for individuals or BGN 2000 to BGN 8000 – for legal entities and sole traders

- For failure to inform the other consultants or the taxpayer about the unique number of reporting - BGN 200 to BGN 800 – for individuals or BGN 500 to BGN 1500 – for legal entities and sole traders

Penalties applicable to consultants exempt from reporting by reference to legal professional privilege:

- For failure to notify the other consultants or the relevant taxpayer - BGN 2000 to BGN 5000 – for individuals or BGN 5000 to BGN 10000 – for legal entities and sole traders

- For failure to notify the National Revenue Agency about the consultants or the taxpayer that will report - BGN 200 to BGN 800 – for individuals or BGN 500 to BGN 1500 – for legal entities and sole traders

10

Country specifics

**Country specifics /
deviation from EU
directive**

None.



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Croatia

DAC 6 Domestic Implementation



1

General Information

Territory	Croatia
Tax authority	Ministarstvo financija, Porezna uprava (Ministry of Finance, Tax Authorities)
Status of legislation	Implemented Entry into force on 1 July 2020. It will be implemented retroactively for arrangements starting 25 June 2018.
Taxes covered	All taxes except VAT, customs duties, excise duties, social security contributions
Taxes excluded	VAT, Customs duties, Excise duties, Social Security Contributions, certain general duties, duties of a contractual nature, cash fines
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person by being in a position to exercise a significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25% of the voting rights c) a person participates in the control of another person through a right of ownership that, directly or indirectly, exceeds 25% of the capital; d) a person is entitled to 25% or more of the profits of another person

Marketable arrangement Cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customised.

Cross-border arrangement **An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions are met:**

- a) not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b) one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c) one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment
- d) one PD or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- e) such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

Intermediary Any person that designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement. It also means any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be responsible expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organizing, making available for implementation or managing the implementation of a reportable cross-border arrangement.

Tax advantage No clarification given in Croatian legislation.

Made available for implementation No clarification given in Croatian legislation.

Hallmark A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks None.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

When the intermediary is bound by legal professional privilege, within the 3 days period he is required to notify in writing all other intermediaries. If there are no other intermediaries, he should notify the relevant taxpayer that the reporting obligation rests with him.

5 Reporting deadline

Intermediaries

Within 30 days to the Tax Authorities following:

- a) the day after the reportable cross-border arrangement is made available for implementation; or
- b) the day after the reportable cross-border arrangement is ready for implementation; or
- c) the moment when the first step in the implementation of the reportable cross-border arrangement is made;

depending on what occurs earlier

In addition, intermediaries are also required to file information within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice. For marketable arrangements, the intermediary is required to file a periodic report with all new reportable cross-border arrangements every 3 months.

Users (where LPP applies)

Within 30 days following:

- a) the day after the reportable cross-border arrangement is made available for implementation; or
- b) the day after the reportable cross-border arrangement is ready for implementation; or
- c) the moment when the first step in the implementation of the reportable cross-border arrangement is made;

depending on what occurs earlier

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Intermediary is obliged to report information that is within their knowledge, possession or control on reportable cross-border arrangements.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

If the intermediary is obliged to submit to the competent authorities in more than one Member State information on the cross-border arrangements, such information shall be submitted only to the Ministry of Finance, Tax Administration in the following cases:

- a) if the intermediary is resident for tax purposes in the Republic of Croatia
- b) if the intermediary has a permanent establishment in the Republic of Croatia through which the services related to the arrangement are provided and is not resident for tax purposes in any other Member State
- c) if the intermediary is established or regulated according to the laws of the Republic of Croatia, and conditions from a) and b) are not fulfilled in some other Member State or
- d) if the intermediary is registered with a professional association in the field of legal, tax or advisory services in the Republic of Croatia and conditions from a) and b) and c) are not fulfilled in some other Member State

Circumstances under which intermediary not required to report

In case of multiple reporting obligations, the intermediary shall be exempt from filling if it has proof, in accordance with national law, that the same information has been filed in another Member State.

The intermediary shall also be exempt from filling the information if he is bound by legal professional privilege and has notified the other intermediaries or in absence thereof, the relevant taxpayer.

What will the tax authorities provide for the notification received

Still no guidance

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

If there is no intermediary or if the intermediary has notified the relevant taxpayer that is bound by legal professional privilege, the obligation to submit information on the cross-border arrangement shall be borne by another notified intermediary or, if there is no such intermediary, by taxpayer.

Priority of reporting where multiple taxpayers are involved

If the relevant taxpayer has the obligation to report and if there is more than one relevant taxpayer, the relevant taxpayer who is first on the following list has the obligation to submit information:

- 1) the relevant taxpayer who has agreed with the intermediary on the cross-border arrangement being reported
 - 2) the relevant taxpayer who manages the implementation of the arrangement.
-

Circumstances under which taxpayer not required to report

The relevant taxpayer shall be exempted from the obligation to submit information in Croatia only if he can prove that the same information has already been submitted by another relevant taxpayer.

Proof that reporting obligation is satisfied by other taxpayer

Currently no guidance is given as what can be used as proof.

8

Reporting principles applicable to all

Language

The requests and supporting documentation can be prepared in the language agreed between the Member States (e.g. tax audits). All requested documentation in connection to collection of taxes and other public duties and enforcement is to be supplied in the language of the Member State that receives the request or in addition with translation. The tax acts in connection with the request for forwarding the notifications should be submitted in the official language of the Member State submitting the request.

9

Penalties

Circumstances in which penalties may apply

If legal entity does not submit a correctly completed prescribed report, if it does not submit a fully prescribed report and if it does not submit the prescribed report within the deadline.

Amount

Cash penalty HRK 2,000 – 200,000

10

Country specifics

Country specifics / deviation from EU directive

None.



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An aerial photograph of a busy beach. The top half of the image shows a sandy area crowded with numerous blue beach umbrellas and people. In the background, there are several buildings, including one with a prominent red roof. The bottom half of the image shows the turquoise sea meeting the shore, with a rocky coastline on the left and a pier or dock structure extending into the water on the right. Several small boats are visible in the water near the pier.

Cyprus

DAC 6 Domestic Implementation

1

General Information

Territory	Cyprus
Tax authority	Tax Department of Cyprus
Status of legislation	<p>Not yet implemented but there is draft legislation in place (pending parliament approval).</p> <p>As per the draft legislation, the law will enter into force on 1 July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020. However, due to Covid-19, an extension to the reporting deadline may be granted from EU (subject to the approval of Ecofin and the European Parliament).</p>
Taxes covered	Income Tax, Capital Gains Tax, Special Defence Contribution
Taxes excluded	VAT, Custom Duties, Excise Duties, Compulsory Social Security Contributions
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
Associated enterprise	<p>A person who is related to another person in at least one of the following ways:</p> <p>a) a person participates in the management of another person and is in a position to exercise significant influence over the other person;</p> <p>b) a person participates in the control of another person through a holding that exceeds 25% of voting rights;</p> <p>c) a person participates in the capital of another person through a holding that (directly or indirectly) exceeds 25% of the capital;</p> <p>d) a person is entitled to 25% or more of the profits of another person.</p>

Marketable arrangement Cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customised.

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- a) not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b) one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c) one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- d) one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- e) such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

An arrangement shall also include a series of arrangements. An arrangement may comprise more than one step or part.

Intermediary

Any person that designs, markets, organizes or makes available for implementation or manages the implementation of a reportable cross-border arrangement. It also means any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organizing, making available for implementation or managing the implementation of a reportable cross-border arrangement.

In order to be an intermediary, a person shall meet at least one of the following conditions:

- a) be resident for tax purposes in a Member State;
- b) have a permanent establishment in a Member State through which the services with respect to the arrangement are provided;
- c) be incorporated in, or governed by the laws of, a Member State;
- d) be registered with a professional association related to legal, taxation or consultancy services in a Member State.

Tax advantage

Tax advantage is considered one of the following:

- a) Relief or increased relief from tax
- b) Repayment or increased repayment of tax
- c) Avoidance or reduction of a charge to tax or an assessment to tax
- d) Deferral of a payment of tax or advancement of a repayment of tax
- e) Avoidance of an obligation to withhold tax

Made available for implementation

Currently, there is no specific guidance regarding the term 'made available for implementation'.

Hallmark

A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks

None.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

When the intermediary is bound by LPP, he/she is required to notify any and all other intermediaries that the reporting obligation automatically rests with them. If there are no other intermediaries, he/she should notify the relevant taxpayer that the reporting obligation rests with the taxpayer.

5 Reporting deadline

Intermediaries

Within 30 days following:

- a) the day after the reportable cross-border arrangement is made available for implementation; or
 - b) the day after the reportable cross-border arrangement is ready for implementation; or
 - c) the moment when the first step in the implementation of the reportable cross-border arrangement is made
- whichever occurs first.

In addition, intermediaries are also required to file information within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance, or advice.

Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020 (subject to the possible extension by the EU as discussed above).

For marketable arrangements, the intermediary is required to file a periodic report with all new reportable cross-border arrangements every 3 months.

Users (where LPP applies)

Within 30 days following:

- a) the day after the reportable cross-border arrangement is made available for implementation; or
- b) the day after the reportable cross-border arrangement is ready for implementation; or
- c) when the first step in the implementation of the reportable cross-border arrangement has been made, whichever occurs first.

Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020 (subject to the possible extension by the EU as discussed above).

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

An intermediary is obliged to report information that is within their knowledge, possession, or control on reportable cross-border arrangements.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

Where the intermediary is liable to file information on reportable cross-border arrangements with the competent authorities of more than one Member State, such information shall be filed only in the Member State that features first in the list below:

- a) the Member State where the intermediary is resident for tax purposes;
- b) the Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided;
- c) the Member State which the intermediary is incorporated in or governed by the laws of;
- d) the Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.

Circumstances under which intermediary not required to report

In case of multiple reporting obligations, the intermediary shall be exempt from filing if it has proof, in accordance with national law, that the same information has been filed in another Member State.

The intermediary shall also be exempt from filing the information if he/she is bound by legal professional privilege and has notified the other intermediaries or in absence thereof, the relevant taxpayer.

What will the tax authorities provide for the notification received

Further guidance to be provided by Cypriot Tax Authorities.

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is obliged to report if:

- a) no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or
- b) he has been notified by the intermediary that the intermediary is bound by legal professional privilege.

Priority of reporting where multiple taxpayers are involved

Where the relevant taxpayer has an obligation to file information on the reportable cross-border arrangement with the competent authorities of more than one Member State, such information shall be filed only with the competent authorities of the Member State that features first in the list below:

- a) the Member State where the relevant taxpayer is resident for tax purposes;
- b) the Member State where the relevant taxpayer has a permanent establishment benefiting from the arrangement;
- c) the Member State where the relevant taxpayer receives income or generates profits, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State;
- d) the Member State where the relevant taxpayer carries on an activity, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State.

Circumstances under which taxpayer not required to report

Where there is a multiple reporting obligation, the relevant taxpayer shall be exempt from filing the information if it has proof that the same information has been filed in another Member State.

Proof that reporting obligation is satisfied by other taxpayer

Currently, there is no guidance as to what documentation/evidence is required in order to prove that the reporting obligation was satisfied by the other taxpayer.

8 Reporting principles applicable to all

Language

One of the official languages of the European Union.

9 Penalties

Circumstances in which penalties may apply

Incomplete, incorrect, late - or non-filing.

Amount

EUR 10.000 to EUR 20.000 for non-filing.

EUR 1.000 to EUR 5.000 for late filing up to 90 days / EUR 5.000 to EUR 20.000 for late filing more than 90 days.

EUR 10.000 to EUR 20.000 if the intermediary that is exempt from filing does not inform the relevant taxpayer or other intermediary regarding their filing obligation.

EUR 1.000 to EUR 5.000 for late disclosure up to 90 days by the intermediary that is exempt from filing to the relevant taxpayer or other intermediary.

EUR 5.000 to EUR 20.000 for late disclosure more than 90 days by the intermediary that is exempt from filing to the relevant taxpayer or other intermediary.

EUR 1.000 to EUR 10.000 for incomplete/incorrect filing.

EUR 1.000 to EUR 10.000 for non-filing of evidence, documentation or any information required from the Tax Authorities within the deadline.

If a penalty is imposed as per the above and is not settled within 30 days from the date of notification, the said penalty may be increased up to a maximum of EUR 20.000 (at the discretion of the Tax Authorities).

10 Country specifics

Country specifics / deviation from EU

None.



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Denmark

DAC 6 Domestic Implementation



1

General Information

Territory	Denmark
Tax authority	Skattestyrelsen ("SKAT")
Status of legislation	Implemented. Entry into force on 1 July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020. No postponement of deadline is expected
Taxes covered	Income taxes, inheritance taxes, property taxes etc. Taxes are defined in accordance with EU regulations.
Taxes excluded	VAT and certain duties under the EU Customs Code
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has taken the first step towards implementation
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person and is in a position to exercise significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25 % of the voting rights; c) a person participates in the capital of another person through a right of ownership that (directly or indirectly) exceeds 25 % of the capital; d) a person is entitled to 25% or more of the profits of another person.
Marketable arrangement	A crossborder arrangement is marketable if it is designed, marketed, ready for implementation or made available for implementation to be used without the need to be substantially customized. The Danish tax authorities have announced that minor or insignificant changes to an arrangement would not exclude the arrangement from the definition.

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- a)** not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b)** one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c)** one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment, i.e the arrangement regards a PE abroad;
- d)** one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction, i.e at least one participant has activity in another country;
- e)** such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

The term "arrangement" shall also include a series of arrangements. An arrangement may comprise more than one step or part.

Intermediary

Any person that designs, markets, organizes or makes available for implementation or manages the implementation of a reportable cross-border arrangement. It also means any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organizing, making available for implementation or managing the implementation of a reportable cross-border arrangement.

Tax advantage

The assessment of the tax advantage should be made on a case by case basis, comparing the tax situation with the arrangement and the tax situation without.

A tax advantage should be considered to arise if, through the arrangement, taxes are to be refunded, tax rebates granted or increased, tax claims waived or reduced or the arising of tax claims is prevented or shifted to other tax periods or tax dates. Similarly, the avoidance of tax withholding is seen as a tax advantage

Legally provided tax advantages due to domestic legislation are not in themselves included in the definition.

Tax advantage continued

The tax advantage should be anticipated when participating in the arrangement, i.e. circumstantial/unexpected tax advantages do not trigger reporting obligations. On the other side, tax advantages that could be expected are subject to reporting obligations notwithstanding this was actually not a part of the participant considerations.

Made available for implementation

Cross-border arrangements are made available for implementation if the intermediary has handed over to the user the information or documents that are required for the implementation. The actual implementation of the arrangement is not required.

Hallmark

A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks

None

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

For intermediates who are protected by legal professional privilege (which in Denmark solely are lawyers) and the advice provided is subject to secrecy under the ethical guidelines for lawyers, and where the reporting is not done by other intermediates, the reporting obligation shift to the user/client if

- 1) the intermediate provides the client with the needed information to report, and
- 2) the intermediate subsequently documents to the intermediate protected by LPP that reporting has been done.

If this is not documented by the client within the reporting deadline, the intermediate should still report the information.

Exempted from this are situations where the intermediate by performing the reporting would in reality incriminate the client. (I.e. if the intermediate claims to be exempted this is also an indication that the advice provided relates to possibly criminal activities)

In given case the intermediate subject to LPP should immediately notify other involved intermediates about this, and this intermediate should then do the reporting.

If there is no other intermediate and the intermediate subject to LPP is exempted from reporting, the reporting obligation lies upon the client.

5

Reporting deadline

Intermediaries

Within 30 days following:

- a)** the day after the reportable cross-border arrangement is made available for implementation; or
- b)** the day after the reportable cross-border arrangement is ready for implementation; or
- c)** the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever of a-c occurs first.

The reporting obligation applies notwithstanding the arrangement is carried through or not, and intermediaries are thus required to file information within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice.

Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020.

For marketable arrangements, the intermediary is required to file a periodic report with all new details of already reported arrangements every 3 months.

Users (where LPP applies)

Within 30 days following:

- a)** the day after the reportable cross-border arrangement is made available for implementation; or
- b)** the day after the reportable cross-border arrangement is ready for implementation; or
- c)** when the first step in the implementation of the reportable cross-border arrangement has been made, whichever occurs first.

Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report	Intermediary is obliged to report information that is within their knowledge, possession or control on reportable cross-border arrangements.
Obligation to inform user what data was communicated	No
Priority of reporting where multi member state reporting obligations exist	<p>Where the intermediary is liable to file information on reportable cross-border arrangements with the competent authorities of more than one Member State, such information shall be filed only in the Member State that features first in the list below:</p> <p>a) the Member State where the intermediary is resident for tax purposes;</p> <p>b) the Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided;</p> <p>c) the Member State which the intermediary is incorporated in or governed by the laws of;</p> <p>d) the Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.</p>
Circumstances under which intermediary not required to report	<p>In case of multiple reporting obligations, the intermediary shall be exempt from filing if it has proof, in accordance with national law, that the same information has been filed in another Member State or that the required information has been reported by another intermediary.</p> <p>The intermediary shall also be exempt from filing the information if he is bound by legal professional privilege and has notified the other intermediaries or in absence thereof, the relevant taxpayer. Please see section regarding legal professional privilege/LPP.</p>
What will the tax authorities provide for the notification received	The Danish tax authorities have not yet issued details of the reporting system, hereunder the documentaion to be provided for filed information.

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report	<p>The relevant taxpayer is obliged to report if:</p> <p>a) no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or</p> <p>b) he has been notified by the intermediary that the intermediary is bound by legal professional privilege (please see section regarding legal professional privilege/LPP)</p>
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Priority of reporting where multiple taxpayers are involved

Where multiple users are involved, the user that is to file for all general (non-user related) information will be the one that features first in the list below (provided the intermediate is exempted due to legal professional privilege):

- 1) The user that agreed the arrangement with the intermediary; or
- 2) The user that is managing the implementation of the arrangement.

The Danish tax authorities have expressed that the legislation cannot in all situation rule out that double reporting has to be done.

Circumstances under which taxpayer not required to report

There is evidence that the arrangement has been reported by an intermediary; or

There is evidence that the arrangement has been reported by another taxable person; or

There is evidence that the arrangement has been reported in another Member State.

Proof that reporting obligation is satisfied by other taxpayer

There is no legal definition of which documentation has to be provided, i.e. there is no formal requirements and in accordance with Danish legal practice the proof just have to be "sufficient".

Evidence has to be provided in writing. Currently no further practical guidance as to reporting method is provided by the Danish authorities but It is anticipated that this will at least require reference/case numbers and some kind receipt from the relevant authorities

8 Reporting principles applicable to all

Language

The mandatory information to be reported can be submitted in Danish and/ or English.

Information of

- the applicable hallmarks
- the description/characteristics of the arrangement
- the national legislation effected by/related to the reportable arrangement

must in any case be provided in English

9

Penalties

Circumstances in which penalties may apply

Penalties might apply in cases where the involved parties (users or intermediates) by intent or by gross negligence

- provide incorrect or misleading information
- do not file information in due time
- do not file reportable information
- do not register for reporting obligations in due time

Amount

Fines between DKK 25.000 and DKK 400.000 (approx.. EUR 3.300 and EUR 53.500) apply.

10

Country specifics

Country specifics / deviation from EU directive

None.



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An aerial photograph of a lake in Estonia. In the foreground, there is a wide, sandy beach with some sparse green vegetation. The lake's water is a mix of light green and blue. In the middle ground, a large, multi-story concrete building is partially submerged and supported by several vertical wooden stilts. The building appears to be in ruins, with missing windows and a damaged roof. To the right of the building, a small boat is docked at the stilts, and two people are standing on a small platform or boat nearby. The background is dominated by a dense, lush green forest that stretches to the horizon under a grey, overcast sky.

Estonia

DAC 6 Domestic Implementation

1

General Information

Territory	Estonia
Tax authority	Tax and Customs Board
Status of legislation	Implemented Entry into force on 1 July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020.
Taxes covered	Direct taxes
Taxes excluded	Indirect taxes (VAT)
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	The taxable person concerned shall be a person to whom the reportable arrangement has been made available for implementation or who is ready to implement it or has implemented its first stage.
Associated enterprise	<p>A related party is a person who participates in the management of the other person in a position that provides an opportunity to significantly influence the activities of another person and the person who holds more than 25 per cent of the share capital or stock or the total number of voting rights of one legal person or at least 25 per cent of the right to receive profit.</p> <p>Related persons are all persons who at the same time are related to the same person in any manner.</p> <p>A person who acts jointly with another person upon exercising the rights arising from voting rights or the rights arising from shareholding shall also be granted the rights specified above of that other person.</p>
Marketable arrangement	<p>A reportable arrangement is an arrangement covering exchange of information, which also concerns another Member State or a third country and for which is present at least one of the criteria specified in the regulation of the minister responsible for the area.</p> <p>A cross-border arrangement is a transaction or chain of transactions involving a Member State of the European Union or a third country and which may affect taxation, exchange of information on financial accounts or identification of the beneficial owner.</p>

Cross-border arrangement

Taxation may be affected by a cross-border arrangement which meets at least one of the following conditions:

- 1) the persons participating in the arrangement are residents in different states or jurisdictions;
- 2) at least one of the persons participating in the arrangement is a resident in more than one state or jurisdiction at the same time;
- 3) at least one of the persons participating in the arrangement operates in a state or jurisdiction in which he is not resident.

The exchange of information on financial accounts may be affected by a cross-border arrangement which disturbs or impedes the collection or exchange of tax information of financial accounts.

The identification of the beneficial owner may be affected by a cross-border arrangement which makes it difficult or impossible to identify the beneficial owner as defined in the Money Laundering and Terrorist Financing Prevention Act.

The list of criteria for cross-border arrangements which refer to the risk of avoiding taxation, exchange of information on financial accounts or identification of the beneficial owner shall be established by a regulation of the minister responsible for the area.

Intermediary

An information provider is a person who has provided the service of design, marketing, organisation or making available for implementation or management of a reportable arrangement or a person who has provided assistance or advice upon provision of such service.

A reporting information provider is an information provider who meets at least one of the following conditions:

- 1) the person is a resident in Estonia within the meaning of § 6 of the Income Tax Act;
- 2) the services related to the reportable arrangement are provided through a permanent establishment in Estonia owned by the person;
- 3) the person is founded in Estonia or its activities are regulated by the Estonian legislation;
- 4) the person is a member of an Estonian professional association which unites persons providing legal or tax advisory services.

Tax advantage

The main benefit criterion is complied with if, taking into account all the relevant circumstances, getting a tax advantage is a reasonably expected main benefit or one of the main benefits resulting from the arrangement.

Made available for implementation

Decree of Ministry of Finance: Criteria for cross-border arrangements

Hallmark

A cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks

None.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

An information provider shall have the right not to perform the obligations if performance of the obligations would constitute a violation of the obligation to keep professional secrecy arising from the law.

An information provider shall notify another information provider related to the reportable arrangement or, in the absence of such information provider, the taxable person concerned of a failure to perform the obligations

5 Reporting deadline

Intermediaries

The information shall be submitted by the information provider to the tax authority within 30 calendar days as of the day following the day on which the reportable arrangement becomes available for implementation, as of the day following the day when the reportable arrangement becomes ready for implementation or the day on which the first act was made for implementation of the reportable arrangement, dependent on which day arrives earlier.

Every three months the information provider shall submit new or additional information with regard to such reportable arrangement that has been developed, marketed, ready for implementation or available in a form that does not require significant adjustment for implementation.

The information provider shall submit information for the first time by 31 August 2020 for such reportable arrangements the implementation of which was commenced within the period of 25 June 2018 until 30 June 2020.

Users (where LPP applies)

The information provider shall be the taxable person concerned, where the person who has provided the service related to development, marketing, making available for organization of its implementation or management of a reportable arrangement, has no obligation to provide information on such arrangement in any of the Member States or if there is no such person.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Not specified.

Where there is more than one accountable taxable person concerned, the information shall be submitted to the tax authority by the taxable person concerned who has agreed with the information provider to develop the reportable arrangement or, in the absence of such person, by such taxable person concerned who manages the implementation of the arrangement.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

If a taxable person is required to report in more than one Member State, one of which is Estonia, and the connection with Estonia appears first in the list below, the taxable person shall submit the information to the Tax and Customs Board. The connection of a taxable person with a Member State may be as follows:

- 1) the taxable person is a resident thereof;
- 2) the taxable person has a permanent establishment there, which benefits from a reportable arrangement;
- 3) the taxable person receives income or earns profits there, but is not resident there and has no permanent establishment there;
- 4) the taxable person is active there but is not resident there and has no permanent establishment there.

Circumstances under which intermediary not required to report

Where there is more than one accountable taxable person concerned pursuant to this Chapter, the information shall be submitted to the tax authority by the taxable person concerned who has agreed with the information provider to develop the reportable arrangement or, in the absence of such person, by such taxable person concerned who manages the implementation of the arrangement.

The taxable person concerned shall have the right not to perform the obligations if he taxable person has evidence that the obligations have been performed by another taxable person concerned.

What will the tax authorities provide for the notification received

Not specified

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is obliged to report if:

- a) no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or
- b) he has been notified by the intermediary that the intermediary is bound by legal professional privilege.

Priority of reporting where multiple taxpayers are involved

Where there is more than one reporting information provider regarding the same reportable arrangement, the information provider shall have the right to disregard the obligations if the information provider has evidence that the obligations have been performed by another reporting information provider.

If the information provider becomes liable for reporting obligation in more than one Member State, one of which is Estonia, and the connection with Estonia is first on the list below, the information provider shall submit the information to the Tax and Customs Board.

The connection between the information provider and the Member State may be the following:

- 1) the information provider is a resident thereof;
- 2) the information provider has a permanent establishment there through which it provides services related to the reportable scheme;
- 3) the information provider is established there or its activities are subject to the legislation of that state;
- 4) the information provider is a member of a professional association of that state, which unites persons who provide legal or tax advisory services.

Circumstances under which taxpayer not required to report

Where there is a multiple reporting obligation, the relevant taxpayer shall be exempt from filing the information if it has proof, in accordance with national law, that the same information has been filed in another Member State

Proof that reporting obligation is satisfied by other taxpayer

Not specified

8 Reporting principles applicable to all

Language Not specified

9 Penalties

Circumstances in which penalties may apply Incomplete, late filing or non-filing.

Amount In the case of a failure to perform the obligations of the information provider, the tax authority may set an additional term for the performance of obligations and issue a warning of imposing penalty payment.

In order to enforce the performance of the obligations the amount of penalty payment may not exceed 3,300 euros, whereas it may not exceed 1,300 euros for the first event and 2,000 euros in the second event

10 Country specifics

Country specifics / deviation from EU None.



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Germany

DAC 6 Domestic Implementation



1

General Information

Territory	Germany
Tax authority	Bundeszentralamt für Steuern (BZSt)
Status of legislation	Implemented. Entry into force on 1 July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020. Remark: it can be expected that the first reporting date will be postponed to the end of September 2020. However, this is yet to be confirmed formally.
Taxes covered	Mainly income tax / corporate income tax incl. solidarity surcharge, trade tax, real estate transfer tax, inheritance and gift tax
Taxes excluded	VAT and harmonized excise duties and import and export duties which fall under the Customs Code of the EU.
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has taken the first step towards implementation.
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person and is in a position to exercise significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25 % of voting rights; c) a person participates in the capital of another person through a holding that (directly or indirectly) exceeds 25 % of the capital; d) a person is entitled to 25 % or more of the profits of another person.
Marketable arrangement	A cross-border tax arrangement is marketable if it is designed, marketed, ready for implementation or made available for implementation without the need to be substantially customized.

Cross-border arrangement

An arrangement concerning either more than one Member State or at least one Member State and one or more third country/countries and where at least one of the following conditions is met:

- a) not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b) one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c) one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- d) one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- e) such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

An arrangement shall also include a series of arrangements. An arrangement may comprise more than one step or part.

Intermediary

Any person that designs, markets, organizes or makes available for implementation or manages the implementation of a reportable cross-border arrangement.

Tax advantage

A tax advantage should be considered to arise if, through the arrangement, taxes are to be refunded, tax rebates granted or increased, tax claims waived or reduced or the arising of tax claims is prevented or shifted to other tax periods or tax dates.

A tax advantage also exists if it is to arise outside the scope of this law.

Furthermore, an arrangement should not be subject to the reporting requirement where it only has an effect domestically and if it is, under consideration of all circumstances of the tax arrangement, legally provided for in German domestic law.

Made available for implementation

Cross-border arrangements are made available for implementation if the intermediary has handed over to the user the information or (contractual) documents that are required for the implementation. The actual implementation of the arrangement is not required.

Hallmark

A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks None

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

For intermediaries that are protected by legal professional privilege (LPP) the reporting obligation with respect to certain personal data on the user of the cross-border tax arrangement shall partly shift to the user, provided that:

1) the intermediary has informed the user

about the possibility to discharge the intermediary from its client confidentiality obligations, and

2) the user has not discharged the intermediary from the obligation of secrecy, and

3) the intermediary has immediately submitted the data they hold on the arrangement to the user of the tax arrangement.

The intermediary is required to provide the user with the above information immediately after the reporting obligation arises.

5 Reporting deadline

Intermediaries

Within 30 days following:

a) the day after the reportable cross-border arrangement is made available for implementation; or

b) the day after the reportable cross-border arrangement is ready for implementation; or

c) the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first.

In addition, intermediaries are also required to file information within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice. Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020.

For marketable arrangements, the intermediary is required to file a periodic report with all new reportable cross-border arrangements every 3 months.

Users (where LPP applies)

Within 30 days following:

- a)** the day after the reportable cross-border arrangement is made available for implementation; or
- b)** the day after the reportable cross-border arrangement is ready for implementation; or
- c)** when the first step in the implementation of the reportable cross-border arrangement has been made, whichever occurs first.

Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020.

6 Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Intermediary is obliged to report information that is within their knowledge, possession or control on reportable cross-border arrangements.

Obligation to inform user what data was communicated

Yes

Priority of reporting where multi member state reporting obligations exist

Where the intermediary is liable to file information on reportable cross-border arrangements with the competent authorities of more than one Member State, such information shall be filed only in the Member State that features first in the list below:

- a)** the Member State where the intermediary is resident for tax purposes;
- b)** the Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided;
- c)** the Member State which the intermediary is incorporated in or governed by the laws of;
- d)** the Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.

Circumstances under which intermediary not required to report

In case of multiple reporting obligations, the intermediary shall be exempt from filing if it has proof, in accordance with national law, that the same information has been filed in another Member State or that the required information has been reported by another intermediary. The reference number of the arrangement issued by another Member State is considered sufficient proof.

The intermediary shall also be exempt from filing the information if he is bound by legal professional privilege and has notified the other intermediaries or in absence thereof, the relevant taxpayer.

What will the tax authorities provide for the notification received

The German tax authorities will issue a registration number (Arrangement ID) for the cross-border arrangement and a disclosure number (Disclosure ID) for the notification received (i.e. evidence of receipt). The intermediary is required to immediately provide the registration number and the disclosure number to the user.

7 Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is obliged to report if:

- a) no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or
- b) he has been notified by the intermediary that the intermediary is bound by legal professional privilege.

Priority of reporting where multiple taxpayers are involved

Where multiple users are involved, the user that is to file for all general (non-user related) information will be the one that features first in the list below:

- 1) The user that agreed the arrangement with the intermediary; or
- 2) The user that is managing the implementation of the arrangement.

Circumstances under which taxpayer not required to report

There is evidence that the arrangement has been reported by an intermediary; or

There is evidence that the arrangement has been reported by another taxable person; or

There is evidence that it reported the arrangement in another Member State.

Proof that reporting obligation is satisfied by other taxpayer

Registration number (Arrangement ID) and the disclosure number (Disclosure ID) from the other taxpayer.

8 Reporting principles applicable to all

Language

The mandatory information to be reported can be submitted in German or English. Some additional information must be provided in English in any case.

9

Penalties

Circumstances in which penalties may apply

Incomplete, late - or non-filing of a cross-border tax arrangement.
 Missing reference to the crossborder arrangement in the tax return (at all / timely / completely / properly).
 Penalties will only apply with respect to cross-border tax arrangements implemented after June 30, 2020.

Amount

Fine of up to EUR 25,000.

10

Country specifics

Country specifics / deviation from EU directive

None.

11

Technological implementation

Electronic data transmission

The notification shall be transmitted exclusively by electronic transmission, in accordance with the officially prescribed data set to the Federal Central Tax Office (BZSt).

The following three reporting channels are available for data transmission:

- (1) Individual data transmission via the BZSt online portal (BOP)
- (2) XML Web Upload in the BOP
- (3) Electronic mass data interface (ELMA)

Content of declaration

The declaration shall contain following information:

- details of the intermediary
- details of the indicators
- summary of the design
- date of implementation
- relevant legislation of the affected member states
- information about the user*)
- information on associated companies*)
- persons concerned*)
- economic value
- states concerned

*) If the user himself reports because he has not released the intermediary from his obligation of secrecy.



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Hungary

DAC 6 Domestic Implementation

1

General Information

Territory	Hungary
Tax authority	Nemzeti Adó és Vámhivatal
Status of legislation	Implemented. Entry into force on 1 July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020. Official administrative guidelines yet to be published.
Taxes covered	Personal Income Tax, Corporate Income Tax, Real Estate Transfer Tax, Gift/ Inheritance Tax, Energy tax, Trade tax
Taxes excluded	VAT
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person by being in a position to exercise a significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25 % of the voting rights; c) a person participates in the capital of another person through a right of ownership that, directly or indirectly, exceeds 25 % of the capital; d) a person is entitled to 25 % or more of the profits of another person.
Marketable arrangement	A cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customised.

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- a) not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b) one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c) one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- d) one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- e) such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

Intermediary

Any person that designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement; or

any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a reportable cross-border arrangement.

In order to be an intermediary, a person shall meet at least one of the following additional conditions:

- a) be resident for tax purposes in a Member State;
- b) have a permanent establishment in a Member State through which the services with respect to the arrangement are provided;
- c) be incorporated in, or governed by the laws of, a Member State;
- d) be registered with a professional association related to legal, taxation or consultancy services in a Member State.

Tax advantage Not clarified in Hungarian legislation or administrative guidance.

Made available for implementation Not clarified in Hungarian legislation and currently no guidance has been given by the Hungarian authorities on this point.

Hallmark A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks None.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

When the intermediary is bound by LPP, he is required to notify any and all other intermediaries in writing that the reporting obligation automatically rests with them. If there are no other intermediaries, he should notify the relevant taxpayer in writing that the reporting obligation rests with the taxpayer.

5 Reporting deadline

Intermediaries

Within 30 days following:

- a)** the day after the reportable cross-border arrangement is made available for implementation; or
- b)** the day after the reportable cross-border arrangement is ready for implementation; or
- c)** the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first.

Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020.

For marketable arrangements, the intermediary is required to file a periodic report with all new reportable cross-border arrangements every 3 months (until the last day of every quarter).

Users (where LPP applies)

Within 30 days following:

- a) the day after the reportable cross-border arrangement is made available for implementation; or
- b) the day after the reportable cross-border arrangement is ready for implementation; or
- c) when the first step in the implementation of the reportable cross-border arrangement has been made, whichever occurs first.

Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020.

6 Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Intermediary is obliged to report information that is within their knowledge, possession or control on reportable cross-border arrangements.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

The information shall be filed only in the Member State that features first in the list below:

- a) the Member State where the intermediary is resident for tax purposes;
- b) the Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided;
- c) the Member State which the intermediary is incorporated in or governed by the laws of;
- d) the Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.

Circumstances under which intermediary not required to report

In case of multiple reporting obligations, the intermediary shall be exempt from filing if it has proof, in accordance with national law, that the same information has been filed in another Member State.

The intermediary shall also be exempt from filing the information if he is bound by legal professional privilege and has notified the other intermediaries or in absence thereof, the relevant taxpayer.

What will the tax authorities provide for the notification received

Not clarified in Hungarian legislation or administrative guidance.

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is obliged to report if:

- a) no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or
- b) he has been notified by the intermediary that the intermediary is bound by legal professional privilege

Priority of reporting where multiple taxpayers are involved

Where the relevant taxpayer has an obligation to file information on the reportable cross-border arrangement with the competent authorities of more than one Member State, such information shall be filed only with the competent authorities of the Member State that features first in the list below:

- a) the Member State where the relevant taxpayer is resident for tax purposes;
- b) the Member State where the relevant taxpayer has a permanent establishment benefiting from the arrangement;
- c) the Member State where the relevant taxpayer receives income or generates profits, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State;
- d) the Member State where the relevant taxpayer carries on an activity, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State.

Circumstances under which taxpayer not required to report

Where there is a multiple reporting obligation, the relevant taxpayer shall be exempt from filing the information if it has proof, in accordance with national law, that the same information has been filed in another Member State.

Proof that reporting obligation is satisfied by other taxpayer

Evidence to be provided, but no guidelines are released.

8 Reporting principles applicable to all

Language No information about this. Presumably Hungarian, possibly English.

9 Penalties

Circumstances in which penalties may apply In case the fulfillment of the obligations is late, incorrect, erroneous or incomplete.

Amount up to 5.000.000 HUF (EUR 15.000)

10 Country specifics

Country specifics / deviation from EU directive None.



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Ireland

DAC 6 Domestic Implementation

1

General Information

Territory	Ireland
Tax authority	Revenue Commissioners
Status of legislation	Implemented. The provisions will come into operation on 1 July 2020. Reportable transactions, the first step of which was entered into between 25 June 2018 and 30 June 2020 must be reported by 30 November 2020. Provided for in Finance Bill 2019 signed into law by the Irish president on 22 December 2019.
Taxes covered	Income Tax, Corporation Tax, Capital Gains Tax, Capital Acquisitions Tax, Stamp Duty, Dividend Withholding Tax
Taxes excluded	VAT
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable crossborder arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person by being in a position to exercise a significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25 % of the voting rights; c) a person participates in the capital of another person through a right of ownership that, directly or indirectly, exceeds 25 % of the capital; d) a person is entitled to 25 % or more of the profits of another person.
Marketable arrangement	A cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customised.

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- (a) not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- (b) one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- (c) one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- (d) one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- (e) such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

Intermediary

Any person:

a) that:

- (i) designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement, or
- (ii) having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that such person has undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a reportable cross-border arrangement,

and

(b) that meets at least one of the following conditions:

- (i) the person is resident for tax purposes in a Member State;
- (ii) the person has a permanent establishment in a Member State through which the services with respect to the arrangement are provided;
- (iii) the person is incorporated in, or governed by the laws of, a Member State;
- (iv) the person is registered with a professional association related to legal, taxation or consultancy services in a Member State.

Tax advantage

Tax advantage means:

- a)** relief or increased relief from, or a reduction, avoidance or deferral of, any assessment, charge or liability to tax, including any potential or prospective assessment, charge or liability,

Tax advantage continued

- b)** a refund or repayment of, or a payment of, an amount of tax, or an increase in an amount of tax refundable, repayable or otherwise payable to a person, including any potential or prospective amount so refundable, repayable or payable, or an advancement of any refund or repayment of, or payment of, an amount of tax to a person, or
- c)** the avoidance of any obligation to deduct or account for tax, arising out of or by reason of an arrangement, including an arrangement where another arrangement would not have been undertaken or arranged to achieve the results, or any part of the results, achieved or intended to be achieved by the arrangement.

Made available for implementation

A scheme is to be regarded as being “made available for implementation” by another person (as opposed to being marketed) when the promoter communicates what is essentially a fully formed proposal to a client in sufficient detail that he could be expected to understand the expected tax advantages and decide whether or not to avail of, or enter the scheme,

A scheme can be “made available for implementation” by more than one person e.g. by the scheme designer or by those who provide the scheme to others under, say, a licensing agreement with the designer.

Hallmark

“Hallmark” has the same meaning as it has in Article 3 of Council Directive 2011/16/EU of 15 February 2011 as amended by Council Directive (EU) 2018/822 of 25 May 2018 (“the Directive”).

The Directive defines a “hallmark” as “a characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance, as listed in Annex IV”.

3 Additional hallmarks

Additional hallmarks

None

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

An intermediary is not required to disclose to the Revenue any information with respect to which a claim to legal professional privilege could be maintained by the intermediary in legal proceedings.

Where the above applies, the intermediary concerned shall, without delay, notify any other intermediary or, if there is no other intermediary, the relevant taxpayer, of the obligations imposed on such other intermediary or that relevant taxpayer, as the case may be.

5

Reporting deadline

Intermediaries

An intermediary within the meaning of section (a)(i) of the above definition of 'intermediary' shall make a return to the Revenue Commissioners of the specified information within 30 days beginning—

- a)** on the day after the reportable cross-border arrangement is made available for implementation,
- b)** on the day after the reportable cross-border arrangement is ready for implementation, or
- c)** when the first step in the implementation of the reportable crossborder arrangement was taken, whichever occurs first.

An intermediary within the meaning of section (a)(ii) of the above definition of 'intermediary' shall make a return to the Revenue Commissioners of the specified information within 30 days beginning on the day after such intermediary provided, directly or by means of other persons, aid, assistance or advice referred to in the said section (a)(ii) of the above definition.

The above reporting deadlines were due to be introduced from 1 July 2020. However, this has been deferred to 1 October 2020 due to the impact of COVID-19.

In the case of a reportable cross-border arrangement, the first step of which was implemented during the period beginning on 25 June 2018 and ending on 30 June 2020, the intermediary must make a return of the specified information shall be made to the Revenue Commissioners not later than 30 November 2020. For marketable arrangements, the intermediary is required to amend the return filed in respect of the arrangement every 3 months, providing any new relevant information available.

Users (where LPP applies)

Where there is no intermediary, or the relevant taxpayer has been notified by an intermediary, the relevant taxpayer shall make a return to the Revenue Commissioners of the specified information within 30 days beginning—

- a)** on the day after the reportable cross-border arrangement is made available for implementation to the relevant taxpayer,
- b)** on the day after the reportable cross-border arrangement is ready for implementation by the relevant taxpayer, or
- c)** when the first step in the implementation of a reportable cross-border arrangement was taken in relation to the relevant taxpayer, whichever occurs first.

The above reporting deadlines were due to be introduced from 1 July 2020. However, this has been deferred to 1 October 2020 due to the impact of COVID-19. In the case of a reportable cross-border arrangement, the first step of which was implemented during the period beginning on 25 June 2018 and ending on 30 June 2020, the relevant taxpayer must make a return of the specified information shall be made to the Revenue Commissioners not later than 30 November 2020.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report	An intermediary is required to report information that is within their knowledge, possession or control on reportable cross-border transactions.
Obligation to inform user what data was communicated	No
Priority of reporting where multi member state reporting obligations exist	<p>Where an intermediary is required to provide the specified information on a reportable cross-border arrangement to the competent authority of more than one Member State, such information shall be provided only to the competent authority of the Member State referred to in whichever of the following paragraphs first applies:</p> <ul style="list-style-type: none"> a) the competent authority of the Member State where the intermediary is resident for tax purposes; b) the competent authority of the Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided; c) the competent authority of the Member State which the intermediary is incorporated in or governed by the laws of; d) the competent authority of the Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.
Circumstances under which intermediary not required to report	<p>In the case of multiple reporting obligations, an intermediary shall be exempt from making a return if the intermediary has:</p> <ul style="list-style-type: none"> a) a copy of the specified information provided to the competent authority of another Member State, and b) confirmation, in writing, provided to the intermediary by the competent authority of another Member State that a reference number has been assigned to the arrangement by that competent authority <p>An intermediary will also be exempt from reporting information with respect to which a claim to legal professional privilege could be maintained by the intermediary in legal proceedings and the intermediary has, without delay, notified any other intermediary or, if there is no other intermediary, the relevant taxpayer of the obligations imposed on them to report the information.</p>
What will the tax authorities provide for the notification received	Where a return is made to the Revenue Commissioners they will assign a reference number to the reportable cross-border arrangement if no such number has already been assigned to it by the competent authority of another Member State.

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

A taxpayer is required to report information that is within their knowledge, possession or control on reportable cross-border transactions where there is no intermediary, or the relevant taxpayer has been notified by an intermediary of the obligations imposed on them under the legislation.

Priority of reporting where multiple taxpayers are involved

Where a relevant taxpayer is required to make a return under this section and there is more than one relevant taxpayer involved in the same reportable cross-border arrangement, the return shall be made by the relevant taxpayer referred to in whichever of the following paragraphs first applies:

- a) the relevant taxpayer that agreed the reportable cross-border arrangement with the intermediary;
- b) the relevant taxpayer that manages the implementation of the arrangement.

Circumstances under which taxpayer not required to report

A relevant taxpayer shall be exempt from making a return to the Revenue Commissioners if the relevant taxpayer has received, in writing, from any other relevant taxpayer involved in the same reportable cross-border arrangement:

- a) confirmation that such other relevant taxpayer has provided the specified information to the Revenue Commissioners in a return made under this section, and
- b) the reference number assigned to the arrangement by the Revenue Commissioners.

Proof that reporting obligation is satisfied by other taxpayer

The taxpayer must receive confirmation, in writing, from the other taxpayer.

8

Reporting principles applicable to all

Language

English

9

Penalties

Circumstances in which penalties may apply

1. An intermediary or a taxpayer fails to discharge their reporting obligations, meaning late or incomplete reporting of a reportable cross-border arrangement or failing to report same from 1 July 2020.

2. For certain specified "lesser" failures, for example, an intermediary asserting LPP failing to inform the taxpayer that the reporting obligation to disclose rests with them or failure to report transactions during transitional period to 30 June 2020.
3. Failing to include the unique transaction number issued by the Revenue Commissioners in respect of a reportable cross-border arrangement on a return of income.

Amount

1. In these cases, there is a flexible initial penalty of up to €500 per day during an "initial period", and where the failure continues after that penalty is imposed, a further penalty of €500 per day applies for every day that the failure continues.
2. For the certain specified "lesser" failures, there is an initial civil penalty of up to €4,000. If the failure continues after the initial penalty is imposed, a further fixed daily penalty of €100 per day applies.
3. Failing to include the unique transaction number on a return of income results in a penalty of up to

10 Country specifics

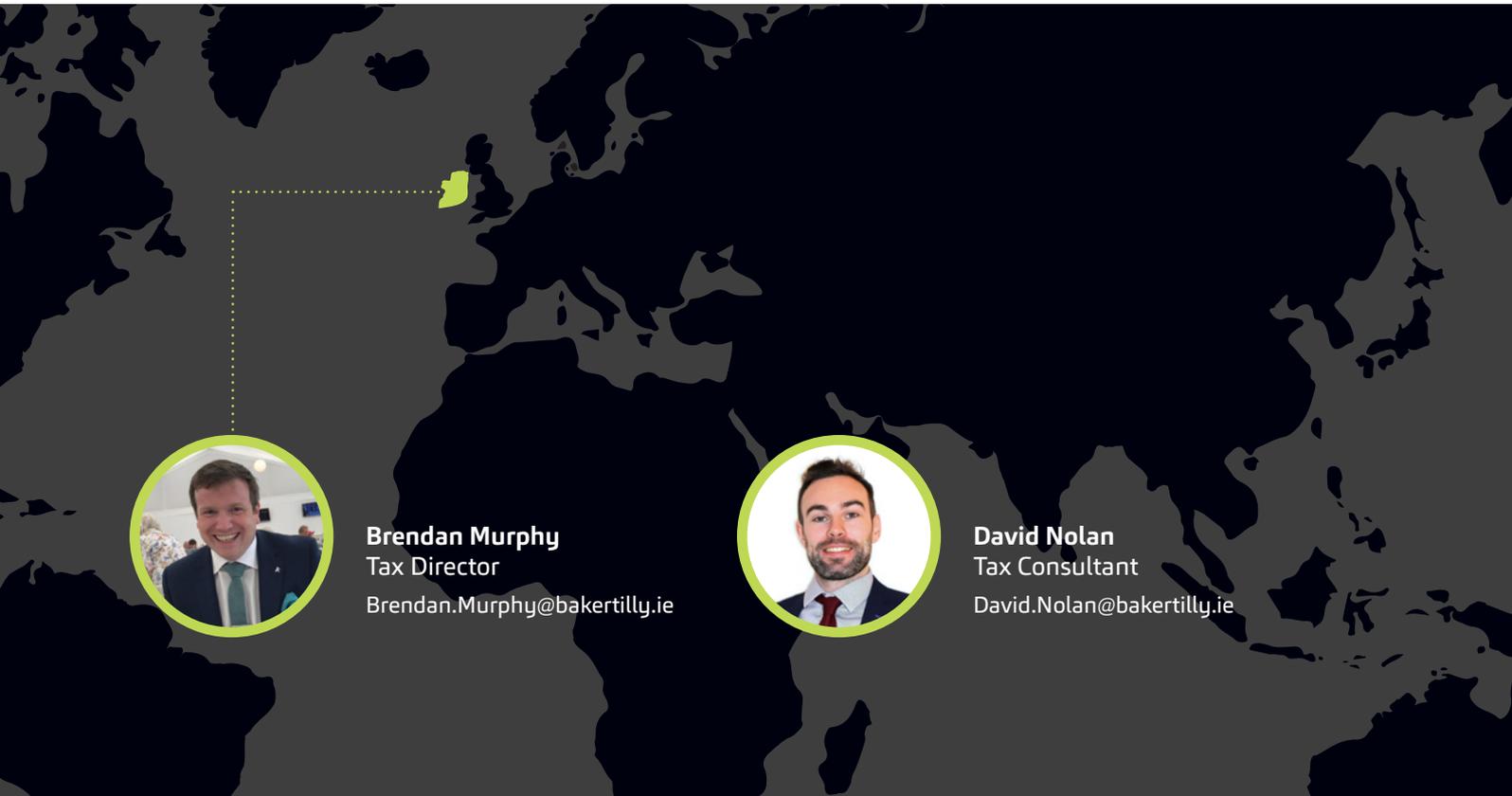
Country specifics / deviation from EU directive None.



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Latvia

DAC 6 Domestic Implementation

1

General Information

Territory	Latvia
Tax authority	Valsts ieņēmumu dienests
Status of legislation	Implemented Entry into force on 1 July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020
Taxes covered	All taxes that are not excluded
Taxes excluded	Value-added tax, customs duty, excise duty, and state social insurance contributions
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person and is in a position to exercise significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25% of voting rights; c) a person participates in the capital of another person through a holding that (directly or indirectly) exceeds 25% of the capital; d) a person is entitled to 25% or more of the profits of
Marketable arrangement	Cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customized.

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- a) not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b) one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c) one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- d) one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- e) such an arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

An arrangement shall also include a series of arrangements. An arrangement may comprise more than one step or part.

Intermediary

Any person that:

- a) designs, markets, organizes or makes available for implementation or manages the implementation of a reportable cross-border arrangement; or
 - b) having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or using other persons, aid, assistance or advice with respect to designing, marketing, organizing, making available for implementation or managing the implementation of a reportable cross-border arrangement;
- and meets at least one of the following additional conditions:

- 1) is a tax resident in the Republic of Latvia;
- 2) has a permanent establishment in the Republic of Latvia through which the services, which are connected with cross-border schemes, are provided;
- 3) is a member of a professional association, foundation or college which is associated with a legal, tax or other advisory services in the Republic of Latvia.

Tax advantage

In national laws not specified.

Made available for implementation

Currently no guidance has been given by Latvian authorities.

Hallmark

A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks

None.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

If the intermediary is a sworn advocate and the provision of information regarding the cross-border arrangement to be reported would violate the professional secret, it is entitled not to provide the relevant report, if he or she informs the other intermediary or if there is no other intermediary, the relevant taxpayer regarding the reporting obligation. A sworn advocate is entitled to use the said exemption insofar as it operates within the framework of Advocacy Law of the Republic of Latvia.

Sworn advocate is not exempt from the periodic reporting for marketable arrangements.

5 Reporting deadline

Intermediaries

Intermediary shall report within 30 days following:

- a)** the day after the reportable cross-border arrangement is made available for implementation; or
- b)** the day after the reportable cross-border arrangement is ready for implementation; or
- c)** the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first

In certain cases, the intermediary shall provide the information within 30 days of the day following that on which it has provided assistance, support, or advice directly or through other persons.

Reportable transactions for which the first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020.

For marketable arrangements, the intermediary is required to file a periodic report with all new reportable information every 3 months.

Users (where LPP applies)

Relevant taxpayer shall report within 30 days following:

- a) the day after the reportable cross-border arrangement is made available to the relevant taxpayer for implementation; or
- b) the day after the reportable cross-border arrangement is ready for the relevant taxpayer to implement; or
- c) when the first phase of the implementation of the reportable cross-border arrangement, which is related to the relevant taxpayer, has been made.

Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Intermediary is obliged to report information that is within their knowledge, possession or control (whichever occurs first) on reportable cross-border arrangements.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

Where the intermediary is liable to file information on reportable cross-border arrangements with the competent authorities of more than one Member State, such information shall be filed only in the Member State that features first in the list below:

- a) the Member State where the intermediary is resident for tax purposes;
- b) the Member State where the intermediary has a permanent establishment through which the services concerning the arrangement are provided;
- c) the Member State which the intermediary is incorporated in or governed by the laws of;
- d) the Member State where the intermediary is a member of a professional association, foundation, or college which is involved in legal, tax, or advisory services.

Circumstances under which intermediary not required to report

In case of multiple reporting obligations, the intermediary is entitled not to submit a report to the Latvian State Revenue Service if it has evidence that the same information has been submitted in another Member State. In this case, within 30 days after the submission of the relevant report in another Member State, the intermediary shall provide information on the reference number of the reportable cross-border arrangement and certify that it has no other information at its disposal.

The intermediary shall also be exempt from filing the information if he or she is bound by legal professional privilege and has notified the other intermediary or in the absence thereof, the relevant taxpayer about reporting obligation.

What will the tax authorities provide for the notification received

The fact that the Latvian State Revenue Service does not react to a reportable cross-border arrangement does not mean consent to the activities included in this arrangement or to the application of tax laws about this arrangement.

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is obliged to report if:

- a) there is no intermediary, who is obligated to submit a report;
- b) the intermediary notifies of the application of the reporting exemption (in case if the intermediary is sworn advocate) and reporting obligation to the relevant taxpayer.

Priority of reporting where multiple taxpayers are involved

Where the relevant taxpayer must file information on the reportable cross-border arrangement with the competent authorities of more than one Member State, such information shall be filed only with the competent authorities of the Member State that features first in the list below:

- a) the Member State where the relevant taxpayer is resident for tax purposes;
- b) the Member State where the relevant taxpayer has a permanent establishment benefiting from the arrangement;
- c) the Member State where the relevant taxpayer receives income or generates profits, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State;
- d) the Member State where the relevant taxpayer carries on any activity, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State.

Circumstances under which taxpayer not required to report

Where there are multiple reporting obligations, the relevant taxpayer shall be exempt from filing the information if it has proof that the same information has been filed in another Member State. In this case, within 30 days after the submission of the relevant report in another Member State, the relevant taxpayer shall provide information on the reference number of the reportable cross-border arrangement and certify that it has no other information at its disposal.

Proof that reporting obligation is satisfied by other taxpayer

The relevant taxpayer shall be released from the obligation to supply information only in so far as he or she can prove that the same information has already been provided by another relevant taxpayer. In such a case, within 30 days after the submission of the relevant report by another relevant taxpayer, the relevant taxpayer shall provide the Latvian State Revenue Service with information including the reference number of the reportable cross-border arrangement and certify that it has no other information at its disposal.

8 Reporting principles applicable to all

Language

Latvian. The other language may be used, but the State Revenue Service is entitled to request translation.

9 Penalties

Circumstances in which penalties may apply

Incomplete, late - or non-filing.

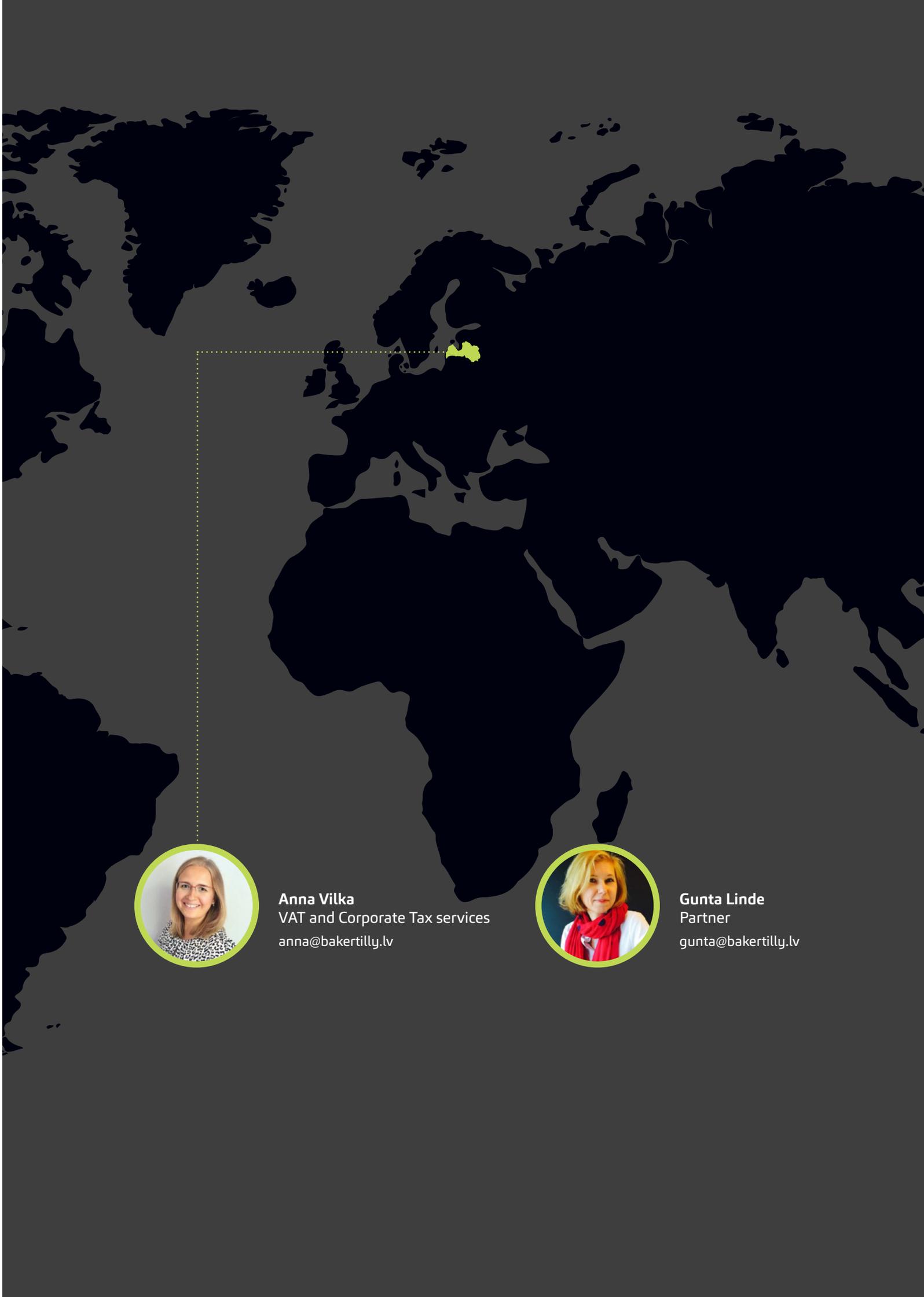
Amount

Up to 3 200 EUR.

10 Country specifics

Country specifics / deviation from EU directive

None.



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Luxembourg

DAC 6 Domestic Implementation

1

General Information

Territory	Luxembourg
Tax authority	Administration des Contributions Directes
Status of legislation	Implemented. Entry into force on 1st July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31st August 2020. No practical guidelines available yet
Taxes covered	Income tax, corporate tax, capital gains tax, registration duties, local taxes, real estate taxes and wealth or inheritance taxes
Taxes excluded	VAT, customs and excise duties
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person and is in a position to exercise significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25 % of voting rights; c) a person participates in the capital of another person through a holding that (directly or indirectly) exceeds 25 % of the capital; d) a person is entitled to 25 % or more of the profits of another person.
Marketable arrangement	Cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customized.

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- a)** not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b)** one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c)** one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- d)** one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- e)** such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

An arrangement shall also include a series of arrangements. An arrangement may comprise more than one step or part.

Intermediary

Any person that designs, markets, organizes or makes available for implementation or manages the implementation of a reportable cross-border arrangement.

It also means any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organizing, making available for implementation or managing the implementation of a reportable cross-border arrangement.

The intermediary has the right to prove (through facts and circumstances, available information, his expertise and knowledge) that he didn't know or could not reasonably be expected to know, that he was participating to a reportable cross-border arrangement.

In addition, to be an intermediary, the person must meet at least one of the following additional conditions :

- a)** Be tax resident in a Member State
- b)** Have a permanent establishment in a Member State through which the services related to the arrangement were provided
- c)** Be incorporated or regulated by the law of a Member State
- d)** Be registered to a legal, tax or advisory professional association in a Member State

Tax advantage Not clarified in Luxembourg legislation

Made available for implementation Not clarified in Luxembourg legislation

Hallmark A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks None

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP) **Lawyers, chartered accountants and auditors are covered by the legal professional privilege and will have no reporting obligations, unless they would act out of the borders of their professional exercise. However, they should notify within 10 days following:**

- a) the day after the reportable cross-border arrangement is made available for implementation; or
 - b) the day after the reportable cross-border arrangement is ready for implementation; or
 - c) the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first
- the reporting obligation to any other intermediary or to the client in case of lack of intermediary. They should provide the other intermediary / client the relevant information to fulfill his reporting obligations.

5 Reporting deadline

Intermediaries

Within 30 days following:

- a) the day after the reportable cross-border arrangement is made available for implementation; or
- b) the day after the reportable cross-border arrangement is ready for implementation; or
- c) the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first.

In addition, intermediaries are also required to file information within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice.

Intermediaries

Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020.

For marketable arrangements, the intermediary is required to file a periodic report with all new reportable cross-border arrangements every 3 months.

Users (where LPP applies)

Within 30 days following:

- a) the day after the reportable cross-border arrangement is made available for implementation; or
- b) the day after the reportable cross-border arrangement is ready for implementation; or
- c) when the first step in the implementation of the reportable cross-border arrangement has been made, whichever occurs first.

Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Intermediary is obliged to report information that is within their knowledge, possession or control on reportable cross-border arrangements.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

Where the intermediary is liable to file information on reportable cross-border arrangements with the competent authorities of more than one Member State, such information shall be filed only in the Member State that features first in the list below:

- a) the Member State where the intermediary is resident for tax purposes;
- b) the Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided;
- c) the Member State which the intermediary is incorporated in or governed by the laws of;
- d) the Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.

Circumstances under which intermediary not required to report

In case of multiple reporting obligations, the intermediary shall be exempt from filing if it has proof, in accordance with national law, that the same information has been filed in another Member State.

The intermediary shall also be exempt from filing the information if he is bound by legal professional privilege and has notified the other intermediaries or in absence thereof, the relevant taxpayer.

What will the tax authorities provide for the notification received

Not clarified in Luxembourg legislation, but it is already précised that the lack of reaction does not mean that the validity of the arrangement or its tax treatment has been approved by the tax authorities

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is obliged to report if:

- a) no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement (in house planning)
- b) he has been notified by the intermediary that the intermediary is bound by legal professional privilege.

Priority of reporting where multiple taxpayers are involved

Where the relevant taxpayer has an obligation to file information on the reportable cross-border arrangement with the competent authorities of more than one Member State, such information shall be filed only with the competent authorities of the Member State that features first in the list below:

- a) the Member State where the relevant taxpayer is resident for tax purposes;
- b) the Member State where the relevant taxpayer has a permanent establishment benefiting from the arrangement;
- c) the Member State where the relevant taxpayer receives income or generates profits, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State;
- d) the Member State where the relevant taxpayer carries on an activity, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State.

Circumstances under which taxpayer not required to report

Where there is a multiple reporting obligation, the relevant taxpayer shall be exempt from filing the information if it has proof that the same information has been filed in another Member State.

Proof that reporting obligation is satisfied by other taxpayer

Not clarified in Luxembourg legislation

8 Reporting principles applicable to all

Language

To be confirmed by grand ducal regulation. But probably French and German (official languages). Possibly English (business language but not official language)

9 Penalties

Circumstances in which penalties may apply

Lack of transmission of information, late transmission, transmission of incomplete or inaccurate information

In case of legal professional privilege, lack of notification of filing obligation to an other intermediary / the taxpayer

Amount

250.000 €

10 Country specifics

Country specifics / deviation from EU directive

Wide legal professional privilege (lawyers, chartered accountants, auditors)



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An aerial photograph of a rocky coastline with clear turquoise water. A small white boat is visible near the top center, and several people are swimming in the water. A yellow horizontal bar is positioned across the middle of the image, containing the text 'Malta'.

Malta

DAC 6 Domestic Implementation

1

General Information

Territory	Malta
Tax authority	Commissioner for Revenue
Status of legislation	<p>Implemented</p> <p>Reporting of reportable cross border arrangements of which the first step is implemented between 25 June 2018 and 1 July 2020 need to be reported by 30 August 2020. The EU Commission has proposed extensions to the aforementioned deadline.</p> <p>The Directive was transposed in Maltese domestic law through Legal Notice 342 of 2019 on 17th December 2019.</p> <p>The guidelines on interpretation and administrative procedures are yet to be published.</p>
Taxes covered	Income Tax
Taxes excluded	The Directive was transposed under the Maltese Income Tax, hence it should be limited to taxes covered under the Maltese Income Tax Act.
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	<p>Guidelines in relation to DAC 6 haven't been published yet.</p> <p>The Subsidiary Legislation through which the Directive was transposed into Maltese Legislation, defines a 'relevant taxpayer' as any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.</p>
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Associated enterprise

Guidelines in relation to DAC 6 haven't been published yet.

The Subsidiary Legislation through which the Directive was transposed into Maltese Legislation, defines an 'associated enterprise' as:

A person who is related to another person in at least one of the following ways: (a) a person participates in the management of another person by being in a position to exercise a significant influence over the other person; (b) a person participates in the control of another person through a holding that exceeds 25% of the voting rights; (c) a person participates in the capital of another person through a right of ownership that, directly or indirectly, exceeds 25% of the capital; (d) a person is entitled to 25% or more of the profits of another person:

Provided that:

(i) if more than one person participates, as referred to in paragraphs (a) to (d), in the management, control, capital or profits of the same person, all persons concerned shall be regarded as associated enterprises;

(ii) if the same persons participate, as referred to in paragraphs (a) to (d), in the management, control, capital or profits of more than one person, all persons concerned shall be regarded as associated enterprises;

(iii) for the purposes of this definition, a person who acts together with another person in respect of the voting rights or capital ownership of an entity shall be treated as holding a participation in all of the voting rights or capital ownership of that entity that are held by the other person;

(iv) in indirect participations, the fulfilment of requirements under paragraph (c) shall be determined by multiplying the rates of holding through the successive tiers. A person holding more than 50% of the voting rights shall be deemed to hold 100%;

(v) an individual, his or her spouse and his or her lineal ascendants or descendants shall be treated as a single person;

Marketable arrangement

Guidelines in relation to DAC 6 haven't been published yet.

The Subsidiary Legislation through which the Directive was transposed into Maltese Legislation, defines a 'marketable arrangement' as:

A cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customised.

Cross-border arrangement

Guidelines in relation to DAC 6 haven't been published yet.

The Subsidiary Legislation through which the Directive was transposed into Maltese Legislation, defines a 'cross-border arrangement' as:

An arrangement concerning either more than one EU Member State or an EU Member State and a third country where at least one of the following conditions is met:

- a)** not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b)** one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c)** one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- d)** one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- e)** such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

Intermediary

Guidelines in relation to DAC 6 haven't been transposed as yet.

The Subsidiary Legislation through which the Directive was transposed into Maltese legislation defines an 'Intermediary' as a person:

- a)** that designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement;
- b)** that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a reportable cross-border arrangement.

Provided that any person shall have the right to provide evidence that such person did not know and could not reasonably be expected to know that that person was involved in a reportable cross-border arrangement. For this purpose, that person may refer to all relevant facts and circumstances as well as available information and their relevant expertise and understanding.

In addition to the above, in order to be an intermediary, a person shall meet at least one of the following additional conditions:

- a) be resident for tax purposes in an EU Member State;
- b) have a permanent establishment in an EU Member State through which the services with respect to the arrangement are provided;
- c) be incorporated in, or governed by the laws of an EU Member State;
- d) be registered with a professional association related to legal, taxation or consultancy services in an EU Member State.

Tax advantage

Guidelines in relation to DAC 6 haven't been published as yet and the Subsidiary Legislation through which the Directive was transposed does not provide for a definition of a 'tax advantage'.

Made available for implementation

Guidelines in relation to DAC 6 haven't been published as yet and the Subsidiary Legislation through which the Directive was transposed does not define 'made available for implementation'.

Hallmark

Guidelines in relation to DAC 6 haven't been published as yet.

The Subsidiary Legislation through which the Directive was transposed into Maltese Legislation defines a 'hallmark' as:

A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance,

3 Additional hallmarks

Additional hallmarks

None.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

An intermediary whose profession is referred to in article 3 of the Professional Secrecy Act has the right to a waiver from filing information on a reportable cross-border arrangement where the reporting of such information would constitute an offence under article 257 of the Criminal Code.

Article 3 of the Professional Secrecy Act - Members of a profession regulated by the Medical and Kindred , Professions Ordinance, advocates, notaries, legal procurators, social workers, psychologists, accountants, auditors, employees and officers of financial and credit institutions, trustees, officers of nominee companies or licensed nominees, persons licensed to provide investment services under the Investment Services Act, stockbrokers licensed under the Financial Markets Act, insurers, insurance agents, insurance managers, insurance brokers and insurance sub-agents, officials and employees of the State.

Operation of legal professional privilege (LPP)

Article 257 of the Criminal Code - Any person, who by reason of his calling, profession or office, becomes the depositary of any secret confided in him, shall, except when compelled by law to give information to a public authority, disclose such secret, he shall on conviction be liable to a fine not exceeding EUR 46,587.47 or to imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.

5 Reporting deadline

Intermediaries

Intermediaries shall file information that is within their knowledge, possession or control on reportable cross-border arrangements with the Commissioner for Revenue within 30 days beginning:

- On the day after the reportable cross-border arrangement is made available for implementation; or
- On the day after the reportable cross-border arrangement is ready for implementation; or
- When the first step in the implementation of the reportable cross-border arrangement has been made,

whichever occurs first.

Users (where LPP applies)

The intermediary must notify, without delay and in any event no later than 7 working days from the relevant date, any other intermediary or, if there is no such intermediary, the relevant taxpayer of their reporting obligations.

Where an intermediary has waived such reporting obligation, the intermediary shall provide an annual update to the Commissioner for Revenue, consisting of a list of the reportable cross-border arrangements where the reporting obligation has been waived on to another intermediary or the relevant taxpayer.

6 Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

The intermediary is obliged to report information that is within his knowledge, possession or control on reportable cross-border arrangements.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

From a Maltese perspective the Subsidiary Legislation provides that an intermediary is liable to file information on reportable cross-border arrangements when:

- The intermediary is resident in Malta for tax purposes;
- The intermediary is not resident for tax purposes in any EU Member State (including Malta) but has a PE in Malta through which the services with respect to the arrangement are provided;
- The intermediary is incorporated in Malta or is governed by the laws of Malta;
- The intermediary is registered with a professional association related to legal, taxation or consultancy services that is established in Malta.

Circumstances under which intermediary not required to report

The intermediary is not required to report in the following instances:

- Where there is more than one intermediary, provided that proof that the same information has already been filed by another intermediary.
- Where the intermediary has his profession referred in Article 3 of the Professional Secrecy Act and has waived his obligation to report a reportable cross border arrangement (where the reporting of such information would constitute an offence under article 257 of the Criminal Code)

The intermediary shall also be exempt from filing the information if he is bound by legal professional privilege and has notified the other intermediaries or in absence thereof, the relevant taxpayer.

What will the tax authorities provide for the notification received

Further guidance to be provided by the Maltese Tax Authorities

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is obliged to report if:

- no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or
- he has been notified by the intermediary that the intermediary is bound by legal professional privilege.

Priority of reporting where multiple taxpayers are involved

Where the reporting obligation lies with the relevant taxpayer and where there is more than one relevant taxpayer, the relevant taxpayer that is to file information shall be the one that features first in the list on the next page

Priority of reporting where multiple taxpayers are involved

- The relevant taxpayer that agreed the reportable cross-border arrangement with the intermediary;
- The relevant taxpayer that manages the implementation of the arrangement.

Circumstances under which taxpayer not required to report

Where there is a multiple reporting obligation, the relevant taxpayer shall be exempt from filing the information if it has proof, that the same information has been filed in another Member State.

Proof that reporting obligation is satisfied by other taxpayer

Further guidance is expected on same.

8 Reporting principles applicable to all

Language

No specific mention is made to date. But generally, like any other communication made to the Commissioner for Revenue this has to be done in English.

9 Penalties

Circumstances in which penalties may apply

Intermediaries and relevant taxpayers (i) failing to report the information required within the time stipulated in the Regulations; or (ii) failing to report the information in a complete and accurate manner, are liable to a one-off penalty of EUR 200 and EUR 100 for every day during which the default existed, provided that the penalty shall not exceed in total EUR 20,000.

Intermediaries and relevant taxpayers failing to comply with a request for information made by the Commissioner, are liable to a one-off penalty of EUR 1000 and EUR 100 for every day during which the default existed, provided that the penalty shall not exceed in total EUR 30,000.

A penalty of EUR 2,500 is imposed on intermediaries or relevant taxpayers failing to retain the documentation for a minimum period of five years.

Amount

As per above

10 Country specifics

Country specifics / deviation from EU directive

None.



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Netherlands

DAC 6 Domestic Implementation

1

General Information

Territory	Netherlands
Tax authority	Nederlandse rijksbelastingdienst
Status of legislation	Implemented. Entry into force on 1 July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020. Decree (with reporting formalities) and administrative guidelines yet to be published.
Taxes covered	Corporate income tax, income tax, wage tax, (dividend) withholding tax, real estate transfer tax, miscellaneous taxes and duties.
Taxes excluded	VAT, customs, excise duties, social security contributions
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person by being in a position to exercise a significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25 % of the voting rights; c) a person participates in the capital of another person through a right of ownership that, directly or indirectly, exceeds 25 % of the capital; d) a person is entitled to 25 % or more of the profits of another person.
Marketable arrangement	A cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customized

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- a) not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b) one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c) one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- d) one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- e) such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

An arrangement shall also include a series of arrangements. An arrangement may comprise more than one step or part.

Intermediary

Any person that designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement.

It also means any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a reportable cross-border arrangement.

Tax advantage

Not defined. In parliamentary explanation is referred to the European Commission Recommendation of 6 December 2012 on aggressive tax planning (2012/772/EU), paragraph 4.

Made available for implementation

Currently no guidance has been given by the Dutch authorities on this point.

Hallmark

A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks None

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

When the intermediary is bound by LPP, he is required to notify any and all other intermediaries that the reporting obligation automatically rests with them. If there are no other intermediaries, he is required to notify the relevant taxpayer that the reporting obligation rests with the taxpayer.

5 Reporting deadline

Intermediaries

Within 30 days following:

- a) the day after the reportable cross-border arrangement is made available for implementation; or
- b) the day after the reportable cross-border arrangement is ready for implementation; or
- c) the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first.

In addition, intermediaries are also required to file information within 30 days beginning on the day after they provided aid, assistance or advice relating to the cross-border arrangement. Reportable transactions for which the first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 Augustus 2020.

For marketable arrangements, the intermediary is required to file a periodic report with all new reportable cross-border arrangements every 3 months.

Users (where LPP applies)

Within 30 days following:

- a) the day after the reportable cross-border arrangement is made available for implementation; or
- b) the day after the reportable cross-border arrangement is ready for implementation; or
- c) the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first.

Reportable transactions for which the first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 Augustus 2020.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Intermediary is obliged to report if it is within their knowledge that they are intermediary relating to a reportable cross-border arrangement.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

Where the intermediary is liable to file information on reportable cross-border arrangements with the competent authorities of more than one Member State, such information shall be filed only in the Member State that features first in the list below:

- a) the Member State where the intermediary is resident for tax purposes;
- b) the Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided;
- c) the Member State which the intermediary is incorporated in, or governed by the laws of;
- d) the Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.

Circumstances under which intermediary not required to report

In case of multiple reporting obligations, the intermediary shall be exempt from filing if it has proof that the same information has been filed in another Member State.

The intermediary is also exempt from filing the information if he is bound by LPP and has notified the other intermediaries or in absence thereof, the relevant taxpayer.

What will the tax authorities provide for the notification received

The tax authorities will provide a unique ArrangementID and DisclosureID and a confirmation e-mail, that has to be kept in the administration.

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is obliged to report if:

- a) no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or
- b) he has been notified by the intermediary that the intermediary is bound by legal professional privilege.

Priority of reporting where multiple taxpayers are involved

Where the relevant taxpayer has an obligation to file information on the reportable cross-border arrangement with the competent authorities of more than one Member State, such information shall be filed only with the competent authorities of the Member State that features first in the list below:

- a) the Member State where the relevant taxpayer is resident for tax purposes;
- b) the Member State where the relevant taxpayer has a permanent establishment benefiting from the arrangement;
- c) the Member State where the relevant taxpayer receives income or generates profits, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State;
- d) the Member State where the relevant taxpayer carries on an activity, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State.

Circumstances under which taxpayer not required to report

Where there is a multiple reporting obligation, the relevant taxpayer shall be exempt from filing the information if it has proof that the same information has been filed in another Member State.

Proof that reporting obligation is satisfied by other taxpayer

No guidance.

8 Reporting principles applicable to all

Language

Dutch. Particularities about the hallmarks and the domestic law applicable to and the summary of the reportable cross-border arrangement have to be provided also in English.

9 Penalties

Circumstances in which penalties may apply

Incomplete, late, or non-filing.

Amount

Maximum of EUR 870.000 (2020). Dutch authorities have mentioned that the penalty has to be proportionate. Conditions that could lower the penalty will be taken into account.

10 Country specifics

Country specifics / deviation from EU directive

None.



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A photograph of a European city street, likely in Poland, featuring colorful buildings with red-tiled roofs and a prominent church tower with a green dome in the background. The scene is captured during the day with soft lighting.

Poland

DAC 6 Domestic Implementation

1

General Information

Territory	Poland
Tax authority	Szef Krajowej Administracji Skarbowej (Head of the National Revenue Administration)
Status of legislation	<p>Implemented.</p> <p>Entry into force on 1 January 2019.</p> <p>Reportable transactions for which first implementation step took place for:</p> <ul style="list-style-type: none"> • cross-border tax arrangements after 25 June 2018; • arrangements other than cross-border tax arrangements after 1 November 2018. <p>The deadline for reporting the above arrangements was:</p> <ul style="list-style-type: none"> • 30 June 2019 for promoters and supporters, • 30 September 2019 for users <p>Please note that amendment introducing obligation to report cross-border tax arrangements for which first implementation step took place after 25 June 2018 on new form (new logical structure) is currently under legislative process. New obligation will cover both tax arrangements already reported and tax arrangements that has not been reported by the date of entry into force of amendment.</p> <p>The deadline for reporting arrangements on new form will be:</p> <ul style="list-style-type: none"> • 31 July 2020 for promoters, • 16 August 2020 for users, • 31 August 2020 for supporters.
Taxes covered	Every tax except for customs duty ie. CIT, PIT, VAT, tax on civil law transactions, excise, Tax on the extraction of certain minerals, local taxes
Taxes excluded	Custom duty
Domestic transactions	Yes

2

Definitions further clarified by guidance

Relevant taxpayer

Natural person, legal person or organisational unit without legal personality to whom the arrangement is made available or for whom the arrangement is implemented, or who is prepared to implement the arrangement or performed an action related to the implementation of that arrangement

Associated enterprise

Entity affiliated with another entity through at least one of the ways specified below:

- a) a natural person, legal person or organisational unit without legal personality participates in the management of another entity by being in a position to exercise a significant influence over the managed entity,
- b) a natural person, legal person or organisational unit without legal personality participates in the control of another entity through a holding that exceeds 25% of the voting rights,
- c) a natural person, legal person or organisational unit without legal personality has a - either direct or indirect - holding in the capital of another entity that exceeds 25% of its capital, with the stipulation that the indirect share shall be determined by multiplying the rates of holding through the successive tiers and that a person holding more than 50% of the voting rights shall be deemed to hold 100% of these rights,
- d) a natural person, legal person or organisational unit without legal personality is entitled to 25% or more of the profits of another entity;

Marketable arrangement

It means a tax scheme that may be implemented by or made available to more than one user without the need to change its key assumptions, in particular those concerning the type of activities taken or planned within the framework of the tax scheme;

Cross-border arrangement

Arrangement concerning more than one Member State of the European Union or a Member State of the European Union and a third country where at least one of the following conditions is met:

- 1) not all of the participants in the arrangement have a place of residence, registered office or management in the same state,
- 2) at least one of the participants in the arrangement has a place of residence, registered office or management in the territory of more than one state,
- 3) at least one of the participants in the arrangement conducts business in the territory of a given state through a foreign establishment situated in that state and the arrangement forms part or the whole of the business of that foreign establishment,

Cross-border arrangement

4) at least one of the participants in the arrangement conducts business in the territory of another state without having a place of residence or registered office situated in the territory of that state and without having a foreign establishment situated in that state,

5) such arrangement has a possible impact on the automatic exchange of information referred to in Section III of the Act of 9 March 2017 on the Exchange of Tax Information with Other Countries or on the identification of the beneficial owner within the meaning of the Act of 1 March 2018 on Counteracting Money Laundering and Terrorism Financing

- except where the arrangement applies only to value-added tax, including tax on goods and services, excise tax or customs duties imposed in the territory of a Member State of the European Union.

Intermediary

Please note that definition of intermediary is split in Polish provisions into promoter and supporter which have different information obligation.

Promoter - means a natural person, legal person or organisational unit without legal personality, in particular a tax advisor, an attorney, legal counsel, an employee of a bank or other financial institution advising clients, including when that entity does not have a place of residence, registered office or management in the territory of the country, who offers, makes available or implements the arrangement or manages its implementation;

Supporter - means a natural person, a legal person or an organisational unit without legal personality, in particular a statutory auditor, a notary public, a person who provides bookkeeping services, an accountant or chief financial officer, a bank or another financial institution, and an employee thereof who, while exercising due diligence generally required in transactions made and having regard to the professional nature of activity, the area of its specialisation and the object of its transactions, undertook to provide, directly or by means of other persons, aid, assistance or advice on the development, marketing or organisation of a tax scheme or on making the arrangement available for implementation or supervising its implementation.

Tax advantage**Tax advantage means:**

a) non-occurrence of a tax liability, its postponement in time or a reduction of its value,

b) occurrence or overvaluation of a tax loss,

c) occurrence of a tax overpayment or the right to a tax refund or an increase in the tax overpayment or refund amount,

d) the absence of obligation to collect tax by the tax remitter, if this results from the circumstances indicated in point a);

e) an increase of the excess amount of input tax over output tax, to be carried over to the next settlement period,

f) non-application or postponement in time of the obligation to prepare and submit tax information, including information on tax schemes;

Made available for implementation

It means:

- a) offering the arrangement to the user, entry into an agreement the subject matter of which is to file information on the arrangement, or the acceptance of remuneration for the provision of information on the arrangement, or
- b) providing information on the arrangement, in particular by presenting its assumptions, to the user in any form, including by electronic means, by phone or in person;

Hallmark

There is no legal definition of hallmark itself. Hallmark can be understood as characteristic or feature of arrangement. Not every hallmark has to cause tax advantage.

3

Additional hallmarks

Additional hallmarks

Additional (other than provided by DAC6) hallmarks are indicated below:

- a) a promoter or user undertook to keep the manner in which the arrangement allows to achieve a tax advantage confidential from third parties, in particular other users, promoters or tax authorities,
- b) a promoter is entitled to receive remuneration the amount of which is dependent on the amount of tax advantage resulting from the arrangement,
- c) a promoter is entitled to receive remuneration dependent on achieving a tax advantage resulting from the arrangement or undertook to return remuneration or part thereof if a tax advantage does not arise or arises in an amount lower than assumed,

Additional hallmarks continued

- d) actions performed as part of the arrangement are based on substantially harmonised records or performed in a substantially harmonised form that do not require significant changes in order for more than one user to implement a scheme,
- e) it involves cross-border payments between affiliated entities that are classified as tax deductible expenses and in the state where the recipient's place of residence, registered office or management is located:
 - corporate income tax is not imposed or corporate income tax is collected at a zero rate or a rate lower than 5%,
 - these payments are fully exempt or covered by preferential rules of taxation,
- f) user undertook to cooperate with the promoter who made the arrangement available or pay remuneration or compensation to the promoter, if the arrangement is implemented,
- g) a promoter or user actually observe at least one of the obligations indicated in points b and c,

**Additional hallmarks
continued**

h) based on existing circumstances it is necessary to assume that a reasonably acting promoter or user to whom the obligations provided for in the provisions of this Chapter would not apply would like for at least one of the obligations indicated in points a to c to be actually observed;

i) assets are transferred as part of the arrangement and remuneration for that transfer specified by both countries for tax purposes differs by more than 25%,

j) impact on the deferred part of income tax or assets or provisions for deferred income tax, arising or expected to arise in connection with the arrangement implemented by the user is relevant for a given entity within the meaning of accounting regulations and exceeds the amount of PLN 5,000,000 in a calendar year,

k) a remitter of income tax would be obliged to collect tax exceeding the amount of PLN 5,000,000 in a calendar year, if the relevant double taxation conventions or tax exemptions would not apply with regard to the payment of amounts due arising or expected to arise in connection with the arrangement,

l) income (revenue) of the taxable person referred to in Article 3.2a of the Act of 26 July 1991 on Personal Income Tax or Article 3.2 of the Act of 15 February 1992 on Corporate Income Tax, arising or expected to arise in connection with the arrangement, collectively exceeds the amount of PLN 25,000,000 in a calendar year,

m) the difference between the Polish income tax that would be due in connection with the arrangement from a user who does not have a registered office, management or place of residence in the territory of the Republic of Poland if they were a taxable person referred to in Article 3.1 of the Act of 26 July 1991 on Personal Income Tax or Article 3.1 of the Act of 15 February 1992 on Corporate Income Tax and the income tax actually due in the state where the user's registered office, management or place of residence is located in connection with the arrangement collectively exceeds the amount of PLN 5,000,000 in a calendar year;

4

Operation of legal professional privilege (lpp)

**Operation of legal
professional privilege (LPP)**

Where the reporting of information on a tax scheme other than a marketable tax scheme by the promoter would violate the obligation not to disclose professional secrets protected by law and the promoter was not released from that obligation to that extent by the user, the promoter shall without delay:

- inform the user in writing, within the statutory deadlines, about the obligation to report the tax scheme, and
- provide the user with the data relating to the tax scheme.

5

Reporting deadline

Intermediaries

The promoter provides information on the tax scheme to the Head of the National Tax Administration within 30 days beginning on the next day after the tax scheme is made available, on the next day after the tax scheme is ready for implementation or on the day when the first step in the implementation of the tax scheme has been made - whichever occurs first.

If the supporter is not informed about the TSN of a tax scheme, the advisor shall be obliged to file information on the tax scheme to the Head of the National Tax Administration if the advisor, exercising due diligence generally required in actions taken and having regard to the professional nature of their activity, the area of their specialisation and the object of their actions, becomes aware or should have become aware that the arrangement in regard to which the advisor acts as the advisor constitutes a tax scheme. The supporter is also obliged to file information on the tax scheme within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice on the development, marketing, organisation of a tax scheme or on making the tax scheme available for implementation or supervising its implementation.

Users (where LPP applies)

The user who was informed about LPP obligations by supporter, the User shall file information on the tax scheme with the Head of the National Tax Administration also in the situation where the arrangement, in the user's opinion, does not constitute a tax scheme. When filing information on the tax scheme, the user verifies data received from the promoter and modifies it to ensure its compliance with the facts in that information. Information on the tax scheme filed by the user shall also include data received from the promoter.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

The promoter provides information on the tax scheme to the Head of the National Tax Administration within 30 days beginning on the next day after the tax scheme is made available, on the next day after the tax scheme is ready for implementation or on the day when the first step in the implementation of the tax scheme has been made - whichever occurs first.

If the supporter is not informed about the TSN of a tax scheme, the advisor shall be obliged to file information on the tax scheme to the Head of the National Tax Administration if the advisor, exercising due diligence generally required in actions taken and having regard to the professional nature of their activity, the area of their specialisation and the object of their actions, becomes aware or should have become aware that the arrangement in regard to which the advisor acts as the advisor constitutes a tax scheme.

The advisor is also obliged to file information on the tax scheme within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice on the development, marketing, organisation of a tax scheme or on making the tax scheme available for implementation or supervising its implementation.

Obligation to inform user what data was communicated

Yes

Priority of reporting where multi member state reporting obligations exist

If obligation to file information on a cross-border tax scheme arises in more than one Member State of the European Union on the basis of the provisions implementing the requirements arising from the provision of Article 8ab of the Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.03.2011, p. 1, as amended 10) in force in that state, the obligation is enforceable only in the Member State of the European Union featured higher on the list below:

- 1) the state where the promoter's place of residence, registered office or management is situated;
- 2) the state where services related to the tax scheme are supplied by the promoter through a foreign establishment;
- 3) the state where the promoter is established or whose laws they are governed by;
- 4) the state where the promoter is a member of a professional association or another non-governmental organisation whose registered office or management is situated in the territory of that state, representing persons or entities providing legal, tax consultancy or advisory services.

Circumstances under which intermediary not required to report

There are two circumstances under which intermediary is not required to report. The first one concerns cases in which there is more than one entity is obliged to file information on the tax scheme. The performance of this obligation by one of them releases the others who were identified in the information on the tax scheme and informed in writing about the TSN of that tax scheme, with the TSN assignment confirmation enclosed.

The second one concerns cases where the LPP applies to non standardized tax scheme. I.e. where the reporting of information on a tax scheme other than a marketable tax scheme by the promoter would violate the obligation not to disclose professional secrets protected by law and the promoter was not released from that obligation to that extent by the user, the promoter shall without delay:

- inform the user in writing, within statutory deadlines, about the obligation to report the tax scheme to the Head of the National Tax Administration, and
- provide the user with the data relating to the tax scheme.

What will the tax authorities provide for the notification received

Tax Scheme Number (TSN)

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

If the user was not provided with TSN or with information covering data submitted by promoter, the user shall file information on the tax scheme with the Head of the National Tax Administration within 30 days beginning on the next day after the tax scheme is made available to the user, on the next day after the tax scheme is ready for implementation or on the day when the first step in the implementation of the tax scheme has been made by the user, whichever occurs first.

Priority of reporting where multiple taxpayers are involved

If the user is obliged to file information on a cross-border tax scheme in more than one Member State of the European Union on the basis of the provisions implementing the requirements arising from the provision of Article 8ab of the Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC in force in that state, the obligation is enforceable only in the Member State of the European Union featured higher on the list below:

- 1) the state where the user's place of residence, registered office or management is situated;
- 2) the state where the user uses the tax scheme through a foreign establishment;

Priority of reporting where multiple taxpayers are involved continued

- 3) the state where the user earns income or profits, despite the fact that the user does not have a place of residence, registered office, management or foreign establishment in any Member State of the European Union;
- 4) the state where the user carries out business activity, despite the fact that the user does not have a place of residence, registered office, management or foreign establishment in any Member State of the European Union.

Circumstances under which taxpayer not required to report

In case of both cross-border and domestic tax schemes when taxpayers is provided with TSN or with data covering information submitted by promoter.

In case of domestic tax schemes when taxpayer is not required to report if eligible user criteria is not met.

The eligible user test shall be deemed satisfied if revenue or expenses of the user or the value of the entity's assets within the meaning of accounting regulations, determined based on kept accounting books, exceeded the equivalent of EUR 10,000,000 in the previous or current financial year or if the arrangement being made available or implemented concerns goods or rights the market value of which exceeds the equivalent of EUR 2,500,000 or if the user is an entity affiliated with that entity.

For entities that do not keep accounting books, revenue and expenses shall be determined accordingly pursuant to the Act of 26 July 1991 on Personal Income Tax or the Act of 15 February 1992 on Corporate Income Tax in the relevant tax years and the value of assets shall be determined according to their market value in the relevant tax years.

Proof that reporting obligation is satisfied by other taxpayer

TSN or information that tax scheme has been reported covering reported data if the TSN has not been issued by statutory deadline to report tax scheme.

8 Reporting principles applicable to all

Language

Polish

9 Penalties

Circumstances in which penalties may apply

Criminal penalties may be applied when one:

1) fails to provide the competent authority with information on the tax scheme or provides information after the deadline,

Circumstances in which penalties may apply

2) fails to provide the competent authority with data on entities to whom the standardized tax scheme has been made available, or transfers them after the deadline,

3) fails to inform in writing the entity obliged to provide the tax scheme of this obligation or does it after the deadline;

Circumstances in which penalties may apply continued

Criminal penalties may be applied when one:

4) fails to inform entities obliged to provide information on the tax scheme in writing that they will not provide information on the tax scheme or do so after the deadline;

5) does not apply to the entity ordering the activities with a separate letter to provide him with a written statement that the reconciliation is not a tax scheme, or does so after the deadline.

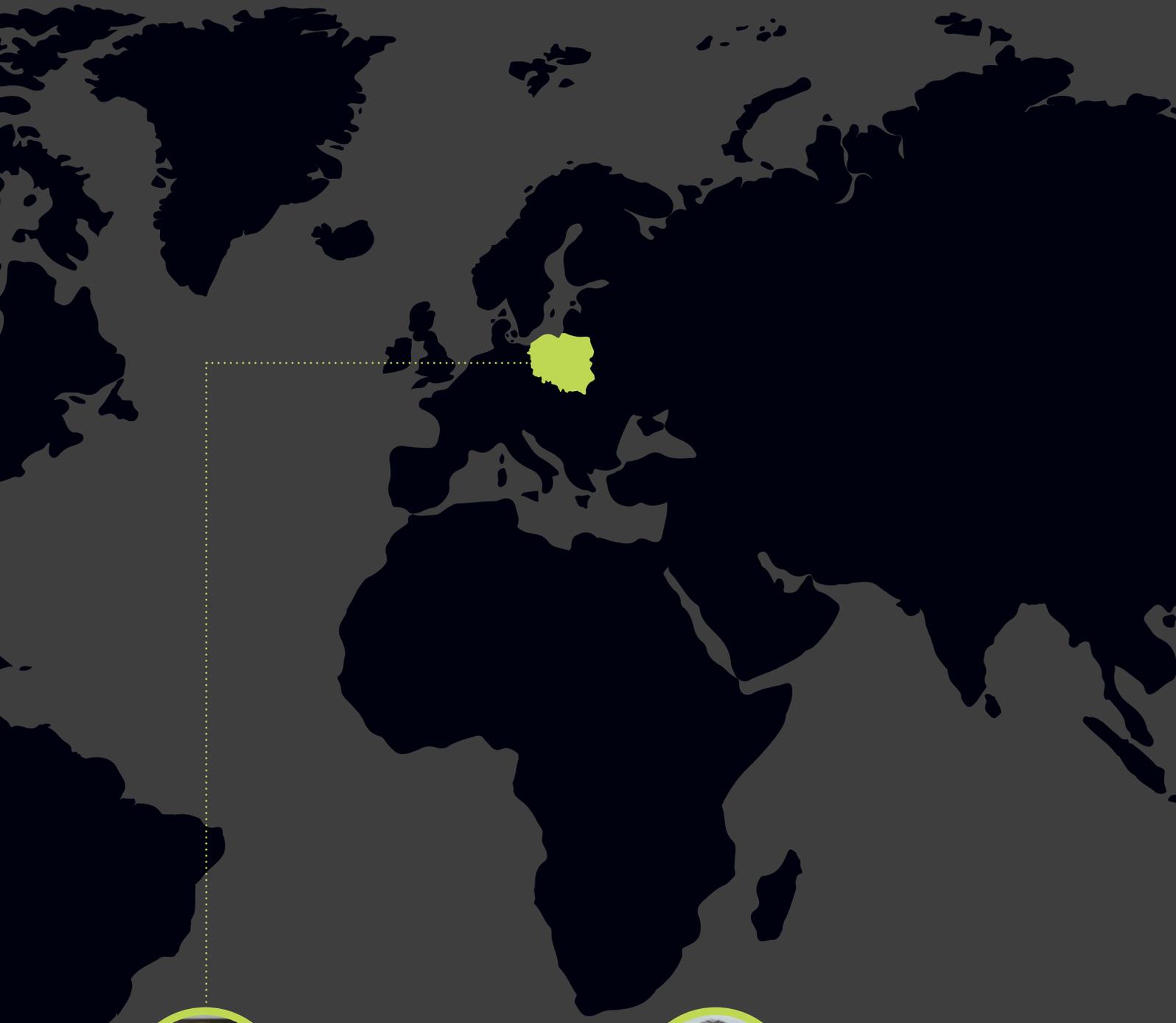
Amount

Up to PLN 25m (Eur 5,5m)

10 Country specifics

Country specifics / deviation from EU directive

Polish provisions cover obligation to report domestic tax schemes, provide more hallmarks than EU directive and cover other taxes ie. VAT.



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A scenic view of a lake in Slovenia, likely Lake Bled, with a church and mountains in the background. The image is overlaid with a blue gradient and a yellow banner at the top left.

Slovenia

DAC 6 Domestic Implementation

1

General Information

Territory	Slovenia
Tax authority	Financial Administration of the Republic of Slovenia
Status of legislation	Implemented by the Slovenian Tax Procedure Act. Effective as of 1 July 2020 (extended till October 1, 2020). Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020 (extended until November 30, 2020). Implementing guidelines are yet to be regulated by national regulatory provision.
Taxes covered	All types of taxes defined by EU regulations and regulations of Member States (e.g. Income tax, inheritance tax, transfer tax).
Taxes excluded	VAT, customs, excise duties, compulsory social security contributions.
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person by being in a position to exercise a significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25% of the voting rights; c) a person participates in the capital of another person through a right of ownership that, directly or indirectly, exceeds 25% of the capital; d) a person is entitled to 25% or more of the profits of another person.

Marketable arrangement

A cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customized.

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- a) not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- b) one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- c) one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- d) one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- e) such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

An arrangement shall also include a series of arrangements. An arrangement may comprise more than one step or part.

Intermediary

Any person that designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement.

It also means any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a reportable cross-border arrangement.

In order to be an intermediary, a person shall meet at least one of the following additional conditions:

- a) is resident for tax purposes in Slovenia;
- b) has a permanent establishment in Slovenia through which the services with respect to the arrangement are provided;
- c) is incorporated in, or governed by the laws of, Slovenia;
- d) is registered for provision of legal, taxation or consultancy services in a Slovenia.

Tax advantage Not clarified in currently applicable national legislation.

Made available for implementation Not clarified in currently applicable national legislation.

Hallmark A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks None.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

Intermediaries have the right to a waiver from filing information on a reportable cross-border arrangement where the reporting obligation would breach the legal professional privilege under the national law.

When the intermediary is bound by LLP, he is required to notify, without delay, any other intermediary or, if there is no such intermediary, the relevant taxpayer of their reporting obligations.

An intermediary shall be exempt from reporting only to the extent determined for his profession by the relevant national laws that define their professions.

5 Reporting deadline

Intermediaries

Within 30 days beginning:

- a)** on the day after the reportable cross-border arrangement is made available for implementation; or
- b)** on the day after the reportable cross-border arrangement is ready for implementation; or
- c)** when the first step in the implementation of the reportable cross-border arrangement has been made.

In addition, intermediaries are also required to file information within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice.

5

Reporting deadline

Intermediaries

Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020.

In the case of marketable arrangements, the intermediary is required to file a periodic report every 3 months providing an update which contains certain new reportable information that has become available since the last report was filed.

Users (where LPP applies)

Within 30 days, beginning on the day after the reportable cross-border arrangement is made available for implementation to that relevant taxpayer, or is ready for implementation by the relevant taxpayer, or when the first step in its implementation has been made in relation to the relevant taxpayer, whichever occurs first.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Intermediary is obliged to report information that is within their knowledge, possession or control.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

Where the intermediary is liable to file information on reportable cross-border arrangements with the competent authorities of more than one Member State, such information shall be filed only in Slovenia, when:

- a) the intermediary is resident for tax purposes in Slovenia;
- b) the intermediary has a permanent establishment in Slovenia through which the services with respect to the arrangement are provided and he is not resident for tax purposes in any other Member State;
- c) the intermediary is incorporated in or governed by the laws of Slovenia, and none of the connecting factors referred to in items a) or b) of this paragraph is given in another Member State;
- d) the intermediary is registered in Slovenia for the provision of legal, taxation or consultancy services, and none of the connecting circumstances referred to in items a), b) or c) of this paragraph is given in another Member State.

Circumstances under which intermediary not required to report

In case of multiple reporting obligations, the intermediary shall be exempt from reporting in Slovenia if he can prove that, taking into account the circumstances referred to in the previous paragraph, the same information has already been submitted in another Member State.

The intermediary shall also be exempt from filing the information if he is bound by legal professional privilege and has notified the other intermediaries or in the absence thereof, the relevant taxpayer.

What will the tax authorities provide for the notification received

Not defined by currently applicable national legislation.

7 Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is obliged to report if:

- a) no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or
- b) he has been notified by the intermediary that the intermediary is bound by legal professional privilege.

Priority of reporting where multiple taxpayers are involved

If several relevant taxpayers are obliged to report, the data shall be submitted by the first relevant taxable person who has agreed with the intermediary on the cross-border arrangement or who manages the implementation of the arrangement.

Each taxable person concerned shall provide information on the use of the arrangement to the tax authority every year for which he applies it.

Circumstances under which taxpayer not required to report

In case of multiple taxpayers, the relevant taxable person shall be exempted from submitting data only if he can prove that the same data have already been submitted by another relevant taxable person.

Proof that reporting obligation is satisfied by other taxpayer

Not defined by currently applicable national legislation.

8 Reporting principles applicable to all

Language

Slovenian.

9

Penalties

Circumstances in which penalties may apply

Non-filing or late filing of information of reportable cross-border arrangement, or non-filing of information for every year for which the arrangement is used.

Failing to notify another intermediary or relevant taxpayer of invoking LPP and of his reporting obligation.

Amount

- Individual: EUR 250 to EUR 400;

- Sole proprietor / self-employed individual: EUR 800 to EUR 10,000, its responsible person: EUR 400 to EUR 4,000;

- Legal entity: EUR 1,200 to EUR 15,000, its responsible person: EUR 600 to EUR 4,000;

- Legal entity that is considered medium-sized or large in accordance with the national corporate legislation: EUR 3,200 to EUR 30,000, its responsible person: EUR 800 to 4,000.

10

Country specifics

Country specifics / deviation from EU

None.



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A narrow, cobblestone street in a white-washed Spanish town. The street is flanked by white buildings with balconies and flower boxes. The sky is clear and blue. The street is paved with dark cobblestones. A sign for 'PELUQUERIA SENORAS' is visible on the right side of the street. The overall atmosphere is bright and sunny.

Spain

DAC 6 Domestic Implementation

1

General Information

Territory	Spain
Tax authority	Agencia Estatal de Administración Tributaria
Status of legislation	Approved Project of Law outstanding to be published. Law should be in force as at 01/07/2020. Not confirmed delays approved from EU Commission.
Taxes covered	Income Tax, Corporate Income Tax, Trade Tax, Real Estate Transfer Tax, Inheritance and Gift Tax.
Taxes excluded	Indirect taxes (VAT and excise duties)
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person or entity to whom a cross-border arrangement subject to communication of information has been made available for enforcement or which is preparing to enforce or has enforced the first stage of such arrangements provided that there is no intermediary required to submit the declaration.
Associated enterprise	<p>Direct reference to the definition set out in the article 3.23) from the Directive.</p> <p>A person who is related to another person in at least one of the following ways:</p> <ul style="list-style-type: none">a) a person participates in the management of another person by being in a position to exercise a significant influence over the other person;b) a person participates in the control of another person through a holding that exceeds 25 % of the voting rights;c) a person participates in the capital of another person through a right of ownership that, directly or indirectly, exceeds 25 % of the capital;d) a person is entitled to 25 % or more of the profits of another person. <p>If more than one person participates, as referred to in points (a) to (d), in the management, control, capital or profits of the same person, all persons concerned shall be regarded as associated enterprises.</p> <p>If the same persons participate, as referred to in points (a) to (d), in the management, control, capital or profits of more than one person, all persons concerned shall be regarded as associated enterprises.</p>

Associated enterprise continued

For the purposes of this point, a person who acts together with another person in respect of the voting rights or capital ownership of an entity shall be treated as holding a participation in all of the voting rights or capital ownership of that entity that are held by the other person.

In indirect participations, the fulfilment of requirements under point (c) shall be determined by multiplying the rates of holding through the successive tiers. A person holding more than 50 % of the voting rights shall be deemed to hold 100 %.

An individual, his or her spouse and his or her lineal ascendants or descendants shall be treated as a single person.

Marketable arrangement

Direct reference to the definition set out in the article 3.24) from the Directive.

A cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customized.

Cross-border arrangement

An arrangement affecting more than one Member State or a Member State and a third tax jurisdiction where any of the following conditions is met:

- a) not all participants in the arrangement are tax residents in the same jurisdiction.
 - b) one or more of the participants in the arrangement are simultaneously tax residents in more than one jurisdiction.
 - c) one or more of the participants in the arrangement exercise an economic activity in another tax jurisdiction through a permanent establishment located in that jurisdiction, and the arrangement constitutes part or the whole of the economic activity of that establishment permanent.
 - d) one or more of the participants in the arrangement carry out an activity in another jurisdiction without being resident for tax purposes or without setting up a permanent establishment which is situated in this jurisdiction and the arrangement constitutes a part or the whole of that activity economic.
 - e) this arrangement has possible consequences on the automatic exchange of information or the identification of the beneficial ownership.
-

Intermediary

Any person or entity that designs, markets, organizes, makes available for implementation of a cross-border arrangement subject to communication of information, or which manages its execution.

Also any person or entity who knows or may reasonably be presumed to know that committed to providing directly or through others help, assistance or advice with regard to design, marketing, organization, provision for its implementation or management of the implementation of a cross-border arrangement subject to communication of information.

Tax advantage

Any reduction in the tax base or tax liability, in terms of tax debt, including the deferral of the accrual of the same, which would have corresponded if the cross-border arrangement subject to declaration or when the taxable event is totally or partially prevented by the performance of that arrangement. Likewise, the generation of bases, quotas will be considered as a tax saving, deductions or any other tax credit that may be offset or deducted in the future.

Made available for implementation

Not yet, outstanding implementation of Directive in the Spanish Law.

Hallmark

Any of those referred to in Annex IV of Council Directive 2011/16/EU as developed in the Regulation.

3 Additional hallmarks

Additional hallmarks

None additional to Directive hallmarks.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

When the intermediary is bound by LLP it is not required to file a return (unless authorized by the taxable person concerned).

In this case, the exempted intermediary must notify the other intermediaries involved in the arrangement and the taxpayer concerned within five days from the day after the obligation to provide information arises, by means of the communication referred to in Spanish law.

The content of the communication shall follow the model approved by Resolution of the Department of Tax Management of the State Tax Administration Agency.

Outstanding to be published the definitive Project of Law, the Government press release communicates it will be clearly delimited under which premises professional secrecy can be used, and it anticipates that it will not cover professionals who carry out "participatory advice", it means primary intermediaries who design, market, organize or manage the implementation of a cross-border tax planning arrangement, or secondary intermediaries who provide help, assistance or advice in seeking or facilitating the implementation of a tax planning arrangement.

5

Reporting deadline

Intermediaries There are three different forms to be submitted for cross-border arrangements information. These forms would have different deadlines according to the information to be provided to tax authorities.

Intermediaries **FORM 234, Reporting of cross-border arrangements in which hallmarks are carried out.**

Within 30 following days from:

a) when hallmark concurrence of standardized arrangement, the day after a cross-border arrangement subject to communication of information is made available for enforcement. Such availability shall be deemed to have taken place when the intermediary transfers and the taxable person concerned definitively accepts the provision of services which have determined the status of the former as an intermediary.

b) when arrangements that have substantially standardized documentation or structure but require a relevant modification for their implementation, the day after a cross-border arrangement subject to communication of information becomes enforceable.

c) when arrangements which are not in any of the cases referred to in the previous points, when the first phase of implementation of the cross-border arrangement subject to communication of information has been carried out.

FORM 235, Reporting of information for the updated data on marketable cross-border arrangements.

It means cross-border arrangements designed, marketed, enforceable or made available for enforcement without substantial adaptation, if they have been previously submitted.

Within next following natural month in quarterly basis in which new information for the cross-border arrangement previously informed has been received.

FORM 236, Reporting on the use of certain cross-border planning arrangements.

Information regarding the use in Spain of the cross-border arrangements that should have been previously declared to the Spanish tax administration or to another tax administration under Directive 2011/16/EU.

Annual, within 3 months after end of year.

Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by July and August 2020.

Users (where LPP applies) No specific deadlines where LPP applies, same as previously explained.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report Intermediary is obliged to report information of cross-border arrangements in which are involved or participated in, respectively, when any of the hallmarks attends.

Obligation to inform user what data was communicated No

Priority of reporting where multi member state reporting obligations exist **When the person required to report is the intermediary, they must submit the declaration to the Spanish tax authorities when any of the connection criteria listed below apply according to the following order:**

- 1) That the intermediary is a resident for tax purposes in Spain.
- 2) That the intermediary provides the intermediation services with respect to the arrangement from a permanent establishment located in Spain.
- 3) That the intermediary has been set up in Spain or is governed by Spanish law.
- 4) That the intermediary is registered in a Spanish school or professional association related to legal, tax or advisory services.

When one of the connecting criteria set out in the Directive, which determines a multiple information obligation applies in another Member State, the intermediary is exempt from submitting the return to the Spanish tax authorities provided that he has reliable proof of the submission of the cross-border arrangement information in the other Member State.

Circumstances under which intermediary not required to report **The report will not need to be submitted by those intermediaries who are any of the following circumstances:**

- a) Those in which operation of legal professional privilege (LPP) apply.

In this case, the exempted intermediary must communicate this circumstance within a period of five days from the day following the date on which the obligation to inform others arises intermediaries involved in the arrangement and the taxable person concerned through an specific communication.

- b) When there are several intermediaries and the information has been submitted by one of them. The exempted intermediary must keep reliable proof that the return has been submitted in accordance with the legally applicable rules by other obligated intermediaries.

The intermediary who has filed the return must notify the other intermediaries intervening in the arrangement within five days of the day after filing.

The content of the communication abovementioned shall conform to the form to be approved by Resolution of the Department of Tax Management of the State Agency of Tax Administration.

What will the tax authorities provide for the notification received No information at the moment

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

Any person or entity to whom a cross-border arrangement subject to communication of information has been made available for enforcement or which is preparing to enforce or has enforced the first stage of such arrangement provided that there is no intermediary required to submit the declaration.

Priority of reporting where multiple taxpayers are involved

When there is more than one taxable person involved in the obligation to submit the return, the return will be submitted by the person or entity that appears first on the following list:

- 1) That it has agreed with the intermediary the cross-border arrangement subject to communication of information.
- 2) Which manages the execution of this arrangement.

When the person obliged to inform is the taxable person, he must submit the information to the Spanish tax authorities when any of the connection criteria listed below apply according to the following order:

- 1) That the taxpayer is a resident for tax purposes tax resident in Spain.
- 2) That the taxpayer has a permanent establishment located in Spain to benefit from the arrangement.
- 3) That the taxpayer receives income or generates profits in Spain while arrangement related to such income or benefits.
- 4) That the interested party is obliged to carry out an activity in Spain when the arrangement included within that activity.

Where any of the connecting criteria set out in the Directive which provides for a information, the taxpayer will be exempt from submitting the declaration before the Spanish tax authorities provided that you have reliable proof of the submission of the declaration in the other Member State.

Circumstances under which taxpayer not required to report

The taxpayer who is obliged to submit the cross-border arrangement information shall be exempted from the obligation if he proves that the declaration has been submitted by another interested taxable person.

The taxpayer who has filed the return must notify the other interested taxable persons within five days from the following day to your presentation.

Proof that reporting obligation is satisfied by other taxpayer

The content of the communication shall conform to the form approved by Resolution of the Department of Tax Management of the State Administration Agency Taxation.

No further information provided by Spanish authorities about it yet.

8

Reporting principles applicable to all

Language

Spanish

9

Penalties

Circumstances in which penalties may apply

Late filing, incomplete, inaccurately, with false information or no submission of required information.

It will also apply penalties submit forms by means other than electronic and telematic means in those cases where there is an obligation to do so by such means.

Amount

The abovementioned penalties will be considered as “very serious” and the penalty will reach 1.000 EUR by data or set of data included in the form incomplete, inexact or false, with a minimum amount of 3.000 EUR and a maximum of the amount of fees (for intermediary submissions) or value of the fiscal effect derived from the arrangement (tax payer).

The penalty and the minimum and maximum limits shall be reduced by half, in case of late submissions without prior request of filing from the Tax authorities.

The submission of information by means other than electronic or telematic means, where there is an obligation to do so by such means, shall be punishable by a fine 250 EUR per data or set of data to the same declaration with a minimum 750 EUR and a maximum of 1.000 EUR.

10

Country specifics

Country specifics / deviation from EU directive

None.



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Romania

DAC 6 Domestic Implementation

1

General Information

Territory	Romania
Tax authority	ANAF (National Agency for Fiscal Administration)
Status of legislation	<p>Implemented.</p> <p>Law in force as at 31 January 2020. DAC6 reporting requirements applicable starting with 1 July 2020.</p> <p>First reporting as per the law currently in force:</p> <ul style="list-style-type: none"> • 1 July 2020 - 31 August 2020 – retroactively, for transactions carried out between 25 June 2018 – 30 June 2020; • Transactions carried out after 1 July 2020 – to be disclosed within 30 days of the reportable event. • The first exchange of information among the EU Member States should start on 31 October 2020. <p>In the COVID-19 environment, European Commission (EC) has published a proposal to amend Directive 2011/16/EU, for deferring with 3 months the DAC6 reporting deadlines.</p> <p>https://ec.europa.eu/taxation_customs/sites/taxation/files/08-05-2020-proposal_for_a_council_directive_amending_directive_201116eu.pdf</p> <p>Proposed deferral of reporting deadlines as per EC:</p> <ul style="list-style-type: none"> • 30 November (instead of 31 August) for the transactions carried out between 25 June 2018 – 30 June 2020. • 1st October (instead of 1st of July) – the start of the 30-day period for cross-border arrangements which become reportable after 30 June 2020. • 31 January 2021 (instead of 31 October 2020) – the first exchange of information between EU Member States. <p>No information available at the moment of these comments on the final version of the updated Directive or when it will be published in the Official Journal of the European Union.</p> <p>Reporting template issued by ANAF (amendments are expected).</p> <p>Official guidelines (with examples) yet to be published by ANAF.</p>
Taxes covered	Direct taxes
Taxes excluded	VAT

Domestic transactions No

2 Definitions further clarified by guidance

Relevant taxpayer Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.

Associated enterprise **A person who is related to another person in at least one of the following ways:**

- i. a person participates in the management of another person and is in a position to exercise significant influence over the other person;
- ii. a person participates in the control of another person through a holding that exceeds 25 % of voting rights;
- iii. a person participates in the capital of another person through a holding that (directly or indirectly) exceeds 25 % of the capital;
- iv. a person is entitled to 25 % or more of the profits of another person.

If the same persons/several persons participate, as provided in subpoint (i) - (iv) in the management, control, capital or profit of several persons, all the persons concerned are considered to be associated enterprises.

A natural person, his / her spouse and direct descendants or ascendants shall be considered as a single person.

Marketable arrangement Cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customized.

Cross-border arrangement **An arrangement concerning either more than one Member State or a Member State and a third country, where at least one of the following conditions is met:**

- 1. not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- 2. one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;

3. one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
4. one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
5. such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

An arrangement shall also include a series of arrangements. An arrangement may comprise more than one step or part.

Intermediary

Any person that designs, markets, organizes or makes available for implementation or manages the implementation of a reportable cross-border arrangement.

It also means any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organizing, making available for implementation or managing the implementation of a reportable cross-border arrangement.

The intermediary should be domiciled in an EU Member State or should operate a permanent establishment in a Member State, through which services are provided for the arrangement in question.

To be an intermediary, a person must meet at least one of the following additional conditions:

1. to be resident for tax purposes in Romania;
2. to have a permanent establishment on the territory of Romania through which to provide the services related to the arrangement in question;
3. to be constituted in Romania or to be regulated by the national legislation of Romania;
4. to be registered in a professional association in connection with the provision of legal, fiscal or consultancy services in Romania.

Tax advantage The current Romanian legislation does not provide for a definition of tax advantage in the context of DAC6 reporting.

Made available for implementation The current Romanian legislation does not provide for a definition for “made available for implementation” concept in the context of DAC6 reporting.

Hallmark A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks No additional hallmarks included in the current Romanian legislation.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

Currently, no definition or guidance is provided for the concept of “legal professional privilege” by the Romanian regulations in this context.

The law as it is only states that if the intermediary is bound by legal professional privilege, the intermediary should report the cross-border transactions only based on the written approval received from the relevant taxpayer.

If there is no legal professional privilege applicable, the intermediary must notify in writing any intermediary on the reporting obligations.

The reporting obligations may be shifted to the relevant taxpayer when there are no intermediary (e.g. for the inhouse transactions) or if the legal professional privilege is applicable.

5 Reporting deadline

Intermediaries

The intermediary should report to the Romanian tax authorities within 30 days following:

a) the day after the reportable cross-border arrangement is made available for implementation; or

b) the day after the reportable cross-border arrangement is ready for implementation; or

Intermediaries

c) the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first.

Also, the intermediaries should report to the Romanian tax authorities information within 30 days beginning on the day after they provided, directly or indirectly, aid, assistance or advice.

For marketable arrangements, the intermediary is required to file with the Romanian tax authorities a periodic report with all new reportable cross-border arrangements every 3 months.

For reporting deadlines, please refer to **section Status of legislation above**.

Users (where LPP applies)

The reporting relevant taxpayer should inform the Romanian tax authorities within 30 days from the following:

a) the day after the reportable cross-border arrangement is made available for implementation; or

b) the day after the reportable cross-border arrangement is ready for implementation; or

c) when the first step in the implementation of the reportable cross-border arrangement has been made.

For reporting deadlines, please refer to **section Status of legislation above**.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Intermediary is obliged to report information that is within their knowledge (or it would reasonably be expected to know), possession or control on reportable cross-border arrangements.

Obligation to inform user what data was communicated

No

Circumstances under which intermediary not required to report

In case of multiple reporting obligations, the intermediary is exempt from reporting requirements in Romania if it has and makes available to the Romanian tax authorities the proof that the same information has been reported in another Member State.

The intermediary is also exempt from the reporting obligations if a legal professional privilege is applicable and he notified the other intermediaries/the relevant taxpayer.

6

Reporting principles for intermediary

Priority of reporting where multi member state reporting obligations exist

Where the intermediary is required to report the cross-border arrangements with the competent authorities of more than one Member State, such information will be reported only in the Member State that features first in the list below:

- a) the Member State where the intermediary is resident for tax purposes;
- b) the Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided;
- c) the Member State which the intermediary is incorporated in or governed by the laws of;
- d) the Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.

What will the tax authorities provide for the notification received

No information is currently available.

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is required to perform the reporting in the following cases:

- a) for the "in-house" cross-border transactions, where no intermediary was involved in the design, marketing, organizing or making available for implementation or managing the implementation of a reportable cross-border arrangement; or
- b) the relevant taxpayer has been notified by the intermediary that the intermediary is bound by legal professional privilege.

Priority of reporting where multiple taxpayers are involved

Where the relevant taxpayer should report a cross-border arrangement with the competent authorities of more than one Member State, such information will be filed only with the competent authorities of the Member State that features first in the list below:

- a) the Member State where the relevant taxpayer is resident for tax purposes;
- b) the Member State where the relevant taxpayer has a permanent establishment benefiting from the arrangement;

Priority of reporting where multiple taxpayers are involved

c) the Member State where the relevant taxpayer receives income or generates profits, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State;

d) the Member State where the relevant taxpayer carries on an activity, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State.

Circumstances under which taxpayer not required to report

In case of multiple reporting obligations, the relevant taxpayer is exempt from reporting requirements in Romania if it has and makes available to the Romanian tax authorities the proof that the same information has been reported in another Member State.

Proof that reporting obligation is satisfied by other taxpayer

No information is currently available.

8 Reporting principles applicable to all

Language

Romanian language mainly. The main reporting elements may be reported also in another EU official language, by NAFA.

9 Penalties

Circumstances in which penalties may apply

Failure to report, report with delay and lack of notification of other intermediaries or relevant taxpayer are subject to penalties.

Amount

Failure to report or report with delay by the intermediaries or relevant taxpayer – penalties within the range of RON 20,000 – RON 100,000 (approx. EUR 4,000 – EUR 20,000).

Failure to notify other intermediary or the relevant taxpayer – penalties within the range of RON 5,000 – RON 30,000 (approx. EUR 1,000 – EUR 6,000).

10 Country specifics

Country specifics / deviation from EU

The Romanian hallmarks implemented in the domestic legislation are similar with the hallmarks provided by the Directive.



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UK

DAC 6 Domestic Implementation



1

General Information

Territory	UK
Tax authority	Her Majesty's Revenue and Customs (HMRC)
Status of legislation	Implemented. Entry into force on 1 July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 to be reported by 31 August 2020. Further guidance will be published by HMRC before the regulations come into force on 1 July 2020.
Taxes covered	Income tax, capital gains tax, inheritance tax, stamp duty, stamp duty land tax.
Taxes excluded	VAT, Customs duties, Excise duties, compulsory Social Security Contributions.
Domestic transactions	No

2

Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
Associated enterprise	A person who is related to another person in at least one of the following ways: a) a person participates in the management of another person and is in a position to exercise significant influence over the other person; b) a person participates in the control of another person through a holding that exceeds 25% of voting rights; c) a person participates in the capital of another person through a holding that (directly or indirectly) exceeds 25% of the capital; d) a person is entitled to 25% or more of the profits of another person.
Marketable arrangement	A cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customised.

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- (a)** not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction;
- (b)** one or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction;
- (c)** one or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment;
- (d)** one or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction;
- (e)** such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

An arrangement shall also include a series of arrangements. An arrangement may comprise more than one step or part.

Intermediary

Any person that designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement. It also means any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a reportable cross-border arrangement.

Tax advantage

For the purposes of DAC6 regulations, tax advantage includes:

- a)** a relief from tax or increased relief from tax,
- b)** a repayment of tax or increased repayment of tax,
- c)** the avoidance or reduction of a charge to tax or an assessment to tax,
- d)** the avoidance of a possible assessment to tax,
- e)** deferral of a payment of tax or advancement of a repayment of tax, and
- f)** the avoidance of an obligation to deduct or account for tax,

where the obtaining of the tax advantage cannot reasonably be regarded as consistent with the principles on which the relevant provisions that are relevant to the cross-border arrangement are based and the policy objectives of those provisions.

Made available for implementation

The government laid the International Tax Enforcement (Disclosable Arrangements) Regulations, SI 2020/25, on 13 January 2020, with a number of changes from last year's draft version. The regulations implement the amended EU administrative cooperation directive (DAC6) into UK law, introducing new disclosure and reporting rules for intermediaries involved in designing and promoting potentially aggressive cross-border tax planning schemes with effect from 1 July 2020.

The directive came into force on 25 June 2018 and the UK is required to transpose it before ceasing to be a member of the EU and during any implementation period.

The regulations will apply to arrangements that are made available, or are ready, for implementation on or after 1 July. Affected taxpayers and their advisers will also have to make reports in respect of arrangements entered into on or after 25 June 2018. These reports will be due by 31 August 2020.

Hallmark

A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks None.

4 Operation of legal professional privilege (lpp)

Operation of legal professional privilege (LPP)

An intermediary unable to report due to domestic legal professional privilege rules is required to inform other intermediaries of their reporting obligations. Where there is no intermediary or the intermediary is subject to legal professional privilege, the report must be made by the taxpayer.

5 Reporting deadline

Intermediaries

The specified period is:

- a)** in a case where the first step in the implementation of a reportable cross-border arrangement was made between 25 June 2018 and 1 July 2020, the period beginning on 1 July 2020 and ending on 31 August 2020,
- b)** in a case where the intermediary is notified of a reporting obligation affected by the legal professional privilege, the period of 30 days beginning on the date that notification is received, and

Intermediaries

c) in any other case, a period of 30 days beginning on the earliest of:

(i) the day after the day the reportable cross-border arrangement is made available for implementation,

(ii) the day after the day the reportable cross-border arrangement is ready for implementation,

(iii) the day the first step in the implementation of the reportable cross-border arrangement is made, and

(iv) in relation to a UK intermediary within the second paragraph of Article 3(21) of the DAC, the day after the day the UK intermediary provided, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of the reportable cross-border arrangement.

If the reportable cross-border arrangement is a marketable arrangement, the UK intermediary must make a return at the end of every three month period, setting out any new reportable information which has become available in respect of the reportable cross-border arrangement.

Users (where LPP applies)

The specified period is:

a) in a case where the first step in the implementation of a reportable cross-border arrangement was made between 25 June 2018 and 1 July 2020, the period beginning on 1 July 2020 and ending on 31 August 2020,

b) in a case where the relevant taxpayer is notified of a reporting obligation impacted by legal professional privilege, the period of 30 days beginning on the date that notification is received, and

c) in any other case, a period of 30 days beginning on the earliest of:

(i) the day after the day the reportable cross-border arrangement is made available for implementation to the relevant taxpayer,

(ii) the day after the day the reportable cross-border arrangement is ready for implementation by the relevant taxpayer, and

(iii) the day the first step in the implementation of the reportable cross-border arrangement is made in relation to the relevant taxpayer.

6

Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Obligated to file information that is within their knowledge, possession or control on reportable cross-border arrangements with the competent authorities.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

Information shall be filed only in the Member State that features first in the list below:

- a) the Member State where the intermediary is resident for tax purposes;
- b) the Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided;
- c) the Member State which the intermediary is incorporated in or governed by the laws of;
- d) the Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.

Circumstances under which intermediary not required to report

Where there is a multiple reporting obligation, the intermediary shall be exempt from filing the information if it has proof, in accordance with national law, that the same information has been filed in another Member State.

Where the reporting obligation would breach the legal professional privilege under the national law of that Member State - in such circumstances, each Member State shall take the necessary measures to require intermediaries to notify, without delay, any other intermediary or, if there is no such intermediary, the relevant taxpayer of their reporting obligations.

What will the tax authorities provide for the notification received

Where a person complies, or purports to comply, in relation to any reportable cross-border arrangement, HMRC must:

- a) allocate a reference number to the reportable cross-border arrangement, and
- b) notify that number to that person.

7

Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The UK relevant taxpayer must make a return within the specified period setting out the reportable information in relation to the reportable cross-border arrangement, where:

- a) a UK relevant taxpayer participates in a reportable cross-border arrangement, and
- b) no intermediary is required to file the reportable information in relation to the reportable cross-border arrangement.

Priority of reporting where multiple taxpayers are involved

The relevant taxpayer that is to file information should be, in order of priority:

- a) the relevant taxpayer that agreed the reportable cross-border arrangement with the intermediary;
- b) the relevant taxpayer that manages the implementation of the arrangement.

Any relevant taxpayer shall only be exempt from filing the information to the extent that it has proof, in accordance with national law, that the same information has already been filed by another relevant taxpayer.

Circumstances under which taxpayer not required to report

The relevant taxpayer is not required to report to HMRC if:

- (a) a UK relevant taxpayer is liable to file information in relation to the reportable cross-border arrangement with the competent authorities of another member State which features before the United Kingdom, or
- b) another relevant taxpayer:
 - (i) agreed the reportable cross-border arrangement with the intermediary, or
 - (ii) if there has been no such agreement, manages the implementation of the reportable cross-border arrangement, and

The UK relevant taxpayer has evidence that the reportable information in relation to the reportable cross-border arrangement has been filed or returned.

Proof that reporting obligation is satisfied by other taxpayer

Evidence that reportable information has been filed or returned must comprise the following:

- a) the arrangement reference number or equivalent reference number issued by the competent authority of another member State, and
- b) such other information which demonstrates to the satisfaction of an officer of Revenue and Customs that the intermediary or relevant taxpayer, as the case maybe, does not have knowledge, possession or control of any other reportable information in relation to the reportable cross-border arrangement.

8 Reporting principles applicable to all

Language

English

9 Penalties

Circumstances in which penalties may apply

The provisions are:

- a) regulation 3(1) - UK intermediary's obligation to make a return of reportable information,
- b) regulation 3(4) - UK intermediary's obligation to make a return of new reportable information,

Circumstances in which penalties may apply

- c) regulation 4(1) - UK relevant taxpayer's obligation to make a return of reportable information,
- d) regulation 7(2) - UK intermediary's obligation to notify where legal professional privilege exclusion applies,
- e) regulation 8(2) - intermediary's obligation to notify arrangement reference number,
- f) regulation 11 - requirement to provide information.

Amount

In respect of each reportable cross-border arrangement to which the failure relates:

- £5,000 for a first offence**
- £7,500 if one previous failure during preceding 36 months**
- £10,000 if two or more failures in preceding 36 months**

If these amounts appear to an officer of Revenue and Customs to be inappropriately low after taking in to account all relevant considerations, the penalty is to be of such amount not exceeding £1 million as appears appropriate having regard for those considerations.

10 Country specifics

Country specifics / deviation from EU directive None.



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