

## Jamaica

Jamaica has met all aspects of the terms of reference (OECD, 2017<sup>[31]</sup>) (ToR) for the calendar year 2018 (year in review) that can be met in the absence of rulings being issued in practice.

In the prior year report, Jamaica received two recommendations. Jamaica did not provide a completed peer review questionnaire to the Secretariat, and therefore it was not known whether Jamaica had implemented the transparency framework. These recommendations made in the prior year peer review report have been addressed and are removed.

Jamaica can legally issue five types of rulings within the scope of the transparency framework. In practice, Jamaica 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 Jamaica.

## Introduction

This peer review covers Jamaica'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

Jamaica can legally issue the following four types of rulings within the scope of the transparency framework: (i) preferential regimes;<sup>1</sup> (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) rulings providing for unilateral downward adjustments; and (iv) permanent establishment rulings; and (v) related party conduit rulings. Rulings are issued under the Commissioner General's powers and processed by the Interpretations, Rulings and Opinions Committee (IROC), a committee created under the auspices of the Commissioner General's Executive Office of Tax Administration Jamaica (TAJ).

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

For Jamaica, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2015 but before 1 April 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.

Since the introduction of legislation in 2014 and 2015 empowering the Commissioner General to issue taxpayer-specific tax rulings, Jamaica has not issued any rulings within scope of the transparency framework. Therefore, Jamaica has not issued any rulings during the past rulings period. As no rulings were issued, it was not relevant to identify any exchange jurisdictions for past rulings.

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

For Jamaica, future rulings are any tax rulings within scope that are issued on or after 1 April 2017.

No rulings were issued by Jamaica during the future rulings period in the year of review. However, Jamaica indicates that there are processes being put in place for the issuance and review of rulings for the purposes of the transparency framework.

The IROC is the committee tasked with reviewing and establishing whether any rulings issued fall in scope of the transparency framework. As the IROC is also the committee that processes the issuance of rulings, it is able to concurrently manually review all rulings issued to establish whether they are in scope of the transparency framework. Information on relevant exchange jurisdictions will be sought from the taxpayers during the ruling application process prior to the issuance of the ruling. Jamaica is currently developing guidelines to be published, which will specify the information that must be included in rulings applications such as organisational charts with all relevant parties' jurisdiction of relevance. TAJ can also consult existing taxpayer records to verify the information provided.

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

The accuracy of the information gathering process and the identification of rulings in scope of the transparency framework is overseen by the Commissioner General Executive office, in conjunction with the IROC and the Legislation, Treaties and International Tax Matters Unit.

### **Conclusion on section A**

Jamaica has met all of the ToR for the information gathering process that can be met in the absence of rulings being issued in practice and no recommendations are made.

## **B. The exchange of information**

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

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

Jamaica is a party to international agreements permitting spontaneous exchange of information, including (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (“the Convention”), and (ii) double tax agreements and tax information exchange agreements in force with 26 jurisdictions.<sup>2</sup>

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

Jamaica notes that the Legislation, Treaties and International Tax Matters Unit would be responsible for the completion and quality check of the information required in the template contained in Annex C of the Action 5 Report (OECD, 2015). This would include providing a detailed summary of the ruling following the instructions in Annex C. Final review of the template would be conducted by the Chief Tax Counsel of the Legislation, Treaties and International Tax Matters Unit. The Legislation, Treaties and International Tax Matters Unit is involved in the oversight of the issuing of rulings, and all tax rulings will be readily available to the Commissioner General as Competent Authority for exchange of information, and no delays are expected.

As Jamaica did not issue any rulings in scope of the transparency framework in the relevant period, Jamaica 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**

Jamaica has the necessary legal basis to undertake spontaneous exchange of information. Jamaica 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 Jamaica for the year in review, no statistics can be reported.

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

Jamaica does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[5]</sup>) 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

<sup>1</sup> With respect to the following preferential regimes: Special economic zones.

<sup>2</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). Jamaica also has bilateral agreements with Antigua and Barbuda, Barbados, Belize, Canada, China (People's Republic of), Denmark, Dominica, Faroe Islands, Finland, France, Germany, Greenland, Grenada, Guyana, Iceland, Israel, Mexico, Norway, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Spain, Sweden, Trinidad and Tobago, United Kingdom and United States.



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