Grant Thornton

Tax

International tax update

March 2021

DAC 6

The EU Directive (DAC 6) requires cross border arrangements to be disclosed to the tax authorities where certain requirements are met. A cross border arrangement is an arrangement that concerns more than one EU member State or that concerns an EU member State and a third country.

Reporting timelines:

- Reporting is due within 30 days after the reporting obligation is triggered with effect from 1 January 2021.
- Transactions implemented between 1 July 2020 and 31 December 2020 were required to be filed by 31 January 2021, and transactions implemented between 25 June 2018 and 30 June 2020 were required to be filed by 28 February 2021.

The Irish tax authorities' ('Revenue') filing portal opened on 1 January 2021 and the first reports were due by 31 January 2021. Revenue issued updated DAC 6 guidance in March. Among the updates includes more details on the required standard of disclosures in respect of certain specific information and information on topics such as the meaning of 'may reasonably expect' and the meaning of 'knows or could be reasonably expected to know'.

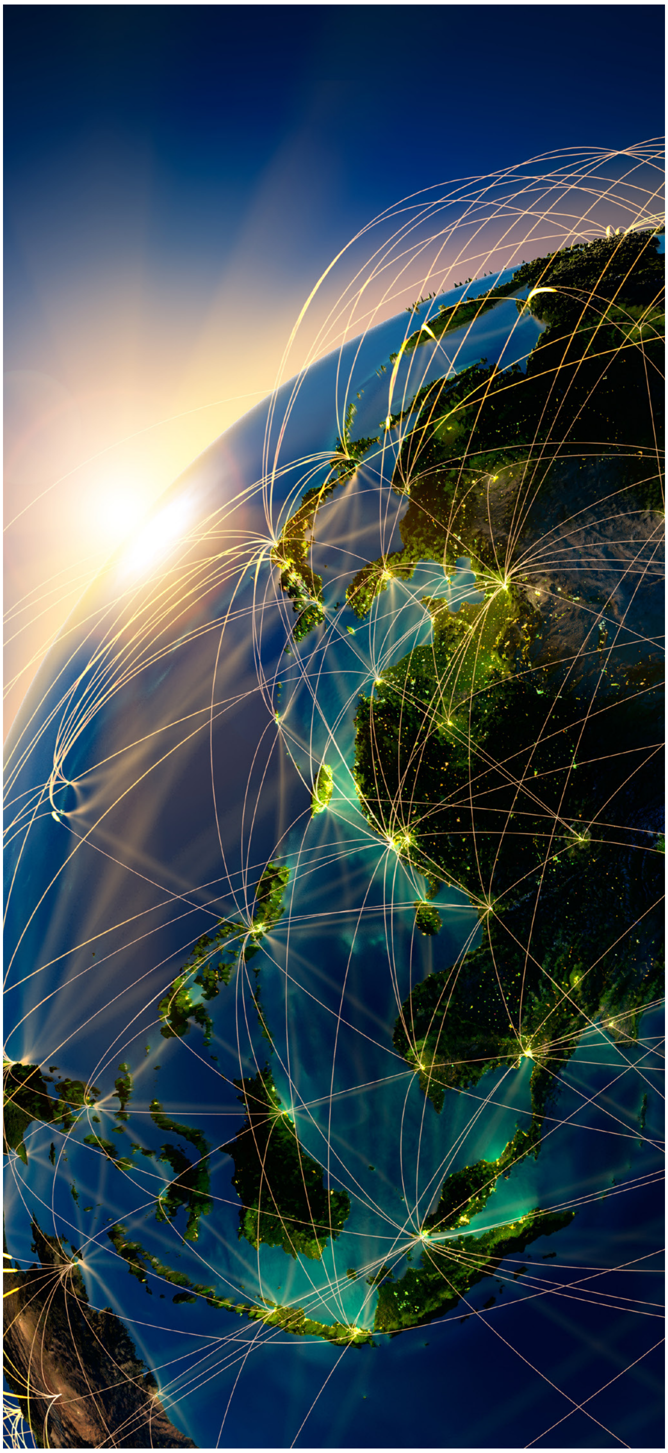
Transfer pricing

Transfer pricing applies to transactions between related companies, generally within the same group. The Irish transfer pricing rules were revised with significant legislative changes implemented in Finance Act 2019 for chargeable periods commencing on or after 1 January 2020. Groups should review their arrangements and structures to ensure compliance with these rules.

Finance Act 2020 provided for certain amendments to the Irish domestic legislation, namely, an amendment to the definition of 'relevant person' (broadly a person 'within the charge to tax in respect of profits or gains or losses, the computation of which takes account of the results of the arrangement') and a re-write of the exemption for domestic transactions.

The amendments provided for in Finance Act 2020 are the subject of a Ministerial Commencement Order and therefore do not come into effect until such time that the order is signed by the Irish government.

Revenue issued updated guidance in February on Irish transfer pricing rules.



Controlled Foreign Company (CFC)

CFC rules are an OECD Base Erosion Profit Shifting (BEPS) initiative that has been in operation in Ireland for accounting periods that commenced on or after 1 January 2019. CFC rules aim to prevent the artificial diversion of profits from controlling companies to CFCs.

Revenue issued updated guidance in February to reflect new anti-avoidance provisions that were introduced in Finance Act 2020. The provisions take effect in respect of accounting periods of CFCs beginning on or after 1 January 2021.

Broadly, under these new anti-avoidance provisions, the low profit margin, low accounting profit, and effective tax rate, exemptions will not apply to the extent the CFC is resident in a country that is listed on the EU list of non-cooperative jurisdictions for tax purposes.

COVID-19 support schemes in Ireland

At the end of February, the Irish Government announced that Level 5 public health restrictions will continue to 5 April at the earliest. The Government published the revised plan 'Recovery and Renewal 2021 – the Path Ahead'.

The economic measures to support businesses dealing with the impacts of COVID-19 were extended until 30 June 2021 per the Governments revised plan. These schemes include the:

1. Employment Wage Subsidy Scheme (EWSS);
2. COVID Pandemic Unemployment Payment (PUP);
3. COVID Restrictions Support Scheme (CRSS).

The Debt Warehousing Scheme continues to be available to support businesses and taxpayers that have been severely impacted by the COVID-19 public health restrictions.

Employment tax

Some of the Irish Revenue's concessions that were introduced to support employers and employees to deal with the impacts of COVID-19 ceased on 31 December 2020. Revenue issued updated guidance outlining the measures that will continue to apply in 2021 and the measures that ceased on 31 December 2020. For example:

Special Assignee Relief Programme (SARP):
The 90 day employer filing obligation was extended by a further 60 days. These concessionary measures ceased to apply on 31 December 2020. From 1 January 2021 all SARP 1A forms must be filed within the 90-day timeframe.

Trans-Border Workers Relief
If employees are required to work from home in Ireland due to COVID-19, such days spent working at home in the State will not preclude an individual from being entitled to claim this relief, provided all other conditions of the relief are met. This concessionary measure will continue to apply for the tax year 2021.

The following concessionary measures ceased on 31 December 2020:

- operation of Irish PAYE on foreign employments exercised in Ireland;
- PAYE dispensations – 30 day notification timeframe; and
- PAYE exclusion orders in place and employee works more than 30 days in Ireland.

Brexit and employment

The UK's withdrawal from the EU, has not affected the rights of Irish and UK citizens within the Common Travel Area (CTA). However, employers may still have to deal with global mobility and immigration concerns that have arisen due to Brexit. Some of the main issues that need to be considered are social security contributions and personal mobility matters.

The EU-UK Trade and Cooperation Agreement included a protocol on Social Security Coordination, which ensures that EU and UK citizens moving between member states will only have to pay social security in one country at a time. It includes provisions for 'Detached Workers', who can remain in their 'home' social security system while temporarily working abroad. Employers will need to know the citizenship status of their employees, where they carry out work duties and to make applications if necessary, under the revised rules to the relevant social security authority.

Brexit has not changed the underlying tax rules in Ireland but there could be an increase in short term business visits between Ireland and the UK, due to the close business relations and geographic proximity. This could result in tax implications for many individuals who would be considered as Short Term Business Visitors (STBV's). They may have Irish PAYE obligations based on their individual Irish workdays.

Indirect tax update

The standard rate of VAT

As of 1 March 2021 the standard rate of VAT reverted to 23%. The standard rate of VAT was reduced from 23% to 21% for six months. For most transactions between VAT registered traders, it will be 'cash neutral'; however, there are a number of administrative issues that should be considered, such as invoices issued on or after 1 March for goods supplied before that date, credit notes and advance payments.

Postponed accounting

Postponed accounting for Irish import VAT took effect in Ireland from 1 January 2021. The new procedure was introduced for imports into Ireland by registered businesses from Non-EU countries. This scheme provides a cash flow benefit for companies post Brexit.

Postponed VAT accounting means that companies will not be required to pay import VAT at the point of entry and instead can account for the VAT in their periodic VAT return. Subject to the normal rules on VAT deductibility, a simultaneous input deduction can be claimed in the same VAT return thus the transaction is VAT cash neutral.

Postponed accounting is not available for goods purchased from Northern Ireland, as these purchases will continue to be treated as EU intra-community acquisitions under the Northern Ireland Protocol.

The Customs Trade Agreement: Rules of origin

The Customs Trade Agreement, formally known as the EU-UK Trade and Co-operation Agreement (TCA), is the comprehensive free trade agreement between the UK and EU providing for zero tariffs and quotas on the trade in goods of UK and EU origin.

It is essential that businesses recognise what the 'origin' of goods will be for the purposes of the TCA to fully realise the opportunities available within the Agreement. Rules of Origin will apply to goods in order to qualify for preferential trade terms under the TCA, meaning that only goods with EU or UK preferential origin can benefit from zero tariffs and quotas.

Contact

Should you have any queries in relation to the contents of this article or would like to discuss any international or indirect tax issue, please feel free to contact us.

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