



PwC's EU Direct Tax Group

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EU Direct Tax Newsalert

Final bill implementing DAC6 in Greek legislation voted by the Greek parliament

On 29 July 2020 the Greek Parliament adopted the bill implementing the Council Directive 2018/822/EU of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (the so-called "DAC6") into the local legislation.

In brief, under DAC6 intermediaries and, ultimately, taxpayers are subject to new reporting obligations with respect to cross-border tax planning arrangements that meet certain features ("hallmarks").

The provisions will take effect retroactively as of 1 July 2020, with specific transitional measures applicable to arrangements implemented between 25 June 2018 and 30 June 2020.

Transposition into Greek law

The law overall follows the DAC6 scope, hallmarks and reporting requirements. Greece has also opted for the 6-month deferral on reporting deadlines provided by the Council Directive 2020/876/EU. Its key aspects are summarised below:

Scope

The scope of reporting will include potentially aggressive tax arrangements concerning two or more EU Member States or an EU Member State and a third country.

"Arrangements", which are not defined in the law, should be interpreted broadly to include an agreement, scheme, plan, transaction, etc. or series thereof and can involve several parts or stages of implementation or execution.

VAT, customs duties and excise duties are outside the scope of the new reporting regime.

Hallmarks

The DAC6 reporting obligations focus on cross-border tax planning arrangements that meet certain hallmarks intended to highlight potential risk of tax avoidance. The reporting obligation only arises if one of these hallmarks is triggered.

The hallmarks under the Greek law follow those under DAC6. No additional hallmarks are introduced.

In line with DAC6, certain hallmarks trigger reporting obligations only where obtaining of a tax advantage is the main benefit or one of the main benefits of the arrangement, while other hallmarks trigger reporting in all cases, regardless of whether obtaining a tax advantage is the main benefit or not.

Reporting obligations

The reporting obligation falls on the intermediary or the taxpayer according to detailed rules regarding the parties and jurisdictions involved. Nevertheless, taxpayers should be held responsible for reporting in all cases where they are not able to prove by appropriate means that the same information on the reportable arrangement has also been submitted by an intermediary in another Member State.

Where bound by professional (legal) privilege, an intermediary will be exempt from reporting obligation. Based on the law, only lawyers are covered by the professional (legal) privilege

An intermediary exempt from reporting obligations will nevertheless have to notify with no delay other existing intermediaries under the reportable arrangement, or the relevant taxpayer, regardless of whether the reporting obligation for them may arise in another EU Member State.

The reporting obligations will start to apply as of 1 January 2021, covering, however, arrangements implemented after 25 June 2018, which will have to be disclosed retrospectively.

Penalties

Administrative penalties for not filing a DAC6 report can be up to 10 thousand EUR per arrangement with a maximum cap of 100 thousand EUR per tax audit.

Next steps and takeaway

No official guidance has been published (or announced) by the Greek tax authorities at this stage. Certain open questions would remain in practice, especially with respect to the interpretation of some of the rather widely defined hallmarks.

