

Implementation challenges of DAC6 reporting: organisation, procedures and tools

- Organisational challenges for the intermediaries and for the banks
- Identifying other concerned intermediaries, and the role they each play
- Active vs passive approach to information collection

8.50 Introduction by the chairman of the conference

9.00 Quick recap of the DAC6 framework

- Background and context: What is DAC6 and what are its objectives?
- Why is DAC6 relevant, and how will it affect you as a taxpayer or intermediary?

Elliott H. Murray, Partner, co-head of the FATCA/CRS practice and Jacopo Crivellaro, Associate, Baker McKenzie, Geneva

9.30 Identifying the reportable schemes

- Background to the hallmarks.
- What is a cross-border arrangement?
- What are the hallmarks and practical examples of arrangements which may be reportable.
- The impact of the Main Benefit Test

Nigel Browne, Senior Manager, Tax and Legal Services, PWC Switzerland, Zürich

10.10 Coffee break

10.30 Analysing whether an intermediary or a tax payer itself is obliged to report the arrangement to the respective tax authorities

- Scope of taxpayers to be reported: are non-EU tax payers (Switzerland, Russia, USA, China...) in scope?
- Bank, intermediaries (tax adviser, fiduciary firm, trustee, protector, accountant, directors, law firm, life insurance company...), client. Who must report?
- DAC6 is not applicable in Switzerland but which professionals in Switzerland still must comply and report under DAC6?
- Is the bank an intermediary who must report? When will the bank have to report?
- When can the bank claim that it has no information on the arrangement and be exempted to report? Is it possible for a bank to have performed its KYC/due diligence duties (notably after the new OBA-FINMA ordinance on the verification of UBOs and enhanced due diligence on domicile companies etc...) and claim that it has not enough information to assess whether an arrangement is reportable?
- When there are several reporting intermediaries, the intermediaries are exempted from reporting if they can prove that one intermediary has reported: what are the valid proofs?

Céline Fiora, Senior Manager and Esther Brentini, Manager, EY, Geneva

11.10 Scope of information reporting duties

- When does an intermediary have a duty to report information it holds concerning a cross-border arrangement?
 - What information on reportable cross-border arrangements is within the intermediary's knowledge, possession or control and what must be reported?
 - Active or passive approach to information gathering?
 - Can an intermediary limit itself to the information that he already has collected or is not obliged to actively search for additional information?
 - What information must be communicated?
 - What if more than one hallmark is involved?
 - How detailed must the description be?
 - How to report incomplete or partial data sets?
 - How to determine the value of cross-border arrangements?
 - How to identify Member States/third parties that are affected?
 - Should the reporting intermediary report the specific role it performs and report what is the role of the other intermediaries?
 - How will the report be made?
 - Monitoring procedures pre-1 July 2020
 - Insight and experiences of previous EU tax information exchange schemes
- Elliott H. Murray and Jacopo Crivellaro**

12.00 Reporting cross-border arrangement to tax authorities

- Moment of reporting: when arrangement has been made available: clarifying the ambiguities (ex: does the oral communication of the arrangement to the client suffice to consider that the arrangement has been made available?)
- Should the reporting intermediary inform the client that it will report or that he has reported? Should he inform the client before or after reporting? Should the reporting intermediary let the client know what information and documents it is reporting?
- Monitoring of changes relative to the reportable schemes: in which circumstances a change in the arrangement calls for a reporting or a change of the report; what kind of significant evolution of the scheme requires a report, e.g. additional transactions under an arrangement, updating the terms of intragroup transactions?

Philipp Zuend, Director, Tax & Legal, Attorney-at-Law, Certified Tax Expert, KPMG AG, Zurich

12.30 Lunch

14.00 Organisational challenges for banks to operationalise DAC6 compliance: What is needed? What are best practices? Possibilities and limits?

- Strategic service offering considerations
 - Governance considerations, including policies and procedures, controls, communication and training
 - Processes to identify RCBAAs as well as participants and the roles they play
 - Data management aspects, including documentation, data capturing and data processing
 - Reporting process: preparation and submission
 - Synergies with existing processes and regulations (e.g. AML/KYC)
- Karim Schubiger, Director, FS Tax, DAC6 Specialist, Deloitte AG, Lausanne**

15.30 Coffee break

15.50 Deviations in local implementation of DAC6: Areas where countries deviate from the Directive in their local legislation and what it means for intermediaries

- Definition of the term "intermediary", including potential application to intermediaries outside a particular country
 - Extension of reporting obligations to domestic arrangements
 - Extension to additional types of taxes (e.g. VAT or non-EU taxes)
 - Definition of hallmarks, lists with non-reportable arrangements
 - Application of legal professional privilege
 - Reporting specification: reference number, report format and platforms
 - Applicable deadlines
 - Penalties for non-compliance
- Karim Schubiger**

16.30 Available tools for DAC6 compliance

- Approach and logic
 - Core functionality and walk-through: decision tree questionnaire, rules, divergent implementations, company policies, updates
 - User experience functionality: repeat transactions, oversight and approvals, user management, intermediary management
 - IT functionality: hosting, access rights
- Céline Fiora and Esther Brentini**

17.20 End of the conference

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PRACTICAL INFORMATION

Venue

Hotel Le Richemond
Rue Adhémar-Fabri 8-10, Geneva

How to register

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Substitutions from the same company are accepted at any time. Cancellation requests must be received in writing, by fax or by post up to the following dates end of business :

- 21 October 2019 refund of 80%
- 7 November refund 30%
- after 7 November no refund will be made for cancellation.

REGISTRATION FORM

I register for the seminar «Implementation challenges of DAC6 reporting» in Geneva on thursday 21 November 2019.

FIRST PARTICIPANT

Full name.....

Position.....

E-mail.....

SECOND PARTICIPANT (-50%)

Full name.....

Position.....

E-mail.....

Company.....

Address.....

Postcode..... City.....

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Person to which the invoice must be sent for payment:

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Bank transfer Mastercard VISA AMEX

Credit card No : _____/_____/_____/_____ Expiry date : ____/____

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Date Signature.....

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