

Israel

Israel has met all aspects of the terms of reference (OECD, 2021^[3]) (ToR) for the calendar year 2020 (year in review), except for identifying future rulings within the scope of the transparency framework (ToR I.A.1.2) and for ensuring that each of the mandatory fields of information required in the template contained in Annex C of the 2015 Action 5 Report (OECD, 2015^[1]), especially with regard to the summary section, are present in the information exchanged (ToR II.B.3). Israel receives two recommendations on these points for the year in review.

In the prior year report, as well as in the 2016, 2017 and 2018 peer reviews, Israel had received a recommendation regarding the timely provision of information on rulings to the Competent Authority for exchange of information (ToR II.B.5). Israel resolved this issue and therefore the recommendation is now removed. In the prior year report, Israel had received a recommendation regarding the mandatory fields of information required in the template contained in Annex C of the 2015 Action 5 Report (OECD, 2015^[1]), especially with regard to the summary section (ToR II.B.3). As this issue has not been fully addressed, the recommendation remains in place. In addition, as there were new circumstances, one additional recommendation has been made as relevant.

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

In practice, Israel issued rulings within the scope of the transparency framework as follows:¹

Type of ruling	Number of rulings
Past rulings	79
Future rulings in the period 1 April 2016 – 31 December 2016	5
Future rulings in the calendar year 2017	3
Future rulings in the calendar year 2018	15
Future rulings in the calendar year 2019	30
Future rulings in the year in review	15

Peer input was received from five jurisdictions in respect of the exchanges of information on rulings received from Israel. The input was generally positive, noting that overall information was complete, in a correct format and almost all received in a timely manner. However, peer input indicated that exchanges on rulings were not timely.

A. The information gathering process (ToR I.A)

611. Israel can legally issue the following five types of rulings within the scope of the transparency framework: (i) preferential regimes;² (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.

Past rulings (ToR I.A.1.1, I.A.1.2, I.A.2.1, I.A.2.2)

612. For Israel, 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.

613. In the prior years' peer review reports, it was determined that Israel's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Israel's undertakings in this regard remain unchanged, and therefore continue to meet the minimum standard.

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

614. Future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

615. In the prior years' peer review reports, it was determined that Israel's undertakings to identify future rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. However, during the year in review, Israel identified an additional eleven future rulings issued in 2019 that were not otherwise identified in the prior year. Although Israel confirms that all rulings issued in 2019 have now been identified, in order to ensure that similar issues are not encountered in future, Israel is recommended to strengthen its information gathering process identifying all future rulings within the scope of the transparency framework.

Review and supervision (ToR I.A.3)

616. In the prior years' peer review reports, it was determined that Israel's review and supervision mechanism was sufficient to meet the minimum standard. As noted above, during the year in review, Israel identified an additional eleven future rulings. As part of the efforts to strengthen the information gathering process, Israel is therefore recommended to strengthen its review and supervision mechanism to ensure that the information gathering process is working effectively.

Conclusion on section A

617. Israel has met all of the ToR for the information gathering process and no recommendations are made, except for identifying all future rulings within the scope of the transparency framework (ToR I.A.1.2). Israel is recommended to strengthen its information gathering process identifying all future rulings within the scope of the transparency framework and its review and supervision mechanism to ensure that the information gathering process is working effectively.

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

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

618. Israel has the necessary domestic legal basis to exchange information spontaneously. Israel 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.

619. Israel has international agreements permitting spontaneous exchange of information, including being a party to (i) the *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 55 jurisdictions.³

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

620. In the prior years’ peer review reports, it was determined that Israel’s process for the completion and exchange of templates met all the ToR, except for the timely provision of information on rulings to the Competent Authority (ToR II.B.5) and for ensuring that each of the mandatory fields of information required in the template contained in Annex C of the 2015 Action 5 Report (OECD, 2015^[1]), especially with regard to the summary section, are present in the information exchanged (ToR II.B.3). With respect to past rulings, no further action was required. Therefore, Israel was recommended to reduce the timeliness for providing the information on future rulings to the Competent Authority and to ensure that it duly completes each of the mandatory fields of information required in the Annex C template. With respect to past rulings, no further action was required.

621. During the prior year, regarding the exchanges of information on rulings received from Israel, peer input indicated that the summary section of the template was not always sufficiently informative and detailed. Israel took note of these remarks and indicates that the EOI department manager instructs the departments issuing the rulings about the necessity to complete the summary section of the Annex C template in line with the internal FHTP suggested guidance. In addition, data is presented to the EOI department manager during weekly department meetings. However, during the year in review, peer input still noted that the information provided in the summary section was too brief and therefore, the recommendation on this point remains.

622. Regarding the recommendation for submitting information to the Competent Authority, peer input still indicated delays. However, these delays do not necessarily relate to the timely provision of information on rulings to the Competent Authority. Furthermore, as mentioned below, Israel still had to perform exchanges for rulings issued in 2018 and 2019 but Israel confirms that exchanges for all rulings have now been performed and that all exchanges for rulings issued during the year in review were transmitted in a timely manner. Israel has also confirmed it has a procedure in place for minimizing delays and the EOI department recruited an additional employee in order to assist data transfers between departments. Therefore, it is not expected that Israel will experience delays on rulings issued in the future, and the recommendation is now removed.

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

Future rulings within 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
	36	99	N/A	N/A

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

624. The 135 exchanges performed in 2020 refer to: i) 6 future rulings issued in 2018 accounting for 15 exchanges; ii) 30 future rulings issued in 2019 accounting for 84 exchanges; and iii) 15 future rulings issued in 2020 accounting for 36 exchanges.

Conclusion on section B

625. Israel has the necessary legal basis for spontaneous exchange of information. Israel has met all of the ToR for the exchange of information except for ensuring that each of the mandatory fields of information required in the template contained in Annex C of the 2015 Action 5 Report, especially with regard to the summary section, are present in the information exchanged (ToR II.B.3).

626. Israel is recommended to develop a process to complete the templates on future rulings, and in particular the summary section, in accordance with the form agreed under the transparency framework (ToR II.B.3). Although Israel continued to experience delays during the year of review, the prior years' recommendation to ensure that information is made available to the Competent Authority without undue delay (ToR II.B.5) is removed.

C. Statistics (ToR IV)

627. 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	135	Argentina, Australia, Belarus, Belgium, Brazil, Bulgaria, Canada, China (People's Republic of), Cyprus, Czech Republic, Denmark, Estonia, France, Germany, Hong Kong (China), Hungary, India, Italy, Ireland, Japan, Korea, Malta, Netherlands, New Zealand, Poland, Romania, Singapore, South Africa, Spain, Switzerland, United Kingdom, United States
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	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	0	N/A

financial / commercial accounts		
Permanent establishment rulings	0	N/A
Related party conduit rulings	0	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	0	N/A
Total	135	

D. Matters related to intellectual property regimes (ToR I.A.1.3)

628. Israel offers two intellectual property regimes (IP regime)⁴ that are subject to the transparency requirements under the Action 5 Report (OECD, 2015^[1]). It states that the identification of the benefitting taxpayers will occur as follows:

- **New entrants benefitting from the grandfathered IP regime:** the process on the collection of information regarding new entrants in the grandfathered IP regime is described in the previous years' peer review reports, and no recommendations were made. With respect to new entrants in the grandfathered IP regime, exchanges were completed in prior years and no further action was required.
- **Third category of IP assets:** the regimes provide benefits to the third category of IP assets. The process on the collection of information is described in the previous years' peer review reports and meets the ToR. During the year in review, the Authority for Technological Innovation (i.e. the certifying agency) approved five applications regarding IP assets included in the third category. Information in respect of the five certificates issued in 2020 will be collected in the companies' tax returns for 2020, due at the end of 2021 and exchanged within the timelines required for the Action 5 transparency framework. Israel's implementation on this aspect remains unchanged and continues to meet the ToR.
- **Taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption:** not applicable as the regime does not allow the nexus ratio to be treated as a rebuttable presumption.

Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
Israel identified additional future rulings that were not previously captured.	Israel is recommended to strengthen its information gathering process identifying all future rulings within the scope of the transparency framework and its review and supervision mechanism to ensure that the information gathering process is working effectively.
During the year in review, as well as in the 2019 peer review reports, concerns were raised regarding the completion of templates in accordance with the form agreed under the transparency framework.	Israel is recommended to develop a process to complete the templates on future rulings, and in particular, the summary section, in accordance with the form agreed under the transparency framework. This recommendation remains unchanged since the 2019 peer review report.

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]

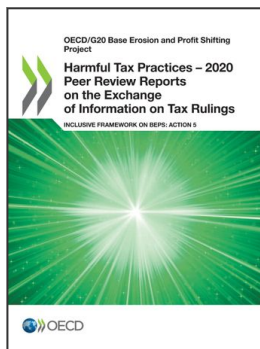
Notes

¹ Note: The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

² With respect to the following preferential regimes: Preferred company regime and Preferred technological enterprise regime.

³ 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. Israel also has bilateral agreements with Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, China (People's Republic of), Croatia, Czech Republic, Denmark, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Hungary, India, Ireland, Italy, Jamaica, Japan, Korea, Latvia, Lithuania, Luxembourg, Malta, Mexico, Moldova, Netherlands, Norway, Panama, Philippines, Poland, Portugal, Romania, Russia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Chinese Taipei, Thailand, Turkey, Ukraine, United Kingdom, United States, Uzbekistan and Viet Nam.

⁴ The Preferred company regime which is the grandfathered regime, and the Preferred technological enterprise regime which is the amended regime.



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