

Morocco

Morocco has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2019 (year in review), except for ensuring that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework (ToR II.5). Morocco receives one recommendation on this point for the year in review. This is Morocco's first review of implementation of the transparency framework.

Morocco can legally issue one type of rulings within the scope of the transparency framework.

In practice, Morocco has issued no rulings within the scope of the transparency framework.

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

A. The information gathering process

755. Morocco can legally issue the following one 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. Rulings are issued by the General Tax Directorate.

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

756. For Morocco, past rulings are any tax rulings issued prior to 1 September 2019. However, there is no obligation for Morocco to conduct spontaneous exchange information on past rulings.

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

757. For Morocco, future rulings are any tax rulings within scope that are issued on or after 1 September 2019.

758. No rulings were issued by Morocco during the period in review. APAs rulings are processed, negotiated, approved, signed and monitored at the level of a central unit within the Legislation, Studies and International Cooperation directorate. The unit responsible for exchanges of information also belongs to this directorate. Therefore, the process is centralised at the level of the Legislation, Studies and International Cooperation directorate that immediately identifies and processes any future rulings in scope of the transparency framework that might be issued.

759. Morocco can only issue APA rulings and the procedure relating to their issuance is available on the General Tax Directorate's website¹. When a taxpayer applies for an APA, it has to provide information on the jurisdictions of residence of related parties with which the taxpayers enter into a transaction covered by the ruling. According to the existing procedure related to the issuance of APAs rulings, as provided for by a decree and related circular, the taxpayer shall also enclose with the APA request information on the worldwide organisational structure of all associated entities and their legal relationship (i.e. group organisation chart), the financial and tax statements of associated entities and all information and documents necessary to profiling the group and identifying all possible risks concerning the taxpayer's file, including information on the ultimate parent entity and the immediate parent entity.

760. Morocco undertakes to put in place a formal process to provide additional clarity to identify all relevant potential exchange jurisdictions relating to future APAs rulings and to ensure the implementation of the obligations relating to the transparency framework. In practice, no future rulings were issued during the year of review.

Review and supervision (ToR I.4.3)

761. The accuracy of the information gathering process and the identification of rulings in scope of the transparency framework is monitored and supervised by two units within the Legislation, Studies and International Cooperation directorate: a central unit which processes, negotiates, approves, signs and monitors information relating to future rulings in scope of the transparency framework; and a central unit responsible for exchanges of information. Because all the activities related to the issuance and the exchange of relevant rulings are centralised at the level of the Legislation, Studies and International Cooperation directorate, this will ensure that all the rulings in scope of the transparency framework will be correctly and immediately identified and all information needed for the exchanges will be adequately captured.

Conclusion on section A

762. Morocco has met all of the ToR for the information gathering process that can be met in the absence of rulings being issued and no recommendations are made.

B. The exchange of information

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

763. Morocco has the necessary domestic legal basis to exchange information spontaneously. Morocco 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.

764. Morocco 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^[41]) (“the Convention”) and (ii) bilateral agreements in force with 55 jurisdictions.²

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

765. Morocco 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, in the event rulings are issued.

766. As no exchanges were required to take place in the year of review, no data on the timeliness of exchanges can be reported.

Conclusion on section B

767. Morocco has the necessary legal basis for spontaneous exchange of information.

768. Morocco is recommended to develop a process to complete the templates on relevant rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework going forward (ToR II.5).

C. Statistics (ToR IV)

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

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

770. Morocco does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[1]) 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
Morocco does not have 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.	Morocco is recommended to develop a process to complete the templates on relevant rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework.

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 Available here: <https://www.tax.gov.ma/wps/portal/DGI/Documentation-fiscale/Recommandations-des-Assises>.

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. Morocco also has bilateral agreements with Arab Maghreb Union jurisdictions and Austria, Bahrain, Belgium, Bulgaria, Canada, China (People's Republic of), Côte d'Ivoire, Croatia, Czech Republic, Denmark, Egypt, Finland, France, Gabon, Germany, Greece, Guinea, Hungary, India, Indonesia, Ireland, Italy, Jordan, Korea, Kuwait, Latvia, Lebanon, Luxembourg, Malaysia, Mali, Malta, Netherlands, North Macedonia, Norway, Oman, Pakistan, Poland, Portugal, Qatar, Romania, Russia, Senegal, Singapore, Spain, Syrian Arab Republic, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Viet Nam.



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