

Bird & Bird & DAC6: country implementation



January 2021

DAC6 Country Implementation Guide

COUNTRY	IMPLEMENTATION	LEGAL PROFESSIONAL PRIVILEGE (LPP)	PENALTIES
Austria	<p>Transposed: EU Mandatory Disclosure Act (EU-Meldepflichtgesetz) of 22 October 2019.</p> <p>Official guidance: explanatory notes to the implementation law.</p>	<p>Intermediaries subject to LPP are generally exempt from reporting but must immediately notify the taxpayer and other intermediaries of said exemption.</p>	Up to EUR 50,000.
Belgium	<p>Transposed: Law of 20 December 2019 transposing EU Directive 2018/822.</p> <p>Royal Decree of 20 May 2020 on penalties.</p> <p>Official guidance: FAQ.</p>	<p>Intermediaries are generally exempt from reporting if it would breach LPP but must notify the taxpayer and other intermediaries of the exemption.</p> <p>The taxpayer may release the intermediary from its legal professional privilege.</p>	Up to EUR 100,000.
Bulgaria	<p>Transposed: State Gazette Nr 102 of 31 December 2019, amendments to the Tax and Social Security Procedure Code.</p>	<p>Intermediaries subject to LPP are generally exempt from the reporting obligation but must notify the taxpayer and other intermediaries of the exemption within 14 days as well as inform the national Tax Authority of other intermediaries' or the taxpayer's identity.</p> <p>The taxpayer may release the intermediary from its LPP.</p>	<p>Not mentioning a scheme: penalty ranging from LEV 2,000 to LEV 5,000 for individuals, or LEV 5,000 to LEV 10,000 for legal entities and sole traders.</p> <p>Providing incorrect or incomplete information: penalty of LEV 1,000 to LEV 3,000 for individuals, and LEV 2,000 to LEV 8,000 for legal entities and sole traders.</p> <p>Failure to notify other intermediaries: penalty of LEV 2,000 to LEV 5,000 for individuals, and LEV 5,000 to LEV 10,000 for legal entities and sole traders.</p>
Croatia	<p>Transposed: Official Gazette Nr 121/2019, Law of 11 December 2019 transposing EU Directive 2018/822.</p> <p>Official guidance from Finance Ministry: see here and here.</p>	<p>Lawyers and tax advisors subject to LPP are generally exempt from reporting but must notify the taxpayer and other intermediaries of the exemption within 3 days.</p>	Up to EUR 27,000.
Cyprus	<p>Draft law.</p>	<p>Intermediaries who enjoy LPP will generally be exempt from reporting but must notify without delay the taxpayer and other intermediaries of the reporting obligation.</p>	Up to EUR 20,000.
Czech Republic	<p>Transposed: Law of 14 August 2020 amending the Act on International Cooperation in Tax Administration implementing EU Directive on DAC6.</p>	<p>Certain advisers subject to the professional duty of confidentiality (pursuant to the Czech Acts on Tax Advisory, Advocacy, Notaries and Auditors) are generally exempt from reporting but must notify the taxpayer and other intermediaries of the exemption.</p>	Up to CZK 500,000.

Denmark	<p>Transposed: Law Nr 1573 of 27 December 2019 and Regulation Nr 1634 of 27 December 2019.</p> <p>Official guidance from Ministry of Taxation: reporting of cross-border schemes.</p>	<p>Lawyers subject to LPP must submit the reportable information in writing to the taxpayer and request the taxpayer to report. If the taxpayer does not report, the lawyer may be the one required to do so.</p> <p>The lawyer remains however exempt from reporting if disclosure would incriminate the taxpayer but must immediately notify any other intermediary of their reporting obligation.</p>	<p>Minimum penalties of DKK 50,000 for small enterprises and DKK 400,000 for large enterprises.</p>
Estonia	<p>Transposed: Law of 18 December 2019 transposing EU Directive 2018/822 and Regulation of 17 January 2020 on criteria for cross-border arrangements.</p> <p>Official guidance from Tax & Customs Board: exchange of information on cross-border schemes.</p>	<p>Intermediaries (<i>i.e.</i> mainly lawyers and audit firm professionals) subject to LPP are generally exempt from reporting but must notify the taxpayer or other intermediaries of the exemption.</p>	<p>Up to EUR 1,300 if the taxpayer does not meet submission deadline (up to EUR 2,000 after a second warning).</p> <p>Penalty imposed to enforce the performance of the reporting obligation may not exceed EUR 3,300 in total.</p> <p>In addition, the prevention of information exchange is punishable by a fine of up to EUR 1,200 for individuals and up to EUR 3,200 for companies.</p>
Finland	<p>Transposed: Law Nr 1559/2019.</p> <p>Official guidance: reportable cross-border arrangements (see here and here); reporting arrangement notice; instructions for notification.</p>	<p>Lawyers, licensed legal counsels and public legal advisers subject to LPP (<i>i.e.</i> rules on confidentiality and injunctions only) are, in general, partially exempt from reporting but must notify the taxpayer and other intermediaries of the exemption.</p>	<p>Up to EUR 15,000.</p>
France	<p>Transposed: Ordinance Nr 2019-1068 of 21 October 2019 and Decree Nr 2020-270 of 17 March 2020.</p> <p>Official guidance: hallmarks.</p>	<p>Intermediaries subject to LPP (<i>i.e.</i> under Section 226-13 of the French Penal Code) are generally exempt from reporting but must notify other intermediaries or the taxpayer of their reporting obligation and provide the information to be reported to the taxpayer.</p> <p>The taxpayer may release the intermediary from its LPP.</p>	<p>Up to EUR 10,000.</p> <p>The amount of the fine cannot exceed EUR 5,000 for the first offense in the current calendar year and in the three preceding years. The amount of the fine applied to the same intermediary or to the same taxpayer concerned may not exceed EUR 100,000 per calendar year.</p>
Germany	<p>Transposed: Act of 21 December 2019 on the introduction of an obligation to report cross-border tax arrangements.</p> <p>Official guidance: DAC6 guidelines.</p>	<p>Intermediaries subject to LPP (mostly lawyers, certified tax advisors and certified public accountants) are, in general, partially exempt from reporting (<i>i.e.</i> report only the arrangement and not the identity of the taxpayer) but must notify the taxpayer and other intermediaries of the exemption. The latter will then be required to report the taxpayer's identity.</p> <p>The taxpayer may release the intermediary from its LPP.</p>	<p>Up to EUR 25,000.</p>
Greece	<p>Transposed: Law Nr 4714/2020 of 31 July 2020.</p>	<p>Intermediaries will generally be exempt from reporting if it would breach LPP but must notify the taxpayer or other intermediaries of the reporting obligation.</p>	<p>Up to EUR 100,000.</p>
Hungary	<p>Transposed: Law of 23 July 2019.</p>	<p>Intermediaries are generally exempt if reporting would breach LPP.</p>	<p>Up to HUF 500,000 in the case of a failure to report or late, incorrect, false or incomplete reporting.</p> <p>Up to HUF 5,000,000 if the persons liable for reporting do not complete its obligation within the deadline set by the authorities.</p>

Ireland	<p>Transposed: Irish Finance Act 2019 of 22 December 2019.</p> <p>Official guidance: EU mandatory disclosure rules (see here and here); main purpose tests; eBrief.</p>	<p>Intermediaries who enjoy LPP in legal proceedings are generally exempt from reporting.</p>	<p>Up to EUR 5,000.</p>
Italy	<p>Transposed: Legislative Decree Nr 100 of 30 July 2020.</p>	<p>Intermediaries are generally exempt from reporting if it would breach LPP but must notify the taxpayer and other intermediaries of the exemption.</p>	<p>Up to EUR 31,500 where reporting is omitted.</p> <p>Up to EUR 10,500 where reporting is incorrect/incomplete.</p>
Latvia	<p>Transposed: Law of 5 March 2020 on amendments to the Law on taxes and fees.</p> <p>Cabinet of Ministers' Regulations.</p>	<p>Intermediaries are generally exempt from reporting if it would breach LPP (based on Latvian Advocacy law) but must notify the taxpayer and other intermediaries of the exemption.</p>	<p>Financial institutions: up to 1% of their annual turnover (up to EUR 14,000).</p> <p>Taxpayers: up to 1% of their annual turnover (up to EUR 3,200).</p>
Lithuania	<p>Transposed: Law Nr IX-2112 of 16 July 2019.</p>	<p>No specific reference in the primary law whether lawyers who enjoy LPP will be exempt from the reporting obligation. Regulations by the State Tax Inspectorate are expected to address this question.</p> <p>In any case, the exemption will likely not apply to tax advisors.</p>	<p>Up to EUR 5,590 (repeated breach of obligations: up to EUR 6,000).</p>
Luxembourg	<p>Transposed: Law of 25 March 2020 on reportable cross-border arrangements.</p> <p>Official guidance: reportable cross-border arrangements; general guidance.</p>	<p>Lawyers, chartered accountants, and audit professionals will generally be exempt from reporting if they act within the limits of their profession and inform other relevant intermediaries or taxpayers of the exemption within 10 days.</p>	<p>Up to EUR 250,000.</p>
Malta	<p>Transposed: Legal Notice Nr 342 of 2019 (dd. 17 December 2019).</p>	<p>Certain intermediaries (a.o. lawyers, accountants and auditors) subject to LPP (in accordance with the Maltese Criminal Code) will generally be exempt from reporting but must notify without delay the taxpayer and other intermediaries of the exemption.</p> <p>A list of reportable transactions for which LPP claims have been made must be filed yearly by intermediaries.</p>	<p>Up to EUR 30,000.</p>
Netherlands	<p>Transposed: Law of 18 December 2019 on amendments of some tax laws and other laws (Tax-plan 2020).</p> <p>Official guidance: explanatory notes to the implementation law; general guidelines; report cross-border arrangements</p>	<p>Intermediaries who enjoy LPP (in accordance with Article 53a of the General Law on State Taxes) will generally be exempt from reporting.</p> <p>In any case, the exemption will likely not apply to tax advisors and accountants.</p>	<p>Up to EUR 830,000.</p>
Poland	<p>Transposed: Law of 23 October 2018 and Law of 28 May 2020.</p> <p>Official guidance: explanatory notes to the implementation law; tax guidance and information, MDR portal.</p>	<p>Lawyers, tax advisors and certain financial advisors will generally be exempt from reporting by virtue of the LPP but must inform the taxpayer and other intermediaries of the exemption, in writing.</p> <p>The taxpayer may release the intermediary from its LPP.</p>	<p>Up to PLN 10,000,000.</p>
Portugal	<p>Transposed: Law Nr 26/2020 of 21 July 2020.</p>	<p>Intermediaries who enjoy LPP or contractual professional privilege will generally be exempt from reporting but must notify the taxpayer and other intermediaries of the reporting obligation within 5 days.</p>	<p>Up to EUR 80,000.</p>

Romania	Transposed: Ordinance Nr 5 of 28 January 2020 .	Intermediaries are generally exempt from reporting if it would breach LPP but must notify the taxpayer and other intermediaries of the exemption. The taxpayer may release the intermediary from its LPP.	Penalties for an intermediary or the relevant taxpayer for not reporting or for delayed reporting of the required information range up to RON 100,000. Penalties for reporting incorrect or incomplete information range from RON 10,000 to RON 50,000.
Slovakia	Transposed: Law Nr 305/2019 of 15 October 2019 . Official guidance: explanatory notes .	Lawyers, statutory tax advisors, and statutory auditors will generally be exempt from reporting if it would breach LPP.	Up to EUR 30,000.
Slovenia	Transposed: Act of 7 June 2019 amending the Tax Procedure Act (ZDavP-2L) .	Lawyers will generally be exempt from reporting if it would breach LPP but must immediately notify in writing the taxpayer or other intermediaries of the exemption.	Up to EUR 15,000 for small businesses. Up to EUR 30,000 for medium and large companies.
Spain	Transposed: Law Nr 10/2020 of 29 December 2020 .	Intermediaries who enjoy LPP will generally be exempt from reporting but must notify the taxpayer or other intermediaries of the exemption. The taxpayer may release the intermediary from its LPP.	Up to the amount of fees received by the intermediary. Up to the tax value of the arrangement in the case of the taxpayer. Additional EUR 1,500 penalty may be imposed if reporting is not done by electronic means.
Sweden	Transposed: Law of 4 June 2020 implementing EU Directive 2018/822 . Official guidance: reportable arrangements ; submission of DAC6 data .	Intermediaries who enjoy LPP will generally be exempt from reporting but must notify the taxpayer or other intermediaries of the reporting obligation. The taxpayer may release the intermediary from its LPP.	Up to EUR 14,000.

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