



Czech Republic

DAC 6 Domestic Implementation

1

General information

| | |
|------------------------------|--|
| Territory | Czech Republic |
| Tax authority | Specialised Tax Office |
| Status of legislation | Implemented. Enters into force on 29 August 2020. |
| Taxes covered | All direct taxes, ie corporate income tax, personal income tax, withholding tax, real estate tax, real estate acquisition tax, road tax. |
| Taxes excluded | VAT, excise taxes, social security and health insurance contributions, customs duties. |
| Domestic transactions | No |

2

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 | An enterprise/person who is related to another enterprise/person in at least one of the following: <ul style="list-style-type: none">• An enterprise/person participates in the management of another enterprise/person and is in a position to exercise significant influence over the other enterprise/person• An enterprise/person participates in the control of another enterprise/person through a holding that exceeds 25% of voting rights• An enterprise/person participates in the capital of another enterprise/person through a holding that (directly or indirectly) exceeds 25% of the capital• An enterprise/person participates in the control of another enterprise/person through a holding that 25% of earnings. |
| Marketable arrangement | Cross-border standardised arrangement that is designed, marked, ready for implementation of 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

An Intermediary is any person that designs, markets, organizes or makes available for implementation or manages the implementation of a reportable cross-border arrangement.

A Secondary Intermediary is 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.

Tax advantage

The tax advantage arises as a result of tax avoidance, in particular the benefit of a lower tax rate in a member state or jurisdiction.

Made available for implementation

General Financial Directorate publishes frequently asked questions and answers.

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 and the taxpayer in writing that the reporting obligation automatically rests with them.

If there are no other intermediaries, the intermediary should notify the relevant taxpayer in writing that the reporting obligation rests with the taxpayer.

LPP cannot be invoked to be exempt from the periodic reporting for marketable arrangements.

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.

In addition, Secondary intermediaries are also required to file information within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice.

The deadlines for the reporting obligation of past arrangements is as follows:

- Cross-border arrangements where the first step of the implementation that takes place between 25 June 2018 and 30 June 2020 is to be reported by 28 February 2021
- Cross-border arrangements where the first step of the implementation that takes place after 1 July 2020 is to be reported by 30 January 2021
- Cross-border arrangements which were opened for implementation, prepared for implementation, or in which the first step of the implementation that takes place by 31 December 2020 is to be reported by 30 January 2021
- Cross-border arrangements where the secondary intermediary (him/herself or through another person or entity without legal personality) provided support, help or advisory that takes place by 31 December 2020 is to be reported by 30 January 2021
- Changes of information about a standardized cross-border arrangement that takes place by 31 December 2020 is to be reported by 30 April 2021.

**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
- the moment when the first step in the implementation of the reportable cross-border arrangement is made, whichever occurs first.

The deadlines for the reporting obligation of past arrangements is as follows:

- Cross-border arrangements where the first step of the implementation that takes place between 25 June 2018 and 30 June 2020 is to be reported by 28 February 2021
- Cross-border arrangements where the first step of the implementation that takes place after 1 July 2020 is to be reported by 30 January 2021
- Cross-border arrangements which were opened for implementation, prepared for implementation, or in which the first step of the implementation that takes place by 31 December 2020 is to be reported by 30 January 2021
- Cross-border arrangements where the secondary intermediary (him/herself or through another person or entity without legal personality) provided support, help or advisory up until 31 December 2020 is to be reported by 30 January 2021
- Changes of information about a standardized cross-border arrangement that takes place by 31 December 2020 is to be reported by 30 April 2021.

6 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

Where the intermediary is liable to file information on reportable cross-border arrangements with the competent authorities of more than one Member State, such information shall be filed only in the Member State that features 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 a multiple reporting obligation, the intermediary shall be exempt from filing the information if the same information has been filed in another Member State.

The intermediary shall also be exempt from filing the information if they are 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

The reference number of the first reporting.

7

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 have 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 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 taxpayer shall be exempt from filing the information if the same information has been filed in another Member State.

Proof that reporting obligation is satisfied by other taxpayer

The reference number of the first reporting.

8 Reporting principles applicable to all

Language

Czech/English language.

9 Penalties

Circumstances in which penalties may apply

In case of breaching the obligation:

- To file a report
 - To make a notification
 - To maintain relevant documentation
 - To inform client and other intermediaries.
-

Amount

Up to EUR 18,500 (CZK 500,000).

10 Country specifics

Country specifics / deviation from EU directive

None



Jan Soska
Partner & International
Tax Advisor
jan.soska@tpa-group.cz



Petr Karpeles
Partner
petr.karpeles@tpa-group.cz