

Saint Lucia

Saint Lucia has met all aspects of the terms of reference (OECD, 2021^[3]) (ToR) for the calendar year 2020 (year in review) that can be met in the absence of rulings being issued in practice, except for identifying all potential exchange jurisdictions for future rulings (ToR I.A.2.1). Saint Lucia receives one recommendation on this point for the year in review.

In the prior year report, as well as in the 2018 peer review, Saint Lucia had received two recommendations regarding its information gathering process (ToR I.A), and regarding the timely exchange of information (ToR II.B). Saint Lucia has resolved these issues, except for identifying all potential exchange jurisdictions for future rulings, and therefore one recommendation on this point remains.

Saint Lucia can legally issue two types of rulings within the scope of the transparency framework.

In practice, Saint Lucia issued no rulings within the scope of the transparency framework.

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

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

963. Saint Lucia can legally issue the following two types of rulings within the scope of the transparency framework: (i) preferential regimes¹ and (ii) permanent establishment rulings.

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

964. For Saint Lucia, past rulings are any tax rulings issued prior to 1 September 2018. However, there is no obligation for Saint Lucia to conduct spontaneous exchange information on past rulings.

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

965. For Saint Lucia, future rulings are any tax rulings within scope that are issued on or after 1 September 2018.

966. In the prior years' peer review reports, it was determined that Saint Lucia had not put in place the appropriate processes for future rulings for the purposes of the transparency framework. Therefore, Saint Lucia was recommended to continue its work to make sure the necessary information gathering processes to meet the requirements of the transparency framework is put in place.

967. During the year in review, Saint Lucia approved a new rulings framework. The new rulings framework sets out a process to identify future rulings within scope and all information on potential exchange jurisdictions. Saint Lucia's Inland Revenue Department (IRD) is responsible for the review and authorisation of rulings issued in Saint Lucia. Within the IRD, an Exchange of Information (EOI) Unit and a Rulings Committee were established, which is overseen by the Legal Officer of the IRD. The EOI Unit is responsible for determining whether rulings fall into the scope of the transparency framework, and for the exchange of information of rulings in scope. The Rulings Committee is responsible for the review of all applications and information sources, and sends information to the EOI Unit. The EOI Unit cooperates with the Rulings Committee to ensure all relevant information is obtained. The Legal Officer also provides legal advice to the Comptroller of the IRD, who is the Competent Authority.

968. When a taxpayer requests a ruling, it also needs to provide information on potential exchange jurisdictions. However, Saint Lucia confirmed that taxpayers are not required to provide information on permanent establishments and ultimate parent companies, which means that not all information on potential exchange jurisdictions is collected. As such, the recommendation remains but it is now targeted to one specific aspect that still needs to be addressed.

Review and supervision (ToR I.A.3)

969. In accordance with the rulings framework, a dedicated team within the Rulings Committee will be trained on the identification of rulings within the scope of the transparency framework. This team is also responsible for the review of the accuracy of the information obtained. Furthermore, the Rulings Committee includes a member of the EOI Unit to facilitate the screening and sharing of information received. This review and supervision mechanism is already in place and therefore the recommendation on this point is now removed.

Conclusion on section A

970. Saint Lucia has met all of the ToR for the information gathering process that can be met in the absence of rulings being issued in practice, except for identifying all potential exchange jurisdictions for future rulings (ToR I.A.2.1). Saint Lucia is recommended to ensure that all potential exchange jurisdictions are identified swiftly for all future rulings.

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

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

971. Saint Lucia has the necessary domestic legal basis to exchange information spontaneously. Saint Lucia 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.

972. Saint Lucia has international agreements permitting spontaneous exchange of information, including being a party to (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[4]) (“the Convention”) and (ii) bilateral agreements in force with 16 jurisdictions.²

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

973. In the prior years’ peer review reports, it was determined that Saint Lucia had not put in place the appropriate processes for the completion and exchange of templates. Therefore, Saint Lucia was recommended to continue its work to complete its processes for the completion and exchange of templates as soon as possible.

974. During the year in review, Saint Lucia approved a new rulings framework, whereby the Rulings Committee, assisted by the EOI Unit, is responsible for completing the template contained in Annex C of the Action 5 Report (OECD, 2015^[1]), which includes providing a summary of the ruling in line with the internal FHTP suggested guidance and the instructions in the Annex C template. The template would then be quality-checked by a supervisor in the IRD, and then provided to the Comptroller of the IRD for final approval and exchange. As the Comptroller of the IRD oversees the issuance of rulings by the IRD, and is also the Competent Authority for Saint Lucia, all tax rulings would therefore be readily available to the Competent Authority. As such, the recommendation is now removed.

975. As Saint Lucia did not issue any future rulings within the scope of the transparency framework in the relevant period, Saint Lucia 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

976. Saint Lucia has the necessary legal basis for spontaneous exchange of information and has a process for completing the templates in a timely way. Saint Lucia has met all of the ToR for the exchange of information process that can be met in the absence of rulings being issued in practice and no recommendations are made.

C. Statistics (ToR IV)

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

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

978. Saint Lucia does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[1]) 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
Saint Lucia does not require taxpayers to provide all necessary information to identify all potential exchange jurisdictions for future rulings.	Saint Lucia is recommended to ensure that all potential exchange jurisdictions are identified swiftly for all future rulings. This recommendation remains unchanged since the 2018 and 2019 peer review reports but it is now targeted to only this specific aspect that still needs to be put in place.

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

¹ 1) International business company, 2) International trust and 3) International partnership regimes.

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. Saint Lucia also has bilateral agreements with CARICOM jurisdictions and the United States.



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