

The Latest Proposed Amendment to DAC: A Short Introduction of DAC9

Update created: 1 November 2024

Katerina Ilieva | IBFD European Knowledge Group

The author can be contacted at k.ilieva@ibfd.org

On 28 October 2024, the European Commission adopted a [proposal](#) to amend the [Directive on Administrative Cooperation \(2011/16\) \(DAC\)](#). This latest amendment, also known as DAC9, aims to simplify the process for companies to meet their filing obligations under the [Minimum Taxation Directive \(2022/2523\)](#). This note provides a road map to help readers understand the proposed rules, starting with a brief overview of the requirements set out by the [Minimum Taxation Directive \(2022/2523\)](#) and detailing how DAC9 comes into play and operationalizes these requirements.

Background: Reporting requirements set out by the Minimum Taxation Directive

The [Minimum Taxation Directive \(2022/2523\)](#) establishes a global minimum level of taxation for multinational enterprise (MNE) groups and large-scale domestic groups in the European Union (EU). Under that Directive, large MNEs must pay a minimum tax rate of 15% on their income in each jurisdiction in which they operate. If their effective tax rate falls below this threshold, they must pay a top-up tax, typically charged in the jurisdiction of the ultimate parent entity (UPE), while also allowing jurisdictions to implement qualified domestic top-up taxes to retain their primary taxation rights. Article 44 of the Directive sets out the filing requirements for in-scope entities, providing for the filing of a Top-Up Tax Information Return (TTIR) using a standard template that includes information essential for tax administrations to evaluate tax risks and liabilities.

Generally, each constituent entity is required to file its TTIR in the Member State in which it is located. However, there is an option that permits central filing for the entire group: the UPE or a designated filing entity can file on behalf of the MNE, as long as there are information exchange arrangements in place between the jurisdictions involved. This is precisely where DAC9 comes into play.

Introducing DAC9 rules

DAC9 provides a framework for the operational implementation of article 44 of the [Minimum Taxation Directive \(2022/2523\)](#) and enables in-scope MNEs and large-scale domestic groups to utilize the central filing mechanism for their TTIR. DAC9 also extends the scope of the automatic exchange of information between the Member State's competent authorities. Here are the main elements of the proposal:

Setting up a framework enabling central filing and exchange of information with respect to top-up tax information returns

Conceptually, DAC9 aims to facilitate the central filing (as opposite to local filing) of the TTIR by providing a uniform template to be used by in-scope MNEs and large-scale domestic groups. This would lead to a reduced administrative burden for the group, as instead of each constituent entity filing a separate TTIR with its own tax administration, the ultimate parent entity or a designated filing entity could file the TTIR on behalf of the entire group.

The TTIR includes information on certain specific data points and serves as a risk assessment tool for tax administrations to evaluate the entities' tax liability correctly. The TTIR includes general information regarding the MNE group (names of the group's ultimate parent and constituent entities, their tax identification numbers, tax residence jurisdictions, ownership structures, etc.), jurisdictional safe harbours, and exclusions and computations (including effective tax rate computation, top-up tax computation and top-up tax allocation and attribution).

The exchange of the TTIR between Member States' competent authorities would be done on the basis of a dissemination approach, which means that the competent authorities will communicate the information in the TTIR on a need-to-know basis to all relevant jurisdictions.

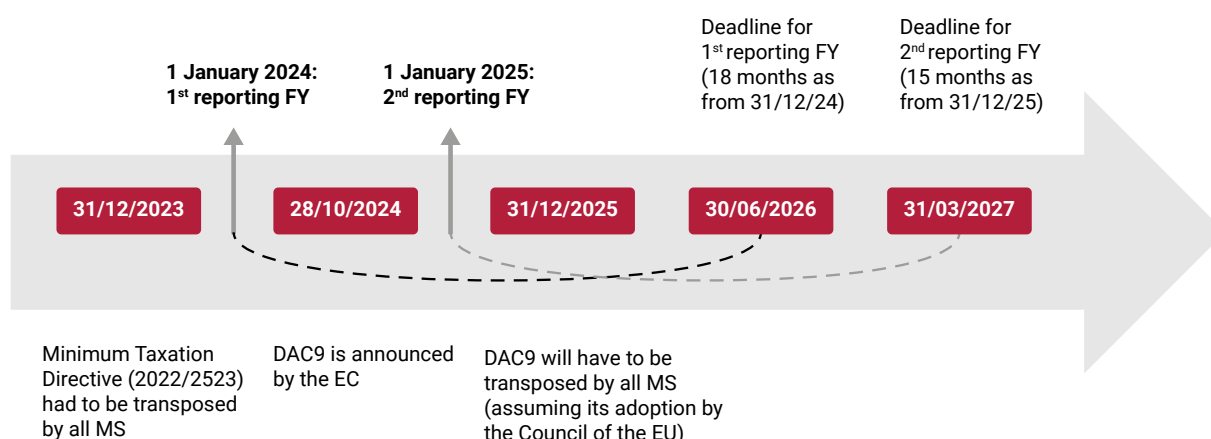
Thus, the complete TTIR will be received by the Member State of the ultimate parent entity or of the designated filing entity. The complete general section of the TTIR will be sent to all Member States that have implemented a qualified income inclusion rule (IIR) or a qualified undertaxed profit rule (UTPR) or both. Relevant parts of the general section of the TTIR will be sent to qualified domestic top-up tax (QDTP)-only Member States where constituent entities of the MNE are located. Lastly, jurisdictional sections will be sent to the Member States with taxing rights under the [Minimum Taxation Directive \(2022/2523\)](#).

Practical aspects

1. What are the reporting deadlines for entities?

Qualifying reporting entities have to file a TTIR within 15 months after the last day of the reporting fiscal year. There is an exception for the first reporting year, which allows the filing to be done within 18 months after the last day of the reporting fiscal year.

In practical terms, the first reporting fiscal year for which reporting needs to be submitted is as from 1 January 2024. This means that the first reporting deadline is 30 June 2026 (18 months), which is also the deadline set by the [Minimum Taxation Directive \(2022/2523\)](#).



* The above visual is assumed to apply to situations where a taxpayer uses the calendar year for fiscal purposes and the taxpayer falls within the scope of DAC9 rules

2. What are the deadlines for the exchange of information between Member States?

a. Within the European Union

Member States should exchange the relevant parts of the TTIR as soon as possible, and no later than 3 months after the filing deadline for the reporting fiscal year. For the first year of application of the [Minimum Taxation Directive \(2022/2523\)](#) (reporting fiscal year 2024), the deadline is 6 months after the filing deadline.

b. Outside the European Union

In order to exchange information with third country jurisdictions, Member States will first need to sign appropriate international agreements with those jurisdictions.

3. When would the Directive become effective?

To become EU law, the proposal must secure unanimous agreement from the Member States at the Council of the European Union. If the Council adopts the proposal in the current form, Member States will be required to transpose it into their domestic legislation by 31 December 2025.

Member States which have chosen not to apply the qualified IRR and the qualified UTPR are allowed to postpone the application of DAC9 as well.

Conclusion

Reducing the administrative burden for companies and facilitating the automatic exchange of relevant information between the Member States' tax authorities are the main goals of DAC9. The Directive aims to achieve these by mandating the use of a standardized reporting template that operationalizes the requirements set in article 44 of the [Minimum Taxation Directive \(2022/2523\)](#) and therefore facilitating central filing within the European Union. The data filed in that TTIR is then exchanged between the relevant tax authorities according to each Member State's tax rights and qualifications.

One of the expected impacts of DAC9 is to reduce the administrative burden put on companies. However, it is worth questioning whether introducing lengthy additional compliance requirements (the reportable data points are 24 pages long) really leads to reducing the compliance burden. Only the following year and a half will tell if this holds true from a practical perspective.

IBFD references

- For an overview of legislative initiatives at the EU level on direct tax matters from the moment they are planned by the European Commission until their adoption by the Council of the European Union, see the [EU Direct Tax Law Initiatives Tax Dossier](#).
- For details on Member States' transposition of DAC8, DAC7 and DAC6, see the [DAC8 – DAC7 – DAC6 Implementation Status Tax Dossier](#) and [DAC6/DAC7 Compliance Tables](#).
- EU tax law developments are reported in the daily IBFD [Tax News Service](#).
- For an overview of the implementation status of the GloBE rules, i.e. the IIR, the UTPR and related DMTT rules, please refer to the [Global Minimum Tax Monitor Map](#).

- For an overview of the developments linked to the Minimum Taxation Directive (2022/2523) at the EU level, please refer to the [European Union – Global Minimum Tax Monitor](#), Tables IBFD.
- For more details on Administrative Cooperation in the European Union, see [C. Valério & D. Arsenovic, Direct Taxation](#), Global Topics IBFD.