

UPDATE

DEFERRAL OF DAC6 DEADLINES — CONTINUED

Reading time: 2 minutes | June 2020 | by TaxModel, Hank Moonen

Member States have the option to apply original DAC6 reporting deadlines, extended deadlines, or anything in between – risk for significant mismatch in reporting deadlines across the EU.

Background

On May 8, 2020, the European Commission (EC) published a draft Directive amending the DAC, proposing the following amendments to the reporting deadlines:

- Change the date for the beginning of the 30 days period for reporting cross-border arrangements from July 1, 2020, to October 1, 2020;
- Change the date for the reporting of cross-border arrangements that became reportable from June 25, 2018, to June 30, 2020 (the so-called “historical” arrangements) from August 31, 2020, to November 30, 2020;
- Change the date for the first exchange of information on reportable cross-border arrangements, from October 31, 2020, to January 31, 2021.

The EC also proposed a possibility to further extend the deferral period once, for a maximum of three additional months.

Political agreement on the revised proposal

On June 4, 2020, the Ministry of Finance in Luxembourg announced that negotiations in the Council on the European Commission’s proposal had progressed rapidly in recent weeks, and a compromise was reached on June 3, 2020. The announcement notes that Member States will be given the option to postpone the deadlines for communication and exchange of information under DAC6 for six months.

The Luxembourgish Ministry of Finance also communicated that penalties for late submission of the requested information would not apply in Luxembourg until the amendments come into force. This announcement follows a communication from the Belgian Federal Tax Authorities (June 3, 2020) announcing that Member State representatives had reached a political agreement and that administrative deferral of six months is granted for the reporting obligations under Belgian legislation transposing DAC6. The following deadlines, therefore, apply in Belgium:

- February 28, 2021, with respect to reporting of historical arrangements, i.e., where the first step of implementation is made between June 25, 2018, and June 30, 2020;
- April 30, 2021, for the first periodic report for marketable arrangements;

- o January 1, 2021, for all other reportable cross-border arrangements, including those for which the reporting trigger occurs between July 1, 2020, and December 31, 2020.

Assuming that the Council of the EU formally adopts the proposed deferral, other Member States (in addition to Belgium and Luxembourg) are expected to formalize their choice to exercise this option. The text of the compromise proposal has not yet been made public, meaning that the details of the revised text are not yet available.

However, under the European Commission's initial proposal, Member States were given a choice to apply the original DAC6 reporting deadlines, the extended deadlines, or anything in between. This could lead to significant mismatches between reporting deadlines across the EU.

More information

Visit www.tax-model.com/dac6pro for more information about the MDR/DAC6 regulation and DAC6pro. Ask your questions through our live chat or via dac6pro@tax-model.com.