

## Turkey

Turkey has met all aspects of the terms of reference (ToR) for the calendar year 2018 (year in review) except for identifying and exchanging information on new entrants to the grandfathered IP regime and exchanging information on all taxpayers benefitting from the third category of assets in the IP regime (ToR I.4.1.3). Turkey receives one recommendation on this point for the year in review.

In the prior year report, Turkey received the same recommendation. As it has not been addressed, the recommendation remains in place.

Turkey can legally issue one type of ruling within the scope of the transparency framework.

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

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

As no exchanges took place in the year in review, no peer input was received in respect of the exchanges of information on rulings received from Turkey.

## Introduction

This peer review covers Turkey'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

Turkey can legally issue one type of rulings within the scope of the transparency framework: 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.

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

For Turkey, 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 Turkey's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Turkey'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 Turkey, future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

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

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

Turkey 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)**

Turkey has the necessary domestic legal basis to exchange information spontaneously. Turkey notes that there are no legal or practical impediments that prevent the spontaneous exchange information on rulings as contemplated in the Action 5 minimum standard.

Turkey has bilateral agreements in force with 86 jurisdictions.<sup>1</sup> In addition, Turkey has signed the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) ("the Convention") and it was ratified by the Turkish Parliament

on 20 May 2017. The Convention entered into force on 1 July 2018 and will have effect from 1 January 2019.

### ***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 Turkey's process for the completion and exchange of templates were sufficient to meet the minimum standard. Turkey's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

As Turkey did not issue any rulings in scope of the transparency framework in the relevant period, Turkey 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***

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

## **C. Statistics (ToR IV)**

As there was no information on rulings exchanged by Turkey for the year in review, no statistics can be reported.

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

Turkey has two intellectual property regimes that are subject to transparency requirements under the Action 5 Report (OECD, 2015<sup>[5]</sup>).<sup>2</sup> It states that the identification of the benefitting taxpayers will occur as follows:

### ***Technology development zone regime***

- **New entrants:** Transparency obligations apply for the regime, because grandfathering is provided to entrants that entered the regime after the relevant date from which enhanced transparency obligations apply. Turkey has not yet been able to identify and exchange information on new entrants to the grandfathered IP regime, and the regime has been found to be actually harmful to the extent of extended grandfathering to taxpayers that entered the regime between 1 July 2016 and 19 October 2017. Therefore the period for enhanced transparency for new entrants on the grandfathered regime is from 6 February 2015 until 19 October 2017. Turkey has obliged taxpayers to declare their exempted IP income earned in this period in a temporary tax return, to be filed in 2018. This information will include the identification of both new taxpayers and new IP assets of existing taxpayers entering the regime in this period. This information was expected to be available to the Turkish Revenue Administration in August 2018. It is not known whether this information was received. In addition, no information has yet been exchanged. Therefore, Turkey is recommended to continue its efforts to identify and exchange information on new entrants to the grandfathered IP as soon as possible.
- **Third category of IP assets:** In order for taxpayers to benefit from the third category of IP assets, the Ministry of Industry and Technology issues project completion documents, after the research-development project is completed and the assets have been created. A company requests the completion document electronically and the Ministry of Industry and Technology assesses the

application to determine whether the relevant IP assets have been created in the zone and the resulting income is therefore eligible for the tax benefit. After the document is approved and issued electronically by the Ministry, it is provided to the taxpayer. It is then expected that the Ministry of Industry and Technology will report to the tax administration for the purposes of completing the exchange of information. However, Turkey has not exchanged information on these taxpayers and therefore, it is recommended to exchange information on taxpayers benefitting from the third category of IP assets as soon as possible.

- **Rebuttable presumption:** not applicable as the regime does not allow the nexus ratio to be treated as a rebuttable presumption.

### 5/B regime

- **New entrants:** as this is a new IP regime rather than a grandfathered IP regime, transparency on new entrants was not required.
- **Third category of IP assets:** not applicable as the regime does not allow the third category of IP assets to qualify for the benefits.
- **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
Turkey has not been able to identify and exchange information on new entrants to the grandfathered IP regime or to exchange information on all taxpayers benefitting from the third category of assets in the IP regime.	Turkey is recommended to identify and exchange information on new entrants to the grandfathered IP regime and to exchange information on taxpayers benefitting from the third category of IP assets as soon as possible. This recommendation remains unchanged since the prior year peer review report.

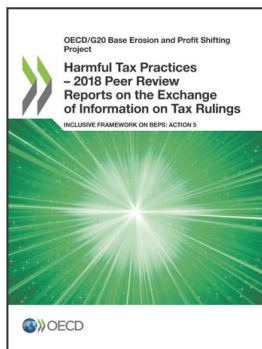
## Notes

<sup>1</sup> Albania, Algeria, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, China (People's Republic of), Croatia, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Gambia, Georgia, Germany, Greece, Hungary, India, Indonesia, Iran, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Korea, Kosovo, Kuwait, Kyrgyzstan, Latvia, Lebanon, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Moldova, Mongolia, Montenegro, Morocco, Netherlands, New Zealand, North Macedonia, Norway, Oman, Pakistan, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Syria, Tajikistan, Thailand, Tunisia, Turkish Republic of Northern Cyprus, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Viet Nam and Yemen.

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.

<sup>2</sup> These regimes are: 1) Technology development zone regime and 2) 5/B regime.



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