

Tax & Legal Newsflash

Ministry of Finance: No Covid 19 deferral of deadline for reporting cross-border tax arrangements (DAC 6)

At a Federal Press Conference on 6 July 2020, the Ministry of Finance in Berlin made the surprise announcement that, following a decision of the Minister of Finance, Germany will **not** be exercising the option given in the recent EU Directive to extend the reporting deadlines for DAC 6.

Deadlines for reporting cross-border arrangements remain unchanged

At its meeting on 8 May, the European Commission decided to submit a proposal to the Council to defer the first reporting dates set out in Directive 2011/2016/EU (see [Blog](#) of 13 May). After a political agreement was reached on 3 June, an amending directive was adopted and came into force on 27 June. Both the European Parliament and the Council of the European Union gave their approval to the directive.

The "Council Directive (EU) 2020/876 of 24 June 2020 amending Directive 2011/16/EU to address the urgent need to defer certain time limits for the filing and exchange of information in the field of taxation because of the COVID 19 pandemic" allows Member States to defer the deadlines for the (initial) notification of reportable arrangements by 6 months. On this basis, reportable arrangements implemented during the transitional period (first implementation step in the period from 25 June 2018 to 30 June 2020) would have to be reported by 28 February 2021 instead of 31 August 2020. For "new arrangements" where the event triggering the reporting obligation occurs in the period from 1 July to 31 December 2020, the 30-day reporting deadline would not begin before 1 January 2021.

Since the beginning of these discussions, statements from politicians and the public administration had left no doubt that Germany would follow the regulation agreed at EU level. In order to ensure the rapid implementation of the changes, the legislator had even included an authorisation in the Corona Tax Assistance Act allowing the Federal Ministry of Finance to implement the provisions of EU law by means of a circular.

However, following the Federal press conference, it has now become clear that the deferral option will **not** be exercised by Germany after all. It is understood that even the limited deferment proposal set out in the draft circular of 2 March 2020 (on the application of the new rules) will also not be forthcoming. According to this proposal, no objections would have been raised where arrangements which should have been reported before 1 September 2020 were notified by 30 September 2020.

So far, 21 Member States have opted to defer on the basis of the Directive and only two others – Finland and Austria - have chosen not to. Germany's decision is therefore even more surprising.

What next

A Ministry of Finance circular on the application of the reporting obligation for



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cross-border tax arrangements is currently undergoing its final approval. It will probably be published sometime in July.

As a result of these developments the deadlines remain unchanged, so that from 1 July 2020 onwards, arrangements must be reported within the 30-day reporting period; for arrangements implemented in the transitional period (first implementation step in the period from 25 June 2018 to 30 June 2020) the deadline remains 31 August 2020.

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