

THE IMPLEMENTATION OF DAC 6 IN ITALY

The Communication to the Tax Authorities, the Exchange of Information and the Penalties regime

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Summary

- 1.The Communication to Italian Tax Agency
- 2.The Exchange of Information
- 3.The duty of keeping documents
- 4.The penalties

1. THE COMMUNICATION TO ITALIAN TAX AGENCY (ARTICLE 6 OF D.LGS. 100/2020)

Intermediaries and Tax Payers have the duty to communicate to Italian Tax Agency («**ITA**») cross-border mechanisms by providing following information:

- Personal Data and the Tax Payer Code («**NIF**») of the subjects involved and of their related;
- Hallmarks;
- Summary of the cross-border mechanism
- Date of implementation start
- Law references
- Value
- States involved
- Subjects, if any other, potentially involved

A given Intermediary or a given Tax Payer is exempted from the communication to ITA in case they respectively provide proof that the same information have been already provided by another intermediary or by another tax payer

The Tax Payers are subject to the duty of communication in case an intermediary is not involved or in case the intermediary did not provide evidence that the communication has been already made

The Intermediaries are subject to the duty of communication provided that they have knowledge, holding or control of the above information

1. THE COMMUNICATION TO ITALIAN TAX AGENCY (ARTICLES 7 AND 8 OF D.LGS. 100/2020)

- Intermediaries have to file the communication to ITA within 30 days:
 - from the date from which the cross-border mechanism has been made available
 - from the date from which the cross-border mechanism implementation has been started or from the date from which the corresponding assistance or advisory services have been provided

In case of saleable cross-border mechanism an update has to be provided to ITA every 3 months

- The Tax Payers have to file the communication to ITA within 30 days from the date they are informed by the their exempted intermediaries

The 1st communication has to be made within 30 days from January 1st 2021 for the cross-border mechanisms falling from July 1st 2020 to December 31st 2020

Una tantum communication has to be made within February 28th 2021 for cross-border mechanisms falling from June 25th 2018 and June 30th 2020

2. THE EXCHANGE OF INFORMATION (ARTICLE 9 OF D.LGS. 100/2020)

- ITA will send information to the tax authorities of the other EU States within 1 month after the end of the quarter in which the information has been received by the Intermediaries and/or by the Tax Payers
- The 1st exchange of information will occur within April 30th 2021



3. THE DUTY OF KEEPING DOCUMENTS (ARTICLE 11 OF D.LGS. 100/2020)

Intermediaries and tax Payers involved have the duty to keep documentation and data used for the cross-border mechanism up to

- December 31st of the 5th year following to the communication made to ITA
- December 31st of the 7th year following to the communication that should have to be made to ITA

4. THE PENALTIES (ARTICLE 12 OF D.LGS. 100/2020)

- In case the communication of a given cross-border mechanism is not made a penalties ranging from euro 3.000 to euro 31.500 will apply (reduced to ½ in case of communication made within 15 days after the deadline)
- In case of incomplete or inaccurate communication a penalty ranging from euro 1.000 to euro 10.500 will apply
- In case of plural infringements, penalties are calculated according to the rules for the combination and continuation according to article 12 of D.Lgs. N. 472/1997
- In case of voluntary amendment («ravvedimento operoso») penalties are reduced according to article 13 of D.Lgs. N. 472/1997
- Penalties can be inflicted to legal entities or, in case of professionals, to natural persons

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