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Global Tax Alert

Spain proposes amendments to MDR Bill to introduce extension of MDR filing deadlines

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Executive summary

The Spanish Government has proposed a deferral of the reporting deadlines under the European Union (EU) Directive 2018/822 with respect to the mandatory disclosure and exchange of cross-border tax arrangements (DAC6). The proposal follows the adoption on 24 June 2020 by the Council of the EU of amendments to the EU Directive 2011/16 allowing Member States an option to defer, for up to six months, the time limits for the filing and exchange of information on cross-border arrangements under DAC6.¹ This proposal has been included as an amendment to the draft Bill implementing the DAC6 in Spain which is currently being discussed in the Spanish Parliament.²

This amendment, if adopted, would provide for a deferral of the deadline to file reports covering the transitional period (from 25 June 2018 to 30 June 2020) to January and February 2021, in line with the EU recommendations for that period. Although there is no indication in the proposal that the deferral will also cover the 30-day period for reporting arrangements that become reportable after the transitional period (i.e., from 1 July 2020 onward), as also recommended by the EU, it is expected that an extension will be also introduced during the Parliamentary procedure and subsequent regulations.

Detailed discussion

Background

DAC6 entered into force on 25 June 2018. Under DAC6, taxpayers and intermediaries are required to file information on reportable cross-border arrangements from 1 July 2020. However, reports will retrospectively cover arrangements where the first step is implemented between 25 June 2018 and 1 July 2020.

On 24 June 2020, the Council of the EU announced that it adopted amendments to the EU Directive 2011/16 allowing Member States an option to defer by up to six months the time limits for the filing and exchange of information on cross-border arrangements under DAC6 due to the COVID-19 pandemic. The amendments also provide the possibility of one further extension for a maximum additional three months by means of a unanimous decision of the Council depending on the evolution of the pandemic (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).

The option to defer in Spain

On 22 May 2020, the Spanish Government published the revised draft Bill implementing DAC6 which was sent to the Congress and Senate (the Parliament) to be voted upon.

On 7 July 2020, as part of the Parliamentary negotiations, the amendments to the Bill were published in the *Official Gazette* of the Congress; the option to extend the deadlines for filing and exchanging information on cross-border arrangements under DAC6 is included therein as amendment #14.

If this amendment is adopted, the reporting dates to file cross-border tax arrangements that became reportable during the transitional period (i.e., arrangements for which the first step was implemented between 25 June 2018 and 30 June 2020) shall be extended to the months of January and February 2021.

There is no indication, however, on whether there also will be an extension of the reporting deadline for arrangements targeted by DAC6 starting 1 July 2020, (i.e., reportable cross-border arrangements that are made available for implementation, are ready for implementation or where the first step of implementation has been made between 1 July 2020 and 31 December 2020), since the deadline for the filing of the communication to report these arrangements will be established by regulation and with reference to an Order not yet approved.

However, it is reasonable to expect that a deferral of the reporting dates for this period (i.e., 1 July 2020 to 31 December 2020) also will be introduced when such Order is approved.

Endnotes

1. See EY Global Tax Alert, [Council of the EU adopts amendments for deferral of MDR filing deadlines](#), 24 June 2020.
2. See EY Global Tax Alert, [Spain sends MDR Bill to Parliament for approval](#), dated 29 May 2020.

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