

## Saint Kitts and Nevis

Saint Kitts and Nevis has met all aspects of the terms of reference (OECD, 2017<sup>[3]</sup>) (ToR) for the calendar year 2018 (year in review).

This is Saint Kitts and Nevis' first review of implementation of the transparency framework.

Saint Kitts and Nevis' legal framework to issue taxpayer-specific rulings has been in force since 2005, but to date, Saint Kitts and Nevis has never received an application for a ruling from a taxpayer. Saint Kitts and Nevis can legally issue five types of rulings within the scope of the transparency framework but in practice has never issued any rulings.

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

## Introduction

This peer review covers Saint Kitts and Nevis' 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

Saint Kitts and Nevis can legally issue the following five types of rulings within the scope of the transparency framework: (i) preferential regimes;<sup>1</sup> (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; and (iv) permanent establishment rulings; and (v) related party conduit rulings. Rulings are issued by the Comptroller of Inland Revenue upon appropriate application by a taxpayer.

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

For Saint Kitts and Nevis, past rulings are any tax rulings issued prior to 1 September 2018. However, there is no obligation under the terms of the transparency framework for Saint Kitts and Nevis to conduct spontaneous exchange of information on past rulings.

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

For Saint Kitts and Nevis, future rulings are any tax rulings within scope that are issued on or after 1 September 2018.

No rulings were issued by Saint Kitts and Nevis during the period in review. The Objections, Rulings and Interpretations Division is responsible for both the issuance and identification of whether any rulings issued fall into scope of the transparency framework. Although Saint Kitts and Nevis has not issued any future rulings, Saint Kitts and Nevis has indicated that potential exchange jurisdictions could be identified through analysing information from the annual corporate income tax return and supporting schedules. Where information cannot be directly obtained via the tax returns, a specific request may be made to the taxpayer or to any person who holds information for the taxpayer. These procedures are sufficient to meet the minimum standard.

#### ***Review and supervision (ToR I.4.3)***

The accuracy of the information gathering process and the identification of rulings in scope of the transparency framework is supervised by the Assistant Comptroller of the Objections, Rulings and Interpretations Division.

#### ***Conclusion on section A***

Saint Kitts and Nevis 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)**

Saint Kitts and Nevis has the necessary domestic legal basis to exchange information spontaneously. Saint Kitts and Nevis 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.

Saint Kitts and Nevis is a party to international agreements permitting spontaneous exchange of information, including (i) the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol* (OECD/Council of Europe, 2011) (“the Convention”).<sup>2</sup>

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

Saint Kitts and Nevis notes that an officer of the Objections, Rulings and Interpretations Division would be responsible for the completion of the information required in the template contained in Annex C of the Action 5 Report (OECD, 2015<sup>[5]</sup>), which would include providing a detailed summary of the ruling following the instructions in Annex C. The template would then be quality checked by a supervisor in the Division, and thereafter sent to the Assistant Comptroller in collaboration with the Comptroller for final approval and exchange. The Inland Revenue Department is the Competent Authority in Saint Kitts and Nevis which is responsible for the identification, analysis and exchange of information on rulings. The Objections, Rulings, and Interpretations Division is a division within Inland Revenue Department which is a small, centralised office, and therefore all tax rulings would be readily available to the Competent Authority. Saint Kitts and Nevis notes that the Competent Authority would complete the required exchange within three months of receipt from the Objections, Rulings and Interpretations Division.

As Saint Kitts and Nevis did not issue any rulings in scope of the transparency framework in the relevant period, Saint Kitts and Nevis was not required to exchange any information on rulings in the year in review and no data on the timeliness of exchanges can be reported.

### **Conclusion on section B**

Saint Kitts and Nevis has the necessary legal basis to undertake spontaneous exchange of information. Saint Kitts and Nevis has met all of the ToR for the exchange of information process that can be met in the absence of rulings being issued and exchanged in practice and no recommendations are made.

## C. Statistics (ToR IV)

As there were no rulings required to be exchanged by Saint Kitts and Nevis for the year in review, no statistics can be reported.

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

Saint Kitts and Nevis offered three preferential regimes, which also provided benefits to income from intellectual property (IP regime).<sup>3</sup> However, for the year in review, no transparency requirements were relevant, as follows:

- **New entrants benefitting from the grandfathered IP regime:** not applicable for the year in review, because Saint Kitts and Nevis is currently in the process of finalising the grandfathering rules for all three regimes. The implementation of the enhanced transparency requirements, if required, will be taken into account during the subsequent peer review.

- **Third category of IP assets:** not applicable to these regimes, which in 2018 were in the process of being amended.
- **Taxpayers making use of the option to treat the nexus ratio as a rebuttable presumption:** not applicable to these regimes, which in 2018 were in the process of being amended.

## Summary of recommendations on implementation of the transparency framework

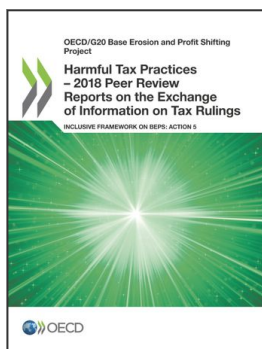
Aspect of implementation of the transparency framework that should be improved	Recommendation for improvement
	No recommendations are made.

## Notes

<sup>1</sup> With respect to the following preferential regimes: 1) Nevis LLC; 2) Nevis business corporation; and 3) Companies act – exempt companies.

<sup>2</sup> Parties to the Convention are available here: <http://www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm>.

<sup>3</sup> International business company, International trust and International partnership regimes.



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