

South Africa

South Africa has met all aspects of the terms of reference (OECD, 2021^[3]) (ToR) for the calendar year 2021 (year in review), and no recommendations are made.

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

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

Type of ruling	Number of rulings
Past rulings	1
Future rulings in the period 1 April 2016 – 31 December 2016	0
Future rulings in the calendar year 2017	0
Future rulings in the calendar year 2018	0
Future rulings in the calendar year 2019	0
Future rulings in the calendar year 2020	0
Future rulings in the year in review	0

As no exchanges were required to take place, no peer input was received in respect of the exchanges of information on rulings received from South Africa.

Information gathering process (ToR I.A)

1136. South Africa can legally issue the following type of ruling within the scope of the transparency framework: preferential regimes.¹

1137. For South Africa, 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.

1138. In the prior years' peer review reports, it was determined that South Africa'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 South Africa's review and supervision mechanism was sufficient to meet the minimum standard. South Africa's implementation remains unchanged, and therefore continues to meet the minimum standard.

1139. South Africa's has met all of the ToR for the information gathering process and no recommendations are made.

Exchange of information (ToR II.B)

1140. South Africa has the necessary domestic legal basis to exchange information spontaneously. South Africa 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.

1141. South Africa has 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^[1]) ("the Convention") and (ii) bilateral agreements in force with 69 jurisdictions.²

1142. During the year in review, no exchanges were required to take place and no data on the timeliness of exchanges is reported.

1143. In the prior years' peer review reports, it was determined that South Africa'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. South Africa's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

1144. South Africa 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. South Africa has met all of the ToR for the exchange of information process and no recommendations are made.

Statistics (ToR IV.D)

1145. As no rulings were issued, no statistics can be reported.

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

1146. South Africa does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[2]) 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.

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://doi.org/10.1787/9789264241190-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://doi.org/10.1787/9789264115606-en>. [1]

Notes

¹ 1) Shipping regime, and 2) Headquarters regime.

² 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. South Africa also has bilateral agreements with Algeria, Australia, Austria, Belarus, Belgium, Botswana, Brazil, Bulgaria, Cameroon, Canada, Chile, China (People's Republic of), Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Egypt, Ethiopia, Finland, France, Ghana, Greece, Hong Kong (China), Hungary, India, Indonesia, Iran, Ireland, Italy, Japan, Kenya, Korea, Lesotho, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Mozambique, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Poland, Portugal, Qatar, Rwanda, Samoa, Saudi Arabia, Seychelles, Singapore, Slovak Republic, Spain, Swaziland, Sweden, Tanzania, Türkiye, Turks and Caicos Islands, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Zimbabwe.



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