

Israel

Israel has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2018 (year in review) except the timely provision of information on rulings to the Competent Authority for exchange of information (ToR II.5.5), and the timely exchange of information on future rulings (ToR II.5.6). Israel receives two recommendations on these points.

In the prior year report, Israel received the same two recommendations. As they have not been addressed, the recommendations remain in place.

Israel can legally issue five types of rulings within the scope of the transparency framework. In practice, Israel issued rulings within the scope of the transparency framework as follows:¹

- 79 past rulings;
- For the period 1 April 2016 - 31 December 2016: 5 future rulings;
- For the calendar year 2017: 16 future rulings, and
- For the year in review: 15 future rulings.

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

Introduction

This peer review covers Israel'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

Israel can legally issue the following five types of rulings within the scope of the transparency framework: (i) preferential regimes;² (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.

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

For Israel, 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 2014.

In the prior year peer review report, it was determined that Israel's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Israel'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 Israel, 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 Israel's implementation of a new system to identify future rulings and all potential exchange jurisdictions was sufficient to meet the minimum standard. Israel'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 Israel's review and supervision mechanism was sufficient to meet the minimum standard. Israel's implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

Conclusion on section A

Israel continues to meet 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)

Israel has the necessary domestic legal basis to exchange information spontaneously. Israel 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.

Israel 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”) and (ii) double tax agreements in force with 54 jurisdictions.³

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 report, it was determined that Israel’s process for the completion and exchange of templates met all the ToR, except for the timely provision of information on rulings to the Competent Authority (ToR II.5.5) and for the timely exchange of information on past and future rulings (ToR II.5.6). Therefore, Israel was recommended to reduce the timelines for providing the information on future rulings to the Competent Authority and to ensure that all information on future rulings is exchanged as soon as possible.

In late 2018, the internal computer system which is used by the departments to issue rulings was amended, to add a feature which marks rulings as being relevant for exchange. When this is marked as such, the ruling is automatically transmitted and available to the EOI department. This system became operational in 2019, and will be taken into account in the subsequent peer review. Israel notes that the 16 rulings issued in 2017 and the 15 rulings issued in 2018 were exchanged during 2019. These exchanges will be included in the next year’s peer review report.

As there were no exchanges for the year in review, no data on the timeliness of exchanges can be reported.

Conclusion on section B

Israel is recommended to continue its efforts to reduce the timelines for providing the information on future rulings to the Competent Authority, and to ensure that all information on future rulings is exchanged as soon as possible.

C. Statistics (ToR IV)

As there were no rulings exchanged by Israel for the year in review, no statistics can be reported.

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

Israel offers two intellectual property regimes (IP regime)⁴ that is subject to the transparency requirements under the Action 5 Report (OECD, 2015^[5]). It states that the identification of the benefitting taxpayers will occur as follows:

- ***New entrants benefitting from the grandfathered IP regime:*** the process on the collection of information regarding new entrants in the grandfathered IP regime is described in the previous year peer review report, and the process was completed in a manner that met the ToR.
- ***Third category of IP assets:*** the regimes provide benefits to the third category of IP assets. The process on the collection of information is described in the previous year peer review report and

meets the ToR. In the absence of information to the contrary, it is assumed that Israel's implementation of this aspect remains unchanged and continues to meet the ToR.

- ***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
During the year in review, Israel continued to experience delays in the provision of rulings to the Competent Authority.	Israel is recommended to continue its efforts to reduce the timelines for providing the information on future rulings to the Competent Authority. This recommendation remains unchanged since the prior year peer review report.
Israel continued to encounter delays in the exchange of information for all future rulings within the scope of the transparency framework.	Israel is recommended to ensure that all information on future rulings is exchanged as soon as possible. This recommendation remains unchanged since the 2016 peer review report and the 2017 peer review report.

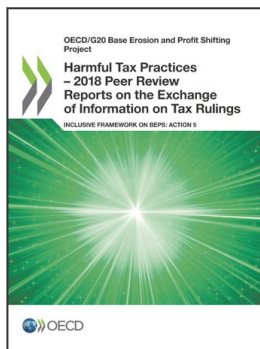
Notes

¹ Note: The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

² With respect to the following preferential regimes: Preferred company regime and Preferred technological enterprise regime

³ Parties to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. Israel also has double tax agreements with Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, China (People's Republic of), Chinese Taipei, Croatia, Czech Republic, Denmark, Estonia, Ethiopia, Finland, France, Georgia, Germany, Greece, Hungary, India, Ireland, Italy, Jamaica, Japan, Korea, Latvia, Lithuania, Luxembourg, Malta, Mexico, Moldova, Netherlands, Norway, Panama, Philippines, Poland, Portugal, Romania, Russia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Turkey, Ukraine, United Kingdom, United States, Uzbekistan and Viet Nam.

⁴ The Preferred company regime which is the grandfathered regime, and the Preferred technological enterprise regime which is the amended regime.



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