

Uruguay

Uruguay 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.

This is Uruguay's first review of implementation of the transparency framework.

Uruguay can legally issue one type of ruling within the scope of the transparency framework. In practice, Uruguay issued rulings within the scope of the transparency framework as follows:

- One past ruling, and
- For the period 1 April 2018 - 31 December 2018: no future rulings.

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

Introduction

This peer review covers Uruguay'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

Uruguay can legally issue the following type of rulings within the scope of the transparency framework: 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. APAs are issued by the International Tax Department (DFI), which is a part of the Large Taxpayer Division within the Tax Administration (DGI).

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

For Uruguay, past rulings are any tax rulings within scope that are issued either (i) on or after 1 January 2016 but before 1 April 2018; and (ii) on or after 1 January 2014 but before 1 January 2016, provided still in effect as at 1 January 2016.

There are ten people working within the DFI in charge of issuing APAs. This specific unit was also responsible for identifying the past rulings. When an APA is issued, the information is filed and a copy of the ruling is stored within the DFI and another copy is stored within the General Director's office. These central files were reviewed to identify rulings issued within the period defined as past rulings, and the results were also cross-checked with the second copy. Based on this verification process, one past ruling was identified.

With respect to the identified past ruling, the DFI used the best efforts approach in order to identify the potential exchange jurisdictions. This was done by firstly identifying jurisdictions from the information contained in the APA and secondly by checking additional information from the taxpayer's transfer pricing documentation. Uruguay confirms that it was able to identify all potential exchange jurisdictions.

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

For Uruguay, future rulings are any tax rulings within scope that are issued on or after 1 April 2018.

The process for identifying the future rulings is similar to the process of identifying the past rulings. The process for identifying the potential exchange jurisdictions is similar as to the process used for past rulings. Uruguay notes that when requesting an APA, the taxpayer must identify all transactions that will be covered by the agreement and provide all necessary information about these related parties. The transfer pricing documentation that the taxpayer has to provide includes more detailed information on these transactions, as well as the group structure including the immediate parent and ultimate parent. As such, Uruguay has sufficient data to identify all potential exchange jurisdictions.

Review and supervision (ToR I.4.3)

On a quarterly basis, the Director of the Large Taxpayer Division requests the DFI to submit a report that contains detailed information regarding the rulings that were issued during this period. The Director then verifies that all relevant information is captured adequately and submitted to all relevant jurisdictions without delay.

The people in charge of implementing the procedures with respect to the transparency framework are provided with a training and instructions.

Conclusion on section A

Uruguay 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)

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

Uruguay 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 20 jurisdictions.¹

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

The DFI, which is responsible for identifying rulings, is also the competent authority. The DFI is responsible for completing the templates, in the form of Annex C of the 2015 Action 5 report (OECD, 2015^[5]). The summary section of the template has to be completed in line with the internal FHTP suggested guidance. After approval of the template by the General Director, the DFI proceeds to exchange the information on the APA with the relevant jurisdictions. Uruguay ensures that exchanges take place within three months of issuing the ruling. To verify this is occurring, the Director requires a report on a quarterly basis including detailed information regarding the issued rulings and the timelines for the exchange.

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
	11	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
	N/A	N/A	N/A	N/A
Total	11	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

Uruguay 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. Uruguay 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	N/A	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 financial / commercial accounts	N/A	N/A
Permanent establishment rulings	N/A	N/A
Related party conduit rulings	N/A	N/A
<i>De minimis</i> rule	11	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	11	

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

In the year of review, Uruguay offered three intellectual property regimes (IP regime). However, these are not subject to the transparency requirements under the Action 5 Report (OECD, 2015^[5]), because:

Benefits under law 16.906 for biotechnology

- **New entrants benefitting from the grandfathered IP regime:** not applicable, as the IP regime has been abolished without grandfathering.
- **Third category of IP assets:** not applicable as the IP regime has been abolished.
- **Taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption:** not applicable as the IP regime has been abolished.

Benefits under lit S art. 52 for biotechnology and for software

- **New entrants benefitting from the grandfathered IP regime:** No enhanced transparency requirements apply, as follows. During the year in review, Uruguay amended the IP regime by implementing the nexus approach. The previous regime has been closed-off, and although

grandfathering was provided, it only applies to entrants that benefited from the regime prior to the relevant date from which enhanced transparency obligations would apply.

- **Third category of IP assets:** not applicable as the regime does not allow the third category of IP assets to qualify for the benefits.
- **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.

Free zones

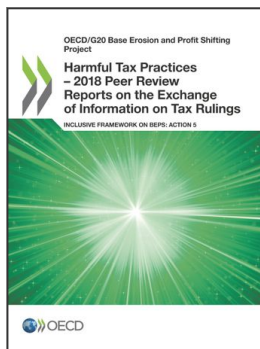
- **New entrants benefitting from the grandfathered IP regime:** not applicable, as the IP regime has been amended and no grandfathering was provided to existing taxpayers.
- **Third category of IP assets:** not applicable as the regime does not allow the third category of IP assets to qualify for the benefits.
- **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
	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. Uruguay also has bilateral agreements in force with: Belgium, Chile, Ecuador, Finland, Germany, India, Korea, Liechtenstein, Luxembourg, Malta, Mexico, Paraguay, Portugal, Romania, Singapore, Spain, Switzerland, United Arab Emirates, United Kingdom and Viet Nam.



From:

Harmful Tax Practices – 2018 Peer Review Reports on the Exchange of Information on Tax Rulings Inclusive Framework on BEPS: Action 5

Access the complete publication at:

<https://doi.org/10.1787/7cc5b1a2-en>

Please cite this chapter as:

OECD (2020), “Uruguay”, in *Harmful Tax Practices – 2018 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/4ad3cf9d-en>

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