

Saint Lucia

Saint Lucia is taking steps to implement the legal basis for the transparency framework and to finalise administrative preparations, in line with the terms of reference (OECD, 2017^[3]) (ToR), to ensure that it finalises its information gathering process (ToR I.4), and information on rulings will be identified and exchanged in a timely manner (ToR II.5).

In the prior year report, Saint Lucia had received three recommendations. Saint Lucia has resolved one of these issues, however two recommendations have not been addressed and remain in place.

Saint Lucia can legally issue two types of rulings within the scope of the transparency framework.

In practice, Saint Lucia has not issued any rulings within the scope of the transparency framework.

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 Lucia.

A. The information gathering process

912. Saint Lucia can legally issue the following two types of rulings within the scope of the transparency framework: (i) preferential regimes¹ and (ii) permanent establishment rulings.

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

913. For Saint Lucia, past rulings are any tax rulings issued prior to 1 September 2018. However, there is no obligation for Saint Lucia to conduct spontaneous exchange information on past rulings.

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

914. For Saint Lucia, future rulings are any tax rulings within scope that are issued on or after 1 September 2018.

915. In the prior year peer review report, it was determined that Saint Lucia's had not put in place the appropriate processes for future rulings for the purposes of the transparency framework. Therefore, Saint Lucia was recommended to continue its work to make sure the necessary information gathering processes to meet the requirements of the transparency framework is put in place. During the year in review, Saint Lucia developed a new draft rulings framework that provides for identification of all taxpayer specific rulings. This framework will be implemented once the draft rulings framework has been approved. The Tax Administration Department is responsible for the vetting and authorisation of rulings to be issued in Saint Lucia. Saint Lucia is in the process of establishing a Rulings Committee, to be chaired by the Tax Administration Department's Legal Officer, which will determine whether rulings issued fall within scope of the Transparency Framework. Although Saint Lucia has not issued any future rulings, Saint Lucia indicates that their rulings framework will require that any taxpayer requesting a ruling must provide information on all potential exchange jurisdictions. Saint Lucia notes that the practical implementation of these procedures and the draft rulings framework is yet to occur. Therefore, the recommendation is retained for Saint Lucia to continue its work to make sure the necessary information gathering processes to meet the requirements of the transparency framework is put in place.

Review and supervision (ToR I.4.3)

916. In accordance with the draft rulings framework, the accuracy of the information gathering process and the identification of rulings in scope of the transparency framework is the responsibility of a dedicated team within the Rulings Committee. The Legal Officer that is both part of the Tax Administration Department that issues tax rulings and the chairperson of the Rulings Committee that oversees rulings, will identify those in scope of the transparency framework. This review and supervision mechanism is already functioning and will be ratified once the draft rulings framework is approved.

Conclusion on section A

917. Saint Lucia is recommended to finalise its information gathering process for identifying all future rulings and potential exchange jurisdictions, with a review and supervision mechanism, as soon as possible (ToR I.4).

B. The exchange of information

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

918. Saint Lucia has the necessary domestic legal basis to exchange information spontaneously. Saint Lucia 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.

919. Saint Lucia 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 16 jurisdictions.²

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

920. In the prior year peer review report, it was determined that Saint Lucia had not put in place the appropriate processes for the completion and exchange of templates. Therefore, Saint Lucia was recommended to continue its work to complete its processes for the completion and exchange of templates as soon as possible.

921. During the year in review, Saint Lucia developed a draft rulings framework, whereby a Rulings Committee, assisted by the Exchange of Information Unit, would be responsible for completing the template contained in Annex C of the Action 5 Report (OECD, 2015^[1]), which would include providing a summary of the ruling in line with the internal FHTP suggested guidance and the instructions in the Annex C template. The template would then be quality checked by a supervisor in the Tax Administration Department, and then provided to the Comptroller of Inland Revenue for final approval and exchange. As the Comptroller of Inland Revenue oversees the issuance of rulings by the Tax Administration Department, and is also the Competent Authority for Saint Lucia, all tax rulings would therefore be readily available to the Competent Authority. This draft rulings framework will be assessed in the next annual peer review, once the framework has been put in place.

922. As Saint Lucia did not issue any future rulings in scope of the transparency framework in the relevant period, Saint Lucia 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

923. Saint Lucia is recommended to put in place 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 going forward (ToR II.5).

C. Statistics (ToR IV)

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

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

925. Saint Lucia does not offer an intellectual property regime for which transparency requirements under the Action 5 Report (OECD, 2015^[1]) were imposed. However, additional transparency requirements were applied with respect to new taxpayers that entered three intellectual property regimes (IP regimes)³ offered by Saint Lucia in the period 15 November 2018 – 11 December 2018 which were eligible for

grandfathering before the regimes were abolished. As all international business companies, international trusts or international partnerships must be registered with the relevant authorities in Saint Lucia, Saint Lucia was able to identify all new taxpayers during the relevant period. Saint Lucia completed exchanges on these taxpayers during the year in review with all potential exchange jurisdictions.⁴ Accordingly, the prior year recommendation is now removed.

Summary of recommendations on implementation of the transparency framework

| Aspect of implementation of the transparency framework that should be improved | Recommendation for improvement |
|---|--|
| Saint Lucia has not yet finalised the steps to have in place its information gathering process. | Saint Lucia is recommended to finalise its information gathering process for identifying all future rulings and potential exchange jurisdictions, with a review and supervision mechanism, as soon as possible. This recommendation remains unchanged since the prior year peer review report. |
| Saint Lucia has not yet finalised 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. | Saint Lucia is recommended to put in place 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]
- OECD/Council of Europe (2011), *The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol*, OECD Publishing, Paris, <https://dx.doi.org/10.1787/9789264115606-en>. [4]

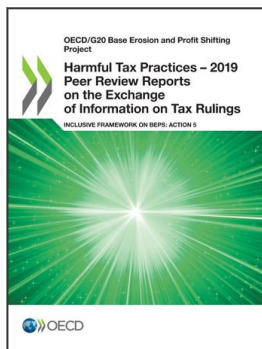
Notes

¹ 1) International business company, 2) International trust and 3) International partnership regimes.

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. Saint Lucia also has bilateral agreements with CARICOM jurisdictions and the United States.

³ 1) International business company, 2) International trust and 3) International partnership regimes.

⁴ A total of 17 exchanges were transmitted to five jurisdictions, in relation to new International business companies and International trusts that were registered during the relevant period. There were no new International partnerships registered during the relevant period.



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