

Dominican Republic

The Dominican Republic has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2019 (year in review), except for the timely exchange of information on rulings (ToR II.5). The Dominican Republic receives one recommendation on this point for the year in review.

This is the Dominican Republic's first review of implementation of the transparency framework.

The Dominican Republic can legally issue five types of rulings within the scope of the transparency framework.

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

- For the year in review: 23 future rulings.¹

As no exchanges took place, no peer input was received in respect of the exchanges of information on rulings received from the Dominican Republic.

A. The information gathering process

326. The Dominican Republic can legally issue the following five 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; (iii) rulings providing for unilateral downward adjustments; (iv) permanent establishment rulings; and (v) related party conduit rulings. Rulings are issued by the International Tax Agreements Unit within the tax administration.

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

327. For the Dominican Republic, past rulings are any tax rulings issued prior to 1 March 2019. However, there is no obligation for Dominican Republic to conduct spontaneous exchange information on past rulings.

Future rulings (ToR I.4.1.1, I.4.1.2, I.4.2.1)

328. For the Dominican Republic, future rulings are any tax rulings within scope that are issued on or after 1 March 2019.

329. In December 2019, the Dominican Republic created the International Taxation Department, and created a process for the information gathering for the transparency framework. The International Taxation Department within the Dominican Republic's Tax Administration consists of three units: the International Tax Agreements Unit, the Exchange of Information Unit, and the Tax Treaty Administration Unit, but only the former two are part of the ruling process. The Exchange of Information Unit was part of the International Cooperation Department and it maintained all of its existing functions when it became part of the International Taxation Department. The International Tax Agreements Unit is a newly created unit, but its functions (including the negotiation and issuance of rulings) were formerly performed by the Transfer Pricing Department.

330. The International Tax Agreements Unit is responsible for the issuance of rulings. When a ruling is issued, a physical version is stored in an archive in the unit responsible for the taxpayer's file and an electronic copy is saved on the Tax Administration's online server. In addition, the relevant officer updates a spreadsheet list which is saved in the International Taxation Department's folder in the online server, and which is accessible to all officers within the unit and is consulted at regular intervals to assess whether rulings are in scope of the transparency framework.

331. When the taxpayer requests a ruling, the responsible officer follows up by requesting information on the identity and residence of the relevant related parties, the immediate parent entity and the ultimate parent entity. In order to check whether this information is accurate, the responsible officer performs reviews based on internal available information such as the taxpayer's general data, related parties and other relevant data, which is stored in Tax Administration's "master records". In addition, the officer reviews the taxpayer's income tax returns, VAT returns and annexes, and other information such as transfer pricing documentation. This information is then stored in the above mentioned spreadsheet list, which allows the tax administration to identify the potential exchange jurisdictions.

Review and supervision (ToR I.4.3)

332. Each officer within the International Taxation Department has been trained on the correct identification of rulings in scope of the transparency framework. The Tax Administration is in the process of formalising the corresponding guidance, in accordance with the standard, that will contain the protocol the staff must follow to obtain the relevant information.

333. After the ruling and potential exchange jurisdictions have been identified by the responsible officer, a second level of review to ensure all rulings are properly identified is undertaken by the Head of the International Tax Agreements Unit and the Head of the International Taxation Department.

Conclusion on section A

334. The Dominican Republic 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)

335. The Dominican Republic has the necessary domestic legal basis to exchange information spontaneously. Dominican Republic 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.

336. The Dominican Republic 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 three jurisdictions.³ The Convention entered into force on 1 December 2019 and is in effect from 1 January 2020.

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

337. The process to complete and exchange the templates was also put in place in December 2019, with the creation of the International Taxation Department. The International Tax Agreements Unit is also responsible for completing the templates, in line with Annex C of the BEPS Action 5 report (OECD, 2015^[11]) and within the timelines under the transparency framework. The summary section of the template has to be completed in line with the internal FHTP suggested guidance. Manual reviews are undertaken to verify whether the templates are correctly completed.

338. Once the template is completed, it is then shared with the Head of the Exchange of Information Unit and the Head of the International Taxation Department (who is the Competent Authority), in order to verify the accuracy of the information to be exchanged. When the template is approved, the Exchange of Information Unit proceeds to the exchange. The exchanges of information are required to take place on a quarterly basis. The timeliness of the exchange of information is supervised by the Head of the International Taxation Department.

339. The Dominican Republic confirms that the above described procedure is well understood by all relevant staff, but will be further formalised in the future.

340. 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
	0	12	See below.	N/A

Follow up requests received for exchange of the ruling	Number	Average time to provide response	Number of requests not answered
	N/A	N/A	N/A

341. The 12 exchanges relate to jurisdictions with which the Dominican Republic had an exchange of information agreement in force for 2019. Additional exchanges of rulings issued in the year in review were not permitted to take place, because there was no legal basis to do so with the relevant exchange jurisdictions.

342. No exchanges have been undertaken during the year of review, as the International Taxation Department was created in December 2019. It is noted that 11 of the 12 exchanges relate to rulings that were issued by the Transfer Pricing Department (before December 2019). The first exchanges of information were scheduled for March 2020, but the Dominican Republic indicated that delays have occurred and the exchanges will take place later in 2020.

Conclusion on section B

343. The Dominican Republic is recommended to ensure that the exchanges of information on rulings occur as soon as possible (ToR II.5).

C. Statistics (ToR IV)

344. As there was no information on rulings exchanged by the Dominican Republic for the year in review, no statistics can be reported.

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

345. The Dominican Republic does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[1]) 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
The Dominican Republic is still in the process of ensuring the timely exchange of information on rulings.	The Dominican Republic is recommended to ensure that the exchanges of information on rulings occur as soon as possible.

References

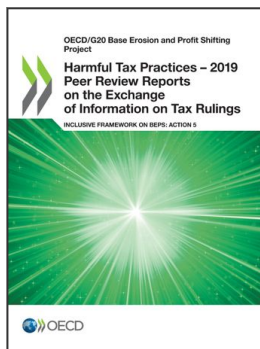
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Notes

¹ This includes 21 extensions of existing APAs.

² These regimes are: i) Border development, ii) Free trade zones and iii) Logistics centres. It should be noted that FHTP has not yet concluded if these regimes are in scope. If the FHTP decides that these regimes are out of scope for the FHTP, then exchange of information on rulings with respect to these regimes would no longer be required under the Action 5 transparency framework. However, until then, the Dominican Republic has committed to do the spontaneous exchange of information on rulings related to these regimes.

³ Parties to the Convention are available here: www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm. The Dominican Republic also has bilateral agreements with Canada, Spain and United States.



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