

Czech Republic

The Czech Republic has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2018 (year in review) except for the timely exchange of information on future rulings (ToR II.5.6.). The Czech Republic receives one recommendation on this point for the year in review.

In the prior year report, as well as in the 2016 peer review, the Czech Republic received the same recommendation. As it has not been addressed, the recommendation remains in place.

The Czech Republic can legally issue two types of rulings within the scope of the transparency framework. In practice, the Czech Republic issued rulings within the scope of the transparency framework as follows:

- 48 past rulings;
- For the period 1 April 2016 - 31 December 2016: five future rulings;
- For the calendar year 2017: 11 future rulings, and
- For the year in review: seven future rulings.

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

Introduction

This peer review covers the Czech Republic'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

The Czech Republic can legally issue the following two 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, and (ii) permanent establishment rulings, which can be issued as of 1 January 2018.

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

For the Czech Republic, 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.

In the prior years' peer review reports, it was determined that the Czech Republic's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. The Czech Republic's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

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

For the Czech Republic, future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

In the prior year peer review report, it was determined that the Czech Republic's undertakings to identify future rulings and all potential exchange jurisdictions was sufficient to meet the minimum standard. The Czech Republic's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

Review and supervision (ToR I.4.3)

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

Conclusion on section A

The Czech Republic 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)

The Czech Republic has the necessary domestic legal basis to exchange information spontaneously. The Czech Republic 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.

The Czech Republic 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”), (ii) the Directive 2011/16/EU with all other European Union Member States and (iii) double tax agreements in force with 89 jurisdictions.¹

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

In the prior year peer review report, it was determined that the Czech Republic’s process for the completion and exchange of templates were sufficient to meet the minimum standard. The Czech Republic applies the timelines under the EU. As such, the Czech Republic was recommended to apply the timelines for future rulings as set out in the transparency framework for all exchanges.

It is noted that the Czech Republic continues to apply the EU timelines, i.e. the exchanges of information on future rulings are carried out within three months after the end of the calendar half-year in which these rulings were issued, regardless of whether the exchange is transmitted to EU Member States or other jurisdictions. The Czech Republic notes that it prefers to have a single timeline system in order to avoid delays.

For the year in review, the timeliness of exchanges is as follows:

Past rulings in the scope of the transparency framework	Number of exchanges transmitted by 31 December 2018	Delayed exchanges		
		Number of exchanges not transmitted by 31 December 2018	Reasons for the delays	Any other comments
	44	1	The exchange could not be transmitted due to legal impediments in the receiving jurisdiction.	The 44 exchanges related to information that was delayed in 2017 and exchanged in 2018.
Future rulings in 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
	0	45	The Czech Republic applied the EU timelines for the exchange of information with EU Member States.	All 45 exchanges are related to EU Member States and have been exchanged within in the EU timelines.
Total	44	45		

Follow up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	1	90 days	1

Conclusion on section B

The Czech Republic has the necessary legal basis for spontaneous exchange of information and a process for completing the templates in a timely way. The Czech Republic continues to apply the EU timelines for the exchange of information on future rulings with other EU Member States. This recommendation was included in the 2016 peer review report and the 2017 peer review report, and has not been acted upon, and the recommendation is therefore retained with respect to information on future rulings, and the Czech Republic is recommended to ensure that all information on future rulings is exchanged as soon as possible (ToR II.5.6).

C. Statistics (ToR IV)

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	N/A	N/A
Cross-border unilateral advance pricing agreements (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	87	Belgium, Cyprus, ² Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Japan, Luxembourg, Mexico, Netherlands, Poland, Portugal, Romania, Russia, Slovak Republic, South Africa, Sweden, Switzerland, Turkey, United Kingdom, United States
Cross-border rulings providing for a unilateral downward adjustment to the taxpayer's taxable profits that is not directly reflected in the taxpayer's financial / commercial accounts	N/A	N/A
Permanent establishment rulings	2	<i>De minimis</i> rule applies
Related party conduit rulings	N/A	N/A
	N/A	N/A
<i>De minimis</i> rule		
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	N/A	N/A
Total	89	

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

The Czech Republic 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
The Czech Republic experienced delays in the exchange of information on future rulings due to the application of the timelines set out in the EU Directive 2011/16/EU.	The Czech Republic is recommended to ensure that all information on future rulings is exchanged as soon as possible. This recommendation remains unchanged since the 2016 peer review report and the 2017 peer review report.

Notes

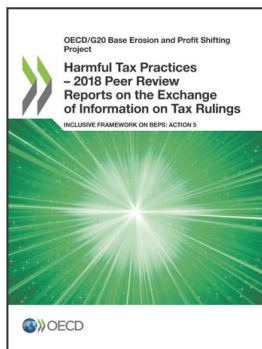
¹ Parties to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. The Czech Republic also has double tax agreements with Albania, Azerbaijan, Armenia, Australia, Austria, Bahrain, Barbados, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, China (People's Republic of), Colombia, Croatia, Cyprus, Democratic People's Republic of Korea, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Hong Kong (China), Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Kuwait, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Moldova, Mongolia, Montenegro, Morocco, Netherlands, New Zealand, Nigeria, North Macedonia, Norway, Pakistan, Panama, Philippines, Poland, Portugal, Romania, Russia, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syria, Tajikistan, Thailand, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Venezuela 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.

² 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.



From:

Harmful Tax Practices – 2018 Peer Review Reports on the Exchange of Information on Tax Rulings Inclusive Framework on BEPS: Action 5

Access the complete publication at:

<https://doi.org/10.1787/7cc5b1a2-en>

Please cite this chapter as:

OECD (2020), “Czech Republic”, in *Harmful Tax Practices – 2018 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/89a0cb80-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.