



DAC6 in the United Kingdom

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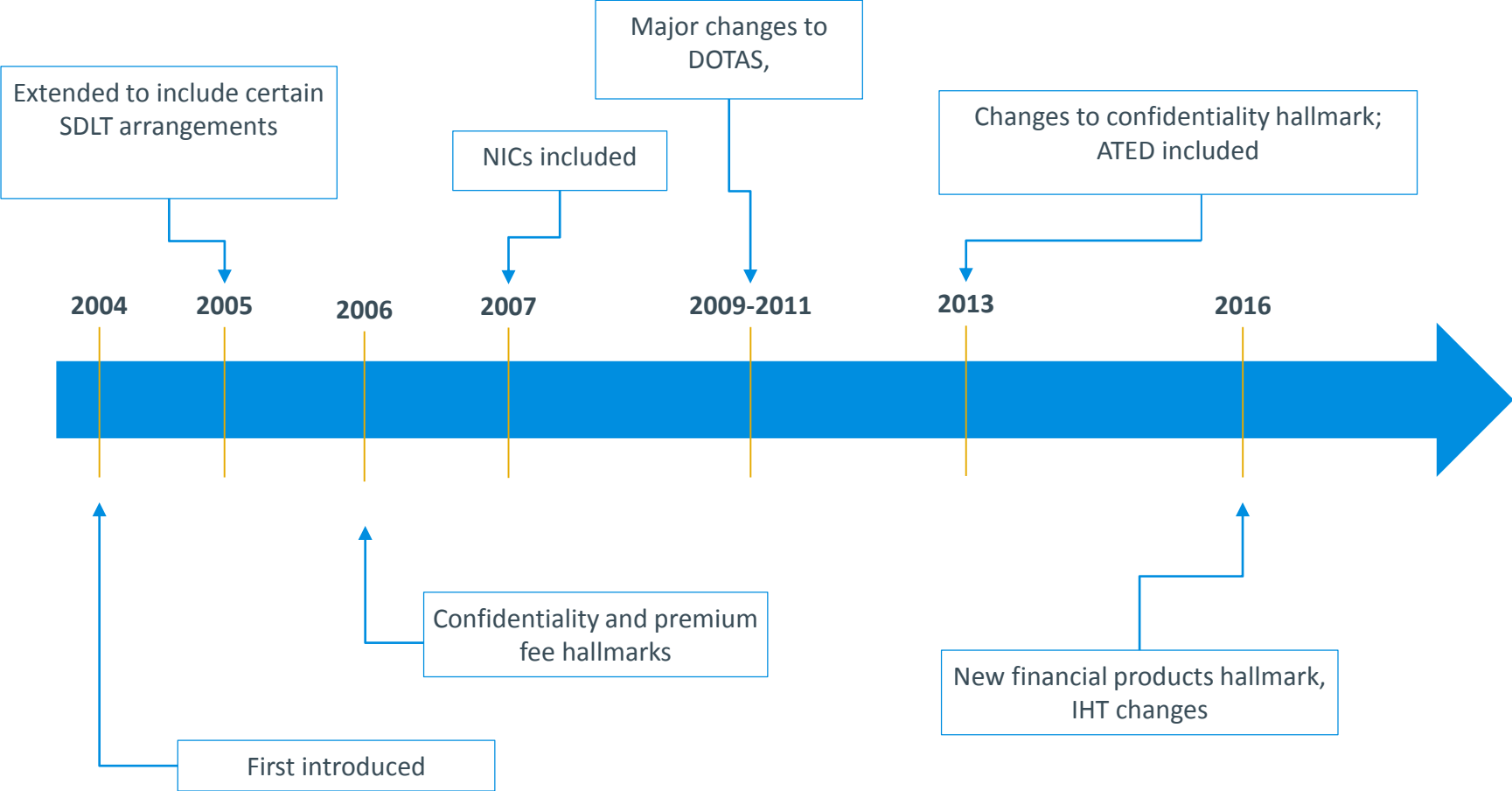
Implementation of DAC6 – UK timetable

- Regulations passed in January 2020
- Amendments passed June 2020 (to defer start dates)
- Guidance published July 2020
- Reporting Schema published November 2020
- Reporting portal expected to be live January 2021

DOTAS experience in the UK

- Introduced in 2004
- Objectives:
 - To collect early information about new schemes
 - About who uses them
 - Monitoring avoidance
- Consequences for promoters
 - Three or more defeats can trigger POTAS regime
- Consequences for users
 - Potentially receiving Advanced Payment Notice (APN)
 - Counteracted DOTAS schemes can trigger serial tax avoiders regime
 - Defeat may create difficulties when bidding for public sector contracts

DOTAS timeline



DOTAS and DAC6 – points of similarity and difference

Similarities

- Premium fee, confidentiality and standardised tax products hallmarks
- Primary obligations on “promoter”
- Obligation passes to taxpayer when LPP applies
- Arrangements / main benefit test
- When an arrangement is “made available”
- Quarterly reporting

Differences

- UK tax advantage applies to all arrangements
- Targeted rules for specific situations / taxes
- “Promoters” limited to tax advisers and banks
- No equivalent of multiple intermediary rules

Implementation of DAC6 – UK regulations and guidance

UK implementation generally follows the Directive closely, however:

- Legal Professional Privilege
 - LPP is generally restricted to lawyers
- Main benefit test
 - “Where the obtaining of the tax advantage cannot reasonably be regarded as consistent with the principles on which the relevant provisions that are relevant to the cross-border arrangement are based and the policy objectives of those provisions.”
- Transfers of assets
 - “For the purposes of E(3), dividends received would not necessarily be included, as these would not normally constitute part of the operating profit of the business, except in certain specific business models.”

