

Netherlands passes Act to implement Mandatory Disclosure Rules

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Executive summary

On 17 December 2019, the Dutch Senate approved the Dutch draft legislation implementing the European Union (EU) Directive on the mandatory disclosure and exchange of cross-border tax arrangements (referred to as DAC6 or the Directive).

The Dutch legislation entered into force on 1 January 2020 and will be effective from 1 July 2020, following publication in the *Official Gazette* on 27 December 2019.

The final Dutch Mandatory Disclosure Rules (MDR) legislation is broadly aligned to the requirements of the Directive.

Detailed discussion

Background

The Council of the European Union Directive 2018/822 of 25 May 2018 amending Directive 2011/16/EU regarding the mandatory automatic exchange of information in the field of taxation (the Directive or DAC6), entered into force on 25 June 2018.¹

The Directive requires intermediaries (including EU-based tax consultants, banks and lawyers) and in some situations, taxpayers, to report certain cross-border arrangements (reportable arrangements) to the relevant EU member state tax authority. This disclosure regime applies to all taxes except value added tax (VAT), customs duties, excise duties and compulsory social security contributions.² Cross-border arrangements will be reportable if they contain certain features (known as hallmarks). The hallmarks cover a broad range of structures and transactions. For more background, see EY Global Tax Alert, [Council of the EU reaches an agreement on new mandatory transparency rules for intermediaries and taxpayers](#), dated 14 March 2018.

EU Member States are to adopt and publish national laws required to comply with the Directive by 31 December 2019.

Key highlights

For more detailed content on the Dutch MDR legislation, see EY Global Tax Alerts, [Netherlands issues Q&A notes as part of legislative process for mandatory disclosure regime](#), dated 18 November 2019 and [The Netherlands publishes draft proposal on Mandatory Disclosure Rules](#), dated 26 July 2019. Discussions in the Senate that took place before the final vote did not result in any changes of the final Dutch legislation.

Next steps

Determining if there is a reportable cross-border arrangement raises complex technical and procedural issues for taxpayers and intermediaries. Due to the scale and significance of the regime enacted in the final legislation, taxpayers and intermediaries who have operations in the Netherlands should review their policies and strategies for logging and reporting tax arrangements so that they are fully prepared for meeting their obligations.

Endnotes

1. For background on MDR, see EY Global Tax Alert, [EU publishes Directive on new mandatory transparency rules for intermediaries and taxpayers](#), dated 5 June 2018.
2. DAC6 sets out a minimum standard. Member States can take further measures; for example, (i) introduce reporting obligations for purely domestic arrangements; (ii) extend the scope of taxes covered; (iii) bring forward the start date for reporting.

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