

Five white ducks are positioned on the left side of the slide against a solid blue background. They are arranged vertically, with their heads turned towards the right. The top duck has its beak open as if quacking.

Tax!
Tax!

DAC6!
DAC6!

**WHATEVER YOU DO,
DON'T DUCK IT!**

Tax!
Tax!

Reportable?

*Inspired by an HMRC Poster- Don't duck it!

WELCOME TO “HOW-TO DAC6”

Webinar: 27 November 2020

ADRIAN LUCA | TPS

Special guests today



Adela Tapurin

Head of Tax and Treasury, NEPI Rockcastle Group

Taxpayer that implemented a DAC6 project on 9 European markets



Ruth Mittelman Cohen

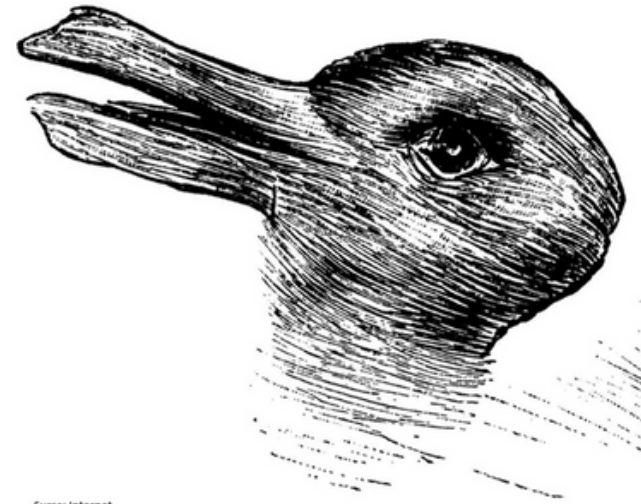
Legal and Research Executive, VinciWorks

The leading British provider of DAC6 compliance software solutions



The elusive DAC6 . . .

- A seminar solves your DAC6 problem
- DAC6 legal framework is crystal clear
- DAC6 is just a formality



Sursa: Internet

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DAC6!
DAC6!

DAC6...

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First DAC6 questions

Q1: Which is your DAC6 angle?

Q2: What is the share of your cross-border transactions in your company's portfolio?

Q3: In your understanding, transaction means arrangement?

Q4: How do you monitor the arrangements?

www.slido.com

code: DAC6TPS

DAC6 ...

Tax!
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DAC6!

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Sharing the best practices

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DAC6!

DAC6 best practices

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- 9 EU jurisdictions, 9 different perspectives of the local authorities
- different teams, different advisors, different national provisions
- both cross-border and local arrangements

“HOW-TO DAC6” WITH THIS?



How a real DAC6 project unfolds in practice

Step 1: Understand the objectives of a DAC6 project

HOW-TO DAC6

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1 DAC6 impact assessment

Assess the impact DAC6 may have on your Company's business, processes and procedures, tax strategy and on the reporting obligations.

2 Review of arrangements

Review the cross-border arrangements engaged in by the Company as of 25 June 2018 and assess their reportability in line with the DAC6 legislation.

3 Draft "Position papers"

Draft the "Position papers" for those arrangements that may be seen as interpretable from a DAC6 perspective. The "Position papers" will serve as defense files during a tax audit.

4 Reporting (Representation)

Prepare the DAC6 reports for the reportable arrangements to be submitted to the tax authorities.

5 Dedicated training

Provide your staff with the must-have DAC6 knowledge that will allow them to understand and ensure compliance with the DAC6 regulation.

6 Ongoing compliance & monitoring

Put in place robust controls and procedures for ongoing DAC6 compliance. Continuous monitoring of the new arrangements that may fall under DAC6 reporting obligations and the regulatory changes.

DAC6 tools that make your life easier

HOW-TO DAC6

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Reportable?

- Country by country implementation guide

www.dac6guide.eu

- DAC6 Questionnaire

appendix 8, DAC6 guide, www.dac6guide.eu

- DAC6 Software

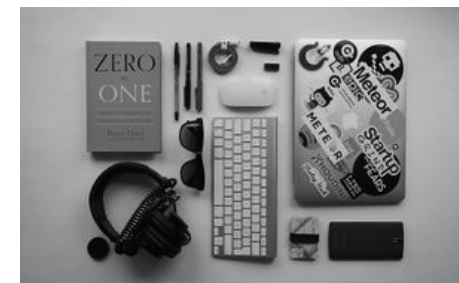
www.vinciworks.com

- DAC6 Internal procedures

resources, www.dac6guide.eu

- DAC6 training platform

resources, www.dac6guide.eu



Stages of a DAC6 project

HOW-TO DAC6

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Ensuring ongoing DAC6 compliance

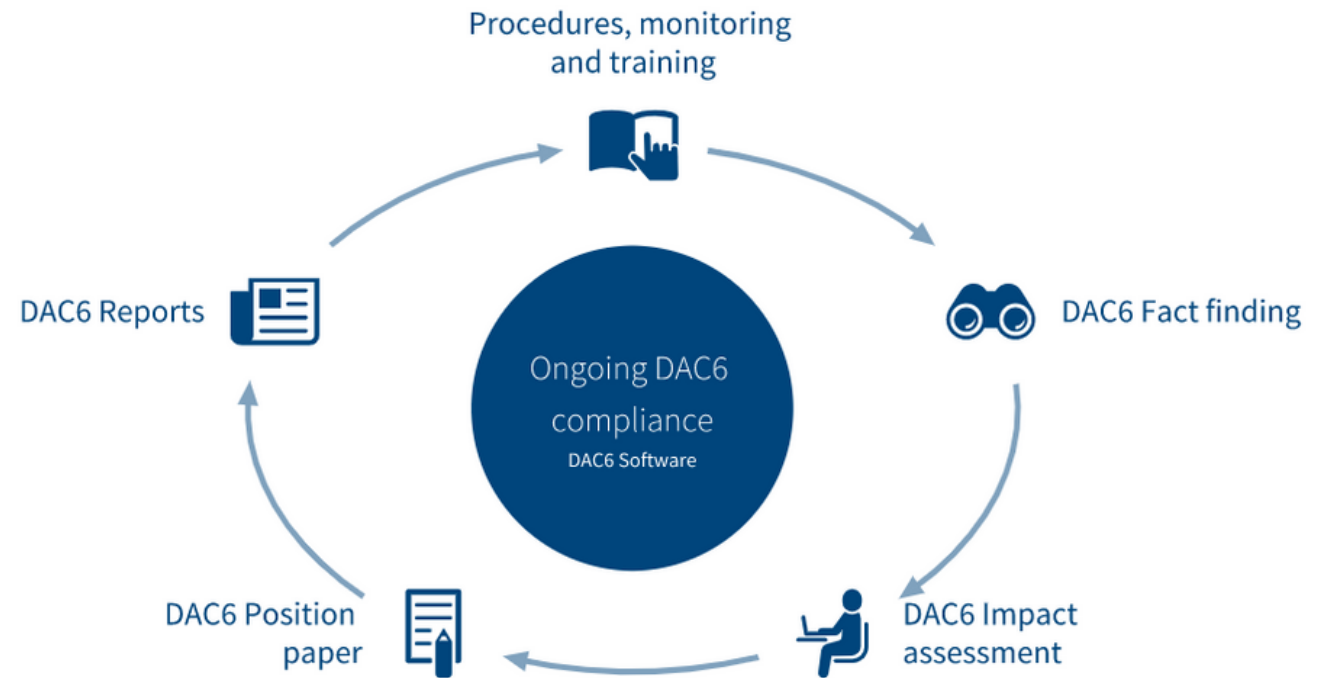
HOW-TO DAC6

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Challenges of implementing a DAC6 automatic solution

- Thousands of cross-border transactions
- Challenges in assigning the responsibilities in the reporting process
- Regular monitoring for changes in transactions
- Controlling the narrative / Knowing who, where and when reported
- Retaining an audit trail
- Fully customizable to any industry



“HOW-TO DAC6” WITH THIS?

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Technical approach

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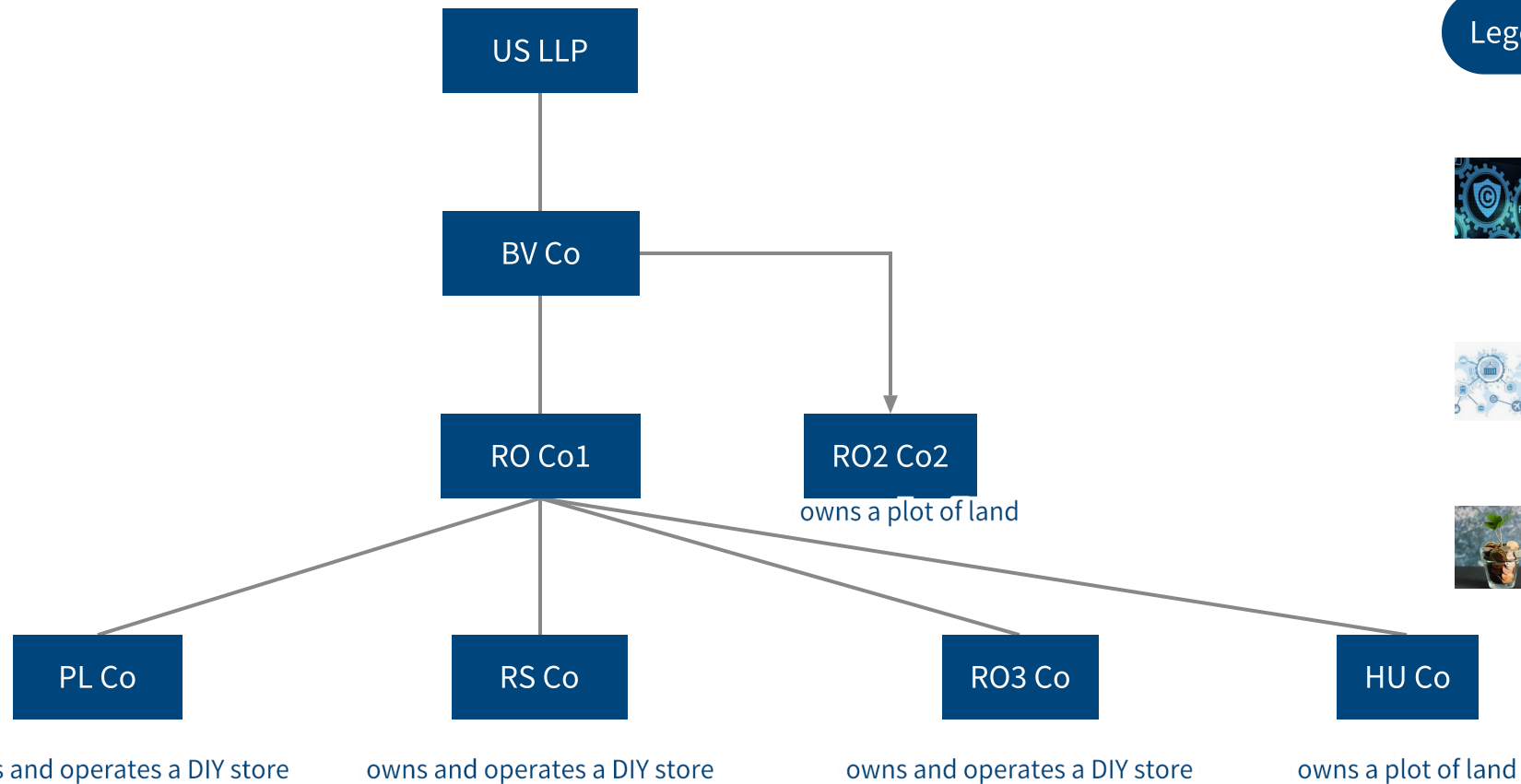
STUDY CASE

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Reportable?

DAC6 - Study case for a DIY retailer

Business model as at 24 June 2018



Legend:



US LLP

Owner of IP rights



BV Co

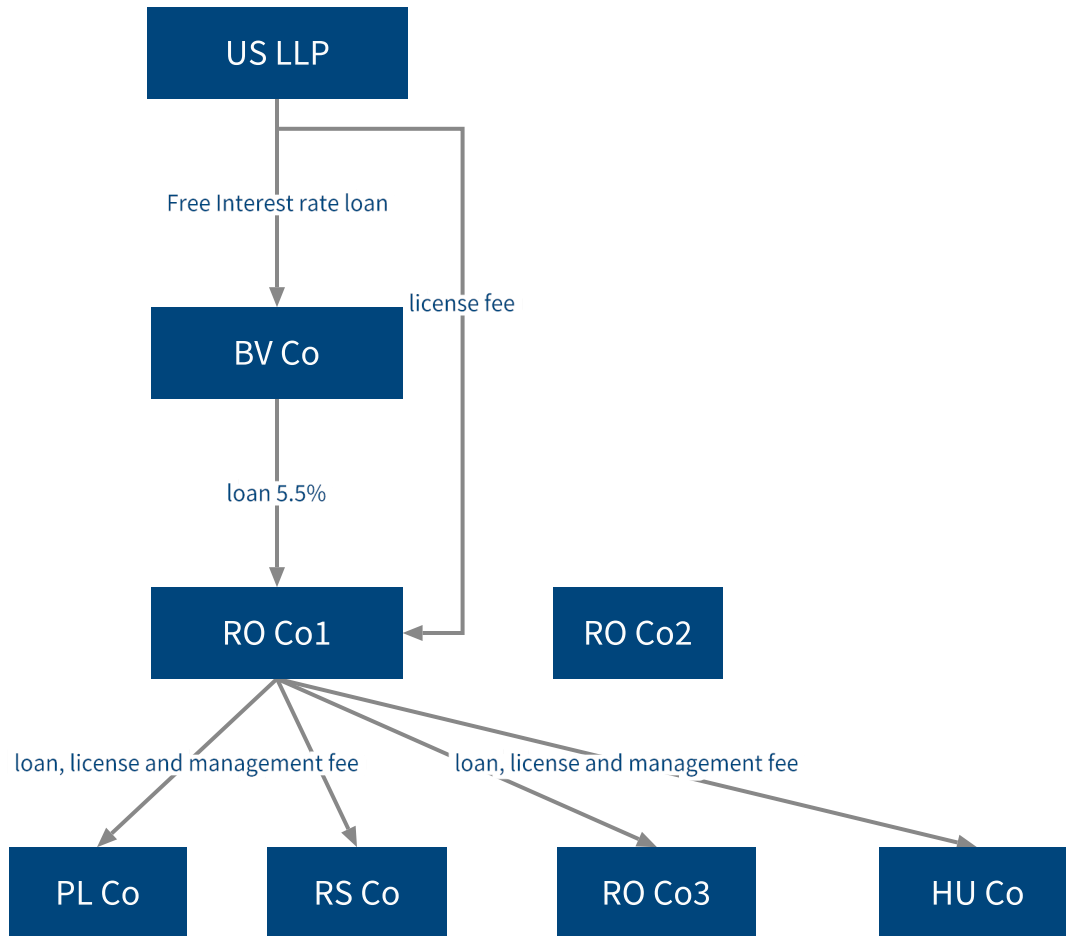
Central purchasing company



RO Co1

Holding, Management & Central financing entity

Mapping of intra-group transactions



Intra-group transactions:

- 1 Interest-free loan from US LLP to BV Co
- 2 Loan granted by BV Co to RO Co1 (5.5% interest rate)
- 3 Loans granted by RO Co1 to PL Co, RS Co, RO Co3, HU Co (at 6%)
- 4 Management services provided by RO Co1 to PL Co, RS Co, RO Co3, HU Co
- 5 License fee charged by US LLP to RO Co1 for the right to use “DECOR” tradename and trademark
- 6 Sub-license fee charged RO Co1 to bottom tier (PL Co, RS Co, RO Co3, HU Co)
- 7 Purchases of SAP license fee by PL Co, RS Co, RO Co3, HU Co from BV Co
- 8 Commission charged by BV to PL Co, RS Co, RO Co3

Outcome of the DAC6 interview

- 1 | D/E Swap between RO Co1 and PL Co
October 2019
- 2 | D/E Swap between Ro Co1 and Ro Co3
October 2019
- 3 | Liquidation of RO Co2
December 2019
- 4 | Change of interest rate for the loans granted by RO Co1 to PL Co, RS Co, RO Co3, HU Co
January 2020
- 5 | Change in TP methodology for management services
January 2020
- 6 | Sale of a plot of land that is lend to a third party by HU Co to RO Co2 and moving central purchasing center in Poland from Romania
July 2019
- 7 | One natural person is administrator of RO1 Co and receives a remuneration from all the following entities: PL Co, RS Co, RO Co3, HU Co
Since December 2018
- 8 | Central purchasing function moved from BV Co to Ro Co1
August 2020
- 9 | Free interest loan?

DAC6 hallmarks - Annex 4, EU Directive 2018/822



Category A: generic hallmarks linked to the main benefit test (i.e. MBT)

- A.1. Compliance with a condition of confidentiality with respect to a tax advantage
- A.2. The intermediary is entitled to a fee related to a tax advantage
- A.3. Standardized documentation

Category B: specific hallmarks linked to the main benefit test

- B.1. Exploiting tax-deductible losses
- B.2. Conversion of income to reduce taxes due
- B.3. Circular transactions resulting in the round tripping of funds

Category C: Specific hallmarks related to cross-border transactions

- C.1. Deductible cross-border payments between associated enterprises
- C.2. Depreciation
- C.3. Relief from double taxation
- C.4. Transfer of assets

Category D: Specific hallmarks related to hiding the gaining of taxable income

- D.1. Undermining reporting obligations
- D.2. Obscuring Beneficial Ownership

Category E: Specific hallmarks concerning transfer pricing

- E.1. Unilateral safe harbour rules
- E.2. An arrangement involving the transfer of hard-to-value intangibles
- E.3. A transfer halving the transferor's EBIT during the next three years

C.1. Deductible cross-border payments between associated enterprises



a) the recipient is not resident for tax purposes in any tax jurisdiction;

Non-MBT

b) although the recipient is resident for tax purposes in a jurisdiction, that jurisdiction either:

(i) does not impose any corporate tax or imposes corporate tax at the rate of zero or almost zero; or **MBT**

(ii) is included in a list of third-country jurisdictions which have been assessed by Member States collectively or within the framework of the OECD as being non-cooperative; **Non-MBT**

c) the payment benefits from a full exemption from tax in the jurisdiction where the recipient is resident for tax purposes;

MBT

d) the payment benefits from a preferential tax regime in the jurisdiction where the recipient is resident for tax purposes;

MBT

There are some jurisdictions (e.g. Poland and Portugal) which firstly implemented their own lists of non-cooperative jurisdictions, but this was previously amended, as this created an unilateral interpretation of this hallmark, fact which is in disagreement with the fair taxation principles, implemented through DAC6. The Netherlands and Portugal, for example, have their own lists of non-cooperative jurisdictions, but these lists are not used for DAC6 reporting process.

EU list of non-cooperative jurisdictions

[click here](#) for the last updated list - 10 October, 2020
Next update is planned in February 2021.



OECD list of non-cooperative jurisdictions

Compliance ratings following peer reviews against the standard of
EOIR - [click here](#)



DAC6 questions - examples

- 1 | What arrangements should be reported?
- 2 | When should be the arrangements reported?
- 3 | Who should report the arrangement?
- 4 | Where should be the arrangements reported?

Learn to live with DAC6

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**KEEP CALM
AND DAC6**

Tax!

Tax!

Reportable?

- Any new (external) transaction should be analyzed, by default, through DAC6 lenses by the relevant taxpayer
- Any transaction will be analyzed through DAC6 lenses by the tax authority (so ask yourself before the upcoming audit: why don't I report a potentially reportable transaction?)
- Do not assume a transaction is not reportable, before having checked the entire arrangement
- Always have a broad picture of your (external) transaction, with easy access to all related documents
- Now more than ever, any arrangements which may raise suspicions regarding (substantial) tax advantages should start with the question – is it worth it?
- Consistency in explaining the economic reasoning of a transaction from the perspective of all parties involved
- From now on, there will be direct consequences of lacking documentation: DAC6 fines



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DAC6 reporting solution



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- Funny DAC6 video - [Click here](#)
- Our latest DAC6 Article - [See here](#)
- dac6guide.eu platform - [How it works](#)
- Sample of country guide - [Click here](#)
- DAC6 Reporting Solution - [How it works](#)
- Other DAC6 resources - [Click here](#)

And in a DAC6 note...

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THANK YOU

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DANKE!
THANK YOU!
MERCI!
GRAZIE!
GRACIAS!
DANK JE WEL!



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*Inspired by an HMRC Poster- Don't duck it!