

# Turkey

Turkey has met all aspects of the terms of reference (OECD, 2017<sup>[3]</sup>) (ToR) for the calendar year 2019 (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, as well as in the 2017 peer review, Turkey received the same recommendation. As it has not been addressed, the recommendation remains in place.

Turkey can legally issue one type of rulings 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,
- For the calendar year 2018: no future rulings, and
- For the year in review: no future rulings.

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

## A. The information gathering process

1099. Turkey can legally issue the following type of ruling 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; (iii) rulings providing for unilateral downward adjustments

1100. 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. Future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

1101. In the prior years' peer review reports, it was determined that Turkey'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 Turkey's review and supervision mechanism was sufficient to meet the minimum standard. Turkey's implementation remains unchanged, and therefore continues to meet the minimum standard.

1102. Turkey has met all of the ToR for the information gathering process and no recommendations are made.

## B. The exchange of information

1103. In the prior years' peer review reports, it was determined that Turkey's process for the completion and exchange of templates were sufficient to meet the minimum standard. With respect to past rulings, no further action was required. Turkey's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

1104. Turkey 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<sup>[4]</sup>) ("the Convention") and (ii) bilateral agreements in force with 86 jurisdictions.<sup>1</sup>

1105. 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.

1106. 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)

1107. 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)

1108. Turkey offers two intellectual property regimes (IP regime) that are subject to transparency requirements under the Action 5 Report (OECD, 2015<sup>[1]</sup>).<sup>2</sup> It states that the identification of the benefitting taxpayers will occur as follows:

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

- **New entrants benefitting from the grandfathered IP regime:** 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. In addition, 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, in order to be able to identify both new taxpayers and new IP assets of existing taxpayers entering the regime in the relevant period. However, during the year in review, Turkey was not able to identify and exchange information on new entrants to the grandfathered IP regime and 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. Additional steps have been taken to address this, as noted below in “Jurisdiction’s response and recent developments”.
- **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. Turkey has also obliged taxpayers to declare their exempted IP income for the third category of IP assets in the temporary tax return. However, during the year in review, 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. Additional steps have been taken to address this, as noted below in “Jurisdiction’s response and recent developments”.
- **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.

### **5/B regime:**

- **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 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.
- **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
During the year in review, Turkey was not 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 2017 and 2018 peer review reports.

## Jurisdiction's response and recent developments

1109. Turkey indicates that it has completed its first round of identifying new entrants to the grandfathered IP regime, but that additional work on the identification of the taxpayer is needed. The second part of this work has been initiated, but is still ongoing and has been impeded by the Covid-19 pandemic. Turkey indicates that all new entrants will be identified by the end of 2020 and information will be exchanged. In addition, Turkey notes that it expects that a little number of new taxpayers will be identified for exchange of information as most of the taxpayers benefitting from the regime are pure domestic taxpayers. With respect to the third category of IP assets, Turkey notes that it has identified the taxpayers for the year 2018 and 2019 and made exchanges in September 2020. This will be assessed during next year's peer review.

## References

OECD (2017), BEPS Action 5 on Harmful Tax Practices - Terms of Reference and Methodology [3] 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>.

OECD (2015), Countering Harmful Tax Practices More Effectively, Taking into Account [1] 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>.

OECD/Council of Europe (2011), The Multilateral Convention on Mutual Administrative Assistance [4] in Tax Matters: Amended by the 2010 Protocol, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264115606-en>.

## Notes

<sup>1</sup> Parties to the Convention are available here: [www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm](http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm). Turkey also has bilateral agreements with 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.

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



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