

# Japan

Japan has met all aspects of the terms of reference (OECD, 2021<sup>[3]</sup>) (ToR) for the calendar year 2021 (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 calendar year 2020	29
Future rulings in the year in review	6

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

## Information gathering process (ToR I.A)

678. 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.

679. 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.

680. 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.

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

## Exchange of information (ToR II.B)

682. Japan has the necessary domestic legal basis to exchange information spontaneously. Japan 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.

683. Japan 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<sup>[1]</sup>) ("the Convention") and (ii) bilateral agreements in force with 77 jurisdictions.<sup>1</sup>

684. 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
	10	2	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

685. 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. However, it was also noted that some exchanges were delayed because the Express Mail Service from Japan to some jurisdictions had been suspended in light of the Covid-19 pandemic. Japan noted that it was seeking alternate solutions for

exchanges in the meantime, and it was not expected to be a recurring problem. Therefore, no recommendation was given, and the issue would be reviewed again this year's peer review to monitor whether there is a persistent issue.

686. During the year in review, as noted by Japan in the prior year's peer review report, six exchanges of rulings issued during 2020 were transmitted in 2021, and two exchanges were delayed. Japan notes that for now, there is no prospect of resuming the Express Mail Service. Therefore, in order to resolve this issue and to avoid any delays, Japan now uses an online storage service or, under certain conditions, e-mail. As a solution has been found to solve this issue, no recommendation has been made.

687. 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.

## Statistics (ToR IV.D)

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

Category of ruling	Number of exchanges	Jurisdictions exchanged with
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	12	Belgium, Hong Kong (China), Ireland, Singapore, United Kingdom, United States
Permanent establishment rulings	0	N/A
Related party conduit rulings	0	N/A
<b>Total</b>	<b>12</b>	

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

689. Japan does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[2]</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://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

<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, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russia, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, Thailand, Türkiye, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Uzbekistan, Viet Nam, Zambia.



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