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DAC6 REPORTING DEADLINES ARE NEAR – TIME TO TAKE ACTION

The extended deadlines for reporting under DAC6 are approaching. There is limited time left to form conclusions on the cross-border arrangements and disclose any reportable arrangements to the relevant tax authorities.

Background

Under the formal agreement reached by the Council of the European Union (EU) in June 2020 to extend the DAC6 reporting deadlines due to Covid-19 crisis, several EU Member States formally extended the deadlines, except Germany, Austria and Finland where the original deadlines continued to apply. In our earlier newsletter explaining the implications of the extension, we emphasised that the proposed extension did not provide much comfort, and the urgency for internationally active companies to act on DAC6 should remain a high priority matter.

The deadlines for reporting under DAC6 are approaching, and provide with a limited time to perform assessment, document, and conclude whether there are any arrangements executed since June 25, 2018 that could be reportable under DAC6, and to assess where you stand in terms of DAC6 compliance.

Applicable deadlines

Deadlines applicable for Germany, Austria and Finland

- The (reportable) arrangements executed between June 25, 2018 and June 30, 2020 had to be reported by August 31, 2020 the latest.
- The reportable arrangements executed from July 1, 2020 onwards need to be disclosed within the 30 days of execution.

The approaching deadlines for EU Member States that opted for extension (including the Netherlands)

- The so-called "historical reference period" (running from June 25, 2018 up to and including June 30, 2020) shall remain the same. This means that where a so-called reportable cross-border arrangement is made available for implementation, or is ready for implementation, or where the first step in its implementation has been made between June 25, 2018 – June 30, 2020, this arrangement must be reported no later than February 28, 2021 (instead of August 31, 2020).
- The new reference period (July 1, 2020 until December 31, 2020) shall apply, and reporting for this period should be done no later than January 31, 2021. The reportable arrangements executed from January 1, 2021 should be reported within the 30-day reporting period.

What does this mean for you?

The EU Member States offering the extension allowed more time for internationally active companies to be prepared for DAC6, which also includes the process of determining whether or not DAC6 is applicable for them. However, with the limited time remaining until the reporting period starts, there is an increased compliance risk and the possibility of penalties in case of delayed or non-reporting.

We recommend that internationally active companies pay extra attention to fully utilize this limited time as the deadline

for "historical reference period" (at the latest February 28, 2021) is very near, and the new reference period also covers a longer period (6 months instead of initial 1 month), i.e., until December 31, 2020 instead of July 31, 2020.

Therefore, the cross-border arrangements should be assessed in order to conclude whether they are reportable or not, and substantive documentation should be prepared for the audit trail. In case any reportable arrangements are identified, the disclosure to the relevant tax authorities should be done in a timely manner to avoid non-compliance and potentially significant penalties.

More information

For more detailed information and questions regarding DAC6, please contact your trusted RSM advisor.

