

Guernsey

Guernsey has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2018 (year in review) and no recommendations are made.

In the prior year report, Guernsey did not receive any recommendations.

Guernsey can legally issue four types of rulings within the scope of the transparency framework. In practice, Guernsey issued rulings within the scope of the transparency framework as follows:

- Five past rulings;
- For the period 1 April 2017 - 31 December 2017: three future rulings, and
- For the year in review: two future rulings.

No peer input was received in respect of the exchanges of information on rulings received from Guernsey.

Introduction

This peer review covers Guernsey'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

Guernsey can legally issue the following four types of rulings within the scope of the transparency framework: (i) 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; (ii) rulings providing for unilateral downward adjustments; (iii) permanent establishment rulings; and (iv) related party conduit rulings.

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

For Guernsey, 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.

In the prior year peer review report, it was determined that Guernsey's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Guernsey's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

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

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

In the prior year peer review report, it was determined that Guernsey's undertakings to identify future rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Guernsey's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

Review and supervision (ToR I.4.3)

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

Conclusion on section A

Guernsey 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)

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

Guernsey 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 70 jurisdictions.¹

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

In the prior year peer review report, it was determined that Guernsey’s process for the completion and exchange of templates were sufficient to meet the minimum standard. Guernsey’s implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

For the year in review, the timeliness of exchanges is as follows:

| Past rulings in the scope of the transparency framework | Number of exchanges transmitted by 31 December 2018 | Delayed exchanges | | |
|---|--|---|------------------------|--------------------|
| | | Number of exchanges not transmitted by 31 December 2018 | Reasons for the delays | Any other comments |
| | 0 | 0 | N/A | N/A |
| Future rulings in the scope of the transparency framework | Number of exchanges transmitted within three months of the information becoming available to the competent authority or immediately after legal impediments have been lifted | Delayed exchanges | | |
| | | Number of exchanges transmitted later than three months of the information on rulings becoming available to the competent authority | Reasons for the delays | Any other comments |
| | 4 | 0 | N/A | N/A |
| Total | 4 | 0 | | |

| Follow up requests received for exchange of the ruling | Number | Average time to provide response | Number of requests not answered |
|--|--------|----------------------------------|---------------------------------|
| | 0 | N/A | N/A |

Conclusion on section B

Guernsey has the necessary legal basis for spontaneous exchange of information, a process for completing the templates in a timely way and has completed all exchanges. Guernsey has met all of the ToR for the exchange of information process and no recommendations are made.

C. Statistics (ToR IV)

The statistics for the year in review are as follows:

| Category of ruling | Number of exchanges | Jurisdictions exchanged with |
|---|--------------------------------|------------------------------|
| Ruling related to a preferential regime | 0 | N/A |
| Cross-border unilateral advance pricing agreements (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 | <i>De minimis</i> rule applies | N/A |
| Cross-border rulings providing for a unilateral downward adjustment to the taxpayer’s taxable profits that is not directly reflected in the taxpayer’s | 0 | N/A |

| | | |
|--|--------------------------------|-----|
| financial / commercial accounts | | |
| Permanent establishment rulings | <i>De minimis</i> rule applies | N/A |
| Related party conduit rulings | 0 | N/A |
| <i>De minimis</i> rule | 4 | N/A |
| IP regimes: total exchanges on taxpayers benefitting from the third category of IP assets, new entrants benefitting from grandfathered IP regimes; and taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption | N/A | N/A |
| Total | 4 | |

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

Guernsey 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

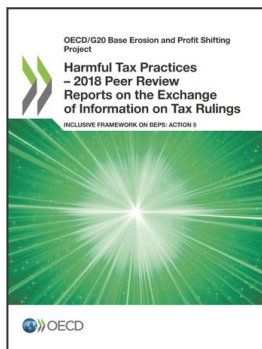
| Aspect of implementation of the transparency framework that should be improved | Recommendation for improvement |
|--|--------------------------------|
| | No recommendations are made. |

Notes

¹ Parties to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Guernsey also has bilateral agreements in force with Argentina, Australia, Austria, Bahamas, Belgium, Bermuda, Botswana, Brazil, British Virgin Islands, Bulgaria, Canada, Cayman Islands, Chile, China (People's Republic of), Costa Rica, Cyprus, Czech Republic, Denmark, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Hong Kong (China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Italy, Japan, Jersey, Korea, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Macao (China), Malta, Mauritius, Mexico, Monaco, Montserrat, Netherlands, New Zealand, Norway, Poland, Portugal, Qatar, Romania, Saint Kitts and Nevis, San Marino, Seychelles, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Swaziland, Sweden, Switzerland, Turkey, Turks and Caicos Islands, United Kingdom, United States and Uruguay.

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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