

Ireland

Ireland 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, Ireland did not receive any recommendations.

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

- 29 past rulings;¹
- For the period 1 April 2016 - 31 December 2016: no future rulings;
- For the calendar year 2017: two future rulings, and
- For the year in review: 39 future rulings.

These rulings are not published; however, the Irish tax administration publishes a briefing or guidance note on noticeable issues raised by specific cases.

Peer input was received from two jurisdictions in respect of the exchanges of information on rulings received from Ireland. The input was generally positive, noting that information was complete, in a correct format and received in a timely manner.

Introduction

This peer review covers Ireland'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

Ireland can legally issue the three following types of rulings within the scope of the transparency framework: (i) preferential regimes;² (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; and (iii) permanent establishment rulings.

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

For Ireland, 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 Ireland's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Ireland'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 Ireland, 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 Ireland's undertakings to identify future rulings and all potential exchange jurisdictions was sufficient to meet the minimum standard. Ireland'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 report, it was determined that Ireland's review and supervision mechanism was sufficient to meet the minimum standard. Ireland's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

Conclusion on section A

Ireland 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)

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

Ireland 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) the Directive 2011/16/EU with all other European Union Member States and (iii) double tax agreements in force with 73 jurisdictions, 69 of which allow for spontaneous exchange of information.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 Ireland’s process for the completion and exchange of templates were sufficient to meet the minimum standard. Ireland’s implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

In addition, it is noted that Ireland took steps to formalise and strengthen its process. This included additional efforts to ensure the quality of the summary of the ruling by providing staff with a template for certain rulings, ensuring additional quality reviews, and formalising processes in an updated internal manual.

For the year in review, the timeliness of exchanges is as follows:

Past rulings in the scope of the transparency framework	Number of exchanges transmitted by 31 December 2018	Delayed exchanges		
		Number of exchanges not transmitted by 31 December 2018	Reasons for the delays	Any other comments
	1	0	This delay occurred due to the late identification of this opinion by the caseworker.	See below
Future rulings in the scope of the transparency framework	Number of exchanges transmitted within three months of the information becoming available to the competent authority or immediately after legal impediments have been lifted	Delayed exchanges		
		Number of exchanges transmitted later than three months of the information on rulings becoming available to the competent authority	Reasons for the delays	Any other comments
	33	6	The delays occurred due to issues around the quality of the summary information provided to the Competent Authority.	See below.
Total	34	6		

Follow up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	0	N/A	0

Some delays were encountered during the year in review, in all cases which only affected the permanent establishment category of rulings and related to opinions issued in respect of construction projects in Ireland. To prevent the recurrence of the delays encountered in 2018, Ireland has since undertaken the following measures: (i) engaged with the caseworkers in the relevant Division dealing with construction companies, to highlight Ireland’s obligations with respect to the exchange framework and the timelines involved; (ii) provided a template for completion in respect of the type of rulings issued, which related to

construction project PE's to ensure the summaries provided were of a high standard and contained all of the relevant information and; (iii) engaged with senior management within the Division to ensure the issue was addressed. As Ireland took steps to identify and remedy the issue within the year in review, all exchanges were completed in the year in review, and this is not expected to be a recurring issue, no recommendations are made.

Conclusion on section B

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

C. Statistics (ToR IV)

The statistics for the year in review are as follows:

Category of ruling	Number of exchanges	Jurisdictions exchanged with
Ruling related to a preferential regime	1	<i>De minimis</i> rule applies
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	0	N/A
Cross-border rulings providing for a unilateral downward adjustment to the taxpayer's taxable profits that is not directly reflected in the taxpayer's financial / commercial accounts	N/A	N/A
Permanent establishment rulings	39	Austria, Denmark, Germany, Norway, Poland, Romania, Spain, Switzerland, United Kingdom
Related party conduit rulings	N/A	N/A
<i>De minimis</i> rule	N/A	N/A
IP regimes: total exchanges on taxpayers benefitting from the third category of IP assets, new entrants benefitting from grandfathered IP regimes; and taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption	0	N/A
Total	40	

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

Ireland offers an intellectual property regime (IP regime)⁴ that is subject to the transparency requirements under the Action 5 Report (OECD, 2015^[5]). It states that the identification of the benefitting taxpayers will occur as follows:

- **New entrants benefitting from the grandfathered IP regime:** as this is a new IP regime rather than a grandfathered IP regime, transparency on new entrants is not relevant.
- **Third category of IP assets:** The relevant portion of the annual corporation tax return has been designed to capture the data that Ireland will require for its reporting and exchange of information obligations under the framework. The first returns were filed in mid-to-late 2018 and to date, the required information was submitted to the FHTP and will be exchanged with other jurisdictions as

required, and in all cases within 12 months of receipt of the return as required by the transparency framework.

- ***Taxpayers making use of the option to treat the nexus ratio as a 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
Ireland experienced some delays in exchanging information on future rulings.	No recommendation is made because Ireland has quickly remedied the issue, completed exchanges on the delayed future rulings in the year in review and is not a recurring issue.

Notes

¹ Including five that fell into more than one category under the BEPS Action 5 report.

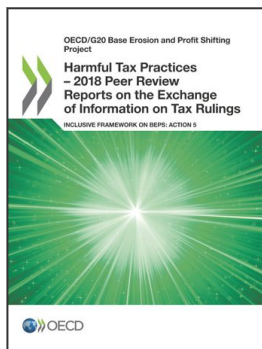
² With respect to the following preferential regimes: 1) Shipping regime and 2) Knowledge development box.

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. Ireland also has double tax agreements that allow for spontaneous exchange of information with Albania, Armenia, Australia, Bahrain, Belarus, Belgium, Bosnia and Herzegovina, Botswana, Bulgaria, Canada, Chile, China (People's Republic of), Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Israel, Italy, Japan, Kazakhstan, Korea, Kuwait, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Moldova, Montenegro, Morocco, Netherlands, New Zealand, North Macedonia, Norway, Pakistan, Poland, Portugal, Qatar, Romania, Russia, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Thailand, Turkey, United Arab Emirates, Ukraine, United Kingdom, United States, Uzbekistan, Viet Nam, and Zambia.

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.

⁴ Knowledge Development Box.



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