

Greece

DAC 6 Domestic Implementation



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General information

Territory	Greece
Tax authority	Greek Tax Authority
Status of legislation	<p>Implemented Law enters into force on 31 July 2020.</p> <p>Generally, the deadline for notification of the declarable regulation is 30 days from the day following that during which the declarable arrangement becomes available or is ready for implementation, or on the day of its completion first stage of the application of the declarable regulation, which precedes in time.</p> <p>For declarable arrangements for which advice or assistance has been provided or made available or ready for implementation or the first phase of its implementation has been completed between 1 July 2020 and 31 December 2020, the 30-day period starts on 1 January 2021.</p> <p>For declarable regulation the first stage of which was completed between 25 June 2018 and 30 June 2020, the final date of submission of information is 28 February 2021. The first periodic report on general purpose arrangements, ie a regulation that has been placed on the market, is ready for implementation or becomes available for implementation, without the need for substantial personalization, is submitted until April 30, 2021.</p>
Taxes covered	Direct taxes
Taxes excluded	VAT
Domestic transactions	No

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Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
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Associated enterprise

For the purposes of Associated enterprise means any person having relations with another person in at least one of the following ways:

- The person participates in the management of another person, having the opportunity to exercise significant influence over the other person
- The person participates in the control of another person, through participation in the share capital corresponding to more than 25% of the voting rights
- The person participates in the capital of another person, through a right of ownership which exceeds, directly or indirectly, 25% of the capital
- The person is entitled to 25% or more of another person's profits.

If more than one person is involved, as referred to in points (a) to (d), in the management, control, capital or profits of the same person, all such persons shall be deemed to be related undertakings.

If the same persons are involved, as referred to in points (a) to (d), in the management, control, capital or profits of more than one person, all such persons shall be deemed to be related undertakings.

For the purposes hereof, a person acting jointly with another person in respect of the voting rights or equity of an entity shall be deemed to hold a shareholding in all of the voting rights or equity of that entity held by the other person.

In the case of an indirect participations, the fulfillment of the conditions of circumstance c) is judged by multiplying the occupied percentages at the successive levels. A person who holds more than 50% of the voting rights is considered to be a 100% holder.

A natural person, his / her spouse and his / her immediate anions or descendants are considered as one person.

Marketable arrangement

A cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially.

Cross-border arrangement

Cross-border arrangement means an arrangement involving either more than one Member State or a Member State and a third country which meets at least one of the following conditions:

- The participants in the arrangement do not have their tax residence in the same jurisdiction
 - One or more of the participants in the arrangement has their tax residence at the same time in more than one jurisdiction
 - One or more of the participants in the arrangement operate in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or all the activity of that permanent establishment
 - One or more of the participants in the arrangement operates in another jurisdiction without having a tax residence or permanent establishment within that jurisdiction
 - the relevant arrangement has a potential impact on the automatic exchange of information or the identification of the beneficial owner.
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Intermediary

Any person that designs markets, organizes, or manages the implementation of a declarable cross-border arrangement. "Intermediary" also means any person who, in the light of all relevant facts and circumstances and based on the information available and the relevant expertise and understanding required to provide such services, knows, or may reasonably assume that they know they provide, directly or through other persons, assistance, assistance or advice on the preparation, marketing, organisation or management of the implementation of a declarable cross-border arrangement.

Any person has the right to provide evidence that the person in question did not know and should not have reasonably assumed that he or she knew that he or she was involved in a declared cross-border arrangement.

For this purpose, a person can refer to any relevant event and circumstance, as well as to the available information and related expertise and perception of the person.

To be classified as an intermediary, a person must also meet at least one of the following conditions:

- Be domiciled for tax purposes in a Member State
- Have a permanent establishment in a Member State through which regulatory services are provided
- Be established in a Member State or governed by the law of a Member State
- Be registered with a trade association related to the provision of legal, tax or consulting services in a Member State.

Tax advantage

The current Greek legislation does not provide for a definition of tax advantage in the context of DAC6 reporting.

Made available for implementation

The current Greek legislation does not provide a definition for the “made available for implementation” concept in the context of DAC6 reporting.

Hallmark

- General insignia related to the main benefit criterion.
- Special insignia related to the main benefit criterion.
- Special insignia associated with cross-border transactions.

3**Additional hallmarks****Additional hallmarks****Category 1:**

- An arrangement in which the person concerned or a participant in the arrangement undertakes to comply with a condition of confidentiality which may require him not to disclose how the arrangement could secure a tax advantage over other intermediaries or tax authorities
- Arrangement in which the intermediary is entitled to receive remuneration (interest, compensation for financial expenses and other charges) for the arrangement and this remuneration is determined in relation to: (a) the amount of the tax advantage resulting from the arrangement; or (b) whether or not a tax advantage actually arises from the arrangement, including the liability of the intermediary for a partial or full refund of the remuneration, if the tax advantage sought under the arrangement has not been fully or partially achieved
- An arrangement that contains substantially standard documentation and/or structure and is available to more than one taxpayer concerned without having to be substantially specialised to apply it.

Category 2:

- An arrangement in which a participant in the arrangement performs artificial actions, which consist in the acquisition of a loss-making company, the cessation of the main activity of the company and the use of its losses to reduce its tax liabilities, including through the transfer of such losses to other jurisdiction or by accelerating the use of such damages
- Regulation which results in the conversion of income into capital, donations, or other categories of income, which are subject to lower taxation or exempt from taxation
- An arrangement involving circular transactions that lead to circular capital flows, in particular through the participation of intervening entities, without any other primary trading function or transactions that offset or cancel each other out or have similar characteristics.

Category 3:

An arrangement which includes deductible cross-border payments made between two or more related undertakings, provided that at least one of the following conditions is met:

- The recipient is not a tax resident (or resident for tax purposes) in any tax jurisdiction
- Although the recipient is a tax resident in a jurisdiction, that jurisdiction
- Either does not impose corporate tax or imposes corporate tax with zero or almost zero rate is included in a list of jurisdictions of third countries which have been assessed by the Member States collectively or within the OECD as non-cooperative
- The payment is fully exempt from taxation in the area of jurisdiction where the recipient is a tax resident
- The payment is subject to a preferential (or preferential) tax regime in jurisdiction where the recipient is a tax resident.

Arrangement involving a deduction request for the same amount of depreciation of an asset in more than one jurisdiction.

Arrangement that includes a request for exemption from double taxation for the same item of income or capital in more than one jurisdiction.

Arrangement involving transfers of assets where there is a substantial difference in the amount considered to be payable in exchange for the assets in those jurisdictions.

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Operation of legal professional privilege (LPP)

Operation of legal professional privilege (LPP)

Intermediates, to the extent that it operates within the limits of the legal framework governing the profession of lawyer, is released from the obligation to submit information on the declared cross-border regulation in Greece, when compliance with this obligation constitutes a breach of the lawyer's obligation to privacy and confidentiality.

In this case, the intermediary notifies, without delay, to any other intermediary or, if there is no other intermediary, to the interested person the obligations of submitting information that they are subject to intermediary in accordance with paragraph 1 or the intermediary notifies the person concerned or another intermediary of the application of an exemption in accordance with paragraph 4, the other intermediary to whom the notification is addressed or, if there is no other intermediary, the person concerned are required to submit information on declarable cross-border regulation.

In any case, the person concerned is obliged to submit information, if he cannot prove by any appropriate means, that the same information on a specific declarable crossborder arrangement has already been submitted by the intermediary to another Member State.

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Reporting deadline

Intermediaries

The intermediaries referred are obliged to submit information within a period of thirty (30) days, which is calculated from the next day on which they provided, directly or through other persons, any assistance or advice.

Users (where LPP applies)

The user submits the relevant information within a period of thirty (30) days, the calculation of which starts on any of the following dates:

- The day following the day on which the declared crossborder arrangement became available for application to the person concerned
- The next day, on which the declared cross-border arrangement is ready for application by the person concerned
- The day of completion of the first stage of its application in respect of the person concerned. 9. When the person concerned is obliged to submit information on the same declared cross-border.

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Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Intermediary is obliged to report information that is within their knowledge (or it would reasonably be expected to know), possession or control on reportable cross-border arrangements.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

Where the intermediary is required to report the crossborder arrangements with the competent authorities of more than one Member State, such information will be reported only in the Member State that features first in the list below:

- The Member State where the intermediary is resident for tax purposes
- The Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided
- The Member State which the intermediary is incorporated in or governed by the laws of the Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.

Circumstances under which intermediary not required to report

- Where there is professional secrecy of the lawyer, to the extent that compliance with the notification obligation would violate the lawyer's obligation of confidentiality (LPP clause).
- When they have proof that the notification has already been made by another intermediary.
- When it is an intermediary outside the EU, in a third country.
- When the taxpayer prepares and implements the regulation / transaction themselves without the assistance of an intermediary.

If the intermediary is released from the obligation to disclose due to legal secrecy, then the obligation to disclose the "declarable cross-border settlement" is passed either to the other intermediary who may have been involved in the settlement or, if there is no other intermediary, to the intermediary themselves.

For this reason in case the intermediary is released from the obligation of notification, they are responsible for the timely notification of their exemption either to the other intermediary or to the taxpayer themselves if there is no other intermediary in order for them to make the necessary notifications. In cases where no intermediary is involved because the taxpayer prepares and applies the regulation themselves, then they are solely responsible for the notification.

What will the tax authorities provide for the notification received

No information is currently available.

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Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

With the incorporation of the Directive, an obligation is introduced to the intermediaries, but also to the interested taxpayers (in case there is no intermediary or there is, but it is exempted) to inform the Tax Authorities of the potentially aggressive tax planning cross-border transactions (cross-border transactions).

Priority of reporting where multiple taxpayers are involved

In cases where the interested person is obliged to submit the information and there more than one interested person, the interested person who is obliged to submit information, is first in line by the following persons:

- The person concerned who has agreed on the declarable cross-border arrangement with the intermediary
- An interested person who manages the implementation of the regulation. To relieve an interested person from the obligation to submit information, he must be able to prove by any appropriate means that the exact same information referred has already been submitted by another interested person.

Circumstances under which taxpayer not required to report

In case of multiple reporting obligations, the intermediary is exempt from reporting requirements in Greek if it has and makes available to the Greek tax authorities the proof that the same information has been reported in another Member State.

The intermediary is also exempt from the reporting obligations if a legal professional privilege is applicable and they have notified the other intermediaries/the relevant taxpayer.

Proof that reporting obligation is satisfied by other taxpayer

No information is currently available.

8 Reporting principles applicable to all

Language

Greek language

9 Penalties

Circumstances in which penalties may apply

Penalties for late submission or non-submission or inaccurate / incomplete submission of Country Report and Declarable Cross-Border Regulation.

In cases of late submission or non-submission or inaccurate / incomplete submission of Report by Country and Declarable Cross-Border Regulation are imposed.

Amount

- In case of non-submission of a Report per Country, a fine of 20,000 EUR is imposed and in case of late submission or submission of an inaccurate Report per Country, a fine of 10,000 EUR is imposed on the taxpayers of par. Article 9AA of L. 4170/2013.
- In case of non-submission of information regarding declarable cross-border regulation, it is imposed on the obligors of article 9AB of L. 4170/2013 a fine of EUR 5,000, when the taxpayer maintains single entry books, and EUR 10,000, when the taxpayer maintains double entry books for each declared cross-border arrangement. The total amount of the fines of the previous paragraph may not exceed ten times the foreseen fine per tax audit, for each declared border regulation.

- In case of submission of inaccurate or incomplete information regarding declarable cross-border regulation, it is imposed on the obligors of article 9AB of L. 4170/2013 a fine of EUR 2,500, when the taxpayer maintains single entry books, and EUR 5,000, when the taxpayer maintains a double entry books, for each declared cross-border arrangement. The total amount of the fines of the previous paragraph may not exceed ten times the foreseen fine per tax audit, for each declared cross-border regulation.
- In case of late submission of information regarding declarable cross-border regulation, it is imposed on the obligors, a fine of 250 EUR, when the debtor keeps single entry books, and EUR 500, when the taxpayer maintains a double-entry bookkeeping system per month of delay and up to three months, for each declared border regulation. In case the submission is made after the lapse of three months from the deadline for timely declaration, a fine of EUR 2,500 is imposed, when the taxpayer maintains single entry books and EUR 5,000, when the taxpayer maintains double entry books, for each declared cross-border arrangement. The total amount of the fines of the previous paragraph may not exceed twice the foreseen fine of EUR 2,500 or EUR 5,000, respectively, per calendar year, for each declared cross-border regulation. If the late submission fine is imposed after an inspection, the total amount of the fines may not exceed ten times the estimated fine of EUR 2,500 or EUR 5,000, respectively, tax audit, for each declared cross-border regulation.
- A fine of EUR 5,000 is imposed, if the intermediary keeps single entry books and EUR 10,000, if the intermediary maintains double entry books.

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Country specifics

Country specifics / deviation from EU directive

The hallmarks of the Greek tax law which implement in the domestic legislation are similar with the hallmarks provided by the Directive.



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