# France

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

In the prior year report, as well as in the 2016-2020 peer reviews, France had received a recommendation regarding identifying and exchanging information on new entrants to the grandfathered IP regime (ToR I.A.1.3). France has now exchanged all information on new entrants and the recommendation is resolved.

France can legally issue three types of rulings within the scope of the transparency framework.

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

| Type of ruling | Number of rulings |
|---|---|
| Past rulings | 45 |
| Future rulings in the period 1 April 2016 – 31 December 2016 | 4 |
| Future rulings in the calendar year 2017 | 6 |
| Future rulings in the calendar year 2018 | 6 |
| Future rulings in the calendar year 2019 | 16 |
| Future rulings in the calendar year 2020 | 8 |
| Future rulings in the calendar year 2021 | 16 |
| Future rulings in the year in review | 34[1] |

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

## Information gathering process (ToR I.A)

447. France can legally issue the following three 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; and (iii) permanent establishment rulings.

448. For France, 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. Future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

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

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

## Exchange of information (ToR II.B)

451. France has the necessary domestic legal basis to exchange information spontaneously. France 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.

452. France 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[2]) ("the Convention"), (ii) the Directive 2011/16/EU with all other European Union Member States and (iii) bilateral agreements in force with 126 jurisdictions.[3]

453. 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 |
| | 34 | 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 |
|---|---|---|---|
| | 3 | 2 months | 0 |

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

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

## Statistics (ToR IV.D)

456. 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 | 6 | Belgium, Germany, Italy, Luxembourg, Netherlands, United Kingdom |
| 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 | 4 | *De minimis* rule applies |
| Permanent establishment rulings | 24 | Canada, Denmark, Estonia, Germany, Ireland, Luxembourg, Netherlands, Spain, Sweden, Switzerland, United Kingdom |
| IP regimes: total exchanges on taxpayers benefitting from the third category of IP assets, new entrants benefitting from grandfathered IP regimes; and taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption | 41 | Belgium, Germany, Italy, Japan, Luxembourg, Netherlands, Norway, Spain, Sweden, Switzerland, United Kingdom, United States |
| **Total** | 75 | |

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

457. France offers an intellectual property regime (IP regime)[4] that is subject to the transparency requirements under the Action 5 Report (OECD, 2015[3]). This regime was amended with effect from 1 January 2019 and is compliant with the nexus approach. It states that the identification of the benefitting taxpayers will occur as follows:

- ***New entrants benefitting from the grandfathered IP regime:***

  With respect to the previous form of the regime that existed until 31 December 2018, France had not identified information on new entrants, and as such had not exchanged information. Therefore, France was recommended to identify and exchange information on all new entrants to the IP regime. In the prior year's report, it was noted that France identified those taxpayers that were owned for at least 25% by foreign residents among all new entrants to the regime between 2015 and 2018.

  During the year in review, France exchanged all information regarding the identified taxpayers. As all the information was identified and exchanged, the recommendation has now been resolved.

- ***Third category of IP assets:***

  In the previous year's report, it was noted that the third category of IP assets was not yet in effect. France has made amendments to its IP regimes by the Article 72 of Law no. 2022-1726 of 31 December 2022. As of 2023, the regime no longer provides benefits to the third category of IP assets.

- ***Taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption***:

The amended IP regime allows for the option to treat the nexus ratio as a rebuttable presumption. Taxpayers opting to do so must obtain a ruling from the tax administration and are required to list the specific assets for which the presumption was rebutted in their tax return. France confirms that no taxpayer elected to treat the nexus approach 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 (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]

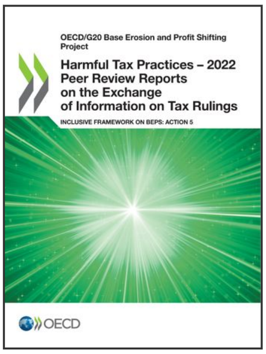
## Notes

[1] During the year in review, France also issued three rulings relating to "other types of rulings" that fall outside of the scope of the transparency framework and exchanged information on these rulings.

[2] Shipping regime.

[3] 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. France also has bilateral agreements with: Albania, Algeria, Andorra, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Central African Republic, Chile, China (People's Republic of), Colombia, Congo, Côte d'Ivoire, Croatia, Cyprus, Czechia, Ecuador, Egypt, Estonia, Ethiopia, Finland, French Polynesia, Gabon, Georgia, Germany, Ghana, Greece, Guinea, Hong Kong (China), Hungary, Iceland, India, Indonesia, Iran, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Korea, Kosovo, Kuwait, Kyrgyzstan, Latvia, Lebanon, Libya, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Morocco, Namibia, Netherlands, New Caledonia, New Zealand, Niger, Nigeria, North Macedonia, Norway, Oman, Pakistan, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russia, Saudi Arabia, Senegal, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sint Maarten, Saint Pierre and Miquelon, Sweden, Switzerland, Syrian Arab Republic, Chinese Taipei, Thailand, Togo, Trinidad and Tobago, Tunisia, Türkiye, Turkmenistan, Ukraine, United Arab Emirates, United Kingdom, United States, Uzbekistan, Venezuela, Viet Nam, Zambia and Zimbabwe.

[4] Reduced corporation tax rate on IP income, formerly known as Reduced rate for long term capital gains and profits from the licensing of IP rights.

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