



Transparency in tax technology

The role of companies and consultants in transparency in a digital environment

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Main role of companies, supported by consultants:

To provide tax authorities timely with correct data in requested data format

- Typically, legal obligation to report; sometimes, optionality
- Reported data is relevant for applying proper taxation of...:
 - Reporting person itself
 - Others
- Data relevance may be direct (tax returns) or indirect (enabling counter-checks)

Scope of tax reporting obligation for companies has been massively expanded recently in the interest of tax transparency

- In not so distant past: Annual submission of corporate tax return with some enclosures (e.g. tax haven payments) and of forms 281.50 on certain expenses
- By now:
 - Common Reporting Standard (CRS) for financial institutions – DAC2
 - Transfer pricing documentation Local File / Master File
 - (Non-public) country-by-country reporting – DAC4 (BEPS Action 13)
 - Mandatory disclosure of reportable cross-border arrangements – DAC6 (BEPS Action 12)

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Scope of tax reporting obligation for companies has been massively expanded recently in the interest of tax transparency (cont.)

- ... and there is more to come!
DAC7 (digital platforms), DAC8 (crypto-currencies), public country-by country reporting, BEPS 2.0 with its two Pillars (inter alia global minimum taxation) etc. etc.

Where do these new tax transparency rules (usually) come from?

- OECD/G20/Inclusive Framework (IF) agree on new rules: soft law; however usually some are minimum standards for participant states
- Hard rule implementation is done by participant states' legislature
- EU agree on more than minimum standards by way of EU directive...
...which itself is only minimum harmonization and implemented by Member States

To fulfill obligations, tax technology is a must for companies and consultants

- To generate the requested data format (XML) and increase workflow efficiency
- To facilitate management of process for human users (e.g. DAC6) but also to exercise options in an informed way (e.g. EBITDA rule for Belgian ad-hoc group)
- Data tools / analytics used comprise rather not AI / algorithmic decision-making

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Technology considerations

Whilst transparency and information exchange obligations are agreed on at **international or supra-national level** (BEPS, DAC, ...) their implementation occurs on **national level**

- This can, and often does, lead to **mismatches**
 - Different interpretation on scope
 - No uniform technology platforms
- This leads to **different requirements** on what needs to be reported and how this needs to be reported. Example : DAC 6 whereby a cross-border transaction between Finland and Belgium needs to be reported according to the Finnish rules/interpretation, not according to the Belgian rules/interpretation.
- **Mismatches result in increased burden and cost for companies**
- **Compliance burden has massively increased over the past years**

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Practical experience in Belgium

- **Different platforms** in use to perform different filings (Tax-On-Web, Biztax, Belcotax, MyMinfin). Uniformization is underway but there is still a long way to go.
- Obligation / strong recommendation to taxpayers to **replace paper filings by electronic filings**. For the filing of corporate tax returns and other filings, paper filings are only exceptionally accepted in case electronic filing is not possible.
- **Use data that is available more efficiently**, e.g. to select files and returns for tax audit – data mining. As an example there is the recent coordinated action from the tax authorities to check whether tax exempt provisions reported in corporate tax returns meet the stricter conditions that apply as a consequence of the tax reform.
- No real-time exchange of data between taxpayer and tax authorities in Belgium

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Some key concerns for companies and consultants

- **At least vast majority of companies and consultants want to be fully compliant.** Therefore, rule-makers should design rules such that...:
 - compliance with all obligations is practically feasible (volume, deadlines for first implementation and for periodic obligations, etc.)
 - compliance burden and cost can be kept low (inter alia reduce divergence where possible) – *“Leuker kunnen we het niet maken, wel makkelijker”*
- **Can advantages be systematically achieved for complying taxpayers?**
 - Tangible benefits (financial rewards)? Intangible (goodwill with tax authorities)?
 - Increased speed or simplification of tax procedures? (e.g. WHT refund?)
- **(Understandable) wish for maximum transparency must have limits**

Example: conflicts with other legally protected positions (also beyond GDPR)

 - Pending request for preliminary CJEU ruling by Belgian Constitutional Court re DAC6 (C-694/20) re taxpayer’s fundamental rights, professional privilege
- **Transparency on the use of data by tax authorities to allow scrutiny of efficiency and fairness and to facilitate debate and improvement**



Thank you!

