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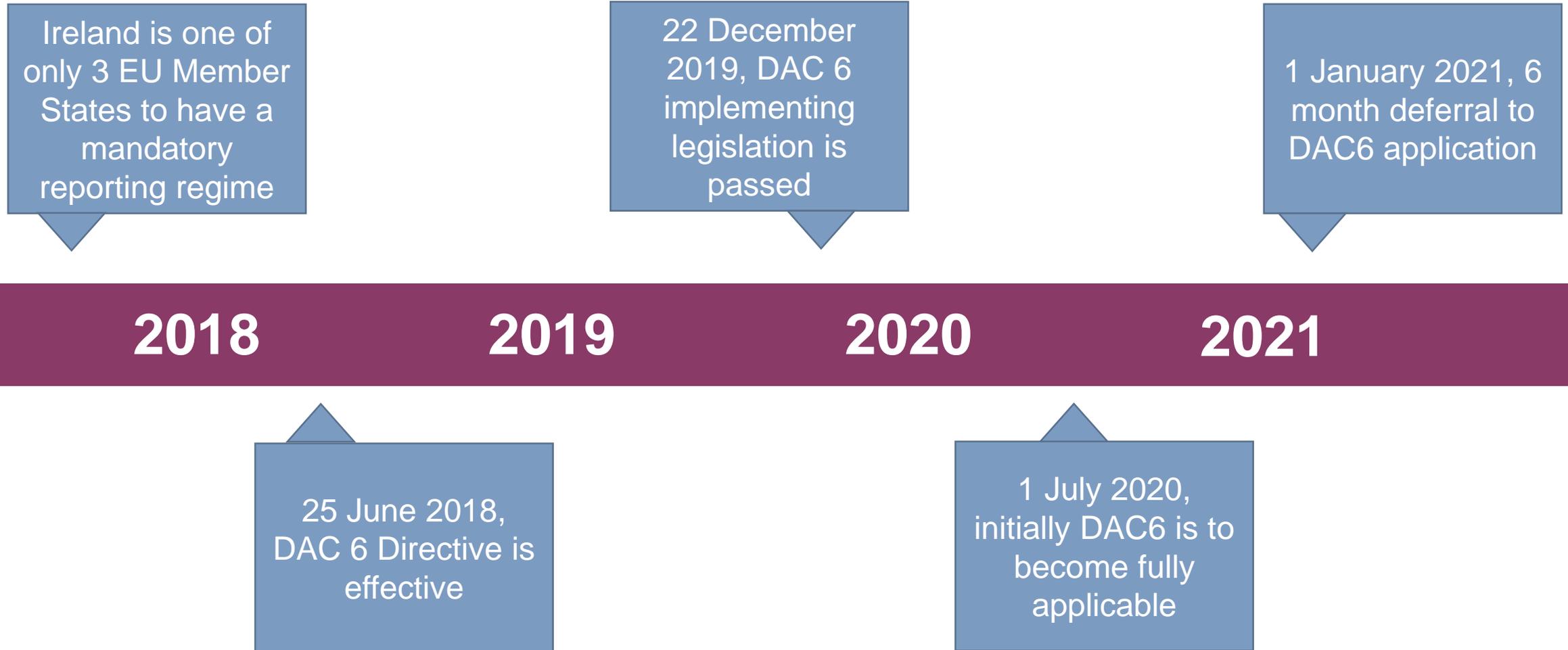
CFE Webinar – DAC6

Presented by Brian Duffy on 3 December 2020

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Timeline in Ireland



Transposition of DAC6 in Ireland

KEY HIGHLIGHTS

Status	Passed into law on 22 December 2019
Date of application	<ul style="list-style-type: none">- From 1 July 2020- Reports will retrospectively cover arrangements from 25 June 2018
Scope	<p>Follows those taxes covered by the Directive (social security contributions, VAT, customs duties and EU excise duties are excluded from scope)</p> <p>Legal Professional Privilege</p>
Definitions	<ul style="list-style-type: none">- “Reportable cross-border arrangement,” “intermediary” and “relevant taxpayer” broadly follow those of the Directive.- Other definitions not defined within DAC6: “tax advantage”
Hallmarks	<ul style="list-style-type: none">- They are transposed directly from the Directive
Time limits and reporting	<ul style="list-style-type: none">- Time limits for filing reports are aligned to those in the Directive- Returns to be submitted electronically (platform awaited)- Information required to be submitted largely mirrors the requirements of the Directive- Taxpayers are required to include the reference number assigned to a reportable cross-border arrangement in their annual tax return
Penalties	<ul style="list-style-type: none">- Penalty up to €500 per day:<ul style="list-style-type: none">- where an intermediary or taxpayer fails to report an arrangement, or- where an intermediary fails to share the reference number assigned with the taxpayer / any other intermediary- Penalty up to €5,000 if failure to report the reference number in their tax return- Penalty up to €4,000 if falling within transitional measures

COVID-19 Optional Deferred Deadlines

OBLIGATIONS	ORIGINAL DATE	DEFERRED DATE
Deadline to report cross border arrangements from between 25 June 2018 and 30 June 2020 (look back period)	31 August 2020	28 February 2021
Deadline to report cross border arrangements from between 1 July and 31 December 2020, 30 days from...	1 July 2020	1 January 2021
Start of 30 day window for reporting cross border arrangements	1 July 2020	1 January 2021
First report from Revenue on cross border arrangements	31 October 2020	30 April 2021

Ireland's Implementing Regulations and Guidance

- Passed on 22 December 2019, new Chapter 3A of Part 33 of the Taxes Consolidation Act 1997 (“TCA 1997”), which was introduced by section 67 of the Finance Act 2019
- Published on 13 December 2019, The European Union (Administrative Cooperation in the Field of Taxation) (Amendment) Regulations 2019
- Irish Revenue released comprehensive DAC6 guidance in July 2020 which has received updates in November 2020
- Irish Revenue guidance on Hallmark C awaited
- Finance Bill 2020 changes

Ireland's Domestic Regime Compared with DAC6

ASPECT	IRELAND'S MANDATORY DISCLOSURE REGIME	DAC6
Who Discloses?	Promoter User in some circumstances	Intermediary – promoter and service provider Taxpayer in some circumstances
Test	Main Benefit Test	Main Benefit Test Some transactions reportable as default
Which Transactions?	All transactions or proposals of transactions	Reportable cross border arrangements
Class of Transaction	“Specified descriptions” including, confidentiality, premium fees, standardised tax products, loss schemes, converting income into capital	Hallmarks A to E
Excluded Transactions	Some transactions excluded per the Schedule to the Mandatory Disclosure of Certain Transactions Regulations 2011	So far limited exclusions for “specified arrangements”

Ireland's Domestic Regime Compared with DAC6

ASPECT	IRELAND'S MANDATORY DISCLOSURE REGIME	DAC6
Scope of Tax	Taxes as defined in 811C TCA. Includes taxes within the Tax Acts, VAT, CGT, CAT Stamp Duties and USC	Any tax with exception of VAT, customs duties, excise duties, compulsory social security contributions and contractual dues
Time Limit	<p>Where the promoter is obliged to disclose, it must be within the period of 5 working days from the "relevant date"</p> <ol style="list-style-type: none"> 1. The date the promoter has specified information; 2. The date on which the promoter makes the transaction available; or 3. The date the promoter first becomes aware of any transaction forming part of the disclosable transaction having been implemented 	<p>30 days after the reporting obligation is triggered</p> <p>25 June 2018 to 30 June 2020 (the "lookback" period) to be filed by 28 February 2021</p> <p>1 July to 31 December 2020 to be filed within 30 days of 1 January 2021</p>
Penalties	<p>Lesser offences: €4,000 with a further €100 a day</p> <p>Serious offences: a further €500 a day</p> <p>Omission of transaction number: €5,000</p>	<p>Lesser offences: up to €4,000 with a further €100 a day</p> <p>Serious offences: up to €500 a day</p> <p>Omission of transaction number: €5,000</p>

Policy Implications of Mandatory Disclosure Regimes on Aggressive Tax Planning

- Ireland conducted a review of its corporate tax code in 2017. In that review it was noted that Ireland “*meets the highest standards of tax transparency*”.
- Ireland has been committed to its own mandatory disclosure regime, introduced in 2011, and DAC6 has been welcomed politically.
- To date reporting under the domestic regime has been low: Revenue has received 11 disclosures in total. 7 in 2011, 1 in 2012, 2 in 2014 and 1 in 2017. No disclosures have been received since 2017.

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Thank you