

Canada

Canada has met all aspects of the terms of reference (OECD, 2017^[31]) (ToR) for the calendar year 2018 (year in review) and no recommendations are made.

In the prior year report, Canada did not receive any recommendations.

Canada can legally issue four types of rulings within the scope of the transparency framework. In practice, Canada issued rulings within the scope of the transparency framework as follows:

- 12 past rulings;
- For the period 1 April 2016 - 31 December 2016: two future rulings;
- For the calendar year 2017: two future rulings, and
- For the year in review: one future ruling.

With the exception of APAs, Canada's rulings are published in redacted form by third-party publishers who provide access to the documents to their subscribers and redacted rulings are available from the Canada Revenue Agency ("CRA") upon request.

Peer input was received from one jurisdiction in respect of the exchanges of information on rulings received from Canada. The input was generally positive, noting that information was complete, in correct format and received in a timely manner.

Introduction

This peer review covers Canada'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

Canada can legally issue the four following types of rulings within the scope of the transparency framework: (i) rulings related to a preferential regime;¹ (ii) cross-border unilateral advance pricing arrangements (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) permanent establishment rulings; and (iv) related party conduit rulings.

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

For Canada, 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 reports, it was determined that Canada's undertakings to identify past rulings and all potential exchange jurisdictions were sufficient to meet the minimum standard. Canada'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 Canada, future rulings are any tax rulings within scope that are issued on or after 1 April 2016.

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

Conclusion on section A

Canada 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)

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

Canada 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) double tax agreements in force with 94 jurisdictions², and (iii) tax information exchange agreements in force with 24 jurisdictions.

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 the Canada’s completion and exchange of templates were sufficient to meet the minimum standard. The Canada’s implementation in this regard remains unchanged, and therefore continues to meet the minimum standard.

For the year in review, the timeliness of exchanges is as follows:

Past rulings in the scope of the transparency framework	Number of exchanges transmitted by 31 December 2018	Delayed exchanges		
		Number of exchanges not transmitted by 31 December 2018	Reasons for the delays	Any other comments
	0	0	N/A	N/A
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
	1	7	See below.	See below.
Total	1	7		

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

Canada noted that the delays were due to issues in the identification process caused by staff turnover, which has impacted in the exchange of information aspect. Canada clarified that these exchanges occurred between four months and up to six months from the moment the information became available to the competent authority, and within the year in review. Canada further noted that this was not a recurring issue and that during the year in review steps have been taken to ensure that such delays do not occur again.

Conclusion on section B

Canada 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 within a short time after the end of the year in review. Canada has met all of the ToR for the exchange of information process and no recommendations are made.

C. Statistics (ToR IV)

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	0	N/A

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	7	China (People's Republic of), Germany, Hong Kong (China), Mexico, Netherlands, United States
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	1	<i>De minimis</i> rule applies
Related party conduit rulings	N/A	N/A
<i>De minimis</i> rule	N/A	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	N/A	N/A
Total	8	

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

Canada does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[5]) 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
Canada experienced some delays in exchanging information on future rulings.	No recommendation is made because Canada has since completed exchanges on the delayed future rulings in the year in review and this is not a recurring issue.

Notes

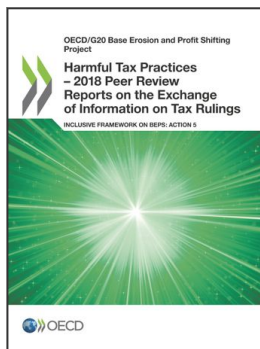
¹ With respect to the following preferential regimes: 1) Life insurance business and 2) International shipping.

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. Canada also has double tax agreements with Algeria, Argentina, Armenia, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belgium, Brazil, Bulgaria, Cameroon, Chile, China (People's Republic of), Colombia, Cote d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, Finland, France, Gabon, Germany, Greece, Guyana, Hong Kong (China), Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Korea, Kuwait, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Moldova, Mongolia, Morocco, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Peru, Philippines, Poland, Portugal, Romania, Russia, Senegal, Serbia, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Chinese Taipei, Tanzania, Thailand, Trinidad & Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United

Kingdom, United States, Uzbekistan, Venezuela, Viet Nam, Zambia and Zimbabwe. The TIEA with Aruba also permits spontaneous exchange of information.

Note by Turkey: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union. The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.



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