

Luxembourg Tables DAC 6 Bill



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On 8 August 2019, the Luxembourg government tabled Bill No 7465 (the "Bill") implementing Council Directive (EU) 2018/822 ("DAC 6") on mandatory disclosure obligations for intermediaries and taxpayers relating to certain cross-border arrangements. The Luxembourg government decided not to extend the minimum requirements set by DAC 6. The Bill must now pass through the legislative process and is thus subject to amendment.

Reporting obligations

The reporting obligations apply primarily to intermediaries, defined as any person designing, marketing, organising, making available for implementation or managing the implementation of a reportable arrangement, including persons that know, or could reasonably be expected to know, that they have agreed to provide assistance or advice in relation to the abovementioned services. In view of the attorney-client privilege, lawyers will be subject to less stringent reporting obligations, limited to anonymised information of a general nature in relation to reportable cross-border arrangements. Lawyers will however still be responsible for informing intermediaries (or, in the absence thereof, taxpayers) of their obligations.

Reportable arrangements

Cross-border arrangements will be considered reportable if at least one of the hallmarks listed in the Bill is satisfied, including transactions involving companies not effectively subject to tax, round-tripping, the conversion of income into low-tax or tax-exempt revenue, and double deductions of payments, expenses or costs. Some of these hallmarks will only lead to a reporting obligation if a "main benefit test" is satisfied, meaning that obtaining a tax advantage is one of the main benefits of the arrangement.

Information to be disclosed

The information to be disclosed includes inter alia the identity of the taxpayer(s) and intermediaries, the hallmark(s) concerned, a summary of the arrangement and the value thereof.

Entry into force

As from 1 July 2020, intermediaries will be required to file the abovementioned information within 30 days from the time implementation of the reportable cross-border arrangement becomes possible. Cross-border arrangements initiated between 25 June 2018 and 1 July 2020 must be reported by 31 August 2020.

Penalties

The Bill imposes penalties on both intermediaries and taxpayers for non-compliance with the mandatory reporting obligations, up to a maximum of EUR 250,000.

Next steps

Luxembourg taxpayers should prepare for the entry into force of the new reporting obligations. To this end, it is important to identify all reportable cross-border arrangements and ensure that the appropriate notifications are made, in keeping with the new rules.