



EU Direct Tax Newsalert

Croatia implements DAC6

As of 1 January 2020, Croatia has implemented the Council Directive 2018/822 of 25 May 2018 amending Directive 2011/16/EU in relation to reportable cross-border arrangements ("DAC6") through the Act on Administrative cooperation in the field of taxation and the Rulebook on the automatic exchange of information in field of taxation.

Definitions

The definitions of the cross-border arrangement, intermediary, relevant taxpayer, hallmarks, scope and conditions of mandatory automatic exchange of information on reportable cross-border arrangements were directly taken over from the Directive. An intermediary is defined as any person that designs, markets, organizes or makes available for implementation, or manages the implementation of a reportable cross-border arrangement.

In Croatia, reporting excludes VAT, customs duties, excise duties and social security contributions.

Reporting requirements

DAC6 reporting requirements exempt purely domestic transactions and aim to identify tax aggressive arrangements with an EU cross-border aspect, including transactions with third countries, between related parties (threshold being 25%), which fall within certain hallmarks and are in some cases tax driven (i.e. the main benefit test shows that the primary aim of the transaction was to obtain tax advantages). The reporting responsibilities generally lie with the intermediary, unless such reporting would be a breach of the intermediary's legal professional privilege (e.g. licensed tax advisors and lawyers). Cross-border arrangements become reportable if:

- the reportable cross-border arrangement is made available for implementation;
- the reportable cross-border arrangement is ready for implementation, or;
- the first step in the implementation of the reportable cross-border arrangement has been made, whatever occurs first.

Such cross-border arrangements, where the first step of implementation has been or will be made between 25 June 2018 and 30 June 2020, must be reported between 1 July 2020 and 31 August 2020.

Penalties

Penalties for non-compliance are defined in the following range:

- up to EUR 27,000 for the legal entity, and EUR 3,000 for the responsible person within the legal entity, and
- up to EUR 13,000 for the individual (the taxpayer or the intermediary depending who has the reporting liability).

Takeaway

At this point, the Croatian Tax Authorities have not issued any guidance regarding DAC6 provisions. There are no real local legislative interpretations/specifics or notable deviations from the EU Directive. However, there are unclear aspects of the DAC6 Directive which are not clarified in the Croatian legislation, so we expect further and more detailed information and communications from the Croatian Tax Authorities in the near future.

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