

## Eswatini

Eswatini did not provide a completed peer review questionnaire to the Secretariat.<sup>1</sup> It is not known whether Eswatini has implemented the transparency framework in line with the terms of reference (OECD, 2021<sup>[3]</sup>) (ToR) for the calendar year 2020 (year in review). Eswatini receives two recommendations covering the information gathering process (ToR I.A) and exchange of information (ToR II.B) for the year in review.

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

It is not known whether Eswatini can legally issue any types of ruling within the scope of the transparency framework, or whether in practice Eswatini issued any such rulings.

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

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

401. Eswatini was not yet able to complete the peer review questionnaire. It is not known whether Eswatini has implemented the transparency framework during the year in review.

### **Conclusion on section A**

402. Eswatini is recommended to ensure that it has put in place an effective information gathering process to identify all relevant past and future rulings and all potential exchange jurisdictions and to implement a review and supervision mechanism, as soon as possible (ToR I.A).

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

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

403. It is not known whether Eswatini has the necessary domestic legal basis to exchange information spontaneously. Eswatini is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings if needed.

404. Eswatini has international agreements permitting spontaneous exchange of information, including bilateral agreements in force with 7 jurisdictions and tax information exchange agreements in force with 2 jurisdictions.<sup>2</sup> Eswatini signed the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011<sup>[4]</sup>) ("the Convention") on 29 September 2020 and ratified on 16 March 2021. The Convention entered into force on 1 July 2021. No exchanges could occur under the Convention for the year in review.<sup>3</sup>

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

405. It is not known whether Eswatini has put in place a process to exchange information on rulings in accordance with the form and timelines required by the transparency framework. Eswatini is recommended to ensure the timely exchange of information on rulings in the form required by the transparency framework.

### **Conclusion on section B**

406. Eswatini is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and develop a process to complete the templates on relevant rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework (ToR II.B).

## C. Statistics (ToR IV)

407. As the Secretariat is not aware whether information on rulings was exchanged by Eswatini for the year in review, no statistics can be reported.

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

408. Eswatini 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   |
|---|--|
| It is not known whether Eswatini has put in place the necessary information gathering process.  | Eswatini is recommended to finalise its information gathering process for identifying all future rulings and potential exchange jurisdictions, with a review and supervision mechanism, as soon as possible.   |
| It is not known whether Eswatini has the necessary domestic legal basis allowing spontaneous exchange of information and whether Eswatini has a process to complete the templates on relevant rulings, to make them available to the Competent Authority for exchange of information, and to exchange them with relevant jurisdictions. | Eswatini is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to develop a process to complete the templates on relevant rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework. |

## Jurisdiction's response and recent developments

409. Eswatini provided a completed peer review questionnaire to the Secretariat beyond the timelines set in the methodology for the conduct of the peer reviews of the Action 5 transparency framework. Eswatini notes that 2020 is the first year of implementation of the transparency framework according to the FHTP timelines. Eswatini is currently assessing their internal process in order to take appropriate steps to implement the transparency framework and action the recommendations of this report as needed. Input received and further steps undertaken by Eswatini will be taken into account in the 2022 peer review process.

## 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

<sup>1</sup> An update is provided in the jurisdiction's response and recent developments section.

<sup>2</sup> Eswatini has bilateral agreements with Botswana, Lesotho, Mauritius, Seychelles, South Africa, Chinese Taipei, United Kingdom. The TIEAs with Isle of Man and Guernsey also permit for the spontaneous exchange of information.

<sup>3</sup> 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](http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm).



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