

Israel

Israel has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2019 (year in review), except for ensuring that each of the mandatory fields of information required in the template contained in Annex C of the BEPS Action 5 Report (OECD, 2015^[1]), especially with regard to the summary section, are present in the information exchanged (ToR II.5.3) and for the timely provision of information on rulings to the Competent Authority for exchange of information (ToR II.5.5). Israel receives two recommendations on these points for the year in review.

In the prior year report, as well as in the 2016 and 2017 peer reviews, Israel had received two recommendations. During the year in review, Israel has resolved the issue regarding the delays in the exchange of information for all future rulings (ToR II.5.6) and therefore the recommendation is now removed. As the recommendation to reduce the timelines for providing the information on future rulings to the Competent Authority (ToR II.5.5) has not been addressed, the recommendation remains in place and a new recommendation is added.

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:

- 79 past rulings;
- For the period 1 April 2016 - 31 December 2016: five future rulings;
- For the calendar year 2017: three future rulings;¹
- For the calendar year 2018: 15 future rulings; and
- For the year in review: 19 future rulings.

Some rulings are published in anonymised form.²

Peer input was received from three jurisdictions in respect of the exchanges of information on rulings received from Israel. The input was generally positive, noting that overall information was complete, in a correct format and almost all received in a timely manner. However, peer input indicated that information included in the summary section of Annex C of the Action 5 report (OECD, 2015^[1]) was not sufficient and exchanges on rulings were received after about ten months from the date of their issuance.

A. The information gathering process

556. Israel can legally issue the following five types of rulings within the scope of the transparency framework: (i) preferential regimes;³ (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.

557. 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. Future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

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

559. Israel has met 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)

560. 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.

561. 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) bilateral agreements in force with 55 jurisdictions.⁴

Completion and exchange of templates (ToR II.5.3, II.5.4, II.5.5, II.5.6, II.5.7)

562. In the prior years' peer review reports, 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 future rulings (ToR II.5.6). With respect to past rulings, no further action was required. 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. With respect to past rulings, no further action was required.

563. During the year in review, in respect of the exchanges of information on rulings received from Israel, peer input indicated that the summary section of the template was not always sufficiently informative and detailed. This raised concerns regarding the existence of a process for completion of templates in accordance with the form agreed under the transparency framework. Israel took note of these remarks and intends to instruct the departments issuing rulings about the necessity to complete the summary section of the Annex C template in line with the internal FHTP suggested guidance. In particular, Israel is planning

to put procedures in place within the EOI department for double-checking and reviewing the templates and the adequacy of the summary sections before exchanges are performed with relevant jurisdictions.

564. In regard to the recommendation for submitting information to the Competent Authority, 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 shall be automatically transmitted and available to the Competent Authority (EOI department). This system became operational in 2019. Notwithstanding the new system, Israel still experienced some delays in submitting information to the Competent Authority and during the last quarter of 2019, Israel put in place a new procedure according to which at the end of each quarter, the departments issuing rulings are required to transfer all the rulings in scope of the transparency framework to the EOI department.

565. During the year in review, Israel completed the exchanges of information on all rulings issued in 2017 and partially completed the exchanges of information on rulings issued in 2018. However, some rulings issued in 2018 and all rulings issued in 2019 were exchanged only in 2020, because of a delay in submitting them to the EOI department, and this will be taken into account in next year's peer review. This delay was because the internal computer system and new procedure was not fully functioning until late in 2019. As the recommendation on the timely provision of information on rulings to the EOI department (ToR II.5.5) has not been addressed, it remains in place.

566. However, when the EOI department received the information, the exchanges with relevant jurisdictions were performed within the timelines. In this respect, the timely exchange of information on future rulings (ToR II.5.6) is met and recommendation is now removed. In 2019, the EOI department began to use encrypted emails for the purpose of exchanging information on tax rulings and it also agreed with two jurisdictions on a bilateral mechanism for making a direct file transfer. This method is expected to expand during 2020 and will allow Israel to further shorten the timelines for exchanges with relevant jurisdictions.

567. 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
	33	N/A	N/A	See below.

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

568. The 33 exchanges performed in 2019 refer to: i) three future rulings issued in 2017 and exchanged with four relevant jurisdictions; and ii) nine future rulings issued in 2018 and exchanged with 29 relevant jurisdictions. In 2020, an additional 38 exchanges were performed with regard to: i) six future rulings issued in 2018 and exchanged with 15 relevant jurisdictions; and ii) 19 future rulings issued in 2019 and exchanged with 23 relevant jurisdictions.

Conclusion on section B

569. Israel has the necessary legal basis for spontaneous exchange of information. Israel has met all of the ToR for the exchange of information except for ensuring that each of the mandatory fields of

information required in the template contained in Annex C of the 2015 Action 5 Report, especially with regard to the summary section, are present in the information exchanged (ToR II.5.3) and for the timely provision of information on rulings to the Competent Authority for exchange of information (ToR II.5.5).

570. Israel is recommended to develop a process to complete the templates on future rulings, and in particular the summary section, in accordance with the form agreed under the transparency framework (ToR II.5.3). As Israel continued to experience delays when forwarding information on rulings to the Competent Authority during the year of review, the recommendation from previous years is retained and Israel is recommended to continue its efforts to ensure that information is made available to the Competent Authority without undue delay (ToR II. 5.5).

C. Statistics (ToR IV)

571. 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	33	Australia, Austria, Canada, China (People's Republic of), Cyprus, Denmark, Finland, France, Germany, Hong Kong (China), Isle of Man, Italy, Japan, Korea, Malta, New Zealand, Norway, Poland, Switzerland, United Kingdom, 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	0	N/A
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	0	N/A
Related party conduit rulings	0	N/A
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	0	N/A
Total	33	

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

572. Israel offers two intellectual property regimes (IP regime)⁵ that are subject to the transparency requirements under the Action 5 Report (OECD, 2015^[1]). It states that the identification of the benefitting taxpayers occurs 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 years' peer review reports, and no recommendations were made. With respect to new entrants in

the grandfathered IP regime, exchanges were completed in prior years and no further action was required.

- **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 years' peer review reports and meets the ToR. During the year in review, the Authority for Technological Innovation (i.e. the certifying agency) approved two applications regarding IP assets included in the third category. Information in respect of the two certificates issued in 2019 will be collected in the companies' tax returns for 2019, due at the end of 2020 and exchanged shortly thereafter. Israel's implementation on 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, concerns were raised regarding the existence of a process for completion of templates in accordance with the form agreed under the transparency framework.	Israel is recommended to develop a process to complete the templates on future rulings, and in particular, the summary section, in accordance with the form agreed under the transparency framework.
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 ensure that information is made available to the Competent Authority without undue delay. This recommendation remains unchanged since the 2017 and 2018 peer review reports.

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

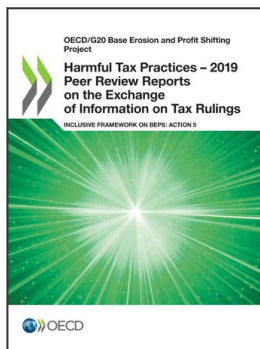
¹ Future rulings issued in 2017 were exchanged in 2019. In verifying all information for exchanges, Israel assessed that the number of future rulings issued in 2017 and considered within the scope of the transparency framework is three instead of 16 as reported in the 2017 and 2018 peer review reports.

² Available at: <https://taxes.gov.il/Pages/TaxationDecisions/TaxationDecisions.aspx>.

³ With respect to the following preferential regimes: Preferred company regime and Preferred technological enterprise regime.

⁴ 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 bilateral agreements with Australia, 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, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Turkey, Ukraine, United Kingdom, United States, Uzbekistan and Viet Nam.

⁵ The Preferred company regime which is the grandfathered regime, and the Preferred technological enterprise regime which is the amended regime.



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