



Hungary

DAC 6 Domestic Implementation

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General information

Territory	Hungary
Tax authority	Nemzeti Adó és Vámhivatal
Status of legislation	Implemented. Entry into force on 1 July 2020. Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 28 February 2021. Official administrative guidelines yet to be published.
Taxes covered	Personal Income tax, corporate income tax, real estate transfer tax, gift/inheritance tax, energy tax, trade tax.
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.
Associated enterprise	<p>A person who is related to another person in at least one of the following ways:</p> <ul style="list-style-type: none"> • A person participates in the management of another person by being in a position to exercise a significant influence over the other person • A person participates in the control of another person through a holding that exceeds 25% of the voting rights • A person participates in the capital of another person through a right of ownership that, directly or indirectly, exceeds 25% of the capital • A person is entitled to 25% or more of the profits of another 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 customised.

Cross-border arrangement

An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions is met:

- Not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction
- One or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction
- One or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment
- One or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction
- Such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

Intermediary

Any person that designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement; or any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a reportable cross-border arrangement.

In order to be an intermediary, a person shall meet at least one of the following additional conditions:

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

Tax advantage Not clarified in Hungarian legislation or administrative guidance.

Made available for implementation Not clarified in Hungarian legislation and currently no guidance has been given by the Hungarian authorities on this point.

Hallmark A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks None

4 Operation of legal professional privilege (LPP)

Operation of legal professional privilege (LPP) When the intermediary is bound by LPP, they are required to notify any and all other intermediaries in writing that the reporting obligation automatically rests with them. If there are no other intermediaries, they should notify the relevant taxpayer in writing that the reporting obligation rests with the taxpayer.

5 Reporting deadline

Intermediaries

Within 30 days following:

- the day after the reportable cross-border arrangement is made available for implementation; or
- the day after the reportable cross-border arrangement is ready for implementation; or
- the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first.

Reportable transactions for which first implementation step took place between 25 June 2018 and 1 July 2020 need to be reported by 31 August 2020.

For marketable arrangements, the intermediary is required to file a periodic report with all new reportable cross-border arrangements every 3 months (until the last day of every quarter).

Users (where LPP applies)

Within 30 days following:

- the day after the reportable cross-border arrangement is made available for implementation; or
- the day after the reportable cross-border arrangement is ready for implementation; or
- when the first step in the implementation of the reportable cross-border arrangement has been made, whichever occurs first.

In case of arrangements for which the first implementation step takes place between 1 July and 31 December 2020, the 30 days will begin on 1 January 2021.

In case of marketable arrangements the first reporting deadline is 30 April 2021.

Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 28 February 2021.

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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, 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

The information shall be filed 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

In case of multiple reporting obligations, the intermediary shall be exempt from filing if it has proof, in accordance with national law, that the same information has been filed in another Member State.

The intermediary shall also be exempt from filing the information if he is bound by legal professional privilege and has notified the other intermediaries or in absence thereof, the relevant taxpayer.

What will the tax authorities provide for the notification received

Not clarified in Hungarian legislation or administrative guidance.

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Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

The relevant taxpayer is obliged to report if:

- no intermediary was involved in the design, marketing, organising or making available for implementation or managing the implementation of a reportable cross-border arrangement; or
- they been notified by the intermediary that the intermediary is bound by legal professional privilege.

Priority of reporting where multiple taxpayers are involved

Where the relevant taxpayer has an obligation to file information on the reportable cross-border arrangement with the competent authorities of more than one Member State, such information shall be filed only with the competent authorities of the Member State that features first in the list below:

- The Member State where the relevant taxpayer is resident for tax purposes
- The Member State where the relevant taxpayer has a permanent establishment benefiting from the arrangement
- The Member State where the relevant taxpayer receives income or generates profits, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State
- The Member State where the relevant taxpayer carries on an activity, although the relevant taxpayer is not resident for tax purposes and has no permanent establishment in any Member State.

Circumstances under which taxpayer not required to report

Where there is a multiple reporting obligation, the relevant taxpayer shall be exempt from filing the information if it has proof, in accordance with national law, that the same information has been filed in another Member State.

Proof that reporting obligation is satisfied by other taxpayer

Evidence to be provided, but no guidelines are released.

8 Reporting principles applicable to all

Language An electronic form that is published by the tax authority in Hungarian language.

9 Penalties

Circumstances in which penalties may apply In case the fulfillment of the obligations is late, incorrect, erroneous or incomplete.

Amount Up to HUF 5,000,000 (EUR 15,000).

10 Country specifics

Country specifics / deviation from EU directive None



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