

Ukraine

Ukraine has met all of the terms of reference (ToR) for the calendar year 2018 (year in review).

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

Ukraine can legally issue one type of ruling within the scope of the transparency framework. In practice, Ukraine issued no rulings within the scope of the transparency framework. Ukraine notes that it has received two requests for unilateral APAs which are under review.

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

Introduction

This peer review covers Ukraine'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

Ukraine can legally issue the one type of ruling 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.

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

For Ukraine, 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.

Ukraine has not issued any past ruling. Any issued rulings would be stored in a central database at the headquarters level and would be identifiable as relevant for the transparency framework, and no such rulings had been recorded. Therefore it was not relevant to identify any potential exchange jurisdictions for past rulings.

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

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

During the year in review, Ukraine did not issue any future rulings. For the year in review, the State Fiscal Service (SFS) Legal Entities Taxation Department was responsible for treatment of APA requests and issuance of APAs. That team consists of five members. Any issued rulings would be stored in a central database at the headquarters level and would be identifiable as relevant for the transparency framework.

When a taxpayer applies for an APA, it has to provide information on the jurisdictions of residence of related parties with which the taxpayers enter into a transaction covered by the ruling. According to the existing procedure, the taxpayer shall also enclose with the APA request information on their subsidiaries, parent entities and other information about the multinational group. This would include information on all potential exchange jurisdictions for the purposes of the transparency framework. However, if any information was missing, Ukraine would ask the taxpayer before issuing the ruling, in accordance with the procedure stipulated in Ukraine's internal regulation.

Review and supervision (ToR I.4.3)

The accuracy of the information gathering process and the identification of rulings in scope is supervised by a working group, which is in charge of APA negotiation. Ukraine noted that it is currently receiving support from the OECD Secretariat as part of an induction programme and working to have in place a more formal procedure with respect to its review and supervision mechanism to make sure that all relevant information is captured adequately and submitted to all relevant jurisdictions without delay.

Conclusion on section A

Ukraine has met all of the ToR for the information gathering process and no recommendation is made.

B. The exchange of information

Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)

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

Ukraine 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 75 jurisdictions.¹

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

As there is a representative of the acting Competent Authority (the Strategic Development and International Cooperation Department) in the working group responsible for the issuance of rulings, the Competent Authority is immediately aware of the issuance of APAs. The head of the APA working group would ensure that the template is filled out and provided to the Competent Authority as soon as possible, but no later than three months after the issuance of the ruling. After this, the Competent Authority will then be responsible for reviewing the template for completeness, translating it and sending the template to all relevant jurisdictions as soon as possible, but no later than three months after the tax ruling becomes available to it. Ukraine confirms that it would refer to the FHTP internal guidance on completing the summary section.

As no rulings have been issued, no exchanges were required for the year in review and no data on timeliness can be reported.

Conclusion on section B

Ukraine has the necessary legal basis to undertake spontaneous exchange of information and a process for completion of templates and exchange of information on rulings. Ukraine has met all of the ToR for the exchange of information process and no recommendations are made.

C. Statistics (ToR IV)

As no rulings have been issued, no statistics can be reported.

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

Ukraine does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[5]) were imposed.

Summary of recommendations on implementation of the transparency framework

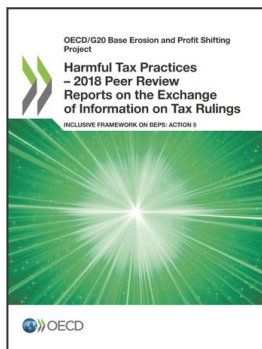
Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
	No recommendations are made.

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. Ukraine also has double tax agreements with Algeria, Armenia, Austria, Azerbaijan, Belarus, Belgium, Brazil, Bulgaria, Canada, China (People's Republic of), Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Latvia, Lebanon, Libya, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Moldova, Mongolia, Montenegro, Morocco, Netherlands, North Macedonia, Norway, Pakistan, Poland, Portugal, Qatar, Romania, Russia, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Syria, Tajikistan, Thailand, Turkey, Turkmenistan, United Arab Emirates, United Kingdom, United States, Uzbekistan and Viet Nam.

Note by Turkey: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union. The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.



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