

Peru

Peru has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2018 (year in review) that can be met given in the absence of rulings being issued.

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

Peru can legally issue five types of rulings within the scope of the transparency framework. In practice, Peru issued no rulings within the scope of the transparency framework.

Peru publishes the result of particular consultations.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 Peru.

Introduction

This peer review covers Peru'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

Peru can legally issue the five following types of rulings within the scope of the transparency framework: (i) rulings relating to a preferential regime;² (ii) cross-border unilateral advance pricing arrangements (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) rulings providing for unilateral downward adjustments; (iv) permanent establishment rulings; and (v) related party conduit rulings.³

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

For Peru, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2015 but before 1 September 2017; or (ii) on or after 1 January 2012 but before 1 January 2015, provided still in effect as at 1 January 2015.

In the prior year peer review report, it was determined that Peru's undertakings to identify past rulings were sufficient to meet the minimum standard. Peru'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 Peru, future rulings are any tax rulings within scope that are issued on or after 1 September 2017.

In the prior year peer review report, it was determined that Peru's undertakings to identify future rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard, which involves reviewing information in the ruling, the taxpayer file or obtaining the information from the taxpayer directly. Peru's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard in the absence of rulings being issued.

For the purpose of formalising the process, Peru notes its intention to put in place a procedure in the first half of 2020 for identifying the relevant exchange jurisdictions at the time of the taxpayer's request.

Review and supervision (ToR I.4.3)

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

Conclusion on section A

Peru 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)

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

Peru 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) double tax agreements in force with seven jurisdictions, and (iii) tax information exchange agreements in force with two jurisdictions.⁴

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 Peru's process for the completion and exchange of templates, which was based on an ad hoc process, was sufficient to meet the minimum standard. Peru's implementation in this regard remains unchanged and therefore continues to meet the minimum standard in the absence of rulings being issued and exchanged.

For the purpose of formalising the process, Peru notes that a formal procedure for the completion and exchange of templates will be established in the first half of 2020. As Peru did not issue any past or future rulings in scope of the transparency framework in the relevant periods, Peru 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

Peru has the necessary legal framework and administrative process in place for exchanging information on rulings. Peru has met all of the ToR for the exchange of information process that can be met in the absence of rulings being issued and exchanged in practice 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)

Peru 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.

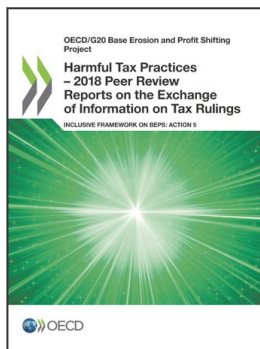
Notes

¹ Available at <http://www.sunat.gob.pe/legislacion/oficios/Art95/2016/indcor.htm>

² With respect to the following preferential regimes: 1) Special economic zone 1 (Ceticos) and 2) Special economic zone 2 (Zofratacna).

³ Rulings other than APAs are known in Peru as “particular consultations.”

⁴ Parties to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Peru also has double tax agreements in force with Brazil, Canada, Chile, Korea, Mexico, Portugal and Switzerland; and tax information exchange agreements in force with United States and Ecuador.



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