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For more detailed information, please do not hesitate to contact:

Chrysilios Pelekanos – PwC Cyprus  
[chrysilios.pelekanos@pwc.com](mailto:chrysilios.pelekanos@pwc.com)

Andreas Androniciou – PwC Cyprus  
[andreas.androniciou@pwc.com](mailto:andreas.androniciou@pwc.com)

Joanne Theodorides – PwC Cyprus  
[joanne.theodorides@pwc.com](mailto:joanne.theodorides@pwc.com)

Or your usual PwC EUDTG contact



# EU Direct Tax Newsalert

## Draft bill implementing DAC6 in Cyprus under public consultation

On 22 October 2019, the Cyprus tax authority (the CTA) invited public comments until 12 November 2019 on a draft bill implementing the EU Directive on the mandatory disclosure and exchange of reportable cross-border arrangements, also known as DAC6.

In brief, DAC6 obliges intermediaries (i.e. promoters/service providers) or, alternatively, taxpayers to report on cross-border arrangements that meet certain hallmarks.

The comments below are based on the draft bill. The legislative process in Cyprus may result in changes. Implementation of DAC6 in Cyprus is expected to be enacted into law by 31 December 2019 with an effective date as from 1 July 2020.

### The draft bill in a nutshell

The draft bill follows DAC6 very closely without any clear deviations. No reporting will be applicable to purely domestic arrangements. In addition, value added tax and other indirect taxes and excise duties are excluded from the scope.

### Intermediary and Relevant taxpayer

Definitions of intermediary and relevant taxpayer correspond to the definitions in DAC6.

### Legal professional privilege

Legal professional privilege (LPP) applies only where the person concerned is practicing as an advocate as defined in the Cyprus Law on Advocates and provided that the advocate informs without delay every other intermediary or if there is no other intermediary, the relevant taxpayer about their respective reporting obligations.

### Hallmarks

Hallmarks defined in the draft bill closely follow the wording of the list of hallmarks in DAC6. The arrangement is reportable if it meets at least one of the hallmarks. Certain arrangements are only reportable if it is also captured by the so-called Main Benefit test. The wording of the Main Benefit test is also in line with DAC6.

The draft bill text clarifies a tax advantage arises in relation to the taxes within the scope of the DAC i.e. EU taxes. The draft bill

further clarifies that a tax advantage shall include a tax relief, a tax refund, avoidance or reduction of a tax charge, deferral of a tax payment or expedited tax refund, and avoiding the obligation to withhold tax.

### Reporting

Timelines are in line with DAC6 i.e. the reportable arrangements of which the first implementation step takes place between 25 June 2018 and 30 June 2020 should be reported by 31 August 2020. As from 1 July 2020 reportable arrangements should be reported within 30 days to the CTA.

The information to be reported matches the list in DAC6.

### No yearly reporting by the taxpayer

The draft bill does not include the optional article of DAC6, which states that necessary measures may be taken by each EU Member State to require that each relevant taxpayer files information about their use of arrangements to the tax administration in each of the years for which they use it.

### Penalties

The amount of a penalty will depend upon the nature of the violation and is up to EUR 20,000 per violation.

### Takeaway

The draft bill closely follows DAC6 without any notable deviations and without providing much clarification. Many of the questions which remain open when reading DAC6 are still unclear even after the release of the draft bill. The CTA are expected to release further guidance in the first-half of 2020 on the application of the Cyprus DAC6 rules in practice.

Until the issuance of the expected CTA guidance a prudent approach should be taken when tracking and collecting information on potentially reportable arrangements.