

8 July 2020

# Global Tax Alert

## Germany announces no postponement of MDR reporting deadlines

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### Executive summary

The German Ministry of Finance (BMF) has announced that Germany will not extend the deadlines for filing and exchanging information on cross-border arrangements under the European Union (EU) Directive 2011/16 (referred to as DAC6 or the Directive). The announcement comes as a surprise as the German deferral was broadly expected. As a result, the original reporting deadlines apply, so that the 30-day reporting period commenced on 1 July 2020 and the first Mandatory Disclosure Rules (MDR) reports for this period will become due from 31 July 2020 onward. For the transition period (25 June 2018 to 30 June 2020), reports must be filed by 31 August 2020. Companies with business activities in Germany currently face major compliance efforts, to which the confirmation of the initial DAC6 reporting deadlines without the implementation of the widely agreed postponement at an EU level adds a significant additional burden. Taxpayers and intermediaries should promptly register at the Federal Central Tax Office for submission based on their elected manner of transmission. The final XML schema, IT interface and final guidance are all expected to be published by mid-July.

## Detailed discussion

### Background

In March 2020, the German Ministry of Finance issued a draft circular extending the non-penalty deadline for the first filing of reportable tax arrangements to 30 September 2020. The rationale for the deferral was the delayed readiness of the electronic interface for the submission of reportable tax arrangements to the Federal Central Tax Office (BZSt).

In June 2020, after long discussions between the EU Council and the European Commission, the EU Member States agreed on the option to defer initial filings of reportable cross-border tax arrangements by six months, while also empowering the European Commission to further extend deadlines if appropriate. For more background on the DAC6 deferral option, see EY Global Tax Alert, [Council of the EU adopts amendments for deferral of MDR filing deadlines](#), dated 24 June 2020.

After the EU deferral option was announced, the German Government quickly introduced the legal basis for such a postponement in the *Corona Tax Assistance Act* of 29 June 2020, thus triggering a deferral expectation in Germany. The act authorized the Ministry of Finance to defer the deadlines in line with the agreement on the EU level. However, on 6 July 2020, the decision not to postpone reporting deadlines was announced at a press conference, and it seems to have been made by senior leadership of the Ministry of Finance.

As noted, this is surprising as prior to the announcement, clear indications were that Germany would implement deferral in line with the decisions of the large majority of the other EU Member States. Besides Germany, as of now, only Finland has announced that they will not opt for the DAC6 optional deferral as agreed on 24 June 2020. Other EU Member States may follow Germany and Finland and maintain the original DAC6 reporting deadlines. For more information about the application of the deferral option by the EU Member States, see [EY's Deferral and Reporting Summary Table](#).

Other than announced earlier, the electronic interface for the submission of reportable tax arrangements to the BZSt is expected to be available for submissions by 15 July 2020.

### New and old deadlines

The original DAC6 deadlines now apply for Germany. Therefore, provided that a cross-border tax arrangement leads to a reporting requirement in Germany, the following deadlines are applicable:

- ▶ 31 August 2020: Cross-border tax arrangements triggered during the transition period (i.e., between 25 June 2018 and 30 June 2020).
- ▶ Within 30 days from the trigger event: Cross-border tax arrangements triggered from 1 July 2020 onward.
- ▶ Annual tax return deadline: Additionally, there is a reporting obligation within certain annual tax returns.

Due to the varying approaches in the EU Member States with respect to the application of the optional deferral, different deadlines will need to be monitored going forward.

### Expected final circular

A final circular interpreting the terminology, hallmarks and the reporting procedure is expected to be published on 15 July 2020. The circular is not expected to present major changes as compared to the previous unofficial draft circular of 12 June 2020. EY will monitor and report on the final guidance.

### Submission

The BZSt has published version 1.1 of the communication manual *Automatic Exchange of Tax Arrangements (DAC6) - Procedure description, feedback and business rules* on 29 June 2020 together with a new version v0.06 of the XML-schema with sample files for the testing of the ELMA interface. All this technical information can be found on the BZSt [website](#).

Considering that the ELMA interface is expected to be finalized by 15 July 2020, we expect the version 1.0 of the XML Schema will contain only minor changes.

The communication manual also provides detailed information on the submission process. In Germany, there are three alternative ways for submitting reports, similar to the Country-by-Country Reporting submission.

- ▶ **Individual data transmission via the BZSt Online Portal (BOP):** The data for each individual report is entered into the BOP Online Form manually and then transmitted to the BZSt. This is particularly suitable for the transmission of small numbers of reports on an annual basis and does not require any technical expertise.
- ▶ **XML Web Upload in the BOP:** XML-files are uploaded directly via the BOP. Under this option, the XML-file has to be in line with the XML-Schema. This reporting channel is recommended for the transmission of small to medium numbers of reports and requires medium technical expertise or a DAC6 XML converter.

- ▶ **Electronic Mass Data Interface (ELMA):** The data is automatically submitted in XML-format via the ELMA interface. ELMA is officially recommended for the transmission of large numbers of reports but requires a high level of technical expertise. Most MDR tools will use the ELMA interface, where users will be benefitting from the technological advantages of ELMA and of a customized interface.

## Registration

For all procedures, an active BZSt-number and a valid BOP-certificate are required.

Taxpayers with a BOP-certificate with a BZSt-number beginning with "BZ5" will only have access to the individual data transmission option. Taxpayers have to apply for a new BZSt-number for the use of the XML-upload or the ELMA mass data interface.

Also, when using the XML-upload or the ELMA mass data interface, an additional registration for the department of "automatic exchange of tax arrangements (DAC6)" in BOP is required.

The ELMA mass data interface requires a separate activation.

Taxpayers that do not have access to BOP yet will have to register on the portal. Taxpayers should take action to register promptly as the registration process, based on other taxpayers' experiences, has typically required a week.

More information and registration forms can be found online at: [https://www.bzst.de/DE/Unternehmen/Intern\\_Informationsaustausch/DAC6/ElektronischeUebermittlung/elektronischeuebermittlung\\_node.html](https://www.bzst.de/DE/Unternehmen/Intern_Informationsaustausch/DAC6/ElektronischeUebermittlung/elektronischeuebermittlung_node.html).

## Next steps to meet the upcoming deadlines in Germany

- ▶ Register at the Federal Central Tax Office (BZSt) for the submission option selected (see above)
- ▶ Identify, assess and track reportable cross-border tax arrangements which include Germany (and Finland)
- ▶ Prioritize the analysis of new tax arrangements with a first step in July 2020, as the 30 days reporting period has already started
- ▶ Review the assessments based on the final guidance (expected on 15 July 2020, see above)
- ▶ Prepare the report to be finalized by translating and gathering missing information (mandatory reporting language is German, additional optional reporting language for selected data fields is English)

Taxpayers that were expecting to be exempt in Germany by relying on proof of submission in another EU Member State will have to report in Germany, as no disclosure ID and arrangement ID of a non-German submission will yet be available as a proof. In particular, this will be the case if no submission has taken place in another EU Member State due to the fact that there is no reporting requirement following the implementation of the six-month deferral option in domestic legislation (this will be the case e.g., in the Netherlands or the United Kingdom).

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EYG no. 004704-20Gbl

1508-1600216 NY  
ED None

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