

Barbados

Barbados has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2019 (year in review) except for identifying and exchanging information on all new entrants to the grandfathered IP regime (ToR I.4.1.3). Barbados receives one recommendation on this point for the year in review.

In the prior year report, as well as in the 2017 peer review, Barbados had received two recommendations. One of these recommendations has been addressed and is now removed. The second recommendation has not been addressed and remains in place.

Barbados can legally issue five types of rulings within the scope of the transparency framework.

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

- Two past rulings;
- For the period 1 September 2017 - 31 December 2017: no future rulings;
- For the calendar year 2018: one future ruling, and
- For the year in review: no future rulings.

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

A. The information gathering process

109. Barbados can legally issue the following five types of rulings within the scope of the transparency framework: (i) preferential regimes;¹ (ii) 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; (iii) rulings providing for unilateral downward adjustments; (iv) permanent establishment rulings; and (v) related party conduit rulings.

110. For Barbados, 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 they were still in effect as at 1 January 2015. Future rulings are any tax rulings within scope that are issued on or after 1 September 2017.

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

112. Barbados 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)

113. Barbados has the necessary domestic legal basis to exchange information spontaneously. Barbados 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.

114. Barbados 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) bilateral agreements in force with 40 jurisdictions.²

Completion and exchange of templates (ToR II.5.3, II.5.4, II.5.5, II.5.6, II.5.7)

115. In the prior years' peer review reports, it was determined that Barbados' process for the completion and exchange of templates was sufficient to meet the minimum standard except for the timely exchange of information on rulings (ToR II.5).

116. During the year in review, Barbados developed and implemented a framework that allows the exchange of information to occur in a timely manner. Once a ruling is determined to be within any of the five transparency framework categories, a template in the form of Annex C is completed, a cover letter is attached and the rulings are sent by express mail. An email is then sent to the Competent Authority notifying them that the ruling has been mailed and requesting confirmation of receipt. There are no outstanding rulings to be exchanged, and therefore, the recommendation is now removed.

117. 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 2019	Delayed exchanges		
		Number of exchanges not transmitted by 31 December 2019	Reasons for the delays	Any other comments
	2	0	N/A	These exchanges on past rulings are delayed exchanges from the previous year peer review report.
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
	1	0	N/A	This exchange on future rulings is a delayed exchange from the previous year peer review report.
Total	3	0		

Conclusion on section B

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

C. Statistics (ToR IV)

119. 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	N/A	N/A
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	N/A	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	N/A	N/A
Related party conduit rulings	N/A	N/A
<i>De minimis</i> rule	3	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	N/A	N/A
Total	3	

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

120. Barbados offered two intellectual property regimes (IP regime)³ that were abolished as of 1 July 2018 and are subject to transparency requirements under the Action 5 Report (OECD, 2015^[1]). It states that the identification of the benefitting taxpayers will occur as follows:

- **New entrants benefitting from the grandfathered IP regime:** Transparency obligations apply for the two regimes, because grandfathering is provided to entrants that entered the regime after the relevant date from which enhanced transparency obligations apply. Barbados is currently working on a process by which it can identify and exchange information on these new entrants. Barbados is therefore recommended to identify and exchange information on all new entrants to the grandfathered IP regime as soon as possible (ToR I.4.1.3).
- **Third category of IP assets:** not applicable as the IP regimes has been abolished.
- **Taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption:** not applicable as the IP regimes has been abolished.

Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
Barbados did not identify or exchange information on new entrants to the grandfathered IP regime.	Barbados is recommended to identify and exchange information on all new entrants to the grandfathered IP regime as soon as possible. This recommendation remains unchanged since the 2017 and 2018 peer review reports.

References

OECD (2017), *BEPS Action 5 on Harmful Tax Practices - Terms of Reference and Methodology for the Conduct of the Peer Reviews of the Action 5 Transparency Framework*, OECD Publishing, Paris, <http://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [3]

OECD (2015), *Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, Action 5 - 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264241190-en>. [1]

OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264115606-en>.

[4]

Notes

¹ Credit for foreign currency earnings.

² Parties to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Barbados also has bilateral agreements with Antigua and Barbuda, Austria, Bahrain, Belize, Botswana, Canada, China (People's Republic of), Cyprus, Cuba, Czech Republic, Dominica, Finland, Grenada, Guyana, Iceland, Italy, Jamaica, Luxembourg, Malta, Mauritius, Mexico, Netherlands, Norway, Panama, Portugal, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Seychelles, Singapore, Spain, Sweden, Switzerland, Trinidad & Tobago, Qatar, United Arab Emirates, United Kingdom, United States and Venezuela.

³ 1) International business companies and 2) International societies with restricted liability.



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