

# Mandatory Disclosure Rules

## Hungary adopts DAC6 transposition bill

This article provides a summary of the transposition of mandatory disclosure rules under DAC6 into Hungarian domestic law.

### Status

On July 12, 2019 regulations to incorporate Directive (EU) 2018/822 on mandatory disclosure rules (hereinafter “DAC6” or “the Directive”) into Hungarian law were approved by the Hungarian government.

The amendments entered into force on July 23, 2019 and will apply as of July 1, 2020.

Please note that the summary is based on information available as at March 1, 2020.

### Scope

The scope of the Hungarian law mirrors the text of DAC6. An intermediary is required to report cross-border tax arrangements (i.e. the law does not address domestic arrangements) that relate to taxes set out in the Directive on Administrative Cooperation (i.e. VAT, customs duties, excise duties and social security contributions are excluded from the scope of the reporting regime).

### Definitions

The bill is closely aligned with the Directive. In particular, the definitions of “relevant taxpayer”, “associated enterprise”, “marketable arrangement” and “cross-border arrangement” have closely the same wording as in the Directive.

### Hallmarks & Main Benefit Test

The list of hallmarks is closely aligned with Annex IV of the Directive.

The main benefit test should apply to the same hallmarks as those in the Directive (i.e. category A and B hallmarks and paragraphs (1)(b)(i), (c) and (d) of the category C hallmarks).

### Reporting - Intermediaries

An intermediary will only have a reporting obligation in Hungary if they meet one of the following conditions:

- 1) tax residence in Hungary;
- 2) permanent establishment (PE) in Hungary through which the services with respect to the arrangement are provided;
- 3) incorporation in Hungary; and
- 4) registration with a professional association in Hungary.

Reporting timelines mirror the requirements of the Directive, i.e. for bespoke arrangements, 30 days as of the relevant reporting trigger.

Where an intermediary has a reporting obligation in multiple Member States, the information shall be filed only in the Member State that features first in the list below:

- 1) The Member State where the intermediary is resident for tax purposes;
- 2) The Member State where the intermediary has a permanent establishment through which the services with respect to the arrangement are provided;
- 3) The Member State which the intermediary is incorporated in or governed by the laws of;
- 4) The Member State where the intermediary is registered with a professional association related to legal, taxation or consultancy services.

The list of reportable information largely mirrors the requirements of the Directive.

If there is more than one intermediary involved in the cross-border arrangement, all intermediaries have the obligation to report the information to the Hungarian authorities.

### Reporting – Intermediaries (cont.)

An intermediary can be relieved from the reporting obligation if they can demonstrate that a reportable cross-border arrangement has already been reported by another intermediary. The legislation does not clarify what evidence is deemed sufficient to convincingly demonstrate that the reporting obligation has been satisfied by another intermediary.

### Legal Professional Privilege

An exemption could be applied for qualifying intermediaries (e.g. lawyers) if the reporting obligation would breach legal professional privilege under domestic law.

For the reporting exemption to apply, the intermediary must also immediately notify all other intermediaries and the relevant taxpayer of their reporting obligations. No further guidance is provided on the meaning of the term “immediately”.

### Reporting – Relevant Taxpayer

In cases where there is no qualifying intermediary (e.g. the intermediary involved does not have sufficient nexus in Hungary or the arrangement was developed by the relevant taxpayer in-house) or where legal professional privilege applies, the relevant taxpayer is required to report.

However, a relevant taxpayer can be relieved from the reporting obligation if they can demonstrate that a reportable cross-border arrangement has already been reported in another Member State.

### Penalties

The following penalties apply:

- Approximately EUR 1,500 (HUF 500,000) for failed, delayed, incorrect or incomplete reporting
- Up to approximately EUR 15,000 (HUF 5,000,000) for not fulfilling the notification obligation, following a notification from the Hungarian tax authorities.

For more information, please refer to KPMG’s [EU Mandatory Disclosure Rules page](#) or contact the following:

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