

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, 2021^[3]) (ToR) to ensure that it finalises information gathering process (ToR I.A) and that information on rulings will be identified and exchanged in a timely manner (ToR II.B). Kazakhstan receives two recommendations on these points for the year in review.

In the prior year report, as well as in the 2018 peer review, Kazakhstan received the same recommendations. As they have not been addressed, the recommendations remain in place.

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

In practice, Kazakhstan issued one past ruling and no future rulings within the scope of the transparency framework.

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 (ToR I.A)

687. Kazakhstan can legally issue the following type of rulings 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.A.1.1, I.A.1.2, I.A.2.1, I.A.2.2)

688. 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.

689. In the prior year peer review report, it was noted that Kazakhstan issued one past ruling and 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. As Kazakhstan has not finalised this process for the year in review, the recommendation remains in place.

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

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

691. In the prior year peer review report, Kazakhstan noted 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, for the year in review, it is still not clear whether information on the immediate parent and ultimate parent is being 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. As such, the recommendation remains in place.

Review and supervision (ToR I.A.3)

692. In the prior year peer review report, it was determined that Kazakhstan was 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. As it is not known whether Kazakhstan has finalised this process for the year in review, the recommendation remains in place.

Conclusion on section A

693. Kazakhstan is recommended to finalise its information gathering process, with a review and supervision mechanism, as soon as possible (ToR I.A).

B. The exchange of information (ToR II.B)

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

694. In the prior year peer review report, it was noted that Kazakhstan intended to draft regulations that will allow for the spontaneous exchange of information on tax rulings in future. However, for the year in review, Kazakhstan has not yet put in place the necessary domestic legal basis to exchange information spontaneously.

695. 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^[4]) (“the Convention”) and (ii) bilateral agreements in force with 59 jurisdictions.¹

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

696. In the prior year peer review report, it was determined that Kazakhstan was 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. Kazakhstan has not yet put in place such a process for the year in review.

697. As it is not known whether exchanges took place in the year of review, no data on the timeliness of exchanges can be reported.

Conclusion on section B

698. Kazakhstan is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to continue its efforts 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).

C. Statistics (ToR IV)

699. 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.A.1.3)

700. Kazakhstan does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[1]) 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
Kazakhstan has not yet finalised the steps to have in place its necessary information and gathering process.	Kazakhstan is recommended to finalise its information gathering process, with a review and supervision mechanism, as soon as possible. This recommendation remains unchanged since the 2018 and 2019 peer review reports.
Kazakhstan has not yet finalised the steps to have effective compulsory spontaneous exchange of information on the tax rulings within the scope of the transparency framework.	Kazakhstan is recommended to continue to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to continue its efforts 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 2018 and 2019 peer review reports.

References

- OECD (2021), *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 (ed.) (2017b), *Harmful Tax Practices - 2017 Progress Report on Preferential Regimes*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264283954-en>. [2]
- 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

¹ 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. 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, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States and Uzbekistan.



From:

Harmful Tax Practices – 2020 Peer Review Reports on the Exchange of Information on Tax Rulings Inclusive Framework on BEPS: Action 5

Access the complete publication at:

<https://doi.org/10.1787/f376127b-en>

Please cite this chapter as:

OECD (2021), “Kazakhstan”, in *Harmful Tax Practices – 2020 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/14c4aac5-en>

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