

Egypt

Egypt is taking steps to implement the legal basis for exchange of information under the transparency framework, and has commenced administrative preparations to ensure that information on rulings will be exchanged. Egypt has met all aspects of the terms of reference (OECD, 2017^[3]) (ToR) for the calendar year 2019 (year in review), except for identifying all potential exchange jurisdictions for both past and future rulings (ToR I.4.2.1 and ToR I.4.2.2), having in place a review and supervision mechanism (ToR I.4.3) and having in place a process to ensure the timely exchange of information on rulings in the form required by the transparency framework (ToR II.5). Egypt receives two recommendations on these points for the year in review.

In the prior year report, Egypt had received two recommendations. As they have not been addressed, the recommendations remains in place but for section A, in the year in review, the recommendation is targeted to specific aspects of the ToR that still need to be implemented.

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

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

- 31 past rulings;
- For the period 1 April 2018 - 31 December 2018: three future rulings;
- For the year in review: 11 future rulings.

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

A. The information gathering process

346. Egypt can legally issue the following three 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) permanent establishment rulings; and (iii) related party conduit rulings.

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

347. For Egypt, past rulings are any tax rulings within scope that are issued either (i) on or after 1 January 2016 but before 1 April 2018; and (ii) on or after 1 January 2014 but before 1 January 2016, provided still in effect as at 1 January 2016.

348. The issued past rulings relate to permanent establishment rulings and related party conduit rulings. The following departments within the Egyptian tax administration (ETA) are responsible for issuing these rulings: the tax refund department and the researching department (both part of the international tax treaties department), and the advanced rulings office. Rulings are stored in the department archives and in an electronic database and could therefore be identified.

349. Egypt has not yet identified the potential exchange jurisdictions for all past rulings. Therefore, Egypt is recommended to apply the “best efforts approach” to identify potential exchange jurisdictions for all past rulings.

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

350. For Egypt, future rulings are any tax rulings within scope that are issued on or after 1 April 2018.

351. APAs are issued by the transfer pricing team within the (ETA). When an APA is issued, it is stored in the department archive and in an electronic database. To date, the ETA has not yet issued any APAs.

352. The Egyptian transfer pricing guidelines note that when a taxpayer requests an APA, it has to provide information including on the global organisation structure of the MNE group and the related parties that were relevant to the transaction subject to the APA, including their countries of residence. The ETA can also request additional information from the taxpayer.

353. The responsible departments for permanent establishment rulings and related party conduit rulings are described in the previous section. Egypt is currently in the process of implementing legislation to require the taxpayer to provide information on the jurisdictions of the related parties, immediate parent and ultimate parent entity. Until this has been done, the officials within the ETA have the power to request this information from taxpayers. However, in practice, no potential exchange jurisdictions have yet been identified. Therefore, Egypt is recommended to ensure that all potential exchange jurisdictions are identified swiftly for all future rulings other than APAs.

Review and supervision (ToR I.4.3)

354. Egypt does not yet have in place a review and supervision mechanism for the identification of rulings and potential exchange jurisdictions.

355. Egypt notes that it is envisaged that supervision on the identification of rulings and potential exchange jurisdictions will take place by the managers of the relevant departments. Egypt also intends to issue internal guidance for staff on the identification process.

Conclusion on section A

356. Egypt has met the ToR for the information gathering process except for identifying all potential exchange jurisdictions for past and future rulings (ToR I.4.2.1 and ToR I.4.2.2) and having in place a review and supervision mechanism (ToR I.4.3). Egypt is recommended to continue its efforts to identify all potential exchange jurisdictions for both past and future rulings and to implement a review and supervision mechanism, as soon as possible.

B. The exchange of information

Legal basis for spontaneous exchange of information (ToR II.5.1, II.5.2)

357. Egypt has the necessary domestic legal basis to exchange information spontaneously. Egypt 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.

358. Egypt has international agreements permitting spontaneous exchange of information, including double tax agreements in force with 55 jurisdictions.¹

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

359. Egypt does not have a process for the completion and exchange of templates. Egypt confirmed that it is currently developing a process to complete the templates on relevant rulings, to make them available to the Competent Authority for exchange of information and to exchange them with relevant jurisdictions.

360. During the year in review, no exchanges took place and therefore no data on the timeliness of exchanges is reported.

Conclusion on section B

361. Egypt has the necessary domestic legal basis to exchange information in connection with the transparency framework. Egypt is recommended to develop a process to complete the templates on relevant rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework (ToR II.5).

C. Statistics (ToR IV)

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

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

363. Egypt 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
Egypt has not yet identified all potential exchange jurisdictions for both past and future rulings and does not have a review and supervision mechanism in place to ensure that all relevant information on the identification of rulings and potential exchange jurisdictions is captured adequately.	Egypt is recommended to continue its efforts to identify all potential exchange jurisdictions for both past and future rulings and to implement a review and supervision mechanism, as soon as possible. This recommendation remains unchanged since the prior year peer review report.
Egypt does not have in place a process to ensure the timely exchange of information on rulings in the form required by the transparency framework.	Egypt is recommended to develop a process to complete the templates on relevant rulings and to ensure that the exchanges of information on rulings occur in accordance with the form and timelines under the transparency framework. This recommendation remains unchanged since the prior year peer review report.

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]

Notes

¹ Albania, Algeria, Austria, Bahrain, Belarus, Belgium, Bulgaria, Canada, China (People's Republic of), Cyprus, Czech Republic, Denmark, Ethiopia, Finland, France, Georgia, Germany, Greece, Hungary, India, Indonesia, Iraq, Ireland, Italy, Japan, Jordan, Korea, Kuwait, Lebanon, Libya, Malaysia, Malta, Mauritius, Morocco, Netherlands, Norway, Pakistan, Poland, Romania, Russia, Saudi Arabia, Serbia, Singapore, Spain, South Africa, Sudan, Sweden, Syria, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States and Yemen.



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