

Czech Government publishes revised draft legislation on Mandatory Disclosure Rules

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Executive summary

On 20 August 2019, the Czech Government published revised 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 revised draft legislation comes after an earlier draft published in March 2019.¹ Under DAC6, taxpayers and intermediaries are required to report cross-border reportable arrangements from 1 July 2020. However, reports will retrospectively cover arrangements where the first step is implemented between 25 June 2018 and 1 July 2020.²

The Czech draft legislation is still subject to the formal legislative process (subject to approval of the Parliament and the President) and is likely to be amended before final enactment.

If implemented as currently proposed, the Czech Mandatory Disclosure Rules (MDR) legislation will be broadly aligned to the requirements of the Directive.

The key highlights of the Czech draft legislation are summarized below.

Key Highlights

- ▶ The scope of taxes covered is not broader than the Directive.
- ▶ The definition of reportable arrangements does not include domestic arrangements.
- ▶ The definition of intermediaries is broadly aligned to the definition in DAC6.
- ▶ Intermediaries are exempt from the obligation to report when obliged to maintain confidentiality pursuant to the *Act on Tax Advisory*, the *Act on Advocacy*, the *Act on Notaries*, the *Act on Auditors*, or the laws of another EU Member State to the extent that the intermediary is bound by professional confidentiality in the other EU Member State in relation to the reportable cross-border arrangement.
- ▶ If there are no EU intermediaries which can report, the obligation will shift to the relevant taxpayer. If there is an EU intermediary but the EU intermediary is bound by the professional duty of confidentiality, the obligation will shift to the relevant taxpayer once the relevant taxpayer

has been informed about the intermediary's reporting exemption. However, the obligation will not shift to the relevant taxpayer if there is another EU intermediary not bound by the professional duty of confidentiality.

- ▶ Penalties for failures to report are expected to apply. The Czech Tax Administrator may impose a fine on an EU intermediary or a relevant taxpayer for failure to meet a non-pecuniary obligation or a procedural fine of up to CZK 500,000 (approx. €20,000).

Next Steps

Determining if there is a reportable cross-border arrangement raises complex technical and procedural issues for taxpayers and intermediaries. Taxpayers and intermediaries who have operations in the Czech Republic should review their policies and strategies for logging and reporting tax arrangements so that they are fully prepared for meeting these obligations.

A detailed Global Tax Alert is forthcoming.

Endnotes

1. See EY Global Tax Alert, [Czech Republic publishes draft proposal on Mandatory Disclosure Rules](#), dated 17 April 2019.
2. See EY Global Tax Alert, [EU publishes Directive on new mandatory transparency rules for intermediaries and taxpayers](#), dated 5 June 2018.

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