

## Kazakhstan

Kazakhstan is taking steps to implement the legal basis for the transparency framework and to commence administrative preparations (in line with the terms of reference (OECD, 2017<sup>[3]</sup>) (ToR)) to ensure that it finalises its information gathering process (ToR I.4), information on rulings will be identified and exchanged in a timely manner (ToR II.5). Kazakhstan receives two recommendations on these points for the year in review.

This is Kazakhstan's first review of implementation of the transparency framework.

Kazakhstan can legally issue one type of ruling within the scope of the transparency framework. These rulings are not published.

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

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

Kazakhstan publishes its tax rulings on a website.<sup>2</sup>

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

## Introduction

This peer review covers Kazakhstan'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

Kazakhstan can legally issue the following type of rulings 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. The transfer pricing division within the state revenue committee is responsible for issuing rulings in Kazakhstan.

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

For Kazakhstan, past rulings are any tax rulings within scope that are issued either (i) on or after 1 January 2016 but before 1 April 2018; and (ii) on or after 1 January 2014 but before 1 January 2016, provided still in effect as at 1 January 2016.

One past ruling was issued. It is noted that the responsible team is currently elaborating guidelines and practices to collect and record the relevant information for the purposes of the transparency framework.

#### ***Future rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1)***

For Kazakhstan, future rulings are any tax rulings within scope that are issued on or after 1 April 2018.

Kazakhstan notes that when requesting an APA, the taxpayer must identify all transactions that will be covered by the agreement and provide all necessary information about these related parties. However, it is not clear that information on the immediate parent and ultimate parent is collected. It is noted that guidelines and practices are being implemented to make sure that the relevant information is adequately processed for the purposes of the transparency framework.

#### ***Review and supervision (ToR I.4.3)***

Kazakhstan is in the process of implementing a review and supervision mechanism. Once issued by the transfer pricing division, rulings should be reviewed by the non-residents taxation division, which will be responsible to collect the relevant information and to make sure that all relevant information is captured adequately and submitted to all relevant jurisdictions without delay.

#### ***Conclusion on section A***

Kazakhstan is recommended to finalise its information gathering process for identifying all relevant past and future rulings and all potential exchange jurisdictions and to implement a review and supervision mechanism, as soon as possible (ToR I.4).

## B. The exchange of information

### ***Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)***

Kazakhstan does not have the necessary domestic legal basis to exchange information on rulings spontaneously. Kazakhstan is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings if needed (ToR II.5.1). It is noted that Kazakhstan expects to conclude its exchange of information regulation in 2019. This will be taken into account in the next year's peer review.

Kazakhstan 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) double tax agreements in force with 59 jurisdictions.<sup>3</sup>

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

Kazakhstan is still developing a process to complete the templates on relevant rulings, to make them available to the Competent Authority for exchange of information, and to exchange them with relevant jurisdictions.

At this stage, timelines for the transmission of the template to the Competent Authority and for the completion of exchanges have not been established. Kazakhstan is planning to issue internal guidance on this. Kazakhstan intends to complete the templates in the form of Annex C of the BEPS Action 5 Final Report (OECD, 2015<sup>[5]</sup>) and to complete the summary section of the template in line with the internal FHTP suggested guidance.

As no exchanges of information on rulings took place during the year in review, there is no data to report on timeliness of exchanges.

### ***Conclusion on section B***

Kazakhstan is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to ensure the timely exchange of information on rulings in the form required by the transparency framework (ToR II.5).

## C. Statistics (ToR IV)

As there was no information on rulings exchanged by Kazakhstan for the year in review, no statistics can be reported.

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

Kazakhstan does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[5]</sup>) were imposed.

## Summary of recommendations on implementation of the transparency framework

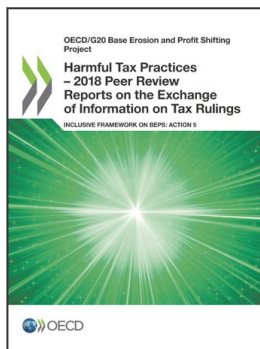
Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
Kazakhstan does not have information gathering process in place.	Kazakhstan is recommended to finalise its information gathering process for identifying all relevant past and future rulings and all potential exchange jurisdictions and to implement a review and supervision mechanism, as soon as possible.
Kazakhstan does not have a domestic legal framework allowing spontaneous exchange of information on rulings and has in place a process for completion of templates and exchange of information on rulings.	Kazakhstan is recommended to put in place a domestic legal framework allowing spontaneous exchange of information on rulings and to ensure the timely exchange of information on rulings in the form required by the transparency framework.

### Notes

<sup>1</sup> These regimes are the Development zone and the Aqaba special economic zone.

<sup>2</sup> Available at: [online.zakon.kz](http://online.zakon.kz).

<sup>3</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). Kazakhstan also has double tax agreements with Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, China (People's Republic of), Croatia, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Iceland, India, Iran, Ireland, Italy, Japan, Korea, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malaysia, Moldova, Mongolia, Montenegro, Morocco, Netherlands, North Macedonia, Norway, Pakistan, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States and Uzbekistan.



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