

Croatia

DAC 6 Domestic Implementation



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General information

Territory	Croatia
Tax authority	Ministarstvo financija, Porezna uprava (Ministry of Finance, Tax Authorities)
Status of legislation	Implemented Entry into force on 1 July 2020. It will be implemented retroactively for arrangements starting 25 June 2018.
Taxes covered	All taxes except VAT, customs duties, excise duties, social security contributions.
Taxes excluded	VAT, customs duties, excise duties, social Security contributions, certain general duties, duties of a contractual nature, cash fines.
Domestic transactions	No

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Definitions further clarified by guidance

Relevant taxpayer	Any person to whom a reportable cross-border arrangement is made available for implementation, or who is ready to implement a reportable cross-border arrangement or has implemented the first step of such an arrangement.
Associated enterprise	A person who is related to another person in at least one of the following ways: <ul style="list-style-type: none">• A person participates in the management of another person by being in a position to exercise a significant influence over the other person• A person participates in the control of another person through a holding that exceeds 25% of the voting rights• A person participates in the control of another person through a right of ownership that, directly or indirectly, exceeds 25% of the capital• A person is entitled to 25% or more of the profits of another person.

Marketable arrangement Cross-border arrangement that is designed, marketed, ready for implementation or made available for implementation without a need to be substantially customised.

Cross-border arrangement **An arrangement concerning either more than one Member State or a Member State and a third country where at least one of the following conditions are met:**

- Not all of the participants in the arrangement are resident for tax purposes in the same jurisdiction
- One or more of the participants in the arrangement is simultaneously resident for tax purposes in more than one jurisdiction
- One or more of the participants in the arrangement carries on a business in another jurisdiction through a permanent establishment situated in that jurisdiction and the arrangement forms part or the whole of the business of that permanent establishment
- One PD or more of the participants in the arrangement carries on an activity in another jurisdiction without being resident for tax purposes or creating a permanent establishment situated in that jurisdiction
- Such arrangement has a possible impact on the automatic exchange of information or the identification of beneficial ownership.

Intermediary Any person that designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross-border arrangement. It also means any person that, having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be responsible expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of a reportable cross-border arrangement.

Tax advantage No clarification given in Croatian legislation.

Made available for implementation No clarification given in Croatian legislation.

Hallmark A characteristic or feature of a cross-border arrangement that presents an indication of a potential risk of tax avoidance.

3 Additional hallmarks

Additional hallmarks None

4 Operation of legal professional privilege (LPP)

Operation of legal professional privilege (LPP)

When the intermediary is bound by legal professional privilege, within the 3 days period they are required to notify in writing all other intermediaries. If there are no other intermediaries, they should notify the relevant taxpayer that the reporting obligation rests with them.

5 Reporting deadline

Intermediaries

Within 30 days to the Tax Authorities following:

- the day after the reportable cross-border arrangement is made available for implementation; or
- the day after the reportable cross-border arrangement is ready for implementation; or
- the moment when the first step in the implementation of the reportable cross-border arrangement is made;

depending on what occurs earlier.

In addition, intermediaries are also required to file information within 30 days beginning on the day after they provided, directly or by means of other persons, aid, assistance or advice.

Deadlines for submission of information on cross-border arrangements will start on 1 January 2021 for:

- Cross-border arrangements made available for their implementation, or which are ready for implementation, or whose first step in implementation is made between 1 July 2020 and 31 December 2020
- Intermediaries who, directly or through other persons, provided support, assistance or advice in the period from 1 July 2020 to 31 December 2020.

Intermediaries and relevant taxpayers shall submit to the Ministry of Finance, Tax Administration by 28 February 2021 information on reported cross-border arrangements whose first step was carried out between 25 June 2018 and 30 June 2020.

In the case of market arrangements, the intermediary is obliged to compile the first periodic report by 30 April 2021.

Users (where LPP applies)

Within 30 days following:

- the day after the reportable cross-border arrangement is made available for implementation; or
- the day after the reportable cross-border arrangement is ready for implementation; or
- the moment when the first step in the implementation of the reportable cross-border arrangement is made;

depending on what occurs earlier

Deadlines for submission of information on cross-border arrangements will start on 1 January 2021 for:

Cross-border arrangements made available for their implementation, or which are ready for implementation, or whose first step in implementation is made between 1 July 2020 and 31 December 2020.

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Reporting principles for intermediary

Circumstances in which intermediary is obliged to report

Intermediary is obliged to report information that is within their knowledge, possession or control on reportable cross-border arrangements.

Obligation to inform user what data was communicated

No

Priority of reporting where multi member state reporting obligations exist

If the intermediary is obliged to submit to the competent authorities in more than one Member State information on the cross-border arrangements, such information shall be submitted only to the Ministry of Finance, Tax Administration in the following cases:

- if the intermediary is resident for tax purposes in the Republic of Croatia; or
- if the intermediary has a permanent establishment in the Republic of Croatia through which the services related to the arrangement are provided and is not resident for tax purposes in any other Member State; or
- if the intermediary is established or regulated according to the laws of the Republic of Croatia, and conditions from a) and b) are not fulfilled in some other Member State; or
- if the intermediary is registered with a professional association in the field of legal, tax or advisory services in the Republic of Croatia and conditions from a) and b) and c) are not fulfilled in some other Member State.

Circumstances under which intermediary not required to report

In case of multiple reporting obligations, the intermediary shall be exempt from filling if it has proof, in accordance with national law, that the same information has been filed in another Member State.

The intermediary shall also be exempt from filling the information if they are bound by legal professional privilege and has notified the other intermediaries or in absence thereof, the relevant taxpayer.

What will the tax authorities provide for the notification received

By submitting a notification, tax authorities will provide the applicant with the identification number of arrangement and with the publication code.

7 Reporting principles for taxpayer

Circumstances in which taxpayer is obliged to report

If there is no intermediary or if the intermediary has notified the relevant taxpayer that is bound by legal professional privilege, the obligation to submit information on the cross-border arrangement shall be borne by another notified intermediary or, if there is no such intermediary, by taxpayer.

Priority of reporting where multiple taxpayers are involved

If the relevant taxpayer has the obligation to report and if there is more than one relevant taxpayer, the relevant taxpayer who is first on the following list has the obligation to submit information:

- The relevant taxpayer who has agreed with the intermediary on the cross-border arrangement being reported
- The relevant taxpayer who manages the implementation of the arrangement.

Circumstances under which taxpayer not required to report

The relevant taxpayer shall be exempted from the obligation to submit information in Croatia only if he can prove that the same information has already been submitted by another relevant taxpayer.

Proof that reporting obligation is satisfied by other taxpayer

Currently no guidance is given as what can be used as proof.

8 Reporting principles applicable to all

Language

The requests and supporting documentation can be prepared in the language agreed between the Member States (eg tax audits). All requested documentation in connection to collection of taxes and other public duties and enforcement is to be supplied in the language of the Member State that receives the request or in addition with translation. The tax acts in connection with the request for forwarding the notifications should be submitted in the official language of the Member State submitting the request.

9 Penalties

Circumstances in which penalties may apply

If legal entity does not submit a correctly completed prescribed report, if it does not submit a fully prescribed report and if it does not submit the prescribed report within the deadline.

Amount

Cash penalty HRK 2,000 – 200,000

10 Country specifics

Country specifics /

deviation from EU directive

None



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