

Costa Rica

Costa Rica 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.

Costa Rica can legally issue two types of rulings within the scope of the transparency framework.

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

| Type of ruling | Number of rulings |
|--|-------------------|
| Past rulings | 6 |
| Future rulings in the calendar year 2017 | 3 |
| Future rulings in the calendar year 2018 | 4 |
| Future rulings in the calendar year 2019 | 0 |
| Future rulings in the year in review | 3 |

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

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

285. Costa Rica can legally issue the following two types of rulings within the scope of the transparency framework: (i) 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 and (ii) permanent establishment (PE) rulings. To date, Costa Rica has issued only PE rulings given the resolution that establishes the requirements related to the issuance of APAs rulings has been issued on 16 March 2021 and published on 24 March 2021. As such, this report assesses the implementation with respect to PE rulings. The implementation with respect to APA rulings will be assessed in the next year's peer review.

286. For Costa Rica, 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. Future rulings are any tax rulings within scope that are issued on or after 1 April 2017.

287. In the prior years' peer review reports, it was determined that Costa Rica'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 Costa Rica's review and supervision mechanism was sufficient to meet the minimum standard. Whilst Costa Rica's actions already meet the minimum standard under the transparency framework, Costa Rica continued to develop a shareholder register to further enhance Costa Rica's information gathering abilities for the standard. The functionality of the shareholder register has been scheduled in stages aimed to cover companies in 2020 and trusts, foundations and associations in 2021.

288. Costa Rica's implementation remains unchanged, and therefore continues to meet the minimum standard.

289. Costa Rica has met all of the ToR for the information gathering process and no recommendations are made.

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

290. Costa Rica 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) the Convention on Mutual Assistance and Technical Cooperation between Tax and Customs Administrations of Central America, (iii) bilateral agreements in force with three jurisdictions, and (iv) tax information exchange agreements in force with two jurisdictions.¹

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

| Future rulings within 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 |

| 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 |

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

293. Costa Rica 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. Costa Rica has met all of the ToR for the exchange of information process and no recommendations are made.

C. Statistics (ToR IV)

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

| Category of ruling | Number of exchanges | Jurisdictions exchanged with |
|--|--------------------------------|------------------------------|
| 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 | N/A | N/A |
| Permanent establishment rulings | <i>De minimis</i> rule applies | N/A |
| De minimis rule | 4 | N/A |
| Total | 4 | |

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

295. Costa Rica 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 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. Costa Rica is also party to the Convention on Mutual Assistance and Technical Cooperation between Tax and Customs Administrations of Central America including El Salvador, Guatemala, Honduras and Nicaragua. Costa Rica has bilateral tax agreements with Germany, Mexico and Spain, and tax information exchange agreements with Argentina and the United States, the latter renewed in September 2020. All these agreements allow spontaneous exchange of information.



From:

Harmful Tax Practices – 2020 Peer Review Reports on the Exchange of Information on Tax Rulings Inclusive Framework on BEPS: Action 5

Access the complete publication at:

<https://doi.org/10.1787/f376127b-en>

Please cite this chapter as:

OECD (2021), “Costa Rica”, in *Harmful Tax Practices – 2020 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/cdbcode04-en>

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