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# EU Direct Tax News Alert

## Austrian Tax Authority publishes draft of DAC6-guidance - "de-facto deferral" till end of October 2020

On 7 July 2020 the Austrian Ministry of Finance issued a draft guidance on the application of the DAC6 rules for stakeholder consultation on its [website](#). In this draft guidance it is stated that Austria will not make use of the option granted via the recent EU Directive to extend the reporting deadlines for DAC6 filings. However, due to technical delays, there will be a "de-facto deferral" for DAC6-reportings till end of October 2020.

### Background

At EU level an agreement was reached to amend Directive 2011/16/EU (DAC6 Directive). The resulting Directive (EU) 2020/876 (amending Directive) provides for an option to postpone the start of the reporting obligation by 6 months (i.e. start of the reporting obligation for new arrangements on 1 January 2021 only; filing deadline for arrangements of the transitional period on 28 February 2021). Like Germany or Finland, Austria has officially announced that it will not make use of this option.

### "De-facto deferral"

As Austria will not make use of the possibility to extend the reporting deadlines, the reporting deadlines as laid down in the Austrian DAC6 implementation law ("EU-Meldepflichtgesetz" or "EU-MPfG") will remain unchanged. On this basis, reportable arrangements implemented during the transitional period (first implementation step in the period from 25 June 2018 to 30 June 2020) would have to be reported by 31<sup>st</sup> August 2020. For "new arrangements" where the event triggering the reporting obligation occurs in the period from 1 July to 31 December 2020, the 30-day reporting deadline would start on 1 July 2020.

However, based on the drafted DAC6-guideline of the Austrian Ministry of Finance, due to "technical delays", the actual filing of DAC6 reports via the electronic reporting tool of the Austrian tax authority (Finanz Online) will be possible beginning of October 2020 only. For this reason, the authority has announced that the deadline for the electronic filing of the first DAC6-reports is extended to 31 October 2020. Hence, if the electronic filings for reports (already being due under the EU-MPfG) are submitted by the end of October 2020, this **will not trigger any penalties for late reporting** (Sec 49c Austrian Fiscal Penalty Code).

### DAC6 interpretation

Beside the "de-facto deferral", the draft DAC6 guidance also includes the Austrian Ministry of Finance's interpretation on chosen DAC6 questions. The statements included in this guidance only reflect the current legal view of the Austrian Ministry of Finance and are therefore subject to a different interpretation and application of the DAC6 Directive between the EU Member States which may develop later. Furthermore, the guidance is not comprehensive, and it leaves several basic questions unanswered.

### What's next

The draft DAC6 guidance is now available for stakeholder consultation (consultation deadline: 30<sup>th</sup> July 2020). It remains to be seen how much of the consultation feedback will be incorporated by the Ministry of Finance in the final version. We expect that the final version of the guidance will be published in first half of August 2020.

### Take away

Although the statutory (DAC6) reporting deadlines in the EU-MPfG remain unchanged, the draft DAC6 guidance of the Austrian Ministry of Finance results in a "de facto deferral" of the reporting deadline by 3 months (2 months for arrangements implemented during the transitional period). This deferral relieves companies in the short term and enables them to prepare carefully for the forthcoming reporting obligation.

