

# ATOZ ALERT

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## COVID-19: Luxembourg extends DAC6, CRS and FATCA reporting deadlines

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Yesterday, the draft law implementing the optional deadline extensions of EU Directive of 24 June 2020 (the “**Directive**”) amending the EU Directive on Administrative Cooperation to address the urgent need to defer certain time limits for the filing and exchange of information in the field of taxation because of the COVID-19 pandemic was presented to Parliament. The draft law introduces mainly a 6-month deadline extension for reporting under the mandatory disclosure regime applicable to tax intermediaries (“**DAC6**”) and a 3-month deadline extension for reporting under both the Common Reporting Standards (“**CRS**”) and the Foreign Account Tax Compliance Act (“**FATCA**”).

### New DAC6 deadlines

The draft law implements the optional 6-month deadline extensions of the Directive for reporting and exchanging information under DAC6 and amends the law of 25 March 2020 implementing DAC6 accordingly. As a result, the following reporting deadlines will apply:

- The **30-day reporting period** applicable to reportable cross-border arrangements made available for implementation, ready for implementation, or where the first step in their implementation has been made between 1 July 2020 and 31 December 2020 shall **begin on 1 January 2021**.
- The first quarterly reporting of **marketable arrangements** shall be performed by **30 April 2021**.
- The **10-day deadline** applicable to the notification to be made by intermediaries subject to professional secrecy in respect of reportable cross-border arrangements made available for implementation, ready for implementation, or where the first step in their implementation has been made between 1 July 2020 and 31 December 2020 shall **begin on 1 January 2021**.
- Reportable arrangements the first step of which was **implemented between 25 June 2018 and 30 June 2020** have to be reported by **28 February 2021**.
- The first automatic exchange of information will have to be performed by the Luxembourg tax authorities by **30 April 2021** at the latest.

## New CRS deadlines

The draft law implements the optional 3-month deadline extension of the Directive for exchanging information related to calendar year 2019 under CRS and amends the law of 18 December 2015 implementing CRS accordingly.

As a result, the following reporting and exchange of information deadlines will apply for reporting information related to calendar year 2019:

- Luxembourg Reporting Financial Institutions will have to submit their reports in relation to calendar year 2019 by **30 September 2020** at the latest (instead of 30 June 2020).
- The Luxembourg tax authorities will have to communicate until **31 December 2020** (instead of 30 September 2020) to the competent authorities of Reportable Jurisdictions the reportable information related to calendar year 2019. The draft law does not make any distinction between EU (thus, covered by the Directive) and non-EU Reportable Jurisdictions.

## New FATCA deadlines

The draft law introduces a 3-month deadline extension for reporting under FATCA in relation to calendar year 2019 and amends the law of 24 July 2015 implementing FATCA accordingly. As a result, Luxembourg Reporting Financial Institutions will have to submit their reports in relation to calendar year 2019 by **30 September 2020** at the latest (instead of 30 June 2020).

According to the FATCA Agreement between the Government of the United States of America and the Government of the Grand Duchy of Luxembourg, information shall be exchanged by Luxembourg within 9 months following the end of the calendar year to which the information relates (i.e. the 2019 calendar year information must be exchanged by 30 September 2020 at the latest).

In order to adapt the latter deadline for the calendar year 2019 information, a formal notification through diplomatic channels will be made by Luxembourg, taking notably into account the [US Internal Revenue Service's recent announcement](#) to grant such extension.

## Additional measures

The draft law introduces some amendments to the recent law of 12 May 2020 addressing the extension of deadlines in fiscal, financial and budgetary matters in the context of the state of the crisis.

- Statutes of limitations

The draft law amends slightly the wording of the law of 12 May 2020 in order to specify that statutes of limitations ending on 31 December 2020 **included**, are extended to 31 December 2021 **included**.

In addition, the draft law extends the 3-year statute of limitation applicable to **property taxes** ending on 31 December 2020 to **31 December 2021**. This extension relates to the 2017 property taxes.

- Privileges and guarantees

The draft law amends the law of 12 May 2020 in order to clarify that the privileges and guarantees provided for by the provisions of the amended law of 27 November 1933 concerning the collection of direct taxes whose effects cease **on 31 December 2020** (instead of before 31 December 2020) are extended to 31 December 2021.

For further information on the measures introduced by the law of 12 May 2020, please [click here and read our ATOZ Alert: COVID-19 crisis: New draft law to extend deadlines in fiscal matters.](#)

## Next steps and implications

The proposed deadline extensions aim only to respond in a detailed and limited manner to the practical difficulties generated by the COVID-19 crisis and do not intend to affect the substance of the reporting obligations. Therefore, the scope of the information to be reported remains unchanged.

The measures to be introduced will enter into force on the day following the publication of the law in the Memorial (Luxembourg Official Journal), except for the measures related to the DAC6, CRS and FATCA deadlines which will enter into force retroactively on 30 June 2020. Thus, even though the legislative procedure has not been finalised yet, the deadline extensions can already be considered as granted. Both the Luxembourg Finance Ministry and the Luxembourg tax authorities have communicated officially on their respective website that no penalties for late reporting under the aforementioned reporting frameworks would apply, pending the draft law being adopted.

## Do you have further questions?



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