

## China (People's Republic of)

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

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

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

- 11 past rulings;
- For the period 1 April 2016 - 31 December 2016: six future rulings;
- For the calendar year 2017: three future rulings,
- For the calendar year 2018: two future rulings, and
- For the year in review: four future rulings.

Peer input was received from one jurisdiction in respect of the exchanges of information on rulings received from China. The input was positive, noting that information was complete, in a correct format and received in a timely manner.

## A. The information gathering process

219. China can legally issue one 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.

220. There was previously a legal barrier to the exchange of information on rulings in China, which did not allow the exchange of past rulings. The legal framework in China was subsequently amended to allow exchanges on future rulings. Future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

221. In the prior years' peer review reports, it was determined that China'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 China's review and supervision mechanism was sufficient to meet the minimum standard. China's implementation remains unchanged, and therefore continues to meet the minimum standard.

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

## B. The exchange of information

223. In the prior years' peer review reports, it was determined that China's process for the completion and exchange of templates were sufficient to meet the minimum standard. China's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

224. China 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) bilateral agreements in force with 100 jurisdictions.<sup>1</sup>

225. For the year in review, the timeliness of exchanges is as follows:

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
	4	0	N/A	N/A
<b>Total</b>	4	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

226. China 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. China has met all of the ToR for the exchange of information process and no recommendations are made.

## C. Statistics (ToR IV)

227. The statistics for the year in review are as follows:

Category of ruling	Number of exchanges	Jurisdictions exchanged with
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	<i>De minimis</i> rule applies	N/A
<i>De minimis</i> rule	4	N/A
<b>Total</b>	4	

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

228. In the prior years' peer review reports, it was determined that the transparency requirements were not relevant for China's intellectual property regime (Reduced rate for high & new tech enterprises).

## 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/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

<sup>1</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). China also has bilateral agreements in force with Albania, Algeria, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Bulgaria, Cambodia, Canada, Chile, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mauritius, Mexico, Moldova, Mongolia, Montenegro, Morocco, Nepal, Netherlands, New Zealand, Nigeria, North Macedonia, Norway, Oman, Pakistan, Papua New Guinea, Philippines, Poland, Portugal, Qatar, Romania, Russia, Saudi Arabia, Serbia, Seychelles, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syria, Tajikistan, Thailand, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Venezuela, Viet Nam, Zambia and Zimbabwe.



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