DAC6: mandatory disclosure of reportable cross-border tax arrangements

Management of taxes

01 November 2018

HMRC are seeking views prior to formal consultation on the implementation of DAC6 in early 2019.

On 25 May 2018 the EU published Council Directive 2018/822 amending Directive 2011/16/EU (otherwise known as DAC6). DAC6 provides for the mandatory disclosure of reportable cross-border arrangements by intermediaries, or individual or corporate taxpayers, to the tax authorities and the mandatory automatic exchange of this information amongst EU member states. The purpose of DAC6 is to increase tax transparency and fight aggressive tax planning arrangements.

DAC6 has general rules on who must report and when, and what information must be reported. There are then hallmarks which define the types of reportable arrangements; basically, those that are considered to be an aggressive tax planning risk, or a risk for tax avoidance or evasion.
Member states are required to implement the directive into national law by 31 December 2019 and apply the provisions by 1 July 2020. Reportable cross-border arrangements where the first step is undertaken between 25 June 2018 and 1 July 2020 will need to be reported when legislation becomes effective in 2020. Intermediaries must file their first report by 31 August 2020.

The UK government is currently planning to implement DAC6 within the implementation period which is anticipated to be agreed in an EU Withdrawal Agreement and to this end published draft enabling legislation on 6 July 2018 (see clause 40 of the draft Finance Bill). This draft legislation will permit HMRC to implement detailed regulations which will be formally consulted on in 2019. It will

also allow the UK to implement the OECD model mandatory disclosure rules if the UK government decides to adopt those rules.

In the interim, HMRC have told us that they want to engage with as many people affected as possible so that they can consult on the right basis. They are interested in receiving views on issues of interpretation, about practical and operational matters and any other concerns stakeholders may have.

It is likely that the CIOT will meet with HMRC in the coming months to discuss the implementation of DAC6, so we are asking members to send us questions and concerns they would like resolved. Please would you send your queries to technical@ciot.org.uk. To send questions and feedback directly to HMRC the email address is mandatorydisclosure.rules@hmrc.gsi.gov.uk.