

**Bulgaria**

# DAC 6 Domestic Implementation



# 1

## General Information

<b>Territory</b>	Bulgaria
<b>Tax authority</b>	The Executive Director of the National Revenue Agency
<b>Status of legislation</b>	Implemented.  Entry in force on 01 July 2020.  By 31 August 2020 should be reported reportable cross-border arrangements for which the first step of implementation took place between 25 June 2018 and 30 June 2020.  The information on reportable cross-border arrangements shall be submitted electronically and in a format and under procedure approved by Order of the Executive Director of the National Revenue Agency, which shall be published on the website of the National Revenue Agency. (Not yet published as of 28 May 2020)
<b>Taxes covered</b>	Any taxes, including local taxes, except for the explicitly excluded taxes and levies.
<b>Taxes excluded</b>	<ul style="list-style-type: none"><li>- value added tax, excise duties and customs duties</li><li>- mandatory social insurance contributions</li><li>- state or municipal charges for issuance of certificates or other documents</li><li>- receivables of contractual nature, including remuneration under contracts for services in the public interest</li></ul>
<b>Domestic transactions</b>	No

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## Definitions further clarified by guidance

<b>Relevant taxpayer</b>	<b>Any person:</b> <ol style="list-style-type: none"><li>1. to whom a reportable cross-border arrangement is made available for implementation, or</li><li>2. who is ready to implement a reportable cross-border arrangement, or</li><li>3. who has implemented the first step of such a cross-border tax arrangement.</li></ol>
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**Associated enterprise**

**A person who is related to another person in at least one of the following ways:**

- a)** a person participates in the management of another person by being in a position to exercise a significant influence over the other person;
- b)** a person participates in the control of another person through a holding that exceeds 25 % of the voting rights;
- c)** a person participates in the capital of another person through a right of ownership that, directly or indirectly, exceeds 25 % of the capital;
- d)** a person is entitled to 25 % or more of the profits of another person.

If more than one person participates, as referred to in points (a) to (d), in the management, control, capital or profits of the same person, all persons concerned shall be regarded as associated enterprises.

If the same persons participate, as referred to in points (a) to (d), in the management, control, capital or profits of more than one person, all persons concerned shall be regarded as associated enterprises.

For the purposes of this point, a person who acts together with another person in respect of the voting rights or capital ownership of an entity shall be treated as holding a participation in all of the voting rights or capital ownership of that entity that are held by the other person.

In indirect participations, the fulfilment of requirements under letter (c) shall be determined by multiplying the rates of holding through the successive tiers. A person holding more than 50 % of the voting rights shall be deemed to hold 100 % of the voting rights.

An individual, his or her spouse and his or her lineal ascendants or descendants shall be treated as a single person.

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**Marketable arrangement**

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

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**Cross-border arrangement**

**An arrangement that affects more than one Member State or a Member State and a third country, when at least one of the following conditions is met:**

- 1.** not all participants in the arrangement are residents for tax purposes of one and the same jurisdiction;
- 2.** one or more of the participants in the arrangement are simultaneously residents for tax purposes of one and the same jurisdiction;
- 3.** one or more of the participants in the arrangement conduct business in another jurisdiction through a permanent establishment or fixed establishment and the arrangement covers part or all the business of the permanent establishment or fixed establishment;

4. one or more of the participants in the arrangement conduct business in another jurisdiction without being residents for tax purposes or without forming a permanent establishment or fixed establishment in that jurisdiction;
5. the arrangement may affect the automatic exchange of information or determination of the identification of the beneficial owner

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**Intermediary**

Intermediary (consultant) shall be any person that designs, markets, organises or makes available for implementation or manages the implementation of a cross-border arrangement.

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**Tax advantage**

Any benefit to a taxable person that may cover a reduction of the tax base or tax due, avoidance or deferral of tax payment, use of tax relief, or a tax relief in a higher amount than permissible, as well as any other advantages and benefits that could improve the tax status of the person.

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**Made available for implementation**

Currently, there is no statutory definition or guidance of the Bulgarian tax authorities on this point.

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**Hallmark**

Currently, Bulgarian law does not define "hallmark" for the purposes of reporting cross-border tax arrangements. Instead of that, Bulgarian law outlines fifteen categories of reportable cross-border tax arrangements with 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 consultant (intermediary) is bound by LLP, he is required immediately, but not later than 14 days from the date on which a reporting obligation arises therefor, to notify the other consultants on the tax arrangement of their obligation to provide information. If no other consultants are known to him, the consultant bound by LLP shall inform the taxpayer of the latter's obligation to provide information.

Regardless of the reporting exemption based on LLP, the consultant shall notify the Executive Director of the National Revenue Agency of the other consultants on the tax arrangement or of the taxpayer that shall provide information, regardless of the fact that the reporting obligation for them may arise in another Member State.

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## Reporting deadline

### Intermediaries

**A consultant (intermediary) shall report a cross-border tax arrangement within their knowledge, possession or control within 30 calendar days of the earlier of:**

1. the day after the reportable cross-border arrangement is made available for implementation;
2. the day after the reportable cross-border arrangement is ready for implementation;
3. the day when the first step in the implementation of the reportable cross-border arrangement has been made.

When a consultant (intermediary) has been notified of a reporting obligation by a consultant bound by LLP, the 30 calendar days deadline for reporting shall be counted from the date of notification.

Notwithstanding the above, consultants (intermediaries) 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, know or could be reasonably expected to know that they have undertaken to provide, directly or through others, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a cross-border tax arrangements with a potential risk of tax avoidance, shall report the cross-border tax arrangement within 30 calendar days beginning on the day following the day on which they provided, directly or by means of others, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of the tax arrangement.

After the initial reporting, a consultant (intermediary) on a marketable tax arrangement shall provide every three months updated information on the arrangement, which information came to his knowledge after the previous reporting.

Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020.

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### Users (where LPP applies)

**Where an obligation arises for a taxpayer to report a cross-border tax arrangement, the taxpayer shall file the information within 30 calendar days of the earlier of:**

1. the day after the reportable cross-border arrangement is made available for implementation;
2. the day after the reportable cross-border arrangement is ready for implementation;
3. the day when the first step in the implementation of the reportable cross-border arrangement has been made.

Reportable transactions for which first implementation step took place between 25 June 2018 and 30 June 2020 need to be reported by 31 August 2020.

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## Reporting principles for intermediary

<b>Circumstances in which intermediary is obliged to report</b>	A consultant (intermediary) shall report information that is within his knowledge, possession or control on a reportable cross-border tax arrangement.
<b>Obligation to inform user what data was communicated</b>	Yes
<b>Priority of reporting where multi member state reporting obligations exist</b>	<p><b>When a consultant (intermediary) is liable to report on one and the same tax arrangement in two or more Member States, the information shall be provided only to the competent authority of one Member State which shall be determined in the following priority:</b></p> <ol style="list-style-type: none"> <li>1. the Member State in which the consultant is a resident for tax purposes;</li> <li>2. the Member State in which the consultant has a permanent establishment or a fixed establishment, through which the arrangement-related services are provided;</li> <li>3. the Member State in which the consultant is incorporated or whose law governs it;</li> <li>4. the Member State in which the consultant is registered as a member of a professional association related to legal, taxation or consultancy services.</li> </ol>
<b>Circumstances under which intermediary not required to report</b>	<p><b>A consultant (intermediary) shall be exempt from the obligation to report on a cross-border tax arrangement if:</b></p> <ol style="list-style-type: none"> <li>1. he has proof that the same information on the cross-border tax arrangement has been filed by another consultant; or</li> <li>2. he has proof that the same information has been filed in another Member State.</li> </ol> <p>Notwithstanding the fact that another consultant has provided information on a cross-border tax arrangement to the Executive Director of the Bulgarian National Revenue Agency or to a competent authority of another Member State, a consultant shall not be exempt from the reporting obligation if the arrangement comprises more than one step or part, and any consultant shall design, market, organise, manage, make available for implementation, respectively provide assistance, aid or advice in reference to such activities, for the individual step or part of the arrangement.</p> <p>A consultant (intermediary) shall also be exempt from the obligation to report on a cross-border tax arrangement if he is bound by legal professional privilege to keep such information as confidential, unless the taxpayer has consented to provide it, and the consultant</p>

- has notified the other consultants on the tax arrangement of their reporting obligation, or

- if no other consultants are known to him, has informed the taxpayer of the latter's reporting obligation.

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**What will the tax authorities provide for the notification received**

A unique number shall be issued upon the initial reporting on a cross-border tax arrangement, which shall serve for identification of the arrangement in all Member States. A consultant or a taxpayer who has initially provided information on a tax arrangement shall notify any other consultant or taxpayer on the arrangement of the unique number issued.

For any reporting by a consultant or a taxpayer, a unique number of the reporting shall be issued, which is part of an arrangement. The number shall serve to identify that specific reporting in all Member States.

## 7 Reporting principles for taxpayer

**Circumstances in which taxpayer is obliged to report**

**Information on a cross-border tax arrangement shall be provided by a taxpayer in one of the following cases:**

1. when there is no consultant on the arrangement, including when the arrangement is designed by an employee of the taxpayer;
2. when the consultant on the arrangement is exempt from the reporting obligation on the grounds of legal professional privilege, of which the taxpayer has been informed;
3. when the consultant on the arrangement:
  - a) is not a resident for tax purposes of a Member State;
  - b) has not a permanent establishment or a fixed establishment in a Member State through which the arrangement-related services are provided;
  - c) is not incorporated in, or governed by the laws of, another Member State;
  - d) is not registered with a professional association related to legal, taxation or consultancy services in another Member State.

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**Priority of reporting where multiple taxpayers are involved**

**When the reporting obligation arises for more than one taxpayer, including when the obligation arises in different Member States, information on the cross-border tax arrangement shall be provided to the competent authority by the taxpayer who is first from among the following:**

1. the taxpayer who has agreed with the consultant on the relevant arrangement;
2. the taxpayer who manages the implementation of the arrangement.

**Circumstances under which taxpayer not required to report**

**The taxpayer is not required to report on a cross-border tax arrangement if he has proof that:**

1. he has provided the information in another Member State, or
2. another taxpayer has provided the same information on the tax arrangement.

**Proof that reporting obligation is satisfied by other taxpayer**

The unique numbers for initial reporting or any other reporting issued by the National Revenue Agency as well as the relevant unique numbers issued in another Member State shall be stated as proof that the information on the arrangement has been already reported in another Member State or by another taxpayer.

## 8 Reporting principles applicable to all

**Language**

The information shall be reported in the official Bulgarian language, to the extent that there is no legal rule or guidance of the Bulgarian tax authorities on this point.

## 9 Penalties

**Circumstances in which penalties may apply**

**Failure of a consultant or a taxpayer:**

- to report on cross-border arrangement when required to do so,
- to provide correct or complete information on cross-border arrangement,
- to notify the other consultants or the relevant taxpayer on the cross-border arrangement about the unique number assigned upon the initial reporting on that arrangement.

Failure of a consultant exempt from reporting obligation by reference to legal professional privilege:

- to duly notify the other consultants on the tax arrangement or the relevant taxpayer of their respective reporting obligation,
- to duly notify the Executive Director of the National Revenue Agency of the other consultants on the tax arrangement or the relevant taxpayer that will report on that cross-border tax arrangement.



## Amount

Penalties applicable to any person with reporting obligation:

- For failure to report: BGN 2000 to BGN 5000 – for individuals or BGN 5000 to BGN 10000 – for legal entities and sole traders.

- For failure to provide correct or complete information - BGN 1000 to BGN 3000 – for individuals or BGN 2000 to BGN 8000 – for legal entities and sole traders

- For failure to inform the other consultants or the taxpayer about the unique number of reporting - BGN 200 to BGN 800 – for individuals or BGN 500 to BGN 1500 – for legal entities and sole traders

Penalties applicable to consultants exempt from reporting by reference to legal professional privilege:

- For failure to notify the other consultants or the relevant taxpayer - BGN 2000 to BGN 5000 – for individuals or BGN 5000 to BGN 10000 – for legal entities and sole traders

- For failure to notify the National Revenue Agency about the consultants or the taxpayer that will report - BGN 200 to BGN 800 – for individuals or BGN 500 to BGN 1500 – for legal entities and sole traders

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### Country specifics

**Country specifics /  
deviation from EU  
directive**

None.



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