ETAF statement on a possible recast of the Directive on Administrative Cooperation in tax matters (DAC)

Introduction

The European Tax Adviser Federation (ETAF) welcomes the opportunity to contribute to the European Commission's public consultation on a possible recast of the Directive on administrative cooperation in tax matters (DAC). Since its adoption, the DAC has evolved through a succession of eight legislative amendments (DAC2 to DAC9), reflecting the progressive expansion of reporting and information-exchange obligations at the EU level. While these developments have strengthened administrative cooperation, the cumulative layering of these reporting regimes has resulted in an increasingly complex legislative framework. Each additional reporting layer has required new technical and organisational adaptations, with IT and compliance costs varying significantly depending on the nature of the obligation concerned.

ETAF observes that the earliest DAC amendments were primarily directed at national tax administrations and focused on the flow and exchange of information. Over time, reporting obligations have increasingly been placed on taxpayers and their advisers, with a growing volume of information that must be created specifically for reporting purposes. This evolution has expanded compliance obligations and raises questions of balance, particularly where stricter deadlines and higher penalties apply to taxpayers and advisers compared to the timelines typically available to tax administrations.

In the absence of a consolidated legal text, the Commission's intention of merging the original Directive and its subsequent amendments into a single, coherent instrument appears both timely and judicious. As previously stated in our answer to the public consultation on the evaluation of the Directive 2011/16/EU, ETAF welcomes a consolidation of the initial DAC and its subsequent amendments into a single text. ETAF therefore supports the Commission's initiative to consolidate and recast the DAC as part of its broader objective to reduce administrative burdens, simplify EU legislation and improve the effectiveness of existing reporting frameworks. In this context, ETAF strongly supports the Commission's target, set out in its long-term competitiveness Communication, of reducing burdens associated with reporting requirements by 25% for businesses and by 35% for small and medium-sized enterprises (SMEs), without undermining the policy objectives of ensuring efficient administrative cooperation between Member States' tax authorities and increasing tax transparency in order to combat tax evasion and avoidance and ensure fair taxation.

At the same time, consolidation should provide an opportunity to assess whether all existing notifications and reporting obligations remain necessary and proportionate, particularly in light of the substantial expansion of EU anti-avoidance legislation (including ATAD I and II and related measures), as well as the forthcoming roll-out of e-invoicing and e-reporting requirements.

As highlighted in the Commission's report of 19 November 2025 evaluating Directive 2011/16/EU, and the accompanying Commission Staff Working Document, the reporting requirements for cross-border arrangements under Directive (EU) 2018/822 (DAC6) are considered particularly problematic. ETAF shares this assessment, a position it has consistently articulated, notably in its response to the public consultation on the rationalisation of EU reporting requirements and to the evaluation of Directive 2011/16/EU which covers the period from 2018 to 2023.

In light of the above, the legislative work on the DAC recast should give due consideration to the removal of, or at the very least the substantial simplification of, the DAC6 reporting requirements.

ETAF recommends: remove the DAC 6 reporting obligation entirely

As stated in its evaluation report, the Commission has indicated that simplifying the DAC and ensuring its consistent application, with a view to reducing administrative burden, requires not only assessing the scope for improving the internal coherence of the DAC legal framework but by "*exploring the options to streamline or eliminate reporting obligations that could be unnecessarily burdensome*". In line with this approach, and reiterating its long-standing position, ETAF therefore calls on the Commission to put forward a legislative proposal to remove the DAC6 reporting obligations in their entirety.

Such a removal is justified on the inherent shortcomings of DAC6 identified in the Commission's evaluation, including its fragmented and inconsistent implementation resulting from its overly broad scope, the limited and inconsistent use of DAC6 data by tax administrations, the disproportionate administrative burden imposed on tax professionals and taxpayers, and the absence of demonstrable and reliably evidenced benefits.

(a) Overly broad scope and inconsistencies in national implementation

As acknowledged by the Commission's evaluation report, DAC6 is the most challenging element of the DAC to implement in practice, principally due to the wide margin it allows for divergent interpretation across Member States. In particular, the overly broad scope of the main concepts, such as the main benefit test, has resulted in significant legal uncertainty, affecting not only national tax administrations, but also tax professionals, when determining whether a reporting obligation is triggered.

These concerns are widely shared by ETAF's members and have been recently corroborated by the findings reached by the European Court of Auditors (ECA) in its Special Report of 27 November 2024, which identified significant uncertainties and divergent interpretations in the application of DAC6 across the Member States audited. These uncertainties and varying interpretations can lead to an inconsistent application of reporting obligations and create a risk that similar cross-border arrangements are reported in some Member States but not in others.

These findings are unsurprising, given that the issue has already been recognised in a study ordered by the FISC Subcommittee of the European Parliament in March 2022, which found that the DAC6 did not deliver the effects anticipated by the Commission, noting that the lack of clarity of the hallmarks resulted in fragmented national implementations, inconsistent reporting in terms of quality and quantity, and a disproportionate burden on tax administrations and intermediaries, with potential adverse effects on legitimate transactions.

Overall, the Commission's evaluation does not clearly demonstrate the amount and nature of potentially abusive tax arrangements most frequently reported under DAC6, nor the categories of companies involved. The Commission notes that legal uncertainty and divergent interpretation contribute to over-reporting and under-reporting, which undermines the operational usefulness of DAC6 data. It therefore does not establish a clear link between DAC6 reporting and concrete outcomes (for example the effective follow-up by the tax authorities, dismantled schemes or a demonstrable contribution to the tax assessments or collections), thereby providing only limited evidence of how the DAC6 hallmarks have supported the Directive's overall objectives.

(b) Ineffective use of DAC6 data

The Commission's evaluation assesses effectiveness by reference to the timeliness, completeness and quality of the information exchanged. According to this benchmark, several shortcomings have been identified in relation to the quality and completeness of DAC6 data. While certain mandatory fields are subject to validation, other mandatory informational fields are not subject to systematic assessment, which undermines overall data quality and, consequently, the usability of the information exchanged for risk analysis and follow-up. Additionally, the Special Report of the ECA has identified deficiencies in the completeness of information reported in respect of cross-border arrangements involving non-EU jurisdictions.

The ECA further found that the audited Member States make only limited use of DAC6 information in practice and carry out few quality checks on the data exchanged. Moreover, neither the Commission nor most of the Member States examined have put in place appropriate performance-monitoring frameworks to assess the effectiveness of the measures.

(c) Limited demonstrable benefits and disproportionate administrative burden

The Commission's evaluation recognises that the benefits of DAC6, in terms of safeguarding the Member States' tax revenues, cannot be reliably quantified. Notably, it is not possible to establish a direct causal relationship between DAC6 reporting and additional taxes collected or changes to the tax base, nor can immediate fiscal benefits always be identified. In this context, ETAF and its members have, in the questionnaire, refrained from providing aggregate cost estimates, as such figures would be incomplete and potentially misleading. Specifically, such estimates are often subsequently used to draw conclusions on proportionality by comparing underestimated implementation costs with overestimated figures on tax evasion or avoidance, which does not reflect the reality experienced by tax advisers.

In relation to the costs incurred, the scale and heterogeneity of DAC6 reporting across our members' jurisdictions make it impossible to establish average compliance costs or time spent on compliance. This difficulty is further aggravated by the fact that costs vary significantly depending on the nature of the arrangement, the number of jurisdictions involved, and the national implementation choices adopted by Member States. Moreover, the preparation and submission of a report account for only a limited share of the overall compliance burden.

A substantial part of the costs instead arises upstream and downstream of the reporting obligation itself. These include the need to adapt internal workflows and interconnected IT systems, as well as the acquisition, maintenance and regular updating of external IT tools and reporting software used by tax advisers and their clients. Such system-level adaptations are often required for each new or amended reporting obligation and generate costs that are difficult to isolate or quantify.

Furthermore, the main cost drivers stem from the Directive's broadly drafted and insufficiently precise provisions, which require tax advisers to engage in continuous capacity-building, to monitor evolving and divergent national interpretations, and to carry out repeated, case-by-case assessments. Legal uncertainty, combined with the limited availability of administrative guidance, significantly increases the time and resources required to determine whether a reporting obligation is triggered in a given case.

In practice, tax professionals must continually assess whether a reporting obligation is triggered or whether professional secrecy applies, resulting in additional analytical work, internal coordination and sustained interaction with clients. These efforts are recurrent in nature and extend well beyond the initial implementation phase, creating a permanent compliance burden rather than a one-off adjustment cost, and are therefore largely disconnected from clearly evidenced policy outcomes.

Modernising DAC 6

As an alternative to repeal, DAC6 could be modernised through a targeted reform. This would require a meaningful narrowing of scope, clearer definitions and a more proportionate reporting framework supported by improved digital solutions. Greater use of harmonised digital tools could reduce duplicate reporting across Member States. In this context, ETAF sets out below its position on the simplification of selected content-related elements of the DAC6 reporting requirements.

That said, ETAF underlines that even a modernised framework would at best mitigate compliance costs, rather than deliver additional policy benefits. Such changes would not, in themselves, enhance the effectiveness of DAC6 in addressing tax evasion, tax offences or aggressive tax planning. Moreover, any further adjustments to the regime would inevitably entail new implementation efforts, thereby generating additional administrative burden for businesses and their tax advisers during the transition phase.

a. A longer reporting timeframe for reporting arrangements

Under DAC 6, potentially harmful cross-border tax arrangements must currently be reported within a period of 30 days from the moment the arrangement is made available. ETAF supports an extension of this reporting deadline (for example, to 60 or 90 days). Considering the significant workload faced by tax professionals, as well as the practical necessity of extensive coordination and information exchange with clients, a longer reporting period would represent a welcome and pragmatic adjustment within the existing legal framework.

At the same time, ETAF wishes to emphasise that an extension of the reporting deadline alone does not address the more fundamental shortcomings of the DAC reporting regime. It does not resolve the persistent lack of legal clarity in relation to the application of key concepts, such as the main benefit test or hallmarks, nor the tension faced by tax advisers between their reporting obligations and their duty to maintain client confidentiality.

b. Limiting reporting to the taxpayer who derives a benefit

In its questionnaire, the Commission outlines several options to address duplicate reporting in situations where, pursuant to Article 8ab (9) of the Directive, multiple intermediaries are involved in the same reportable cross-border arrangement. ETAF supports a targeted approach whereby the taxpayer deriving the relevant tax advantage is designated as the sole reporting party.

This approach would deliver a substantial and effective reduction in reporting obligations while fully preserving the underlying policy objective of DAC6, namely, to enhance administrative cooperation and combat tax evasion, avoidance and aggressive tax planning. All reportable arrangements would continue to be subject to disclosure; however, the reporting obligation would be limited to those taxpayers who stand to benefit from the arrangement. The scope of reportable transactions would therefore remain unchanged, while the circle of obliged persons would be rationalised in line with the principle of proportionality.

The policy option is the most appropriate, as it delivers the following principal benefits:

(i) a significant reduction in reporting obligations, by removing overlapping and parallel disclosures;
(ii) the elimination of duplicate reporting, in line with the once-only principle;
(iii) lower compliance costs, by limiting administrative requirements to those directly concerned;
(iv) reinforcing the relationship of trust between taxpayers and their advisers, which would facilitate more comprehensive disclosure of relevant financial information. This would, in turn, strengthen advisers' capacity to provide preventive and compliance-oriented guidance, thereby contributing more effectively to the deterrence of aggressive tax planning, tax evasion and tax avoidance.

Further necessary alignments in the DAC recast

(a) Appropriately delineating the scope of professional secrecy

The DAC recast should expressly protect professional secrecy for regulated tax advisers and other comparable regulated professions by excluding confidential adviser–client communications from DAC6 reporting obligations, as previously set out in ETAF's position on the essential role of professional secrecy for tax advisers. Recent CJEU case law on DAC6 and legal professional privilege has demonstrated that the current framework gives rise to legal uncertainty and repeated litigation, confirming the need for legislative clarification rather than reliance on case-by-case judicial interpretation.

Such protection should be grounded in objective criteria, including professional independence, statutory confidentiality obligations and the role of advisers in representing and assisting clients, rather than on formal professional titles alone, as also underlined by stakeholders. Adequately delineating the scope of professional secrecy is necessary to preserve legal certainty and maintain the relationship of trust between taxpayers and their advisers, thereby supporting effective tax compliance and the prevention of aggressive tax planning.

(b) No new UNSHELL-related reporting

ETAF recommends that the DAC recast should not introduce new reporting obligations linked to the misuse of shell entities by incorporating elements of the withdrawn UNSHELL proposal. As ETAF previously highlighted, the Commission's June 2024 approach to revive stalled Council negotiations risked creating DAC6-like hallmarks that would overlap and confuse obliged entities, further complicating compliance. The ultimate failure of those negotiations confirmed the lack of consensus on UNSHELL's design and proportionality.

Reintroducing such elements through the DAC recast would contradict the Commission's simplification agenda and risk deepening existing complexity and compliance costs for taxpayers and tax professionals, without clear evidence of added effectiveness. Instead, the DAC recast should focus on consolidating and streamlining existing obligations rather than expanding the scope of reporting through measures that have already failed to secure political agreement.

ETAF therefore urges the Commission to maintain a clear separation between the DAC framework and the abandoned UNSHELL initiative, and to refrain from introducing new reporting requirements that would dilute the credibility of the simplification agenda and exacerbate existing implementation challenges.

Conclusion

The possible recast of the DAC represents a defining moment for the credibility of the EU's simplification agenda. The Commission's evaluation has clearly identified structural weaknesses in the current framework. Most notably, it has confirmed what was already known, that DAC6 reporting obligation is excessively complex, inconsistently applied across Member States and disproportionately burdensome for tax advisers and taxpayers, while delivering limited and not sufficiently evidenced results in practice.

Against this background, ETAF calls on the Commission not merely to acknowledge these findings, but to act decisively upon them. While the consolidation of the DAC into a single legal instrument is a necessary step, it will remain a purely technical exercise unless accompanied by substantive policy choices that address the root causes of inefficiency and legal uncertainty. In this respect, the continued inclusion of DAC6 would perpetuate a regime that has not been demonstrated to deliver tangible outcomes commensurate with its compliance costs.

The ongoing recast of the DAC provides a clear opportunity for the Commission to demonstrate whether it is genuinely committed to delivering on its political pledge to reduce the bureaucratic burden on businesses by 25%, and by 35% for SMEs. The way in which DAC6 is addressed in the recast will be a key indicator of whether this commitment is being pursued in practice. Maintaining a reporting regime that has been widely acknowledged as inefficient and legally uncertain would undermine both the credibility of the simplification agenda and the effectiveness of the DAC.

The possible alternative to the complete removal of the DAC6 reporting obligation could be its modernisation. Such a reform could involve a meaningful limitation of its scope, clearer and more precise definitions, and improved digital processes aimed at reducing the number of identical or duplicative notifications exchanged between Member States. However, ETAF stresses that such changes would, at best, reduce the time and financial burden placed on intermediaries and taxpayers. They would not generate additional benefits in terms of increasing the effectiveness of the measure in combating tax evasion, tax offences or aggressive tax planning. Moreover, adapting to yet another revised reporting regime would inevitably impose further administrative and implementation burdens on businesses and their tax advisers.

In light of these considerations, ETAF remains firmly of the view that the removal of DAC6 is the only option fully consistent with the Commission's stated objectives of simplification, proportionality and effective enforcement.

Notes
For enquiries, please contact: Ajra Kovac, EU Policy Officer, Ajra.Kovac@etaf.tax, Phone: +32 2 2350 105 | Mobile: +32 483 09 65 15

About ETAF
The European Tax Adviser Federation (ETAF) is a European umbrella organisation for tax professionals whose activities are regulated by law. It is set as an international not-for-profit organisation (AISBL) governed by Belgian law, based in Brussels and was launched on 15th December 2015. It represents more than 220 000 tax professionals from France, Germany, Belgium, Romania, Hungary, Austria and Croatia. ETAF is a registered organisation in the EU Transparency Register, with the register identification number 760084520382-92.