

International Tax Review

Current information on
international tax
developments provided by EY
Austria

Austria: Update on MDR/DAC6 deferral and draft guidelines

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The Austrian EU-MPFG transposing DAC6 in relation to reportable cross-border arrangements entered into force on 1 July 2020.

On 7 July 2020, the Austrian Federal Ministry of Finance published draft guidance on the reporting requirement under the Austrian implementation law of DAC6. The draft includes the information that Austria will not make use of the 6-month deferral and will not amend the Austrian DAC6 rules. However, for technical reasons on EU level, electronic filing of the report will only be possible at a later date. Therefore, the first reports for the transitional period as well as new arrangements as of 1 July shall be filed until 31 October 2020. In addition, sanctions will also be suspended until then.

In fact, this means that the EU-MPFG went "live", but the first reports - contrary to the statutory deadlines - are not due to be submitted until the end of October 2020. However, changes are still possible, since there is still no official publication yet.

In addition to the comments on the factual deferral, the draft includes some first guidance on some aspects of interpretation and clarification on the substance of the reporting obligation. For example, it clarifies that the term "intermediary" is not restricted to tax advisors, statutory auditors, attorneys, public notaries, financial advisors but also includes banks, family offices and tax department in international groups.

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Furthermore, the draft gives some guidance on the Austrian special provision under which arrangements only need to be reported in case they include a risk of tax avoidance, risk of circumventing reporting obligations under the common reporting standard or of preventing the identification of the beneficial owner. In this respect the draft guidance mentions that an overall view of the circumstances must be taken into account for this purpose. A risk of tax avoidance is to be assumed if the arrangement is suitable to erode the national tax base. This will always be the case if arrangements have been developed to exploit potential market inefficiencies which result from the interaction of different national tax provisions or if the arrangement has been jointly developed for several territories in order to shift profits into territories with more advantageous tax systems or if the arrangement results in the reduction of the overall tax burden of the taxpayer. This special condition in the Austrian DAC6-legislation has to be considered for all hallmarks, i.e. both the ones falling under the main benefit test (MBT) and the ones not falling under the MBT. In fact, the guidance has made it clear that the risk of tax avoidance has to be considered as an additional step in the identification whether an arrangement is reportable or not. The guidance explicitly mentions that benefits explicitly intended by Austrian tax law do not cover a risk of tax avoidance unless no artificial steps are included. In this respect the draft guidance presents a list of situations which should not cover a risk of tax avoidance, such as

- ▶ reaching the minimum shareholding quote to apply the participation exemption
- ▶ awaiting statutory time limits
- ▶ drawing up of foreign deeds (to avoid Austrian stamp duties)

Besides also some clarifications on hallmarks are included. The document is now open for public consultation and the deadline for submitting comments is 30 July 2020. A full alert will be published once the draft becomes final.

OECD Developments

OECD Developments

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- ▶ PE Watch: Latest developments and trends, July 2020 [▶ Read more](#)
- ▶ OECD releases model rules for data reporting by platform operators for sellers in the sharing economy [▶ Read more](#)

EU Developments

EU Developments

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EU Developments

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- ▶ EU-Vietnam free trade agreement enters into force as of 1 August 2020 [▶Read more](#)
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Australia

Country Updates

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Brazil

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Canada

- ▶ Canada: Federal government delivers its 2020 economic and fiscal snapshot [▶Read more](#)
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Cape Verde

- ▶ Cape Verde amends certain tax regimes and introduces country-by-country reporting [▶Read more](#)

Chile

- ▶ Chile ratifies multilateral convention to implement tax treaty related measures to prevent BEPS [▶Read more](#)

Country Updates

China

- ▶ US imposes new economic sanctions related to China and issues executive order on Hong Kong normalization status that will produce additional supply chain diligence responsibilities [▶ Read more](#)
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Costa Rica

- ▶ Costa Rican tax authorities delay VAT collection on cross-border digital services until 1 October [▶ Read more](#)

Cyprus

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- ▶ Cyprus: Reduced VAT rate of 5% applies to hotel accommodation, restaurant and catering and transportation services on a temporary basis [▶ Read more](#)

Dominican Republic

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Finland

- ▶ Finland publishes official tax guidelines on Mandatory Disclosure Rules [▶ Read more](#)

France

- ▶ France extends Mandatory Disclosure Rules reporting deadlines for six months [▶ Read more](#)
- ▶ USTR formalizes duty actions regarding France's Digital Services Tax with deferred implementation to 2021 [▶ Read more](#)

Germany

- ▶ Germany announces no postponement of MDR reporting deadlines [▶ Read more](#)
- ▶ Germany's Presidency of the Council of the EU publishes its program [▶ Read more](#)

Country Updates

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Indonesia

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Italy

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Kenya

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Liechtenstein

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Luxembourg

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- ▶ Luxembourg publishes draft legislation extending MDR reporting deadlines for six months [▶Read more](#)

Country Updates

Netherlands

- ▶ Dutch tax authority issues guidance on reportable cross-border arrangements [▶Read more](#)
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- ▶ Poland's implementation of EU ATAD 2 anti-hybrid measures enters into force from 1 January 2021 [▶Read more](#)
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Portugal

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Russian Federation

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South Africa

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Spain

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Country Updates

- ▶ The Spanish Constitutional Court confirms minimum interim payment on account of Corporate Income Tax is unconstitutional [▶Read more](#)

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Tanzania

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United Kingdom

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- ▶ UK government publishes draft clauses for finance bill 2020-21 alongside new tax consultations [▶Read more](#)
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United States

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- ▶ US final and proposed GILTI regulations deliver few benefits and more than a few surprises [▶Read more](#)
- ▶ US final GILTI/FDII regulations under section 250 include guidance on section 962 elections, pass-through FDII reporting [▶Read more](#)
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- ▶ US final FDII regulations retain proposed regulations' structure, but reduce documentation burden, defer effective date and make important substantive changes to the computation of section 250 deduction [▶Read more](#)
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- ▶ US Government suspends defense exports and EAR export license exceptions for exports to Hong Kong [▶Read more](#)
- ▶ US temporary regulations on NOL carrybacks address new split-waiver elections [▶Read more](#)
- ▶ US IRS releases new draft partnership schedules K-2 and K-3 for international tax reporting [▶Read more](#)

Country Updates

Vietnam

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