

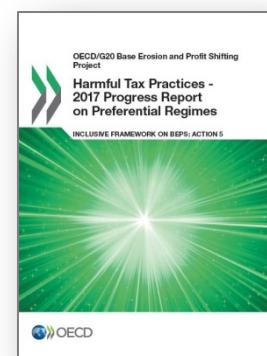
Harmful Tax Practices – 2017 Progress Report on Preferential Regimes

INCLUSIVE FRAMEWORK ON BEPS: ACTION 5

Update (as of 9 May 2018)

Original report available at:

www.oecd.org/tax/beps/harmful-tax-practices-2017-progress-report-on-preferential-regimes-9789264283954-en.htm



Introduction

On 9 May 2018, the Inclusive Framework on BEPS approved updates to the results of reviews of preferential tax regimes conducted in connection with BEPS Action 5. The data below presents the conclusions of the work on regime reviews, and which were most recently reported in *Harmful Tax Practices – 2017 Progress Report on Preferential Regimes*. New results have been agreed in respect of the following regimes:

	Jurisdiction	Regime	Status
1.	Aruba	Exempt company	Under review (NEW)
2.	Aruba	Free zone	Under review (NEW)
3.	Barbados	Shipping regime	In the process of being eliminated (NEW)
4.	Chile	Business platform regime	Potentially but not actually harmful From 1 January 2022: Abolished ¹ (NEW)
5.	Kenya	Export processing zone	Out of scope (NEW)
6.	Lithuania	Tonnage tax regime	Not harmful (NEW)
7.	Lithuania	IP regime	Under review (NEW)
8.	Luxembourg	IP regime	Not harmful (NEW)
9.	Malaysia	Labuan leasing	Amended (NEW)
10.	Singapore	IP development incentive	Not harmful ² (NEW)
11.	Slovak Republic	Patent-box	Not harmful (NEW)
12.	Turkey	Technology development zones regime	Not harmful ³ except for the extension to new entrants between 1 July 2016 and 19 October 2017, which is harmful (NEW)
13.	Uruguay	Shared service centre	Amended (NEW)
14.	Viet Nam	Export processing zone	Out of scope (NEW)
15.	Viet Nam	Industrial parks/zones	Out of scope (NEW)
16.	Viet Nam	Economic zones	Under review (NEW)
17.	Viet Nam	Disadvantaged areas	Under review (NEW)
18.	Viet Nam	IP benefits	Under review (NEW)

The results will be updated from time to time as approved by the Inclusive Framework.

¹ In accordance with Law No. 21,047 no new taxpayers will benefit from this regime as from 23 November 2017. With regard to existing business platform companies, the law provides for a grandfathering period which expires by 31 December 2021. Therefore this regime will be considered completely abolished by 1 January 2022.

² Subject to final adoption of new legislation.

³ Until the final adoption of new legislation, the conclusion as published in the 2017 Progress Report applies.

Regimes listed in the 2015 BEPS Action 5 Report

The tables below present an update on the status of regimes listed in the 2015 BEPS Action 5 Report.

*IP regimes*⁴

	Jurisdiction	Regime	Status
1.	Belgium	Patent income deduction	Not harmful
2.	Colombia	Software regime	Abolished
3.	France	Reduced rate for long term capital gains and profits from the licensing of IP rights	Harmful ⁵
4.	Hungary	IP Regime for royalties and capital gains	Not harmful
5.	Israel	Amended preferred enterprise regime	Not harmful
6.	Italy	Taxation of income from intangible assets	Not harmful except for the extension to new entrants for trademark ⁶ between 1 July 2016 and 31 December 2016, which is harmful
7.	Luxembourg	Partial exemption for income/gains derived from certain IP rights	Abolished
8.	Netherlands	Innovation box	Not harmful
9.	People's Republic of China	Reduced rate for high & new tech enterprises	Not harmful ⁷
10.	Portugal	Partial exemption for income from certain intangible property	Not harmful
11.	Spain	Partial exemption for income from certain intangible assets (Federal regime)	In the process of being amended
12.	Spain	Partial exemption for income from certain intangible assets (Basque country)	In the process of being amended
13.	Spain	Partial exemption for income from certain intangible assets (Navarra)	In the process of being amended
14.	Switzerland - Canton of Nidwalden	Licence box	Not harmful
15.	Turkey	Technology development zones regime	Not harmful ⁸ except for the extension to new entrants between 1 July 2016 and 19 October 2017, which is harmful (NEW)
16.	United Kingdom	Patent box	Not harmful

*Non-IP regimes*⁹

	Jurisdiction	Regime	Status
1.	Indonesia	Public / listed company regime	Out of scope
2.	Indonesia	Investment allowance regime	Out of scope
3.	Indonesia	Special economic zone regime	Out of scope
4.	Indonesia	Tax holiday regime	Out of scope
5.	Switzerland – cantonal level	Auxiliary company regime (previously referred to as domiciliary company regime)	In the process of being eliminated ¹⁰
6.	Switzerland –	Mixed company regime	In the process of being eliminated ¹¹

⁴ See table 6.1 of the 2015 BEPS Action 5 Report.

⁵ The regime is not consistent with the nexus approach.

⁶ The Italian IP regime did not and does not include in the eligible assets any marketing related assets other than trademarks.

⁷ While the regime did not technically comply with the nexus approach, it was considered functionally equivalent and therefore evaluated as not harmful, given its distinct features and safeguards and the willingness of China to provide additional information.

⁸ Until the final adoption of new legislation, the conclusion as published in the 2017 Progress Report applies.

⁹ See table 6.2 of the 2015 BEPS Action 5 Report

¹⁰ The tax reform bill, approved in June 2016 by the Federal Parliament was rejected by the Swiss voters on 12 February 2017. The Swiss Government immediately initiated steps for a new proposal to abolish the regimes. Subject to the Swiss parliamentary/constitutional approval process, the intention is for the new Federal legislation to become effective by 1 January 2021.

¹¹ See footnote 10.

	Jurisdiction	Regime	Status
	cantonal level		
7.	Switzerland – cantonal level	Holding company regime	In the process of being eliminated ¹²
8.	Switzerland – federal level	Commissionaire ruling regime	In the process of being eliminated ¹³

Regimes reviewed since October 2015

The following tables present the results of the review of preferential regimes reviewed since October 2015, as at 24 January 2018. The results are presented according to the categories of regime.

IP regimes

	Jurisdiction	Regime	Status
1.	Andorra	Companies involved in the international exploitation of intangible assets	In the process of being amended ¹⁴
2.	India	Tax on income from patent (new IP regime)	Not harmful
3.	Ireland	Knowledge development box (new IP regime)	Not harmful
4.	Israel	Preferred technological enterprise regime	Not harmful
5.	Korea	Special taxation for transfer, acquisition, etc. of technology	Not harmful ¹⁵
6.	Liechtenstein	IP box	Abolished
7.	Lithuania	IP regime	Under review (NEW)
8.	Luxembourg	IP regime	Not harmful (NEW)
9.	Malta	Patent box	Abolished
10.	Panama	City of knowledge technical zone	In the process of being amended
11.	San Marino	IP regime provided by law no. 102/2004	Abolished
12.	San Marino	New companies regime provided by art. 73, law no. 166/2013	In the process of being amended
13.	San Marino	Regime for high-tech start-up companies under law no. 71/2013 and delegated decree no. 116/2014	In the process of being amended
14.	Singapore	IP development incentive	Not harmful ¹⁶ (NEW)
15.	Slovak Republic	Patent-box	Not harmful (NEW)
16.	Turkey	5/B regime (new IP regime)	Not harmful
17.	Uruguay	Benefits under law 16.906 for biotechnology	In the process of being amended
18.	Uruguay	Benefits under lit S art. 52 for biotechnology and for software	In the process of being amended
19.	Viet Nam	IP benefits	Under review (NEW)
IP regimes of new Inclusive Framework members that are also reviewed as non-IP regimes			
1.	Barbados	International societies with restricted liability	In the process of being amended
2.	Barbados	International business companies	In the process of being amended
3.	Belize	International business companies	In the process of being amended
4.	Curaçao	Tax exempt entity	In the process of being amended
5.	Curaçao	Export facility	In the process of being amended
6.	Lithuania	Free economic zone taxation regime	Disadvantaged area regime ¹⁷
7.	Macau (China)	Macau offshore institution	In the process of being eliminated/amended
8.	Malaysia	Principal hub	In the process of being amended
9.	Malaysia	Biotechnology industry	In the process of being amended
10.	Malaysia	MSC Malaysia	In the process of being amended
11.	Malaysia	Pioneer status	In the process of being amended
12.	Mauritius	Global business license 1	In the process of being amended
13.	Mauritius	Global business license 2	In the process of being amended
14.	Seychelles	International business companies	In the process of being amended

¹² See footnote 10.

¹³ See footnote 10.

¹⁴ On 30 June 2017, the legislative amendment for this regime entered into the parliamentary process.

¹⁵ Subject to final adoption of new legislation.

¹⁶ Subject to final adoption of new legislation.

¹⁷ Disadvantaged areas regimes which provide incidental benefits to IP income are acceptable under paragraph 150 of the Action 5 report.

	Jurisdiction	Regime	Status
15.	Seychelles	Companies special license	In the process of being amended
16.	Seychelles	International trade zone	In the process of being amended
17.	Singapore	Development and expansion incentive - services	Abolished
18.	Singapore	Pioneer service company	Abolished
19.	Thailand	International headquarters	In the process of being amended
20.	Thailand	Regional operating headquarters	In the process of being amended
21.	Uruguay	Free zones	In the process of being amended
22.	Viet Nam	Export processing zone	Out of scope (NEW)

Headquarters regimes

	Jurisdiction	Regime	Status
1.	Andorra	Holding company regime	In the process of being amended ¹⁸
2.	Barbados	International business companies ¹⁹	In the process of being amended
3.	Chile	Business platform regime	Potentially but not actually harmful From 1 January 2022: Abolished ²⁰ (NEW)
4.	Kenya	Special economic zone ²¹	Under review
5.	Malaysia	Principal hub ²²	In the process of being amended
6.	Mauritius	Global business license 1	In the process of being amended
7.	Mauritius	Global business license 2	In the process of being amended
8.	Mauritius	Global headquarters administration regime	Not harmful
9.	Panama	Multinational headquarters	In the process of being amended
10.	Philippines	Regional or area headquarters	Out of scope
11.	Philippines	Regional operating headquarters	Under review
12.	Seychelles	Companies special license ²³	In the process of being amended
13.	Singapore	Development and expansion incentive – services	Not harmful
14.	Singapore	Pioneer service company	Not harmful
15.	Thailand	International headquarters	In the process of being amended
16.	Thailand	Regional operating headquarters	In the process of being amended
17.	Turkey	Regional headquarters / regional management centre	Out of scope

Financing and leasing regimes

	Jurisdiction	Regime	Status
1.	Andorra	Intercompany and financing regime	In the process of being eliminated ²⁴
2.	Aruba	Exempt company	Under review (NEW)
3.	Barbados	International business companies ²⁵	In the process of being amended
4.	Barbados	International financial services	In the process of being amended
5.	Barbados	International trusts ²⁶	In the process of being amended
6.	Belize	International business companies	In the process of being amended
7.	Botswana	International financial services company	In the process of being amended
8.	Curaçao	Tax exempt entity	In the process of being amended
9.	Georgia	International financial company	Potentially harmful but not actually harmful ²⁷
10.	Hong Kong (China)	Profits tax concession for corporate treasury	In the process of being amended

¹⁸ On 30 June 2017, the legislative amendment for this regime entered into the parliamentary process.

¹⁹ Also reviewed as a financing and leasing regime.

²⁰ In accordance with Law No. 21,047 no new taxpayers will benefit from this regime as from 23 November 2017. With regard to existing business platform companies, the law provides for a grandfathering period which expires by December 31, 2021. Therefore this regime will be considered completely abolished by 1 January 2022.

²¹ Also reviewed as a distribution and service centre regime.

²² Also reviewed as a financing and leasing regime.

²³ Also reviewed as a financing and leasing regime.

²⁴ On 30 June 2017, the legislative amendment for this regime entered into the parliamentary process.

²⁵ Also reviewed as a headquarters regime.

²⁶ Also reviewed as a holding company regime.

²⁷ This regime has potentially harmful features on account of ring-fencing.

	Jurisdiction	Regime	Status
		centres	
11.	Hong Kong (China)	Profits tax concessions for aircraft lessors and aircraft leasing managers	Not harmful
12.	Malaysia	Treasury management centre	Abolished
13.	Malaysia	Labuan leasing	Amended (NEW)
14.	Malaysia	Principal hub ²⁸	In the process of being amended
15.	Mauritius	Global treasury activities	Not harmful
16.	Montserrat	International business companies	Under review
17.	San Marino	Financing regime provided by law no. 102/2004	Abolished
18.	Seychelles	International business companies	In the process of being amended
19.	Seychelles	Companies special license ²⁹	In the process of being amended
20.	Singapore	Aircraft leasing scheme	Not harmful
21.	Singapore	Finance and treasury centre	Not harmful
22.	Sint Maarten	Tax exempt company	Under review
23.	Thailand	Treasury centre regime	In the process of being amended

Banking and insurance regimes

	Jurisdiction	Regime	Status
1.	Barbados	Exempt insurance	In the process of being amended
2.	Barbados	Qualifying insurance companies	In the process of being amended
3.	Canada	International banking centres	Abolished
4.	Hong Kong (China)	Profits tax concession for professional reinsurers	In the process of being amended
5.	Hong Kong (China)	Profits tax concession for captive insurers	In the process of being amended
6.	Macau (China)	Macau offshore institution	In the process of being eliminated/amended
7.	Malaysia	Inward re-insurance and offshore insurance regime	In the process of being amended
8.	Malaysia	Labuan financial services	In the process of being amended
9.	Mauritius	Captive insurance	In the process of being amended
10.	Mauritius	Banks holding a banking licence under the Banking Act 2004 ('Segment B banking')	In the process of being amended
11.	Mauritius	Investment banking	Not harmful
12.	Nigeria	Free trade zones ³⁰	Under review
13.	Seychelles	Non-domestic insurance business	In the process of being amended
14.	Seychelles	Offshore banking	In the process of being amended
15.	Seychelles	Fund administration business	In the process of being amended
16.	Seychelles	Securities businesses under the securities act	In the process of being amended
17.	Seychelles	Reinsurance business	Potentially harmful but not actually harmful ³¹
18.	Singapore	Insurance business development	Amended
19.	Singapore	Financial sector incentive	Not harmful
20.	Thailand	International banking facilities	In the process of being eliminated/amended

²⁸ Also reviewed as a headquarters regime.

²⁹ Also reviewed as a headquarters regime.

³⁰ Also reviewed as a distribution and service centre regime.

³¹ This regime has potentially harmful features on account of ring-fencing.

Distribution centre and service centre regimes

	Jurisdiction	Regime	Status
1.	Andorra	Companies involved in international trade	In the process of being eliminated ³²
2.	Aruba	Free zone	Under review (NEW)
3.	Barbados	Fiscal incentives act	Out of scope
4.	Costa Rica	Free trade zone	In the process of being amended
5.	Curaçao	Export facility	In the process of being amended
6.	Curaçao	E-Zone	In the process of being amended
7.	Georgia	Free industrial zone	Out of scope
8.	Georgia	Special trade company	Out of scope
9.	Georgia	Virtual zone person	Potentially harmful but not actually harmful ³³
10.	Jordan	Development zones and free trade zones	Potentially harmful ³⁴
11.	Kenya	Special economic zone ³⁵	Under review
12.	Kenya	Export processing zone	Out of scope (NEW)
13.	Korea	Foreign investment zone	Out of scope
14.	Korea	Free economic zone / free trade zone	Out of scope
15.	Lithuania	Free economic zone taxation regime	Not harmful
16.	Malaysia	Approved service projects	Out of scope
17.	Malaysia	Malaysian international trading company	Out of scope
18.	Malaysia	Special economic regions	In the process of being amended
19.	Malaysia	Green technology services	Not harmful
20.	Mauritius	Freeport zone	In the process of being amended
21.	Nigeria	Free trade zones ³⁶	Under review
22.	Panama	Colon free zone	Out of scope
23.	Panama	Panama-Pacifico special economic zone	In the process of being amended
24.	Peru	Special economic zone 1 (Ceticos / ZED)	Out of scope
25.	Peru	Special economic zone 2 (Zofratacna)	Not harmful
26.	Seychelles	International trade zone	In the process of being amended
27.	Singapore	Global trader programme	Not harmful
28.	Thailand	International trade centre	In the process of being eliminated/amended
29.	Trinidad and Tobago	Free trade zones	In the process of being eliminated ³⁷
30.	Uruguay	Free zones	In the process of being amended
31.	Uruguay	Shared service centre	Amended (NEW)
32.	Viet Nam	Export processing zone	Out of scope (NEW)
33.	Viet Nam	Economic zones	Under review (NEW)
34.	Viet Nam	Industrial parks/zones	Out of scope (NEW)
35.	Viet Nam	Disadvantaged areas	Under review (NEW)

³² On 30 June 2017, the legislative amendment for this regime entered into the parliamentary process.

³³ This regime has potentially harmful features on account of ring-fencing and a lack of substantial activities.

³⁴ This regime has potentially harmful features on account of ring-fencing.

³⁵ Also reviewed as a headquarters regime.

³⁶ Also reviewed as a banking and insurance regime.

³⁷ A Cabinet decision to repeal the regime was made on 16 March 2017 following recommendations made in the Special Economic Zones Policy for Trinidad and Tobago prepared by the Ministry of Trade and Industry.

*Shipping regimes*³⁸

	Jurisdiction	Regime	Status
1.	Barbados	Shipping regime	In the process of being eliminated (NEW)
2.	Hong Kong (China)	Profits tax exemptions for ship operators	Not harmful
3.	Liberia	Shipping regime	Not harmful
4.	Lithuania	Tonnage tax regime	Not harmful (NEW)
5.	Malta	Tonnage tax system	Not harmful
6.	Mauritius	Shipping regime	Not harmful
7.	Panama	Shipping regime	Not harmful
8.	Singapore	Maritime sector incentive	Not harmful

Holding company regimes

	Jurisdiction	Regime	Status
1.	Barbados	International societies with restricted liability	In the process of being amended
2.	Barbados	International trusts ³⁹	In the process of being amended

Fund management regimes

	Jurisdiction	Regime	Status
1.	Malaysia	Foreign fund management	Not harmful

Miscellaneous regimes

	Jurisdiction	Regime	Status
1.	Barbados	Credit for foreign currency earnings / Credit for overseas project or services	In the process of being amended
2.	Malaysia	Biotechnology industry	In the process of being amended
3.	Malaysia	MSC Malaysia	In the process of being amended
4.	Malaysia	Pioneer status	In the process of being amended
5.	Singapore	DEI-Legal services	Abolished
6.	Singapore	International growth scheme	Abolished
7.	Uruguay	Tax system according to the source principle	Out of scope
8.	Uruguay	Investment law incentives under law 16.096	Out of scope
9.	Uruguay	Financial company reorganisation	Abolished

³⁸ The determination of substantial activity in the context of shipping regimes recognises that significant core income generating activities within shipping are performed in transit outside of the jurisdiction of the shipping regime, and that the value creation attributable to the core income generating activities that occur from a fixed location is more limited than for other types of regimes for mobile business income. The determination further considered whether the regime was designed to ensure that the qualifying taxpayer handles all corporate law and regulatory compliance of the shipping company with any additional obligations within the jurisdiction such as ship registration including compliance with International Maritime Organisation (“IMO”) regulations, customs and manning requirements (noting the various regulatory requirements for shipping identified in the Consolidated Application Note) consistent with the IMO definition.

³⁹ Also reviewed as a financing and leasing regime.