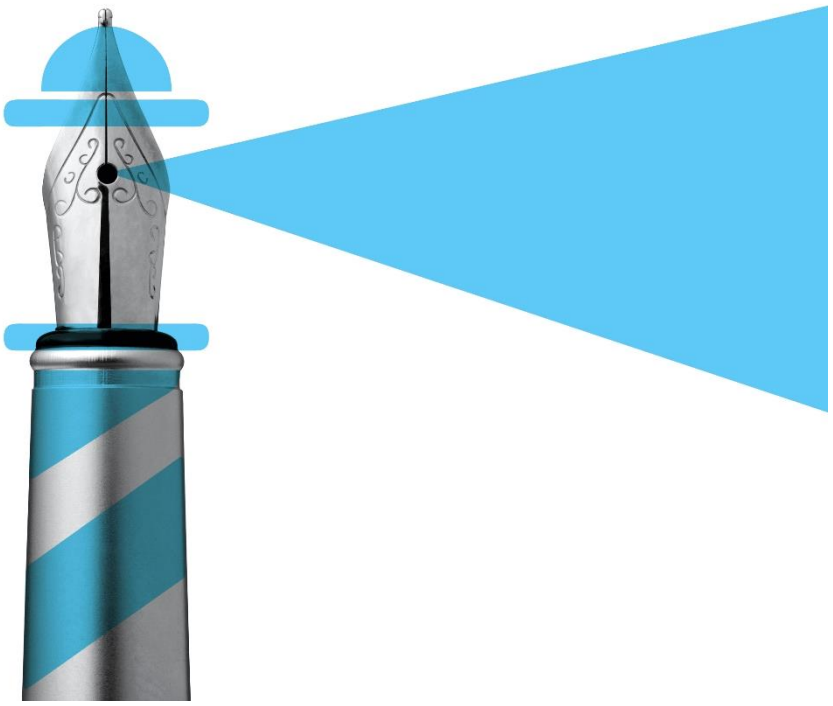
EVERSHEDS SUTHERLAND



EU tax directive DAC6

Why Switzerland is to be considered in DAC6 reporting

With Directive 2011/16/EU (known as DAC6), the EU aims to further increase transparency in tax matters and to combat aggressive tax planning. Cross-border arrangements concerning more than one EU state, as well as those concerning an EU state and a non-EU state, must be disclosed in the respective EU state.

The reporting obligations apply primarily to intermediaries (e.g. tax advisors, lawyers, banks, etc.), with secondary obligations falling on the taxpayers themselves. The reporting is required for arrangements that were in place as of **25 June 2018**.

What does this mean for Swiss based companies and international groups with fiscal presence in Switzerland?

Overview

25 June 2018 until 1st July 2020

Typical Swiss structures that may trigger a reporting obligation by 31st August 2020 (arrangement in place before 1st July 2020) at the latest:

- Principal companies and finance branches
- All cross-border arrangements involving companies with special tax regimes (holding, mixed company, domiciliary company)
- Reorganization of financing and IP structures

starting 1st July 2020

Typical cross-border arrangements with Swiss based companies, which, if not already disclosed by 31st August 2020 (arrangements concluded after 1st of July 2020), must be reported within 30 days:

- Patent box
- Interest on loans based on "safe haven rules" of the Swiss Federal Tax Administration
- Identical contracts concluded with several subsidiaries (concerning loans, management/service fees, license fees, etc.)
- Postings of employees to and from Switzerland

In Switzerland, neither the intermediaries nor the taxpayers are required to disclose, hence the reporting obligation **ALWAYS falls on the EU based counterparty** to the arrangement.

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