PRESS RELEASE

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Subject **CMS sees need for action on EU reporting obligation for tax administrations**

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EU DAC 6 directive targets aggressive tax models—but those responsible are still too unfamiliar with reporting requirements

On the way to a Europe-wide uniform duty of disclosure of cross-border tax structuring models, Austria is one of the four EU member states, along with Lithuania, Poland and Slovenia, in which the EU Directive has already been adopted by the National Council. And yet there is currently a lack of awareness and know-how about who has to report what and when. As part of a business breakfast from the “Risk & Prevention” series, CMS therefore offered an overview of what needs to be examined and done about a potential reporting obligation.

While in Germany—where, in contrast to Austria, only a draft of the national law is available—companies, groups, banks and consultants are already intensively concerned with the changed framework conditions resulting from the EU Directive on the reporting obligation for cross-border tax arrangements, taxpayers and intermediaries such as financial service providers, asset managers and consultants in Austria have not yet recognised the pressing need for action. Although the notification requirement comes into force on 1 July 2020, tax arrangements will have to be reviewed, documented and reported retroactively from June 2018.

“This means that internal company processes must be set up in good time,” says Sibylle Novak, partner at CMS Vienna and tax law expert, and one of only a few people who is professionally qualified as both a lawyer and a tax consultant. “In order not only to comply with the reporting obligation in the future, but also to be able to cover the past two years, a corresponding lead-in time is urgently needed before the amending directive comes into force in the middle of next year. In addition to the must-dos covered by host Sibylle Novak, the guests also benefited from the practical tips offered by the two external lecturers, whose companies are already well advanced in their preparations for the new EU directive. Both Matthias Remmel from the tax department of Deutsche Bank AG in Frankfurt am Main and Thomas Thomasberger, head of the CEE tax department at Siemens Austria, shared their experiences and answered questions during the concluding discussion. The CMS Business Breakfast meant that the Viennese law firm was one of the first in Austria to provide comprehensive expert knowledge on this topic.

Against tax avoidance, aggressive tax planning and tax evasion

In addition to the clearly formulated objectives of the EU Directive, the scope of application is also sufficiently well known. For example, the reporting obligation applies to taxes of all kinds (income, corporation, inheritance and gift tax)—with the exception of VAT, customs duties, excise taxes and social security contributions. There is, however, a need for clarification with regard to the definition of persons subject to reporting requirements as to when cross-border tax arrangements are actually subject to reporting and when there is a conditional or unconditional reporting obligation, in what time frame and how a reporting procedure should look and what sanctions are ultimately to be expected in the event of infringements. In this context, it is also crucial that the mere information of the tax authorities has no protective effect, i.e. that tax audits and criminal tax proceedings cannot be averted.

Pictures of CMS breakfast for use free of charge are available here.

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