

DAC 6 – European Commission Directive on mandatory disclosure and exchange of information on cross-border arrangements.

General Information

The Cyprus Tax Department informs that Directive (EU) 2018/822 of the Council of European Union, known as DAC 6, is expected to be incorporated into national legislation in January 2021 and thereafter a circular will be issued containing guidelines on the implementation of this legislation.

Reportable Cross-Border Arrangements

According to the Directive (EU) 2018/822, a cross-border arrangement must be reported when all of the below conditions are met:

1. The cross-border arrangement is entered into between at least two Member States or between a Member State and a third country.
2. With regards to the parties who entered into the cross-border arrangement, at least one of the following conditions is met:
 - a. The parties who entered into the arrangement are not tax resident in the same jurisdiction;
 - b. One or more of the parties who entered into the arrangement are simultaneously a tax resident in more than one jurisdiction;
 - c. One or more of the parties who entered into the arrangement carry on a business in another jurisdiction through a permanent establishment (*PE*) situated in that jurisdiction and the arrangement forms either a part or the whole of the business of that PE;
 - d. One or more of the parties who have entered into the arrangement carry on an activity in another jurisdiction without being a tax resident or without having created a PE in that jurisdiction;
 - e. The arrangement is such that it has a possible impact on the automatic exchange of information or the identification of the beneficial ownership.
3. The cross-border arrangement falls contains at least one of the hallmarks. Some of the hallmarks are subject to the Main Benefit Test.

Submitted Information

The information which will need to be submitted for each reportable cross-border arrangement includes the following, as applicable:

1. The identification of the intermediaries involved and the relevant taxpayer, including their name, date of birth, place of birth (in the case of an individual), residence for tax purposes,

TIN and, where appropriate, the entities or individuals which are considered as being associated enterprises to the relevant taxpayer;

2. Details of the hallmarks that render the cross-border arrangement reportable;
3. A summary of the transaction which is deemed to be a reportable cross-border arrangement, including a reference to the name by which it is commonly known, if any, and a description in abstract terms of the relevant business activities or arrangements, without leading to the disclosure of a commercial, industrial or professional secret or of a commercial process, or of information the disclosure of which would be contrary to public policy;
4. The date on which the first step in implementing the reportable cross-border arrangement has been or will be completed;
5. Details of the legislative provisions that form the basis of the reportable cross-border arrangement;
6. The value of the reportable cross-border arrangement;
7. The identification of the Member State of the relevant taxpayer(s) and any other Member State which are likely to be concerned by the reportable cross-border arrangement;
8. The identification of any other person in a Member State likely to be affected by the reportable cross-border arrangement, indicating to which Member States such persons are linked.

Submission Deadlines

1. A reportable cross-border arrangement which was implemented between 25 June 2018 and 30 June 2020, should be submitted by 28 February 2021.
2. A reportable cross-border arrangement which was implemented between 01 July 2020 and 31 December 2020, should be submitted within 30 days from 01 January 2021.
3. A reportable cross-border arrangement which was implemented from 01 January 2021 onwards, should be submitted within 30 days after implementation.
4. The first periodic report on general purpose settings should be submitted by 30 April 2021.

It is noted that the reportable cross-border arrangement is considered to have been implemented on the date that such reportable cross-border arrangement is made available for implementation or is ready for implementation or the first step in its implementation has been made, whichever occurs first.

Submission of Information

Information on reportable cross-border arrangements is submitted through the web portal Ariadni, via the DAC6 online service, by uploading an XML Schema file. For further information for the submission of information, please visit the link:

https://www.mof.gov.cy/mof/tax/taxdep.nsf/submitdac6_gr/submitdac6_gr?opendocument

Submission of Enquiries

Enquiries can be directed to the following email address: DAC6@tax.mof.gov.cy

It is emphasized that, according to the DAC6 directive, the obligation to disclose information for a reportable cross-border arrangement is imposed on the Intermediary or Taxpayer, as the case may be. It is therefore the duty of the Intermediary/Taxpayer to decide whether an arrangement meets the conditions that make it a reportable cross-border arrangement and whether an obligation arises to disclose information about such an arrangement. Furthermore, the information concerns the tax base of another Member State and it is not for the Cypriot Tax Authority to decide whether such information should be exchanged and communicated to the other Member State. Therefore, the Cyprus Tax Department will not opine or advise whether an arrangement is reportable or not.