

## Peru

Peru has met all aspects of the terms of reference (OECD, 2021<sup>[1]</sup>) (ToR) for the calendar year 2022 (year in review), and no recommendations are made.

Peru can legally issue one type of rulings within the scope of the transparency framework.

In practice, Peru issued no rulings within the scope of the transparency framework.

As no exchanges were required to take place, no peer input was received in respect of the exchanges of information on rulings received from Peru.

## Information gathering process (ToR I.A)

921. Peru can legally issue the following 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.<sup>1</sup>

922. For Peru, past rulings are any tax rulings within scope that are issued either: (i) on or after 1 January 2015 but before 1 September 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 September 2017.

923. In the prior years' peer review reports, it was determined that Peru'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 Peru's review and supervision mechanism was sufficient to meet the minimum standard. In prior year report, it was determined that officials from the Large National Taxpayer Unit manually verify all tax rulings issued to identify those that fall within the scope of the transparency framework and report this information to the relevant departments. For the purpose of formalising the process, Peru noted that a structured procedure will be established by mid-2024 to capture and verify relevant information appropriately. During the year in review, Peru continued its work on the development of this procedure. Peru's implementation remains unchanged, and therefore continues to meet the minimum standard.

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

## Exchange of information (ToR II.B)

925. Peru has the necessary domestic legal basis to exchange information spontaneously. Peru 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.

926. Peru has 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<sup>[2]</sup>) ("the Convention"), (ii) bilateral agreements in force with seven jurisdictions and (iii) tax information exchange agreements in force with two jurisdictions.<sup>2</sup>

927. During the year in review, no exchanges were required to take place and no data on the timeliness of exchanges is reported.

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

929. Peru 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. In the prior year report, it was noted that Peru will establish a structured procedure for the completion and exchange of templates for the purpose of formalising the process by mid-2024. During the year in review, Peru continued its work on the development of this procedure. Peru has met all of the ToR for the exchange of information process and no recommendations are made.

## Statistics (ToR IV.D)

930. As no rulings were issued, no statistics can be reported.

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

931. Peru does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015<sup>[3]</sup>) 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, <https://www.oecd.org/tax/beps/beps-action-5-harmful-tax-practices-peer-review-transparency-framework.pdf>. [1]
- 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://doi.org/10.1787/9789264241190-en>. [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://doi.org/10.1787/9789264115606-en>. [2]

## Notes

<sup>1</sup> Rulings other than APAs are known in Peru as “particular consultations”. Particular consultations are issued in accordance with article 95-A of the Tax Code and relate to the tax regime applicable to specific facts or situations addressed by a taxpayer with a legitimate interest. Particular consultations are specific rulings on which the particular taxpayer is entitled to rely. However, Peru clarified that particular consultations cannot be issued on any of the categories of rulings within the scope of the transparency framework except for issues covering transfer pricing or the application of transfer pricing principles that fall outside the scope of an APA. Therefore, particular consultations fall in the “any other cross-border unilateral tax rulings (such as an advance tax ruling) covering transfer pricing or the application of transfer pricing principles”.

<sup>2</sup> 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](http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm). Peru also has bilateral agreements with Brazil, Canada, Chile, Japan, Korea, Mexico and Portugal; and tax information exchange agreements in force with Ecuador and the United States.



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