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## TAX

### REPORTING OF CROSS-BORDER TRANSACTIONS (DAC 6) – PORTUGUESE LEGAL FRAMEWORK IN FORCE

Last week [Law No. 26/2020, of 21 July \(Law 26/2020\)](#) was finally published, transposing into Portuguese legislation Council Directive (EU) 2018/822, of 25 May 2018 (**DAC 6**). DAC 6 foresees new mandatory disclosure rules regarding certain cross-border mechanisms based on objective characteristics (*hallmarks*).

Law 26/2020 revoked Decree-Law no. 29/2008, of 25 February, regarding the mandatory disclosure of abusive tax planning schemes to Portuguese Tax Authorities. Differently from the previous regime, Law 26/2020 does not require that the reportable mechanisms aim at “abusive tax planning schemes”.

Law 26/2020 generally follows the framework provided by DAC 6, but in certain topics the Portuguese framework goes beyond the EU Directive and the domestic regimes of other EU Member States:

- It includes both cross-border mechanisms as well as purely domestic mechanisms;
- Regarding domestic mechanisms it covers taxes that are excluded from DAC 6 (e.g. VAT);
- In the case of intermediaries subject to legal or contractual confidentiality clauses, reporting obligations remain applicable for the intermediary if the relevant taxpayer fails to voluntarily comply with the reporting obligation.

Law 26/2020 is in force from 22 July 2020 and establishes two reporting periods: (i) a first report covering cross-border mechanisms carried out between 25 June 2018 and 30 June 2020; (ii) periodic reports regarding any mechanisms implemented from 1 July 2020 (within 30 days from implementation).

Notwithstanding the above, further developments are expected for the upcoming weeks, most likely postponing the reporting obligations for the beginning of 2021, in line with the majority of the EU Member States. This will imply setting up three reporting periods:

- Cross-border mechanisms implemented between 25 June 2018 and 30 June 2020;
- Cross-border and domestic mechanisms implemented between 1 July 2020 and 31 December 2020;
- Cross-border and domestic mechanisms implemented from 1 January 2021.

DAC 6 raises complex technical issues and implies the assessment of substantial information. Postponing the first reporting obligations would allow taxpayers to implement / review internal procedures, to identify potentially reportable mechanisms and to review potentially reportable transactions during the second semester of 2020.