

Gibraltar

Gibraltar 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.

Gibraltar can legally issue four types of rulings within the scope of the transparency framework.

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

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

Information gathering process (ToR I.A)

495. Gibraltar can legally issue the following four types of rulings within the scope of the transparency framework: (i) 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; (ii) rulings providing for unilateral downward adjustments; (iii) permanent establishment rulings; and (iv) related party conduit rulings.

496. For Gibraltar, past rulings are any tax rulings issued prior to 1 March 2020. However, there is no obligation for Gibraltar to conduct spontaneous exchange information on past rulings. For Gibraltar, future rulings are any tax rulings within scope that are issued on or after 1 March 2020.

497. In the prior year's peer review report, it was determined that Gibraltar'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 Gibraltar's review and supervision mechanism was sufficient to meet the minimum standard. Gibraltar's implementation remains unchanged, and therefore continues to meet the minimum standard.

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

Exchange of information (ToR II.B)

499. Gibraltar has the necessary domestic legal basis to exchange information spontaneously. Gibraltar 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.

500. Gibraltar has international agreements permitting spontaneous exchange of information, including being a jurisdiction participating in (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011^[2]) ("the Convention"), following the territorial extension of this convention to Gibraltar by the United Kingdom, (ii) a bilateral agreement in force with one jurisdiction and (iii) tax information exchange agreements in force with four jurisdictions.¹

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

502. In the prior year's peer review report, it was determined that Gibraltar's process for the completion and exchange of templates were sufficient to meet the minimum standard. With respect to past rulings, no action was required. Gibraltar's implementation in this regard remains unchanged and therefore continues to meet the minimum standard.

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

Statistics (ToR IV.D)

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

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

505. Gibraltar does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[3]) 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]

Note

¹ 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. Gibraltar also has bilateral agreements with the United Kingdom and tax information exchange agreements with Guernsey, Isle of Man, United Kingdom and United States.



From:

Harmful Tax Practices – 2022 Peer Review Reports on the Exchange of Information on Tax Rulings Inclusive Framework on BEPS: Action 5

Access the complete publication at:

<https://doi.org/10.1787/22bbeacc-en>

Please cite this chapter as:

OECD (2023), “Gibraltar”, in *Harmful Tax Practices – 2022 Peer Review Reports on the Exchange of Information on Tax Rulings: Inclusive Framework on BEPS: Action 5*, OECD Publishing, Paris.

DOI: <https://doi.org/10.1787/e8b50b56-en>

This document, as well as any data and map included herein, are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area. Extracts from publications may be subject to additional disclaimers, which are set out in the complete version of the publication, available at the link provided.

The use of this work, whether digital or print, is governed by the Terms and Conditions to be found at <http://www.oecd.org/termsandconditions>.