

DAC6 Advisory: UK Mandatory Disclosure Regime

FTI Consulting European Tax Advisory

From 1 January 2021 companies and advisors will have to make reports to HMRC in accordance with the International Tax Enforcement (Disclosable Arrangements) Regulations 2020 which implements EU Directive 2018/822, more commonly known as DAC6. This obligation covers cross-border arrangements that began on or after 25 June 2018.

FTI Consulting are able to provide advisory services to organisations who are dealing with their DAC6 obligations in-house, covering impact analysis, process design, training, support and HMRC filing.

Key Figures for DAC6 Reporting Obligations



30

Days to report



24

Months data to review



£1m

Maximum penalty

Background to DAC6

DAC6 covers the reporting of cross-border arrangements that bear one or more of the hallmarks that may be associated with abusive tax behaviour, but which can also relate to entirely commercial arrangements.

Any organisation that is involved in cross-border activities therefore needs to check whether any of these might be reportable under this regulation. The hallmarks to look out for include areas as common and diverse as confidentiality, fees contingent on tax savings, intra-group deductions and transfers of intangible assets.

Assessment of relevant activities and DAC6 impact

For those organisations that have not encountered DAC6 before, or have not realised that it could apply to them, it will be important to start with an impact analysis.

AN IMPACT ANALYSIS HAS TWO KEY OUTPUTS

- 1** To investigate all possible cross-border arrangements since 25 June 2018 until 30 June 2020 (the retroactive period) and evaluate whether a report needs to be made in respect of any of them.
- 2** To consider possible types of cross-border activity that are engaged in currently, or may be in future.

Ascertaining these activities will drive the processes that will need to be set up to then monitor potentially reportable activity and ensure that companies are compliant going forward.

Having understood the immediate impact of the DAC6 regulations, the next step is to design and implement these processes.

Companies will need to identify and train relevant individuals within the organisation to be able to identify potentially reportable arrangements and get them into the evaluation and review process within the 30 day reporting window.

Robust and effective submissions to HMRC

Once a process is in place for DAC6, organisations will need to make filings to HMRC through their online portal for (i) any retroactive arrangements since 25 June 2018, no later than 28 February 2021, (ii) for any arrangements (or services provided) between 1 July 2020 and 31 December 2020 within 30 days of the 1 January 2021, and (iii) for any arrangements (or services provided) from 1 January 2021 within 30 days of the relevant date, which may be as soon as 31 January 2021.

Organisations may require independent validation of decisions on whether an arrangement is reportable or not, or may wish to have the option to escalate specific arrangements for a second opinion.

Then organisations will need to create the upload file for submission to HMRC – one file for each reportable arrangement, with each file needing to be manually uploaded through an HMRC portal.

Companies may also require assistance in achieving the file format required when using in-house systems, or in selecting a third party who will supply them with a filing only solution. Companies may also wish for advice on how to automate the upload process, or seek to outsource, if there are large volumes of disclosures to make.

30 Days to report

From the 1 January 2021, whether an organisation is a corporate or an intermediary, and whether it is involved in “promoting, marketing, designing or implementing cross-border arrangements”, or “providing aid, assistance or advice to a cross-border arrangement”, it will only ever have 30 days, from the relevant date, to make its report to HMRC.

Organisations need to ensure they have the right information, processes, and technology to manage their obligation and FTI Consulting have the experts to advise on all of these points.

How FTI Consulting can help

As an independent non-audit firm, FTI Consulting is uniquely placed to offer DAC6 services. We specialise in providing independent advice to our clients on tax and tax technology matters with no potential conflict around an audit practice or software solutions to sell.

Our DAC6 team have provided advice to intermediaries and corporates, both for UK and EU headquartered engagements. We also work seamlessly with our partners across the WTS International Tax Network to provide local interpretation on other national legislation and guidance.

We have also been directly engaged with HMRC with respect

to the filing technology requirements, portal user design, and also policy and guidance.

So that you can retain control and undertake the bulk of the work in-house, our services include the following:

- Ad-hoc or retained advice on arrangements
- Independent review of difficult reporting decisions
- Filing assistance and filing service
- Single point of contact for all DAC6 questions

We can also run impact analyses, perform process designs and perform process implementations for organisations that have not yet built up their own in-house capabilities.



FTI Consulting can help at every stage of the process

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