

Panama

Panama has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2019 (year in review) and no recommendations are made.

In the prior year report, Panama had received one recommendation. Panama has resolved this issue and therefore the prior year recommendation is removed.

As of 2019, Panama cannot legally issue any type of rulings within the scope of the transparency framework.

No peer input was received in respect of the exchanges of information on rulings received from Panama.

A. The information gathering process

803. As of 2019, Panama cannot legally issue any type of rulings within the scope of the transparency framework. In the prior years, Panama could legally issue one type of ruling within the scope of the transparency framework: rulings related to preferential regimes.¹ In practice, Panama issued only one past ruling within the scope of the transparency framework.

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

804. For Panama, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2015 but before 1 April 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.

805. In the prior years' peer review reports, it was determined that Panama's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Panama'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)

806. For Panama, future rulings are any tax rulings within scope that are issued on or after 1 April 2017.

807. In the prior years' peer review reports, it was determined that Panama's implementation of a new system to identify future rulings and all potential exchange jurisdictions was sufficient to meet the minimum standard. As Panama can no longer issue rulings in scope of the transparency framework, this section is no longer required to be assessed.

Review and supervision (ToR I.4.3)

808. In the prior year peer review report, it was determined that Panama's review and supervision mechanism was sufficient to meet the minimum standard except for identifying certain potential exchange jurisdictions through the review and supervision mechanism (ToR I.4.3). Therefore, Panama was recommended to strengthen its review and supervision mechanism to ensure that the information gathering process is working effectively.

809. During the year in review, the Directorate of Financial and International Fiscal Strategy has developed a five-step guide to strengthen Panama's mechanism for the review and verification of rulings that had been issued prior to 2019: 1) an attorney reviewed the tax agreements to identify rulings within the scope of the transparency framework and assessed the jurisdictions for which the rulings may be relevant; 2) the information was verified by the head of legal department to validate the accuracy of the data and forwarded to the deputy director's office; 3) the deputy director validated the information received and forwarded it to the director's office; 4) the information was reviewed a fourth time by the Director and sent to the Exchange Information Department; and 5) the Exchange Information Department sends the information to the relevant jurisdictions. This five-step process ensured that all relevant information was captured adequately. The outcome of this process confirmed that no additional rulings or information on exchange jurisdictions had been missing. Therefore, the recommendation is now removed.

Conclusion on section A

810. For the year in review, Panama has met the ToR for the information gathering process and no recommendations are made.

B. The exchange of information

811. Panama has the necessary domestic legal basis to exchange information spontaneously. Panama 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.

812. Panama 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 17 jurisdictions,² however spontaneous exchange of information under these agreements is not authorised by Panama’s domestic law.

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

813. In the prior year peer review report, it was determined that Panama’s process for the completion and exchange of templates were sufficient to meet the minimum standard given the ability of Panama to quickly identify and resolve the issues related to some delays experienced in the process of completing and exchanging the templates and considering this was not a recurring issue. Panama’s implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

814. During the year in review, Panama completed and exchanged the template for the one identified past ruling due to an error in the review and supervision mechanism that occurred in 2018 with regard to the information gathering process, as well as uncertainty in determining whether the Convention allowed the spontaneous exchange of information on tax rulings, given the Convention applied for taxable periods from 1 January 2018. Panama noted that the summary section of the template was completed in line with the internal FHTP suggested guidance.

815. 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
	3	0	N/A	N/A
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
	0	0	N/A	N/A
Total	3	0		

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

Conclusion on section B

816. Panama 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. Panama has met all of the

ToR for the exchange of information process and has completed the outstanding exchanges from prior years. Given that no future rulings can be issued from 2019, no recommendations would be made.

C. Statistics (ToR IV)

817. 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	<i>De minimis</i> rule applies	N/A
<i>De minimis</i> rule	3	N/A
Total	3	

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

818. Panama offers two intellectual property regimes (IP regime)³ that are not subject to the transparency requirements under the Action 5 Report (OECD, 2015^[1]), because:

- **New entrants benefitting from the grandfathered IP regime:** the City of knowledge technical zone regime has been amended by implementing the nexus approach from 27 December 2018. Taxpayers benefitting from the previous regime cannot benefit from grandfathering. As such, no enhanced transparency requirements apply. The general IP regime came into effect from 27 December 2018. As it is a new IP regime rather than a grandfathered IP regime, transparency on new entrants is not relevant.
- **Third category of IP assets:** not applicable as the regimes do not allow the third category of IP assets to qualify for the benefits.
- **Taxpayers making the use of the option to treat the nexus ratio as a rebuttable presumption:** not applicable as the regimes do 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
	No recommendations are made.

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>.

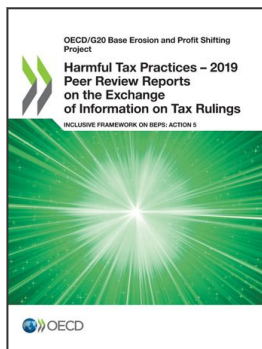
[4]

Notes

¹ With respect to the following preferential regime: Multinational Companies Headquarters' regime (i.e. MHQ/SEM). These rulings are known as "fiscal agreements". Law 57 of 2018, entered into force on 1 January 2019, repealed the provision that included the possibility for Multinational headquarters (MHQ) Licensed Companies to obtain a fiscal agreement. Therefore as of 2019, Panama cannot legally issue any type of rulings within the scope of the transparency framework.

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. Panama also has bilateral agreements with Barbados, Czech Republic, France, Ireland, Israel, Italy, Korea, Luxembourg, Mexico, Netherlands, Portugal, Qatar, Singapore, Spain, United Arab Emirates, United Kingdom and Viet Nam.

³ 1) City of knowledge technical zone and 2) General IP regime.



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