

# Kazakhstan

Kazakhstan is taking steps to implement the legal basis for the transparency framework and to commence administrative preparations in line with the terms of reference (OECD, 2017<sup>[3]</sup>) (ToR) to ensure that it finalises information gathering process (ToR I.4) and information on rulings will be identified and exchanged in a timely manner (ToR II.5). Kazakhstan receives two recommendations on these points for the year in review.

In the prior year report, Kazakhstan had received the same two recommendations. As they have not been addressed, the recommendations remain in place.

Kazakhstan can legally issue one type of ruling within the scope of the transparency framework.

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

- One past ruling;
- For the period 1 April 2018 - 31 December 2018: no future rulings;
- For the year in review: no future rulings.

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

## A. The information gathering process

632. Kazakhstan can legally issue the following type of ruling within the scope of the transparency framework: 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.

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

633. For Kazakhstan, past rulings are any tax rulings 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 still in effect as at 1 January 2016.

634. One past ruling has been issued. It is noted that the responsible team is continuing to put in place guidelines and practices to collect and record the relevant information for the purposes of the transparency framework.

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

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

636. Kazakhstan notes that that when requesting an APA, the taxpayer must identify all transactions that will be covered by the agreement and provide all necessary information about these related parties. However, it is not clear that information on the immediate parent and ultimate parent is collected. It is noted that guidelines and practices are being implemented to make sure that the relevant information is adequately processed for the purposes of the transparency framework.

### ***Review and supervision (ToR I.4.3)***

637. Kazakhstan is in the process of implementing a review and supervision mechanism. Once issued by the transfer pricing division, rulings should be reviewed by the non-residents taxation division, which will be responsible to collect the relevant information and to make sure that all relevant information is captured adequately and submitted to all relevant jurisdictions without delay.

### ***Conclusion on section A***

638. Kazakhstan is recommended to finalise its information gathering process for identifying all relevant past and future rulings and all potential exchange jurisdictions, with a review and supervision mechanism, as soon as possible (ToR I.4).

## B. The exchange of information

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

639. Kazakhstan does not have the necessary domestic legal basis to exchange information spontaneously. Kazakhstan is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings if needed (ToR II.5.1). Kazakhstan notes that the State Revenue Committee intends to draft regulations that will allow for the spontaneous exchange of information on tax rulings in future.

640. Kazakhstan 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<sup>[4]</sup>) (“the Convention”) and (ii) bilateral agreements in force with 59 jurisdictions.<sup>1</sup>

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

641. Kazakhstan is still developing a process to complete the templates on relevant rulings, to make them available to the Competent Authority for exchange of information, and to exchange them with relevant jurisdictions.

642. As no exchanges took place in the year of review, no data on the timeliness of exchanges can be reported.

### **Conclusion on section B**

643. Kazakhstan is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to ensure the timely exchange of information on rulings in the form required by the transparency framework (ToR II.5).

## **C. Statistics (ToR IV)**

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

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

645. Kazakhstan does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[1]</sup>) were imposed.

## **Summary of recommendations on implementation of the transparency framework**

<b>Aspect of implementation of the transparency framework that should be improved</b>	<b>Recommendation for improvement</b>
Kazakhstan does not have in place the necessary information gathering process.	Kazakhstan is recommended to finalise its information gathering process for identifying all future rulings and potential exchange jurisdictions, with a review and supervision mechanism, as soon as possible. This recommendation remains unchanged since the prior year peer review report.
Kazakhstan does not have a domestic legal framework allowing spontaneous exchange of information on rulings and does not have in place a process for completion of templates and exchange of information on rulings.	Kazakhstan is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings if needed and to ensure the timely exchange of information on rulings in the form required by the transparency framework. This recommendation remains unchanged since the prior year peer review report.

## References

- OECD (2017), *BEPS Action 5 on Harmful Tax Practices - Terms of Reference and Methodology for the Conduct of the Peer Reviews of the Action 5 Transparency Framework*, OECD Publishing, Paris, <http://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [3]
- 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://dx.doi.org/10.1787/9789264241190-en>. [1]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264115606-en>. [4]

## Notes

<sup>1</sup> Parties to the Convention are available here: [www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm](http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm). Kazakhstan also has bilateral agreements with Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, China (People's Republic of), Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Iceland, India, Iran, Ireland, Italy, Japan, Korea, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malaysia, Moldova, Mongolia, Montenegro, Morocco, Netherlands, North Macedonia, Norway, Pakistan, Poland, Portugal, Qatar, Romania, Russian Federation, Saud Arabia, Serbia, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States and Uzbekistan.



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