

Georgia

Georgia has met all aspects of the terms of reference (OECD, 2017^[31]) (ToR) for the calendar year 2018 (year in review).

This is Georgia's first review of implementation of the transparency framework.

Georgia can legally issue four types of rulings within the scope of the transparency framework. In practice, Georgia has not issued any rulings within the scope of the transparency framework.

As no exchanges were required to take place, no peer input was received in respect of the exchanges of information on rulings received from Georgia.

Introduction

This peer review covers Georgia's implementation of the BEPS Action 5 transparency framework for the year 2018. The report has four parts, each relating to a key part of the ToR. Each part is discussed in turn. A summary of recommendations is included at the end of this report.

A. The information gathering process

Georgia can legally issue the following four types of rulings within the scope of the transparency framework: (i) preferential regimes;¹ (ii) cross-border unilateral APAs and any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles; (iii) permanent establishment rulings; and (iv) related party conduit rulings. The Legal department of the Revenue Service of the Ministry of Finance is in charge of issuing rulings.

Past rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1, I.4.2.2)

For Georgia, past rulings are any tax rulings within scope that are issued either (i) on or after 1 January 2016 but before 1 April 2018; and (ii) on or after 1 January 2014 but before 1 January 2016, provided they are still in effect as at 1 January 2016.

Georgia has been able to issue rulings since 2010. The team responsible for issuing rulings is the Advance rulings division, which is a part of the Legal department within the Revenue Service. The team consists of seven members.

All rulings that were issued are stored in a special database. This database includes information with respect to the date of issuing the ruling, information on related parties and a short summary of the ruling. Based on this, the members of the Advance rulings division conducted a manual review of all of the rulings included in the database. The Advance rulings division did not identify any rulings in scope of the Action 5 transparency framework. As such, no steps were required to be taken to identify potential exchange jurisdictions.

Future rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1)

For Georgia, future rulings are any tax rulings within scope that are issued on or after 1 April 2018.

When a ruling is issued, the Advance rulings division is in charge of identifying whether the ruling meets the criteria under the Action 5 transparency framework and whether it needs to be exchanged upon or not.

A Ministerial decree has been issued in December 2018 with the rules and procedures relating to the advanced tax rulings. Despite this being after the start of the period for which future rulings could be issued, there were no rulings issued in practice and therefore there is no impact on the implementation of the transparency framework. In order to identify the potential exchange jurisdictions, the taxpayer needs to provide the information with respect to the related parties it transacts with, the immediate parent company, the ultimate parent company and any other relevant information with the application for the ruling. If information is missing, the Advance rulings division has the power to ask the taxpayer for the additional information. If the necessary information is not provided, no ruling can be issued.

Review and supervision (ToR I.4.3)

The Ministry of Finance is in charge of the review and supervision of tax rulings. Before a ruling is issued, it needs to be approved by the Ministry of Finance. The Ministry also double checks all rulings issued to see whether a ruling is in scope of the Action 5 transparency framework.

Once a ruling is identified as being in scope of the Action 5 transparency framework, it would be sent to the Tax and Customs policy department, which double-check the categorisation of the ruling and the identification of the potential exchange jurisdictions. This department is also responsible for conducting the exchange.

Conclusion on section A

Georgia has met all of the ToR for the information gathering process and no recommendations are made.

B. The exchange of information

Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)

Georgia has the necessary domestic legal basis to exchange information spontaneously. Georgia 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.

Georgia has international agreements permitting spontaneous exchange of information, including being a party to the (i) *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[4]) (“the Convention”) and (ii) double tax agreements in force with 57 jurisdictions.²

Completion and exchange of templates (ToR II.5.3, II.5.4, II.5.5, II.5.6, II.5.7)

The procedure and timelines for the completion and exchange of templates are set out under a new Ministerial order (number 480), titled “Implementation of the obligatory measures under the Base Erosion and Profit Shifting (BEPS) project”.

When a ruling has been issued and identified as in scope for the Action 5 transparency framework, the Advance ruling division will send it within two months to the Tax and Customs policy department, who is the Competent Authority. The Competent Authority is responsible for completing the templates and this must be done in the form of Annex C of the 2015 Action 5 Report (OECD, 2015^[5]). The summary section of the template has to be completed in line with the internal FHTP suggested guidance. The template must then be sent to the relevant jurisdictions within one month of receiving the information from the Advance ruling division.

As Georgia did not issue any rulings in scope of the transparency framework in the relevant period, Georgia was not required to exchange any information on rulings in the year in review and no data on the timeliness of exchanges can be reported.

Conclusion on section B

Georgia has the necessary legal basis for spontaneous exchange of information and has a process for completing the templates in a timely way. Georgia has met all of the ToR for the exchange of information process that can be met in the absence of rulings being issued and exchanged in practice and no recommendations are made.

C. Statistics (ToR IV)

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

D. Matters related to intellectual property regimes (ToR I.4.1.3)

Georgia does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[5]) 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
	No recommendations are made.

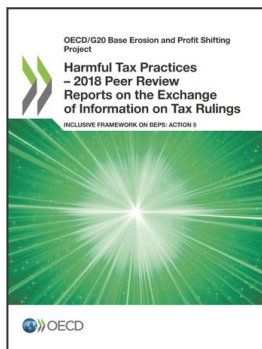
Notes

¹ With respect to the following preferential regimes: 1) International financial company and 2) Virtual zone person.

² Parties to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Georgia also has bilateral agreements with Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Belarus, Belgium, Bulgaria, China (People's Republic of), Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Iran, Ireland, Israel, Italy, Japan, Kazakhstan, Korea, Kuwait, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Qatar, Romania, San Marino, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom and Uzbekistan.

Note by Turkey: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union. The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.



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