ELIXOS CONSULTING

A: Christodoulou Chatzipavlou 199,
Floor 4, Office 4A, 3036 Limassol, CY
T: 25 589058 | F: 25 584301
E: info@elixos.co

DAC 6 to be replaced by OECD rules for UK intermediaries from 2021

HMRC has confirmed that the UK will no longer be applying DAC 6 in its entirety following conclusion of the Free Trade Agreement with the EU. Only arrangements that would have fallen within Category D of DAC 6 will now need to be reported, in line with the OECD's mandatory disclosure rules (MDR).

DAC 6 is a system of mandatory reporting of cross-border tax arrangements affecting at least one EU member state where the arrangements fall within one of a number of "hallmarks".

Despite the fact the UK was leaving the EU, it implemented DAC 6 into domestic law, requiring intermediaries with a connection to the UK to disclose arrangements to HMRC in relation to which they acted as "promoters" or "service providers". The first disclosures were due to be made by 30 January 2021.

As provided for in the Free Trade Agreement between the UK and the EU, it has been agreed that the UK will now apply the OECD mandatory disclosure rules (MDR) instead.

The main difference between the OECD MDR and DAC 6 is that only arrangements that would have fallen within Category D of Part II of DAC 6 need to be reported. These are the following:

- Undermining the CRS reporting obligation by, e.g., use of products, jurisdictions, or legal entities, not subject to reporting (among others).
- Use of non-transparent legal or beneficial ownership chain.

HMRC has confirmed that this change applies retrospectively so no disclosures will need to be made for any arrangements that fall into one of the other hallmarks set out in DAC 6.

However, it is possible that other parties based in an EU member state and involved in the transaction may need to report the arrangements to their respective tax authorities.

Please feel free to contact us for any further assistance.