

Philippines

The Philippines has met all aspects of the terms of reference (OECD, 2021^[1]) (ToR) for the calendar year 2022 (year in review), except for having in place a process to ensure the timely exchange of information on rulings in the form required by the transparency framework (ToR II.B). The Philippines receives one recommendation on this point for the year in review.

In the prior year report, as well as in the 2017-2020 peer reviews, the Philippines had received three recommendations. Philippines has addressed and resolved two recommendations regarding identifying all potential exchange jurisdictions for both past and future rulings (ToR I.A.2.1 and ToR I.A.2.2). The one other recommendation has not been addressed and remains in place.

The Philippines can legally issue one type of rulings within the scope of the transparency framework.

In practice, the Philippines issued rulings within the scope of the transparency framework as follows:

Type of ruling	Number of rulings
Past rulings	28 ¹
Future rulings in the period 1 April 2017 – 31 December 2017	4
Future rulings in the calendar year 2018	30
Future rulings in the calendar year 2019	10
Future rulings in the calendar year 2020	15
Future rulings in the calendar year 2021	54
Future rulings in the year in review	45

As no exchanges took place, no peer input was received in respect of the exchanges of information on rulings received from the Philippines.

Information gathering process (ToR I.A)

932. The Philippines can legally issue the following type of rulings within the scope of the transparency framework: permanent establishment rulings

Past rulings (ToR I.A.1.1, I.A.1.2, I.A.2.1, I.A.2.2)

933. For the Philippines, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2015 but before 1 September 2017; or (ii) on or after 1 January 2012 but before 1 January 2015, provided they were still in effect as at 1 January 2015.

934. In the prior years' peer review reports, it was determined that the Philippines' undertakings to identify past rulings met the ToR. However, the Philippines was recommended to apply the "best efforts approach" to identify potential exchange jurisdictions, in particular for the ultimate parent company, as this was the only type of information on potential exchange jurisdictions that was not provided by the taxpayer upon application. During the year in review, the Philippines checked additional information such as transfer pricing documentation, internal files from the tax administration, and additional obtained data from the taxpayer, in order to identify potential exchange jurisdictions. The Philippines used the "best efforts approach" and therefore, the prior years' recommendation can be removed.

Future rulings (ToR I.A.1.1, I.A.1.2, I.A.2.1)

935. For the Philippines, future rulings are any tax rulings within scope that are issued on or after 1 September 2017.

936. In the prior years' peer review reports, it was determined that the Philippines' undertakings in respect of future rulings met the ToR, except for identifying all potential exchange jurisdictions (ToR I.A.2.1). Therefore, the Philippines was recommended to ensure that all potential exchange jurisdictions are identified swiftly for future rulings. During the year in review, the Philippines made changes to the ruling application form, and now requires for all rulings that the taxpayer provides information on the head office of the permanent establishment and information on the ultimate and immediate parent entities. Therefore, the prior years' recommendation can be removed.

Review and supervision (ToR I.A.3)

937. In the prior year's peer review report, it was determined that The Philippines's review and supervision mechanism was sufficient to meet the minimum standard. The Philippines's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

Conclusion on section A

938. The Philippines has met all of the ToR for the information gathering process.

Exchange of information (ToR II.B)

Legal basis for spontaneous exchange of information (ToR II.B.1, II.B.2)

939. The Philippines has the necessary domestic legal basis to exchange information spontaneously. The Philippines notes that there are no legal or practical impediments that prevent the spontaneous exchange of information on rulings as contemplated in the Action 5 minimum standard.

940. The Philippines has bilateral agreements with 42 jurisdictions permitting spontaneous exchange of information.² The Philippines signed the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[2]) ("the Convention") in September 2014, but the Philippines has not yet ratified the Convention. The Philippines is therefore encouraged to continue its efforts to ratify the Convention and expand its international exchange of

information on rulings. It is noted, however, that jurisdictions are assessed on their compliance with the transparency framework in respect of the exchange of information network in effect for the year of the particular annual review.

Completion and exchange of templates (ToR II.B.3, II.B.4, II.B.5, II.B.6, II.B.7)

941. In the prior years' peer review reports, it was determined that the Philippines' did not have a process for the completion and exchange of templates. Therefore, the Philippines was recommended to continue its work to complete its processes for the completion and exchange of information as soon as possible.

942. During the year in review, the Philippines started to implement a process for completing the templates for the exchanges of information, which was adopted in 2023. During the year 2023, the Philippines made exchanges regarding five rulings. However, during the year of review, as the Philippines did not have the process for completion and exchange of templates in force yet, the recommendation remains and the Philippines' efforts will be taken on account on the next year's report.

943. For the year in review, as there is no process for the completion and exchange of templates and therefore no exchanges took place, no data on the timeliness of exchanges can be reported.

Conclusion on section B

944. The Philippines has the necessary legal basis for spontaneous exchange of information. The Philippines is recommended to continue its efforts to put in place a process to complete the templates for all relevant rulings and to ensure that the exchanges of information on rulings occur as soon as possible (ToR II.B).

Statistics (ToR IV.D)

945. As there was no information on rulings exchanged by Philippines for the year in review, no statistics can be reported.

Matters related to intellectual property regimes (ToR I.A.1.3)

946. The Philippines does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[3]) were imposed.

Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
<p>The Philippines does not yet have a process in place to ensure the timely exchange of information on rulings in the form required by the transparency framework. The Philippines has made efforts on this during the year 2023, which will be taken into account in next year's peer review report.</p>	<p>The Philippines is recommended to continue its efforts to put in place a process to complete the templates for all relevant rulings and to ensure that the exchanges of information on rulings occur as soon as possible. This recommendation remains unchanged since the 2017, 2018, 2019, 2020 and 2021 peer review reports.</p>

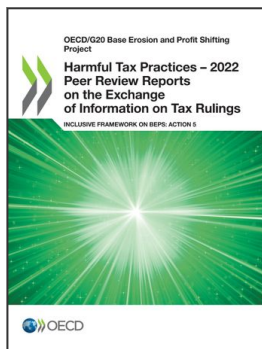
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- OECD (2015), *Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/9789264241190-en>. [3]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://doi.org/10.1787/9789264115606-en>. [2]

Notes

¹ In previous peer review reports, it was noted that there were 78 past rulings. However, the Philippines has done a second review of the issued past rulings. Based on the review, the Philippines identified that 50 out of the 78 rulings did not fall in the definition of a past ruling.

² Participating jurisdictions to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Philippines also has bilateral agreements with Australia, Austria, Bangladesh, Belgium, Brazil, Canada, China (People's Republic of), Czechia, Denmark, Finland, France, Germany, Hungary, India, Indonesia, Israel, Italy, Japan, Korea, Kuwait, Malaysia, Mexico, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Poland, Qatar, Romania, Russia, Singapore, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Türkiye, United Arab Emirates, United Kingdom, United States and Viet Nam.



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