

Hungary

Hungary has met all aspects of the terms of reference (OECD, 2021^[3]) (ToR) for the calendar year 2021 (year in review), except for applying the “best efforts approach” to identify potential exchange jurisdictions for all past rulings (ToR I.A.2.2). Hungary receives one recommendation on this point for the year in review.

In the prior year’s peer review report, as well as in the 2016-2019 peer review reports, Hungary had received two recommendations. Hungary has resolved one of these issues. The other recommendation has not been addressed and remains in place.

Hungary can legally issue four types of rulings within the scope of the transparency framework.

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

| Type of ruling | Number of rulings |
|--|-------------------|
| Past rulings | 77 |
| Future rulings in the period 1 April 2016 – 31 December 2016 | 4 |
| Future rulings in the calendar year 2017 | 9 |
| Future rulings in the calendar year 2018 | 11 |
| Future rulings in the calendar year 2019 | 21 |
| Future rulings in the calendar year 2020 | 18 |
| Future rulings in the year in review | 27 |

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

Information gathering process (ToR I.A)

565. Hungary can legally issue the following four types of rulings within the scope of the transparency framework: (i) preferential regimes;¹ (ii) 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; (iii) permanent establishment rulings; and (iv) related party conduit rulings.

Past rulings (ToR I.A.1.1, I.A.1.2, I.A.2.1, I.A.2.2)

566. For Hungary, 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.

567. In the prior years' peer review reports, it was determined that Hungary had not used the "best efforts approach" to identify potential exchange jurisdictions, meaning that Hungary had only identified potential exchange jurisdictions for around half of the past ATRs (advance tax rulings), although it had identified most potential exchange jurisdictions for APAs but not necessarily the ultimate parent company jurisdiction. Therefore, Hungary was recommended to continue to apply the "best efforts approach" to identify potential exchange jurisdictions for all past rulings.

568. During the year in review, Hungary has not been able to take additional steps. As such, the recommendation remains.

Future rulings (ToR I.A.1.1, I.A.1.2, I.A.2.1)

569. For Hungary, future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

570. In the prior year's peer review report, it was determined that Hungary's undertakings to identify future rulings and all potential exchange jurisdictions was sufficient to meet the minimum standard.

571. Hungary notes that from 1 October 2021, all APAs are processed by the Ministry of Finance (instead of the National Tax and Customs Administration), which is also the responsible body for issuing other rulings in scope of the transparency framework. Taxpayers applying for an APA now have to complete a specific application form, which is available on the website of the Ministry of Finance and requires the taxpayer to provide information on the jurisdictions of its immediate parent, ultimate parent, and the related parties of the transaction. If the taxpayer does not provide sufficient information, then the tax administration can request the additional information.

572. Hungary's implementation in this regard remains continues to meet the minimum standard.

Review and supervision (ToR I.A.3)

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

Conclusion on section A

574. Hungary has met all of the ToR for the information gathering process except for applying the "best efforts approach" for past rulings (ToR I.A.2.2) and Hungary is recommended to continue to apply the "best efforts approach" to identify potential exchange jurisdictions for all past rulings.

Exchange of information (ToR II.B)

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

575. Hungary has the necessary domestic legal basis to exchange information spontaneously. Hungary 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.

576. Hungary 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^[1]) (“the Convention”), (ii) the Directive 2011/16/EU with all other European Union Member States and (iii) bilateral agreements in force with 83 jurisdictions.²

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

577. In the prior years’ peer review reports, it was determined that Hungary’s process for the completion and exchange of templates met all the ToR, except for the timely exchange of information on future rulings. Therefore, Hungary was recommended to ensure that all information on future rulings is exchanged as soon as possible. During the year in review, there were no more delayed exchanges of future rulings, and therefore, the recommendation is removed.

578. In addition, Hungary notes that as the Ministry of Finance is now responsible for APAs, it is also responsible for filling out the table with necessary information for the exchange of information. The table is sent to the Central Liaison Office which is the competent authority responsible for international exchanges. The officer in charge of the exchange of rulings and APAs reviews the information, translates the parts that might still require translation, in case of questions consults with the sending unit, and finally imports the information into the template contained in Annex C of the Action 5 Report (OECD, 2015^[2]). Before sending, the template is reviewed by the head of the Central Liaison Office.

579. 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 |
| | 41 | 0 | N/A | 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 |

Conclusion on section B

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

Statistics (ToR IV.D)

581. 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 | 0 | N/A |
| 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 | Austria, Croatia, Ireland, Netherlands, Oman, Romania, Singapore, Slovak Republic, Spain, United States |
| Permanent establishment rulings | 29 | Canada, Czech Republic, Hong Kong (China), Germany, Ireland, Luxembourg, Netherlands, Singapore, United Kingdom, United States, Uruguay |
| Related party conduit rulings | 0 | 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 | 0 | N/A |
| Total | 41 | |

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

582. Hungary offers an intellectual property regime (IP regime)³ that is subject to the transparency requirements under the Action 5 Report (OECD, 2015^[2]). It states that the identification of the benefiting taxpayers will occur as follows:

- **New entrants benefitting from the grandfathered IP regime:** Taxpayers that are new entrants to the IP regime can be identified in the tax return and necessary information for the exchanges will then be gathered during a tax audit. For the year in review, Hungary does not report any exchanges resulting from identifications of new entrants. However, as Hungary has a process in place for the identification of new entrants to the grandfathered IP regime, the previous year's recommendation can be removed.
- **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 |
|--|---|
| Hungary did not yet apply the "best efforts approach" to identify potential exchange jurisdictions for all past rulings. | Hungary is recommended to continue to apply the "best efforts approach" to identify potential exchange jurisdictions for all past rulings. This recommendation remains unchanged since the 2016, 2017, 2018, 2019 and 2020 peer review reports. |

References

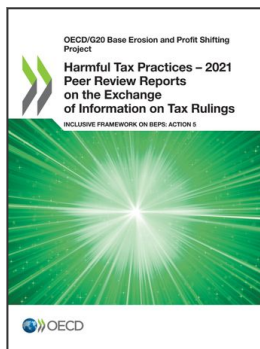
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- OECD (2015), *Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/9789264241190-en>. [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

¹ IP regime for royalties and capital gains.

² 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. Hungary also has bilateral agreements with Albania, Armenia, Australia, Austria, Azerbaijan, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, China (People's Republic of), Chinese Taipei, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hong Kong (China), Iceland, India, Indonesia, Iran, Iraq, Ireland, Israel, Italy, Japan, Kazakhstan, Korea, Kosovo, Kuwait, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Moldova, Mongolia, Montenegro, Morocco, Netherlands, North Macedonia, Norway, Oman, Pakistan, Philippines, Poland, Portugal, Qatar, Romania, Russia, San Marino, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Türkiye, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Uzbekistan and Viet Nam.

³ IP regime for royalties and capital gains.



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