

Argentina

Argentina 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, Argentina had received one recommendation. Argentina has resolved this issue and therefore the prior year recommendation is removed.

Argentina can legally issue five types of rulings within the scope of the transparency framework. In practice, Argentina issued rulings within the scope of the transparency framework as follows:

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

These rulings are published in anonymised form.¹

As no exchanges were required to take place during the year in review, no peer input was received in respect of the exchanges of information on rulings received from Argentina.

Introduction

This peer review covers Argentina'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

Argentina can legally issue five types of ruling within the scope of the transparency framework: (i) rulings related to preferential regimes²; (ii) 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; (iii) cross-border rulings giving a unilateral downward adjustment to the taxpayer's taxable profits in the country giving the ruling; (iv) permanent establishment rulings; and (v) related party conduit rulings.

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

For Argentina, 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 Argentina's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Argentina'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 Argentina, 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 Argentina's undertakings to identify future rulings and all potential exchange jurisdictions met all the ToR, except for identifying one future ruling (ToR I.4.1.2). Therefore, Argentina was recommended to continue its work to improve its information-gathering process on future rulings as soon as possible.

The process for identifying future rulings involves coordination between the Deputy General Direction for Technical and Legal Tax Matters (which is responsible for issuing rulings) and the Directorate for International Affairs, and verification against the public repository of rulings. During the year in review, Argentina took steps to enhance the co-ordination with the relevant areas to ensure that the identification of future rulings is made in a timely manner, and to ensure that the error made in the prior year would not be repeated. In light of this, the recommendation on identifying future rulings is removed.

Argentina further noted that the Argentinian Tax Administration is finalising the modifications to its rulings regulation to formalise the process, including to require taxpayers to provide the relevant information on potential exchange jurisdictions upon submitting an application for a ruling, instead of drawing on information in the file and the use of its powers to request additional information from the taxpayer. This will be reviewed in the subsequent peer review.

Review and supervision (ToR I.4.3)

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

Conclusion on section A

Argentina 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)

Argentina has the necessary domestic legal basis to exchange information spontaneously. Argentina 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.

Argentina 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) bilateral agreements in force with 23 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 years' peer review reports, it was determined that Argentina's process for the completion and exchange of templates were sufficient to meet the minimum standard. Argentina's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

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

Argentina has the necessary legal basis for spontaneous exchange of information, and a process for completing the templates in a timely way. Argentina 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 Argentina for the year in review, no statistical data can be reported.

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

Argentina 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

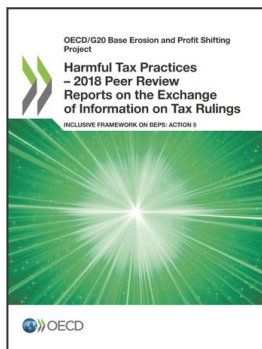
| Aspect of implementation of the transparency framework that should be improved | Recommendation for improvement |
|--|--------------------------------|
| | No recommendations are made. |

Notes

¹ Available at <http://biblioteca.afip.gob.ar/search/query/BoletinesDGI.aspx> (accessed 8 July 2019) and <http://biblioteca.afip.gob.ar/estaticos/consultasVinculantes/index.aspx> (accessed 8 July 2019).

² With respect to the following preferential regime: Promotional Regime for Software Industry.

³ Parties to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Argentina also has double tax agreements with Aruba, Australia, Azerbaijan, Belgium, Bolivia, Brazil, Canada, Chile, Denmark, Ecuador, Finland, France, Italy, Mexico, Netherlands, Norway, Peru, Russia, Spain, Sweden, United States, United Kingdom and Venezuela.



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), “Argentina”, 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/10.1787/9e541234-en>

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