
Opinion Statement PAC 1/2026 - Impact Assessment on the Recast of the EU legislation on administrative cooperation in the field of taxation (DAC)

Issued by CFE Tax Advisers Europe

Submitted to the EU Institutions in January 2026

CFE Tax Advisers Europe is the European association of tax institutes and associations of tax advisers. Founded in 1959, CFE brings together 33 national tax institutes, associations and tax advisers' chambers from 24 European countries. CFE was the initiator of the Global Tax Advisers Platform through which it is associated with more than 600,000 tax advisers worldwide. CFE is part of the EU Transparency Register no. 3543183647-05.

We would be pleased to answer any questions you may have regarding our Opinion Statement. For further information, please contact Eduardo Gracia Espinar, Chairman of the CFE Professional Affairs Committee or Dr Aleksandar Ivanovski, Director of CFE at info@taxadviserseurope.org. For further information regarding CFE Tax Advisers Europe please visit our web page <http://www.taxadviserseurope.org/>

1. General remarks

CFE Tax Advisers Europe (CFE) welcomes the European Commission’s initiative to recast the Directive on Administrative Cooperation in the field of taxation (DAC) and the associated Call for Evidence and public consultation questionnaire.¹ CFE broadly supports the Commission’s objective of simplifying the DAC framework, reducing unnecessary administrative burden for intermediaries, and improving the overall functioning and effectiveness of administrative cooperation within the EU.

The recast and consolidation of DAC1–DAC9 into a single legislative instrument is a necessary and timely step. The current fragmentation of the legal framework, resulting from multiple successive amendments, has materially reduced legal clarity, increased compliance costs, and contributed to divergent national interpretations, most notably in relation to DAC6, DAC7, and the interaction between DAC4 and DAC9.

CFE’s views below are informed by expert input from its Professional Affairs Committee (PAC), member feedback, and structured discussion aligned with the Commission’s consultation questionnaire. They are intended to provide practical input to support the impact assessment process.

2. General simplification priorities (IT format-related)

CFE notes that the DAC prescribes a harmonised IT schema for exchange of information between Member States’ tax authorities, while domestic reporting formats for businesses may remain different. CFE acknowledges that IT-related questions in the consultation are primarily of IT character and that reliable cost estimates are difficult to provide. Nevertheless, CFE supports convergence of reporting formats where feasible, provided this does not result in additional cost for reporting entities and it is not detrimental to the protection of private data of the taxpayers.

¹ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC; OJ L 64, 11.3.2011, with subsequent amendments.

3. DAC4 and DAC9: alignment and centralised reporting

CFE strongly supports the alignment and effective merger of DAC4 (country-by-country reporting) and DAC9 (Pillar Two reporting). The two regimes are substantively aligned and currently generate unnecessary duplication, including overlapping notifications and reporting schemas. Merging the DAC4 and DAC9 reporting schemas will eliminate overlaps and prevent double reporting. Similarly, CFE would welcome the introduction of a centralised reporting approach, whereby a head/ parent company acts as the notifying and reporting entity within each jurisdiction, on behalf of the group entities. Finally, replacing annual notifications with a notification-of-changes-only approach, significantly reducing the compliance burden.

These measures would materially reduce administrative complexity while preserving the policy objectives of transparency and effective information exchange.

3. DAC6 Amendments

Reporting deadline

DAC6 currently requires potentially reportable cross-border arrangements to be disclosed within 30 days. Based on practitioner experience, CFE strongly supports extending this deadline to 90 days, as foreseen as an option in the consultation questionnaire. A longer deadline would:

- better reflect the complexity of DAC6 assessments;
- reduce compliance errors;
- and alleviate disproportionate administrative pressure on taxpayers and intermediaries.

Cost of DAC6 compliance

CFE members report that DAC6 compliance generates significant costs. For intermediaries, particularly lawyers, the average cost of preparing and filing a DAC6 report is estimated at approximately EUR 5000 per report, covering legal analysis, hallmark assessment, and reporting obligations. These costs are incurred on a per-report basis and may multiply where a single

taxpayer generates multiple reportable arrangements. While costs vary by jurisdiction, the overall burden is widely considered high and disproportionate relative to the practical utility of many reports.

Hallmarks and the Main Benefit Test

CFE agrees with the Commission’s evaluation that the Main Benefit Test (MBT) and hallmarks A1, A2 and A3 create significant administrative burden and are applied inconsistently across Member States.

Based on member experience:

- Hallmarks B1 and E2 are generally clear and workable.
- Hallmarks B2, C1(a), C1(b), C1(c), C2, D1 and D2 are unclear, extremely difficult, or in some cases practically impossible to apply due to lack of access to relevant information (notably recipient tax status or ownership transparency).
- Hallmarks D1 and D2 are particularly problematic, as they effectively require intermediaries or taxpayers to assume circumvention of CRS or non-transparent ownership structures, which may also be problematic from a legal point of view.

CFE recommends a targeted reassessment of these hallmarks to ensure they are objective, proportionate and enforceable. A periodic assessments of the hallmarks (for instance, every 5 years) to determine which ones should remain, which ones should be dropped and whether any new ones should be added to the list is encouraged by CFE.

In-house lawyers and structural asymmetry

Under current EU case law, in-house lawyers remain excluded from EU-law legal professional privilege, despite the increasing professionalisation of in-house legal and tax functions. This creates a structural asymmetry whereby identical legal advice is privileged when provided externally but not when provided internally.

CFE acknowledges that revisiting the established earlier CJEU case law lies primarily with the CJEU. Nevertheless, the DAC recast should at least recognise this asymmetry and ensure that

reporting obligations do not indirectly penalise robust internal compliance and governance structures.

DAC6 reporting obligation: role of intermediaries and taxpayers

Article 8ab(9) currently requires all intermediaries involved in a reportable arrangement to report, resulting in duplicative reporting and legal uncertainty. Where intermediaries are exempt due to legal professional privilege, the reporting obligation shifts to the taxpayer. CFE considers this structure inefficient and misaligned with both simplification objectives and the realities of legal professional privilege.

CFE recommends introduce a taxpayer-only reporting obligation under DAC6. Taxpayers are the ultimate beneficiaries of tax advice and legal professional privilege and the principal stakeholders in the arrangements concerned. A taxpayer-only reporting model:

- eliminates duplicative intermediary reporting;
- aligns with legal professional privilege across Member States;
- creates a level playing field within the internal market;
- and supports the Commission’s objective of reducing administrative burdens.

Legal professional privilege and protection of the advisory relationship

CFE reiterates that legal professional privilege is a fundamental safeguard for taxpayers and a cornerstone of trust in the tax system. Recent case law has highlighted the tension between DAC obligations and confidentiality protections.

CFE is particularly concerned that allowing tax authorities to bypass privileged advisers and obtain equivalent information directly from taxpayers risks undermining the substance of privilege in practice. CFE recommends the DAC recast explicitly recognises the need to protect the confidential advisory relationship and require a meaningful proportionality assessment where information requests risk indirectly neutralising legal professional privilege.

4. DAC7: digital platforms and de minimis thresholds

CFE supports revisiting DAC7 thresholds to better reflect economic reality and mid – term projections and inflation since the directive’s adoption.

CFE recommends de minimis exemption threshold for the sale of goods of EUR 1,000, focusing enforcement on higher-risk sellers rather than low-value, low-risk transactions.

This adjustment would significantly reduce administrative burden for platforms and sellers while preserving the effectiveness of DAC7 by focusing on transactions which can give rise to meaningful taxable returns.

5. Streamlining and governance improvements

Publication of consolidated DAC texts

CFE recommends that, whenever the DAC is amended, the Commission should simultaneously publish an updated, consolidated and officially endorsed recast version of the directive. Current practice, whereby unofficial consolidated texts are published with significant delays, undermines legal certainty and accessibility.

Codification of taxpayer rights

CJEU case law has progressively recognised taxpayer rights under the Charter of Fundamental Rights in the context of administrative cooperation and information exchange. CFE recommends codifying these established principles directly in the DAC recast to provide statutory clarity and balance the increasing compliance obligations imposed on taxpayers.

6. Conclusion

CFE considers the DAC recast a critical opportunity to address structural shortcomings identified through implementation experience, expert input, and recent case law. Simplification must be substantive, and in this vein CFE strongly supports:

- consolidation of DAC1–DAC9;
- alignment and merger of DAC4 and DAC9;
- extension of DAC6 reporting deadlines;
- current and on-going reassessment of DAC6 hallmarks;

- a taxpayer-only DAC6 reporting obligation;
- increased DAC7 de minimis thresholds;
- and stronger proportionality and governance safeguards.

Taken together, these measures would significantly reduce the administrative burden, enhance legal certainty, and reinforce the policy objectives of the DAC framework. CFE stands ready to continue engaging constructively with the Commission and Member States as the recast initiative progresses.