

United Kingdom

The United Kingdom has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2018 (year in review) and no recommendations are made.

In the prior year report, the United Kingdom received one recommendation. This recommendation has been addressed and is removed.

The United Kingdom can legally issue three types of rulings within the scope of the transparency framework. In practice, the United Kingdom issued rulings within the scope of the transparency framework as follows:

- 599 past rulings;
- For the period 1 April 2016 - 31 December 2016: 71 future rulings;
- For the calendar year 2017: 16 future rulings, and
- For the year in review: 19 future rulings.

Peer input was received from five jurisdictions in respect of the exchanges of information on rulings received from the United Kingdom. The input was generally positive, noting that information was complete, in a correct format and received in a timely manner.

Introduction

This peer review covers the United Kingdom'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

The United Kingdom can legally issue the three following types of rulings within the scope of the transparency framework: (i) rulings related to preferential regimes;¹ (ii) cross-border unilateral advance pricing agreements (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; and (iii) permanent establishment rulings.

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

For the United Kingdom, 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 2016.

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

For the United Kingdom, future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

In the prior years' peer review reports, it was determined that the United Kingdom's undertakings to identify future rulings and all potential exchange jurisdictions was sufficient to meet the minimum standard. The United Kingdom's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

Review and supervision (ToR I.4.3)

In the prior years' peer review reports, it was determined that the United Kingdom tax administration's review and supervision mechanisms were sufficient to meet the minimum standard. The United Kingdom tax administration's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

Conclusion on section A

The United Kingdom has met all of the ToR for the information gathering process and no recommendations are made.

B. The exchange of information

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

United Kingdom has the necessary domestic legal basis to exchange information spontaneously. United Kingdom 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.

The United Kingdom is a party to international agreements permitting spontaneous exchange of information, including (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) ("the Convention"), (ii) the Directive 2011/16/EU with all other European Union Member States and (iii) double tax agreements in force with 121 jurisdictions.²

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

In the prior year peer review reports, it was determined that the United Kingdom's completion and exchange of templates were sufficient to meet the minimum standard. The United Kingdom's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

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 2018	Delayed exchanges		
		Number of exchanges not transmitted by 31 December 2018	Reasons for the delays	Any other comments
	0	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
	13	11	Delays resulting from resourcing issues and a misunderstanding between timing under the Action 5 standard and the EU Directive.	All rulings have now been exchanged.
Total	13	11		

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

The United Kingdom experienced some delays exchanging information on future rulings. The delays were a result of resourcing issues, and a misunderstanding between the time limits under the Action 5 standard and the EU directive which are typically longer. HMRC has clarified its instructions for the exchange of rulings under the Action 5 standard to ensure this misunderstanding does not continue to occur, and all exchanges were completed within the year in review. As such, no recommendation is made.

Conclusion on section B

The United Kingdom has the necessary legal basis for spontaneous exchange of information, a process for completing the templates in a timely way and has completed exchanges mostly on time. The United Kingdom has met all of the ToR for the exchange of information process and no recommendations are made.

C. Statistics (ToR IV)

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	0	N/A
Cross-border unilateral advance pricing agreements (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	15	Canada, Hong Kong (China), Ireland, Japan, Luxembourg, Netherlands, Sweden, Switzerland, United States
Cross-border rulings providing for a unilateral downward adjustment to the taxpayer's taxable profits that is not directly reflected in the taxpayer's financial / commercial accounts	N/A	N/A
Permanent establishment rulings	9	Australia, Austria, Belgium, Hong Kong (China), Ireland, Mexico, United States
Related party conduit rulings	N/A	N/A
<i>De minimis</i> rule	N/A	N/A
IP regimes: total exchanges on taxpayers benefitting from the third category of IP assets, new entrants benefitting from grandfathered IP regimes; and taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption	177	Australia, Austria, Belgium, Canada, China (People's Republic of), Curaçao, Denmark, Finland, France, Germany, Greece, Hong Kong (China), India, Israel, Italy, Japan, Luxembourg, Mexico, Netherlands, Norway, Panama, Philippines, Spain, Sweden, Switzerland, United States
Total	201	

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

The United Kingdom offers an intellectual property regime (IP regime)³ that is subject to transparency requirements under the Action 5 Report (OECD, 2015^[5]). It states that the identification of the benefitting taxpayers occurs as follows:

- **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 the prior year peer review report, it was determined that the United Kingdom's implementation regarding matters related to intellectual property regime was sufficient to meet the minimum standard except for identifying and exchanging information on new IP assets of existing taxpayers benefitting from the grandfathered IP regime, for which the United Kingdom received a recommendation to exchange such information. Given the need to respect domestic law limitations on obtaining specific information on new IP assets as noted in the prior year report, the United Kingdom identified all taxpayers able

to benefit from grandfathering during the relevant period. The United Kingdom has exchanged this information in 2018 with 26 jurisdictions. Accordingly, the prior year recommendation is removed.

- **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:** the United Kingdom confirms that no taxpayer elected to treat the nexus approach as a rebuttable presumption and as such no exchanges were required for the year in review.

Summary of recommendations on implementation of the transparency framework

Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
The United Kingdom experienced some delays in exchanging information on future rulings.	No recommendation is made because the United Kingdom has remedied the issue and completed exchanges on the delayed future rulings in the year in review and this is not expected to be a recurring issue.

Notes

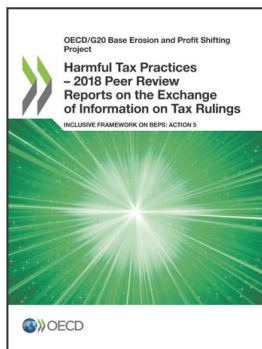
¹ With respect to the following preferential regimes: 1) Patent box and 2) Shipping regime.

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. The United Kingdom also has bilateral agreements with Albania, Algeria, Antigua and Barbuda, Argentina, Armenia, Australia, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belize, Bolivia, Bosnia and Herzegovina, Botswana, British Virgin Islands, Brunei, Bulgaria, Cayman Islands, Chile, China (People's Republic of), Colombia, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Falkland Islands, Faroe Islands, Fiji, Finland, Gambia, Georgia, Ghana, Greece, Grenada, Guernsey, Guyana, Hong Kong (China), Hungary, Iceland, India, Indonesia, Ireland, Isle of Man, Israel, Jamaica, Japan, Jersey, Jordan, Kazakhstan, Kenya, Kiribati, Korea, Kosovo, Kuwait, Latvia, Lesotho, Libya, Lithuania, Malawi, Malaysia, Malta, Mauritius, Mexico, Moldova, Mongolia, Montenegro, Montserrat, Morocco, Myanmar, Namibia, New Zealand, Nigeria, North Macedonia, Norway, Oman, Pakistan, Panama, Papua New Guinea, Philippines, Poland, Portugal, Qatar, Romania, Russia, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovak Republic, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Saint Kitts and Nevis, Sudan, Swaziland, Chinese Taipei, Tajikistan, Thailand, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, United States, Uruguay, Uzbekistan, Venezuela, Viet Nam, Zambia and Zimbabwe.

Note by Turkey: The information in this document with reference to "Cyprus" relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the "Cyprus issue".

Note by all the European Union Member States of the OECD and the European Union. The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

³ Patent box.



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