

EUROPEAN COMMISSION PROPOSES DEFERMENT OF FILING DEADLINES UNDER DAC6

On 8 May 2020, the European Commission issued a proposal to defer certain deadlines for filing and exchanging information under the Directive on Administrative Cooperation (Council Directive 2011/16/EU), particularly concerning information on reportable cross-border arrangements as provided by Council Directive 2018/822/EU (also known as "DAC6"), due to the COVID-19 pandemic.

Given the impact of COVID-19 pandemic on the ability of companies and Member States to comply with the original reporting timetable, the European Commission proposed a three-month extension to the deadlines for filing and exchanging information on cross-border tax planning arrangements.

Particularly, based on the proposed changes:

- the beginning of the period of 30 days for reporting the cross-border arrangements provided for in DAC6 Directive would be postponed from 1 July 2020 to 1 October 2020. Thus, cross-border arrangements which become reportable between 1 July 2020 and 30 September 2020 have to be reported by 31 October 2020 (30 days after 1 October);
- the date for reporting "historical" cross-border arrangements (*i.e.* arrangements which became reportable between 25 June 2018 and 30 June 2020-05-12) would be postponed from 31 August 2020 to 30 November 2020;
- the date for the first exchange of information on reportable cross-border arrangements between Member State would be postponed from 31 October 2020 to 31 January 2021.

Furthermore, considering the uncertainty regarding the evolution of the COVID-19 pandemic, the European Commission also proposed the possibility to extend the deferral period once, for a maximum of three additional months. This would be necessary if during the period of deferral, the exceptional circumstances caused by COVID-19 pandemic persist and Member States have to implement lockdown measures.

This postponement has been requested by several Member States and intermediaries liable to report information. As pointed out by the European Commission itself, the severe disruption generated by the COVID-19 pandemic makes it difficult for intermediaries and taxpayers liable to report cross-border arrangements to comply with their reporting obligations and adversely affects the ability of Member States' tax administration to collect and process the information.

Anyway, the aforementioned proposed tax measures only affect the deadlines for reporting obligations, while does not affect the substantive requirements in DAC6 Directive: the beginning of application of DAC6 will remain 1 July 2020 and the cross-border arrangements carried out during the postponement period will have to be reported at the end of the deferral.

In order to amend the DAC6 Directive as proposed, the European Parliament and the Council have to adopt the proposal. The European Commission count on both institutions to adopt this proposal as soon as possible.

As above, should the proposal be adopted, this does not significantly affect the basic requirement for intermediaries to comply with the DAC6 Directive, but only postpones the timing of reporting.

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The only purpose of this Newsletter is to provide general information. It is not a legal opinion nor should it be relied upon as a substitute for legal advice

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