



## PwC's EU Direct Tax Group

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

Jarno Laaksonen  
+358 40 588 8753  
[jarno.laaksonen@pwc.com](mailto:jarno.laaksonen@pwc.com)

Okko Koskenniemi  
+358 50 341 5672  
[okko.koskenniemi@pwc.com](mailto:okko.koskenniemi@pwc.com)

Or your usual PwC EUDTG contact

# EU Direct Tax Newsalert

## Government proposal implementing DAC6 submitted to parliament in Finland

On 31 October 2019, a legislative proposal (Government Proposal 69/2019) implementing the EU directive on the mandatory disclosure and exchange of cross-border tax arrangements, also known as DAC 6, has been submitted to Finnish Parliament.

In brief, DAC 6 obliges certain service providers or, alternatively, taxpayers to report on cross-border tax planning arrangements that meet certain hallmarks.

Next, the proposal will go through the Finnish legislative process and may still be subject to changes before the final enactment. The related laws are expected to enter into force on 1 January 2020. All comments below are based on the Government Proposal as first published. The legislative process in the parliament may result in changes.

### The Government Proposal in a nutshell

The Government Proposal ("GP") follows DAC 6 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.

The GP includes the definitions of all the relevant concepts such as, among others, intermediary, relevant taxpayer, hallmark and main benefit test.

### Intermediary and Relevant taxpayer

Definitions of intermediary and relevant taxpayer correspond to the definitions in the Directive. According to the GP lawyers, auditors, financial advisors and consultants, who offer certain services related to reportable arrangements as part of their business, are mentioned as examples of intermediaries.

### Legal Professional Privilege (LPP)

Legal professional privilege is limited to the lawyers, licensed legal counsels and public legal aid attorneys regulated by the Finnish Advocate Act. They remain liable to provide the tax authorities with information linked to the reportable cross-border arrangement but without any client-specific information.

### Hallmarks

Hallmarks defined in the GP are identical in wording to the list of hallmarks in DAC 6. Also, the wording of the main benefit test is in line with the Directive.

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 information to be reported matches mainly the list in DAC 6. In addition to the list in DAC 6, also the reference number of the reportable arrangement should be reported in certain cases where there are more than one reporting party.

### Reporting

Timelines are in line with the DAC 6 i.e. the reportable arrangements of which first implementation is taking place between 25 June 2018 and 30 June 2020 should be reported by 31 August 2020. As from 1 July 2020, the arrangements should be reported within 30 days to Tax Authorities.

### Penalties

The amount of penalties will depend on the characteristics of the violation and from up to EUR 2,000 to up to EUR 15,000.

### Takeaway

The GP follows closely DAC 6 without any notable deviations, however, without much clarifying elements either. Many of the open questions remaining by reading the DAC 6 remain unclear also after release of the GP. Finnish Tax Authorities are expected to release further guidance (potentially also to cover some of the open questions) on February-March 2020 on the application of the Finnish DAC 6 rules in practice.

