

Argentina

Argentina has met all aspects of the terms of reference (OECD, 2017_[3]) (ToR) for the calendar year 2019 (year in review) and no recommendations are made.

Argentina can legally issue five types of rulings within the scope of the transparency framework.

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

- Two past rulings;
- For the period 1 April 2016 - 31 December 2016: no future rulings;
- For the calendar year 2017: one future ruling,
- For the calendar year 2018: no future rulings, and
- For the year in review: one future ruling.

Peer input was received from one jurisdiction in respect of the exchanges of information on rulings received from Argentina. The input was positive, noting that information was complete, in a correct format and received in a timely manner.

A. The information gathering process

53. Argentina can legally issue the following five 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) rulings providing for unilateral downward adjustments; (iv) permanent establishment rulings; and (v) related party conduit rulings.

54. For Argentina, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2014 but before 1 April 2016; or (ii) on or after 1 January 2010 but before 1 January 2014, provided they were still in effect as at 1 January 2014. Future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

55. In the prior years' peer review reports, it was determined that Argentina's undertakings to identify past and future rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. In addition, it was determined that Argentina's review and supervision mechanism was sufficient to meet the minimum standard. With respect to past rulings, Argentina's implementation remains unchanged, and therefore continues to meet the minimum standard.

56. During the year in review, the future ruling that had been issued was identified as a ruling in scope of the transparency framework four months after issuance. In order to ensure that the identification of future ruling is made in a more timely manner, Argentina issued new internal procedures. These procedures note that when a ruling application is finalised by the competent department within the tax administration, and the tax administration has identified that the ruling falls in scope of the Action 5 transparency, the department must then submit to the Institutional Relations Directorate (formerly International Affairs Directorate) within the tax administration i) a copy of the ruling issued, ii) the report underlying to the ruling), iii) the summary to be published in anonymised form², iv) a copy of the report notifying the taxpayer ("consultant") that the ruling was issued, and v) the information provided by the taxpayer. The submission must take place within ten working days after the issuance of the ruling has been finalised. The Institutional Relations Directorate is then responsible for as second check on identifying whether the ruling is in scope of the Action 5 transparency framework.

57. Because Argentina has taken action in the year in review to ensure this problem does not occur in the future by issuing internal processes, no recommendation is made given it was a non-recurring issue that was swiftly remedied.

58. In addition, Argentina issued new regulations to formalise the process for issuing future binding consultations (tax rulings) during the year in review.³ When the taxpayer submits an application for a ruling in scope of the Action 5 transparency framework, it now has to provide additional information on its identity (including company or business name, tax identification number and jurisdiction of fiscal residence, etc.) and the relevant information on potential exchange jurisdictions. If the information provided is insufficient, the tax administration can request the taxpayer to provide additional information. With the new enhanced process for issuing binding consultations in Argentina, it is not necessary for Argentina anymore to draw on information from internal taxpayer files in order to identify potential exchange jurisdictions. Argentina's implementation continues to meet the minimum standard.

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

B. The exchange of information

60. In the prior years' peer review reports, it was determined that Argentina's process for the completion and exchange of templates were sufficient to meet the minimum standard. With respect to past

rulings, no further action was required. Argentina's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

61. Argentina 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 24 jurisdictions.⁴

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

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
	0	2	See below	See below
Total	0	2		

Follow up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	0	0	0

63. It is noted that Argentina experienced a delay with respect to two exchanges, which was due to the delay in the identification of the ruling within the tax administration (as described above). The exchange was completed within the year in review and within one month after it became available to the Competent Authority. To avoid any further delays, in the year in review Argentina has issued new internal procedures (as described above). These procedures also clarify that the Institutional Relations Directorate is responsible for completing the template in the form of Annex C of the 2015 Action 5 report (OECD, 2015^[11]) which will then be sent to the Directorate for International Taxation (which is the Competent Authority) for the exchange within the timelines required by the transparency framework.

64. Argentina 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. Argentina has met all of the ToR for the exchange of information process and no recommendations are made.

C. Statistics (ToR IV)

65. 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	0	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 financial / commercial accounts	0	N/A

Permanent establishment rulings	<i>De minimis</i> rule applies	N/A
Related party conduit rulings	0	N/A
<i>De minimis</i> rule	2	<i>De minimis</i> rule applies
Total	2	

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

66. Argentina 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
Argentina experienced some delays in exchanging information on one future ruling.	No recommendation is made because Argentina completed exchanges on the delayed future ruling quickly after the issues were identified and resolved, and this is not a recurring issue.

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]

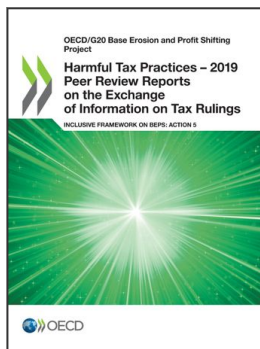
Notes

¹ Promotional regime for software industry.

² Available at <http://biblioteca.afip.gob.ar/search/query/BoletinesDGI.aspx> and <http://biblioteca.afip.gob.ar/estaticos/consultasVinculantes/index.aspx>.

³ AFIP General Resolution 4497/2019, published in the Official Gazette on 30 May 2019, replacing AFIP General Resolution 1948/2005.

⁴ Parties to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Argentina also has bilateral agreements with Aruba, Australia, Azerbaijan, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, Ecuador, Finland, France, Italy, Mexico, Netherlands, Norway, Peru, Russia, Spain, Sweden, United Arab Emirates, United States, United Kingdom and Venezuela.



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