

South Africa

South Africa has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2018 (year in review) and no recommendations are made.

In the prior year report, South Africa did not receive any recommendations.

South Africa can legally issue one type of rulings within the scope of the transparency framework. In practice, South Africa issued rulings within the scope of the transparency framework as follows:

- One past ruling;
- For the period 1 April 2016 - 31 December 2016: no future rulings;
- For the calendar year 2017: no future rulings, and
- For the year in review: no future rulings.

South Africa publishes their tax rulings in redacted form on South Africa Revenue Service's website.¹

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

Introduction

This peer review covers South Africa'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

South Africa can legally issue one type of rulings within the scope of the transparency framework: preferential regimes.²

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

For South Africa, 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 year peer review report, it was determined that South Africa's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. South Africa'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 South Africa, 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 South Africa's implementation of a new system to identify future rulings and all potential exchange jurisdictions was sufficient to meet the minimum standard. South Africa'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 year peer review reports, it was determined that South Africa's review and supervision mechanism was sufficient to meet the minimum standard. South Africa's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

Conclusion on section A

South Africa 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)

South Africa has the necessary domestic legal basis to exchange information spontaneously. South Africa 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.

South Africa 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 67 jurisdictions.³

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 South Africa’s process for the completion and exchange of templates were sufficient to meet the minimum standard. South Africa’s implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

As South Africa did not issue any past or future rulings in scope of the transparency framework in the relevant period, South Africa 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

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

C. Statistics (ToR IV)

As no rulings are issued, no statistics can be reported.

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

South Africa 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 Available at: <https://www.sars.gov.za/Pages/default.aspx>

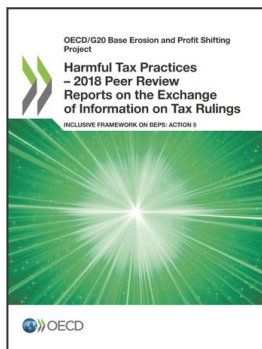
² With respect to the following preferential regimes: 1) Shipping regime and 2) Headquarters regime.

³ Parties to the Multilateral Convention are available here: <http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm>. South Africa also has bilateral agreements with Algeria, Australia, Austria, Belarus, Belgium, Botswana, Brazil, Bulgaria, Cameroon, Canada, Chile, China (People’s Republic of), Croatia, Cyprus, Czech Republic, Democratic Republic of Congo, Denmark, Egypt, Ethiopia, Finland, France, Ghana, Greece, Hong Kong (China), Hungary, India, Indonesia, Iran, Ireland, Italy, Japan, Kenya, Korea, Lesotho, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Mozambique, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Poland, Portugal, Qatar, Rwanda, Samoa, Saudi Arabia, Seychelles, Singapore, Slovak

Republic, Spain, Swaziland, Sweden, Tanzania, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States and Zimbabwe.

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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