

itmm

IRISH TAX MONITOR

DAC 8

In May 2023, EU finance ministers reached agreement on a compromise text for the Directive on administrative cooperation (DAC8) which will extend the scope of the current rules on the exchange of tax-relevant information. Can you outline the key changes as relevant to Irish taxpayers?

Andrew Quinn, partner, Maples Group: DAC8 will introduce new tax reporting rules across the EU for service providers facilitating transactions in crypto-assets for customers resident in the EU. DAC8 will be adopted into national law by each of the EU Member States and will generally come into effect from 1 January 2026.

DAC8 builds off another recent EU law on crypto-assets, the Markets in Crypto-assets (MiCA) Regulation, and will apply to two categories of crypto-asset intermediaries, collectively referred to as 'reportable crypto-asset service providers' (RCASPs).

The first category is MiCA regulated entities known as 'crypto-asset service providers' which must be authorised by a Member State to offer their services to within the EU. The second category is 'crypto-asset operators' which are non-EU



Andrew Quinn

exchanges or platforms, not covered by MiCA, but which are now required to register with a Member State under DAC8 due to having EU resident users. This is effectively extending the territorial reach of EU law, something that we have seen in other EU tax measures recently, such as the DAC6 Directive. DAC6 requires the reporting of certain cross border transactions by "intermediaries" to EU tax authorities, and in some cases non-EU based intermediaries must also report under DAC6.

RCASPs authorised and registered in Ireland will be subject to due diligence obligations in relation to their user base, in addition to reporting on transactions involving in-scope crypto-assets (the Directive has a broad definition to also include decentralised currencies) to the Irish Revenue Commissioners. Reports must include details on the full name of the type of crypto-assets, number of units, gross amount paid and received, fair market value and the total number of transactions. Penalties for non-compliance with tax reporting are to be determined by each Member State and will be set out in the Irish legislation transposing the Directive.

DAC8 will also impact on Irish resident crypto-asset users under the new mandatory due diligence procedures. Irish legal entity and individual users must be verified via self-certification by the RCASP and will be required to provide the following information: their legal name, legal address, date of birth, tax resident Member State and TIN (tax identification number). Entity users may be required to provide additional information to determine the status of controlling persons. Failure to comply could result in their account being frozen and further transactions prevented by the RCASP.