

DAC6 reporting

requirements in Latvia



What is DAC6?

On 25 May 2018 the ECOFIN Council formally adopted the Directive on mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (DAC6). The main purpose of DAC6 is to strengthen tax transparency and fight against aggressive tax planning through the disclosure of cross-border arrangements, CRS avoidance schemes and offshore structures.



Why is it important?

- 1 It concerns cross-border arrangements between an EU taxpayer and a person or entity in a third country.
- 2 An obligation to report certain information about relevant cross-border arrangements falls on an EU-based intermediary (e.g. a tax adviser) or, if there is no such intermediary or if the intermediary is subject to professional privilege, on the EU taxpayer.
- 3 Failure to comply will result in penalties and reputational risk for the taxpayer/intermediary.



Which cross-border arrangements are required to be reported?

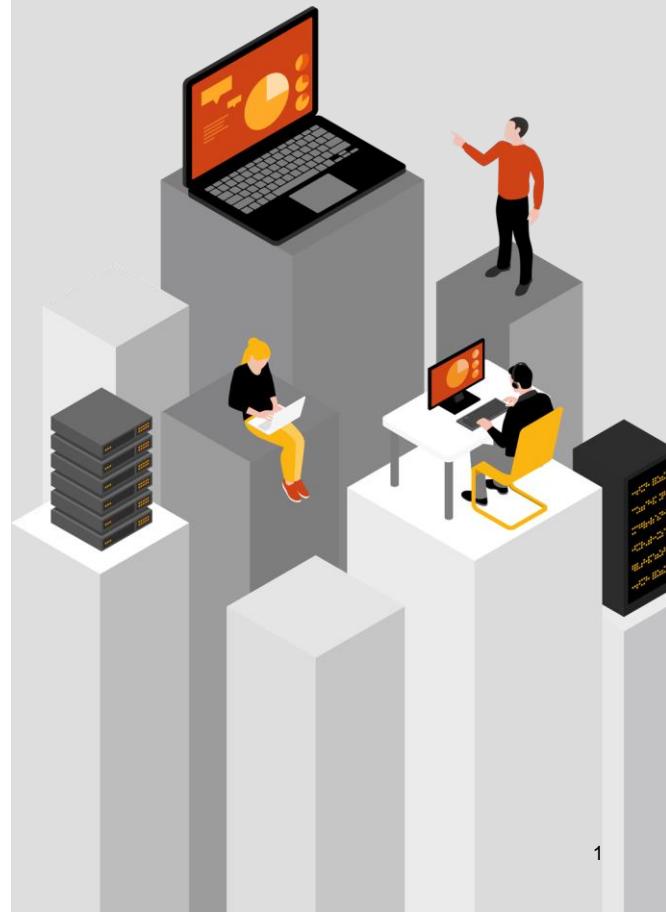
DAC6 requires disclosure to the relevant EU tax authority of a cross-border arrangement entered into by an EU taxpayer which bears any of the prescribed hallmarks.



Hallmarks and main benefit test

The hallmarks are very broadly defined and many commercial transactions might fall within the scope of the reporting obligation, even though they are not tax driven.

There are six broad categories of hallmarks covering different types of cross-border arrangements. Some of the hallmarks are subject to a tax main benefit test, so they are relevant only if the main benefit, or one of the main benefits, of the arrangement is obtaining a tax advantage. The other hallmarks do not require there to be any tax benefit.



Hallmarks and

main benefit test (MBT)

1 Hallmarks subject to MBT

A1–A3 Certain confidentiality and fee arrangements with intermediaries and the use of standardised documentation and/or structures

B1–B3 The following types of cross-border transactions:

- » **B1** Acquiring a loss-making company
- » **B2** Converting income into capital that is taxed at a lower rate or exempt from tax
- » **B3** Circular or offsetting transactions

C1 Cross-border payments with the following tax outcomes:

- » A tax-deductible cross-border payment between two or more associated enterprises, with the recipient residing in a state whose corporate tax rate is zero or “almost zero” (not defined); or
- » The receipt is exempt from tax; or
- » The receipt benefits from a preferential tax regime.



2 Hallmarks not subject to MBT

C1–C4 (except the C1 group hallmarks on the left) Cross-border arrangements with the following tax outcomes:

- » **C1** A tax-deductible cross-border payment between two or more associated enterprises, with the payee either not resident in any tax jurisdiction or resident in a state that is on an EU or OECD list of uncooperative tax jurisdictions
- » **C2** Deductions for depreciation claimed on the same asset in more than one jurisdiction
- » **C3** Double tax relief claimed in more than one jurisdiction
- » **C4** A transfer of assets involving a material difference between the consideration in the two jurisdictions



D1–D2 Specific hallmarks for the automatic exchange of information and beneficial ownership, including structures with holding companies and trusts, whereby the identity of the beneficial owners is made “unidentifiable.”

E1–E3 Transfer pricing hallmarks:

- » **E1** Arrangements involving unilateral “safe harbour” rules
- » **E2** Arrangements involving the transfer of hard-to-value intangibles
- » **E3** A cross-border transfer of functions/risks/assets that results in the transferor’s EBIT falling to less than 50% of what it would have been if the transfer had not been made

Reporting deadlines and intermediaries

When the first step in implementing the reportable cross-border arrangement was taken



When the intermediary provided aid, assistance or advice (only where an intermediary is involved)



Intermediaries and taxpayers will be required to report and file information with their national tax authority within **thirty days** after the earliest of the following dates:

The day after the reportable cross-border arrangement is made available for implementation



The day after the reportable cross-border arrangement is ready for implementation



i When an intermediary (e.g. a tax adviser) based in an EU member state is involved in designing, marketing, organising, making available or managing the implementation of the arrangement, that intermediary will normally be required to make the disclosure.

An intermediary is any person (ignoring its profession) that has undertaken to aid, assist or advise the taxpayer on the arrangement, so intermediaries include, for example, firms acting as subcontractors to the taxpayer's principal tax adviser, even if that principal tax adviser is based outside the EU.

can help you

Risk assessment



- Are you aware of the scope of the new rules?
- Which of the hallmarks may apply to your business and industry?
- How can you leverage your existing controls and processes to help you comply?
- How does your Tax or Compliance team capture transactions that could trigger the wider hallmarks, even where they are not involved?

How?

Risk assessment underpinned by a tried and tested methodology to help you assess your key risk areas and your readiness to comply

Monthly consulting retainer

We offer to provide the necessary advice on a variety of DAC6 issues under a monthly consulting agreement tailored to your company's needs.

Review of transactions on multi-country level

We offer to review your documents and transactions, select ones with a high DAC6 risk, review them against the hallmarks and MBT, and advise you on DAC6 reporting, including digital solutions.

Governance framework



- Are your team and individual roles and responsibilities clearly defined?
- Do you have controls in place to identify all potentially affected transactions? Can you leverage your existing processes?
- Is your decision-making process and control framework formalised and capable of standing up to scrutiny?
- Do you know what your advisers will be reporting? Is that consistent with your understanding?

How?

- A comprehensive documented framework to identify and manage risks
- Clear roles and responsibilities
- A testing programme for monitoring

Training

Are your relevant staff properly trained to identify qualifying transactions on an ongoing basis?

We offer to prepare a course that will train your employees in assessing DAC6 risks and detecting reportable cross-border tax arrangements.

Contact us:



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