

Peru

Peru has met all aspects of the terms of reference (OECD, 2021^[3]) (ToR) for the calendar year 2020 (year in review), and no recommendations are made.

Peru can legally issue one type of ruling within the scope of the transparency framework.

In practice, Peru 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 Peru.

A. The information gathering process (ToR I.A)

874. Peru 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.¹

875. For Peru, 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.

876. In the prior years' peer review reports, it was determined that Peru'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 Peru's review and supervision mechanism was sufficient to meet the minimum standard. In the year in review, Peru clarified that officials from the Large National Taxpayer Unit manually verify all tax rulings issued to identify those that fall within the scope of the transparency framework and report this information to the relevant departments. For the purpose of formalising the process, Peru notes that a structured procedure will be established by the end of 2022 to capture and verify relevant information appropriately. The new procedure will formalise the process to identify APAs and particular consultations issued on transfer pricing or the application of transfer pricing principles matters as well as the relevant exchange jurisdictions at the time of the taxpayer's request. It will also detail the steps of the review and supervision mechanism. Peru's implementation remains unchanged, and therefore continues to meet the minimum standard.

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

B. The exchange of information (ToR II.B)

878. Peru has international agreements permitting spontaneous exchange of information, including being a party to (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[4]) ("the Convention"), (ii) bilateral agreements in force with seven jurisdictions, and (iii) tax information exchange agreements in force with two jurisdictions.²

879. As Peru did not issue any past or future rulings within the scope of the transparency framework in the relevant periods, Peru 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.

880. In the prior years' peer review reports, it was determined that Peru'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. Peru's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

881. Peru 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. For the purpose of formalising the process, Peru notes that a structured procedure for the completion and exchange of templates will be established by the end of 2022. Peru has met all of the ToR for the exchange of information process and no recommendations are made.

C. Statistics (ToR IV)

882. As no rulings were issued, no statistics can be reported.

D. Matters related to intellectual property regimes (ToR I.A.1.3)

883. Peru 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
	No recommendations are made.

References

- OECD (2021), *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 (ed.) (2017b), *Harmful Tax Practices - 2017 Progress Report on Preferential Regimes*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264283954-en>. [2]
- 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 Rulings other than APAs are known in Peru as “particular consultations”. Particular consultations are issued in accordance with article 95-A of the Tax Code and relate to the tax regime applicable to specific facts or situations addressed by a taxpayer with a legitimate interest. Particular consultations are specific rulings on which the particular taxpayer is entitled to rely. However, Peru clarified that particular consultations cannot be issued on any of the categories of rulings within the scope of the transparency framework except for issues covering transfer pricing or the application of transfer pricing principles that fall outside the scope of an APA. Therefore, particular consultations fall in the “any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles”.

² Participating jurisdictions to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Peru also has bilateral agreements with Brazil, Canada, Chile, Korea, Mexico, Portugal and Switzerland; and tax information exchange agreements in force with Ecuador and the United States.



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