

Lithuania

Lithuania 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.

Lithuania can legally issue five types of rulings within the scope of the transparency framework.

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

- Five past rulings;
- For the calendar year 2017: six future rulings;
- For the calendar year 2018: five future rulings; and
- For the year in review: nine future rulings.

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

A. The information gathering process

688. Lithuania can legally issue the following five types of rulings within the scope of the transparency framework: (i) preferential regimes;¹ (ii) 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; (iii) rulings providing for unilateral downward adjustments; (iv) permanent establishment rulings; and (v) related party conduit rulings.

689. For Lithuania, 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.

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

691. During the year in review, Lithuania issued additional regulations to strengthen the identification process for future rulings (other than APAs). When applying for a ruling with an international element, the taxpayer now always has to provide information with respect to the immediate parent entity and the ultimate parent entity. Previously, Lithuania would obtain additional information from the taxpayer and was able to do so in all cases and without delay. Lithuania's implementation continues to meet the minimum standard.

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

B. The exchange of information

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

694. Lithuania 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^[4]) ("the Convention"), (ii) the Directive 2011/16/EU with all other European Union Member States and (iii) bilateral agreements in force with 55 jurisdictions.²

695. 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
	17	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

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

C. Statistics (ToR IV)

697. 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	9	Canada, Estonia, Finland, Germany, Latvia, Luxembourg, Netherlands, Poland, United States
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	6	Estonia, Finland, Ireland, Latvia, Singapore, United Kingdom
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	0	N/A
Permanent establishment rulings	<i>De minimis rule applies</i>	N/A
Related party conduit rulings	0	N/A
<i>De minimis rule</i>	2	
Total	17	

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

698. Lithuania offers an intellectual property regime (IP regime) which came into effect from 1 January 2018. It is noted that this regime is not subject to transparency requirements under the Action 5 report (OECD, 2015^[1]), because:

- **New entrants benefitting from the grandfathered IP regime:** as this is a new IP regime rather than a grandfathered IP regime, transparency on new entrants was not relevant.
- **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:** not applicable as the regime does 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 regimes: 1) Free economic zone taxation regime, 2) Tonnage tax regime and 3) IP 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. Lithuania also has bilateral agreements with Armenia, Austria, Azerbaijan, Belarus, Belgium, Bulgaria, Canada, China (People's Republic of), Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Kazakhstan, Korea, Kuwait, Kyrgyzstan, Latvia, Luxembourg, Malta, Mexico, Moldova, Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, Russia, Serbia, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States and Uzbekistan.



From:

Harmful Tax Practices – 2019 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/afd1bf8c-en>

Please cite this chapter as:

OECD (2020), "Lithuania", in *Harmful Tax Practices – 2019 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/d93b0881-en>

This work is published under the responsibility of the Secretary-General of the OECD. The opinions expressed and arguments employed herein do not necessarily reflect the official views of OECD member countries.

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.