

## Sint Maarten

Sint Maarten has met all aspects of the terms of reference (OECD, 2017<sup>[3]</sup>) (ToR) for the calendar year 2019 (year in review) that can be met in the absence of rulings being issued.

This is Sint Maarten's first review of implementation of the transparency framework. As Sint Maarten was affected by a natural disaster, earlier peer reviews were deferred.

Sint Maarten can legally issue five types of rulings within the scope of the transparency framework but in practice has not issued any rulings within the scope of the transparency framework.

As no rulings have been issued in practice, no exchanges of information were required to be conducted. Therefore, no peer input was received in respect of the exchanges of information on rulings received from Sint Maarten.

## A. The information gathering process

987. Sint Maarten can legally issue the following five types of rulings within the scope of the transparency framework: (i) preferential regimes;<sup>1</sup> (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) rulings providing for unilateral downward adjustments; (iv) permanent establishment rulings; and (v) related party conduit rulings. Rulings are issued by the tax administration upon application by the taxpayer.

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

988. For Sint Maarten, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2015 but before 1 September 2017; or (ii) on or after 1 January 2012 but before 1 January 2015, provided they were still in effect as at 1 January 2015.

989. In the period for past rulings, there was one tax inspector working within the Sint Maarten tax administration. Only the tax inspector is responsible for issuing rulings. During this period, no ruling requests were handled. Therefore, Sint Maarten confirms that no past rulings in scope of the transparency framework were issued.

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

990. For Sint Maarten, future rulings are any tax rulings within scope that are issued on or after 1 September 2017.

991. There are currently two tax inspectors in the Sint Maarten tax administration who are responsible for issuing rulings. If a ruling is issued, the tax inspector then determines whether it is in scope of the transparency framework. Rulings are registered in a central spreadsheet by the tax administration. If the ruling is in scope, the inspector then identifies who the immediate parent, ultimate parent and related parties with which the taxpayer entered into a transaction with are by checking the internal available information. If the information is not internally available, the inspector requests the taxpayer to provide this information, as the inspector is empowered by the domestic law to require this from the taxpayer.

992. To date, Sint Maarten has not issued any future rulings in scope of the transparency framework.

### ***Review and supervision (ToR I.4.3)***

993. As noted before, there are two tax inspectors responsible for issuing rulings. These inspectors supervise each other's work on the accuracy of the information gathering process and the identification of rulings in scope of the transparency framework.

### ***Conclusion on section A***

994. Sint Maarten 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)**

995. Sint Maarten has the necessary domestic legal basis to exchange information spontaneously. Sint Maarten 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.

996. Sint Maarten 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<sup>[4]</sup>) ("the Convention") and (ii) bilateral agreements in force with three jurisdictions.<sup>2</sup>

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

997. Sint Maarten notes that the EOI manager (field officer) is responsible for completing the template in Annex C of the BEPS Action 5 report (OECD, 2015<sup>[1]</sup>). The field officer obtains information from the tax inspector that issued the ruling, who then also reviews the template. The summary section will be completed in line with the FHTP internal guidance. Sint Maarten confirms that this process will take place within three months after the ruling is issued.

998. After that, the template will be sent to the Competent Authority who is responsible for the final review of the template and the exchanges. Sint Maarten confirms that the information on the ruling will be exchanged immediately after the template is completed, which will be within the FHTP timelines.

999. As Sint Maarten did not issue any rulings in scope of the transparency framework in the relevant period, Sint Maarten was not required to exchange any information on rulings in the year in review and no data on the timeliness of exchanges can be reported.

### **Conclusion on section B**

1000. Sint Maarten has the necessary legal basis to undertake spontaneous exchange of information. Sint Maarten has met all of the ToR for the exchange of information process that can be met in the absence of rulings being issued and exchanged in practice and no recommendations are made.

## C. Statistics (ToR IV)

1001. As no rulings were issued, no statistics can be reported.

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

1002. Sint Maarten 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
	No recommendations are made.

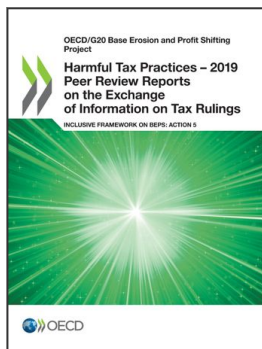
## References

- OECD (2017), *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/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> Tax exempt company.

<sup>2</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). Sint Maarten also has bilateral agreements with the Netherlands, Norway and the United States.



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