

Hallmarks of the arrangement – overview

A General hallmarks (section 138 e (1) No. 1 - 2 AO) (§ 138j (3) No. 1 - 2 AO)	B Specific hallmarks (section 138 e (1) No. 3 and No. 4 a) to c) AO) (§ 138j (3) No. 3 - 4 AO)	C.1 Specific transactions (section 138 e (1), No. 3 d) and e) AO)	C.2 Specific transactions (section 138 e (2) No. 1 AO)	D Specific hallmarks relating to exchange of information (financial accounts)/beneficial owner(s) (section 138 e (2) No. 2 and No. 3 AO)	E Specific hallmarks relating to transfer pricing arrangements (section 138 e (2) No. 4 AO)
Arrangement involving agreement of a qualified confidentiality clause relating to the tax advantage	Arrangement for specifically acquiring a loss-making company	Cross-border payments made between associated enterprises, in which ...	Cross-border payments made between associated enterprises, in which ...	Arrangement undermining the automatic exchange of information on financial accounts	Arrangement involving the use of unilateral safe harbour rules
Arrangement involving agreement of a fee that is contingent on the tax advantage	Arrangement leading to the conversion of income into income taxed at a lower level or exempt from tax	<ul style="list-style-type: none"> the recipient is resident in a tax jurisdiction with a corporation tax rate of zero or close to zero 	<ul style="list-style-type: none"> the recipient is not resident for tax purposes in any tax jurisdiction 	Arrangement involving non-transparent legal or beneficial ownership chains	Arrangement involving the transfer of hard-to-value intangibles
Arrangement using standardised documentation/structure	Arrangement which includes circular transactions resulting in the round-tripping of funds	<ul style="list-style-type: none"> the payment to the recipient is exempt from tax in full 	<ul style="list-style-type: none"> the recipient is resident in a jurisdiction on the EU/OECD list of non-cooperative states (blacklist) 		Transfer of functions/risks and/or assets if the transferor's EBIT declines by more than 50%
Additionally required: "main benefit" test Main benefit or one of the main benefits which, having regard to all relevant facts and circumstances, a person may reasonably expect to derive from an arrangement is the obtaining of a tax advantage (Part I, DAC 6 – section 138 d (2) No. 3 a), AO)		<ul style="list-style-type: none"> the payment to the recipient is subject to a preferential tax regime 	Arrangement that has as its object the circumstance that in more than one tax jurisdiction		
			<ul style="list-style-type: none"> deductions for the same depreciation on the asset are claimed relief from double taxation for the same asset is claimed there is a transfer of assets valued differently for tax purposes 		