

# Japan

Japan has met all aspects of the terms of reference (OECD, 2021<sup>[3]</sup>) (ToR) for the calendar year 2020 (year in review), and no recommendations are made.

Japan can legally issue three types of rulings within the scope of the transparency framework.

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

Type of ruling	Number of rulings
Past rulings	51
Future rulings in the period 1 April 2016 – 31 December 2016	12
Future rulings in the calendar year 2017	14
Future rulings in the calendar year 2018	16
Future rulings in the calendar year 2019	4
Future rulings in the year of review	29

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

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

649. Japan can legally issue the following three 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) permanent establishment rulings; and (iii) related party conduit rulings.

650. For Japan, 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.

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

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

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

653. Japan 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<sup>[4]</sup>) ("the Convention") and (ii) bilateral agreements in force with 74 jurisdictions.<sup>1</sup>

654. 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
	14	9	Covid-19 pandemic (see below)	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

655. Japan notes that some exchanges were delayed due to the COVID-19 pandemic. In particular, Japan notes that the Express Mail Service from Japan to some jurisdictions has been suspended, and therefore some exchanges were delayed. Japan is currently in the process of resolving this issue, and seeking alternate solutions for exchanges in the meantime. Six exchanges of rulings issued during the year in review were transmitted in 2021 and will be included in next year's peer review.

656. As this is a temporary issue that is a direct result of the COVID-19 pandemic it is not expected to be a recurring problem once normal conditions resume, and therefore no recommendation is given at this

stage for the delayed exchanges. This issue will be reviewed again in the subsequent year's peer review to monitor whether there is a persistent issue.

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

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

## C. Statistics (ToR IV)

659. The statistics for the year in review are as follows:

Category of ruling	Number of exchanges	Jurisdictions exchanged with
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	23	Belgium, China (People's Republic of), Hong Kong (China), Malaysia, Netherlands, Philippines, Singapore, Sweden, Thailand, United Kingdom, United States
Permanent establishment rulings	0	N/A
Related party conduit rulings	0	N/A
<b>Total</b>	<b>23</b>	

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

660. Japan does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[1]</sup>) 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

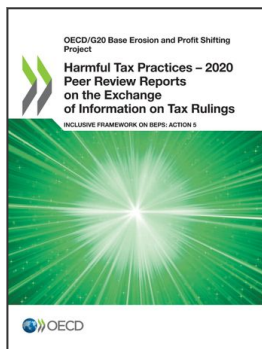
- OECD (2021), *BEPS Action 5 on Harmful Tax Practices - Terms of Reference and Methodology for the Conduct of the Peer Reviews of the Action 5 Transparency Framework*, OECD Publishing, Paris, <http://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [3]
- 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://dx.doi.org/10.1787/9789264241190-en>. [1]

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<https://dx.doi.org/10.1787/9789264115606-en>.

## Notes

<sup>1</sup> Parties to the Convention are available here: [www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm](http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm). Japan also has bilateral agreements in force with Armenia, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Brazil, Brunei Darussalam, Bulgaria, Canada, Chile, China (People's Republic of), Croatia, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Fiji, Finland, France, Georgia, Germany, Hong Kong (China), Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Jamaica, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malaysia, Mexico, Moldova, Netherlands, New Zealand, Norway, Oman, Pakistan, Philippines, Poland, Portugal, Qatar, Romania, Russia, Saudi Arabia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, Thailand, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Viet Nam, Zambia.



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