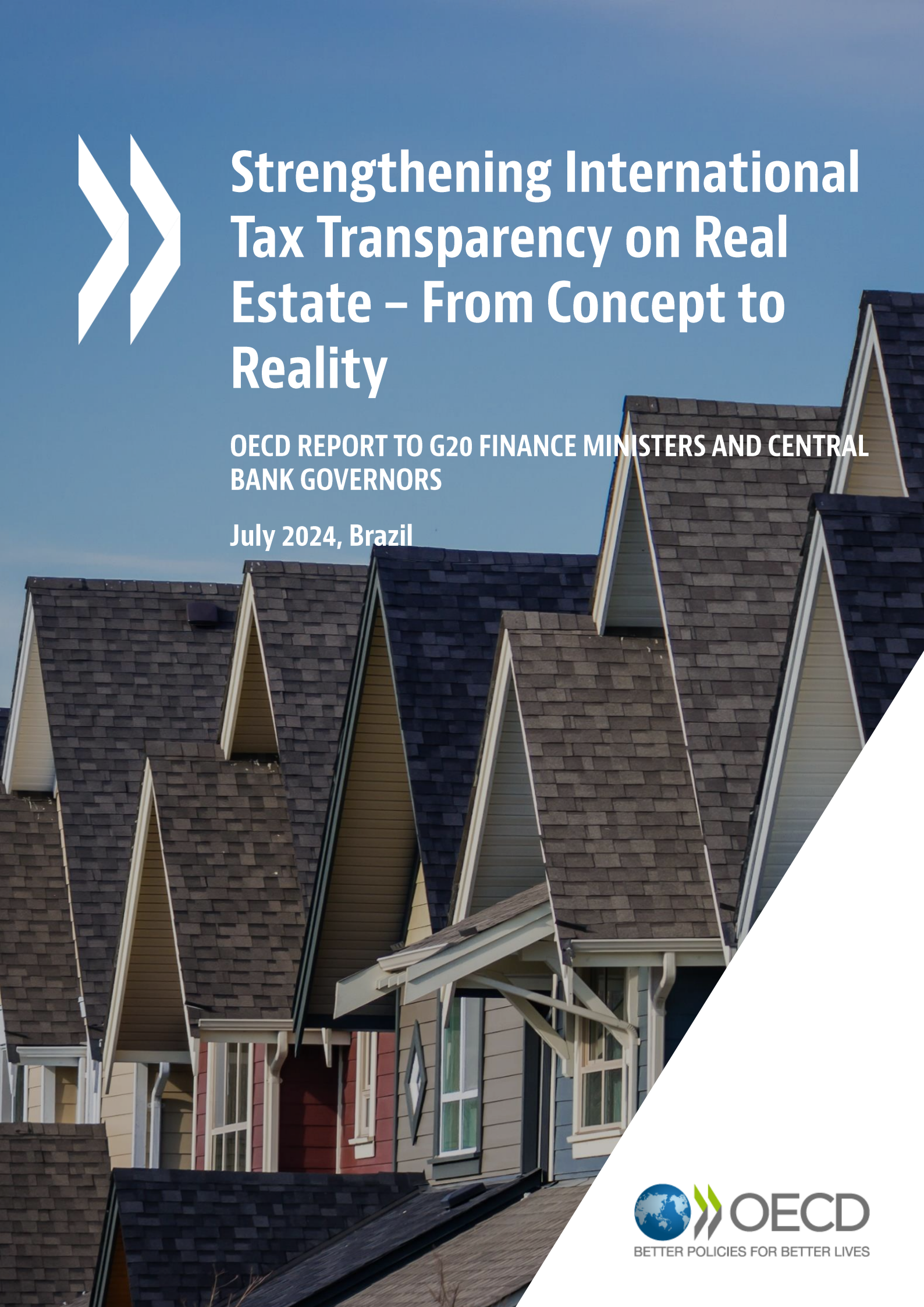
Strengthening International Tax Transparency on Real Estate – From Concept to Reality

OECD REPORT TO G20 FINANCE MINISTERS AND CENTRAL BANK GOVERNORS

July 2024, Brazil



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Strengthening International Tax Transparency on Real Estate – From Concept to Reality

OECD Report to G20 Finance Ministers and Central Bank Governors

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Foreword

Building on the July 2023 Report to the Indian G20 Presidency, this report looks into current levels of tax transparency on foreign owned real estate and explores how recent advances in other tax transparency frameworks, such as the Common Reporting Standard (CRS), and wider policy developments, such as the Financial Action Task Force (FATF)'s work on beneficial ownership, could inform improvements to tax transparency in the area of real estate.

The report identifies potential short-term and structural improvements to the present architecture to enhance tax transparency with respect to real estate, along three key milestones.

Firstly, the report proposes building blocks to ensure the efficient exchange of readily available information on real estate transactions, holdings and income between tax administrations to allow interested countries and in particular the close to 150 jurisdictions participating in the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAAC) to fully benefit from the existing exchange network.

Secondly, the report sets out an approach for further enhancing the consistency and quality of the information through common due diligence and reporting requirements for real estate-related exchanges.

Finally, the report presents key considerations for a potential structural model for ensuring the tax transparency on real estate, including where held indirectly through legal entities and arrangements, on the basis of fast-track access for tax purposes to information in real estate and beneficial ownership registers.

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Executive summary

In response to a request by last year's Indian G20 Presidency, the OECD prepared a report for the July 2023 meeting of the G20 Finance Ministers and Central Bank Governors that sets out the current state of play in respect of tax transparency and exchange of information on real estate and provides a number of conceptual options to further enhance international tax transparency in respect of real estate held by taxpayers outside their jurisdiction of tax residence.[1]

The July 2023 report highlighted that significant progress has been made towards bringing comprehensive tax transparency to sectors of the economy, such as financial markets and the platform economy, but also acknowledged that improvements in international tax transparency on real estate have been less far-reaching. Although under existing international legal instruments jurisdictions are generally required to exchange available real estate information upon request for tax purposes, jurisdictions are not obliged to ensure the availability and access to such information and therefore not all jurisdictions' tax administrations have ready access to such information. Moreover, the scope of spontaneous and automatic exchanges of information on real estate remain limited at present.

Against that background, the July 2023 report laid out both short-term and longer-term solutions to better ensure that tax administrations receive tax-relevant information on real estate held abroad, including in cases where such real estate is held through legal entities or arrangements.

Since the July 2023 report, technical work has continued to refine the understanding on the information needs of tax administrations in respect of real estate held abroad by their taxpayers, the information they have available and the steps needed to put solutions in place.

In light of the above, this report sets out **six building blocks** within three steps to deliver enhanced tax transparency on real estate:

Regular exchange of readily available and relevant information	*Enhance consistency and quality of information*	*Ensure the availability of up-to-date beneficial ownership information on real estate*
1. Understanding the information jurisdictions have 2. Understanding the information jurisdictions need 3. Designing an international legal basis for automatic and spontaneous exchange of information 4. Putting in place an efficient operational framework for the exchanges	5. Definition of a standardised set of information to be collected from intermediaries and taxpayers and common due diligence rules to underpin automatic and spontaneous exchange of information	6. Systemic collection and fast-track access to real estate and beneficial ownership registers

[1] OECD (2023), *Enhancing International Tax Transparency on Real Estate: OECD Report to G20 Finance Ministers and Central Bank Governors*, OECD Publishing, Paris, https://doi.org/10.1787/37292361-en.

The steps and building blocks are designed in such a manner that they can be adopted incrementally by interested jurisdictions, considering each jurisdiction's capacity and resources, with a view to progressively moving towards a landscape of intensified international cooperation on real estate, underpinned by reliable data sources and efficient methods for receiving the information that is relevant for tax purposes.

Technical work is underway to give shape to the first step, advancing the exchange of readily available information on real estate transactions, holdings and income between tax administrations of interested jurisdictions. A recent survey on tax transparency and real estate conducted by the OECD amongst close to 50 jurisdictions (the 2024 Survey) has provided significant additional visibility on the information needs of tax administrations as well as the information they have available . This information can now inform the design of an international legal basis for automatic and spontaneous exchange of information, underpinned by an efficient operational framework.

In relation to steps two and three , further exploratory work will be undertaken. This will encompass the approach for further enhancing the consistency and quality of the information through common due diligence and reporting requirements for real estate-related exchanges, and how this could be technically delivered. For the potential architecture that would enable tax authorities to structurally obtain fast-track access to the information contained in real estate and beneficial ownership registers for the purpose of ascertaining whether taxpayers directly or indirectly own real estate abroad, the key items for further consideration, as set out in the report, will be further scoped out and assessed in terms of their technical, legal and financial implications.

We will report back to the G20 Finance Ministers and Central Bank Governors in 2025 on the further progress made.

Building blocks for strengthening tax transparency on real estate

The July 2023 report acknowledged that tax administrations at present only have limited visibility over the cross-border ownership of (and income derived from) real estate. At the same time, there are indications that the proportion of real estate owned by non-residents has continued to increase in recent years. Equally, following the widespread implementation of the CRS[2], concerns have emerged that investments in real estate are being used to shelter undeclared assets that would have otherwise been subject to CRS reporting. This can be nuanced to a certain extent, as information exchanged under the CRS can also provide indirect indications to tax administrations about foreign real estate ownership or transactions. However, these trends underline the tax compliance risks associated with cross-border ownership of real estate and strengthen the case for enhancing tax transparency in this area.

This section sets outs six building blocks to bring about greater cooperation and tax transparency on real estate, including income derived therefrom, as well as cases where real estate is held through legal entities or arrangements. For each of the building blocks, the report first sets out the current state of play before proposing action items to deliver the outcome. The building blocks are arranged in a sequential manner, starting with the items that can be actioned swiftly in order to deliver short-term progress, and ending with the actions that require longer lead times to bring about structural enhancements to tax transparency. They are grouped around three key milestones identified in the July 2023 report, starting with a coordinated policy to exchange relevant information that is readily available to tax administrations, to be potentially complemented by common due diligence and reporting requirements to enhance the quality and usability of the information, which could then lead to a structural approach for ensuring fast that high-quality and up-to-date beneficial ownership information is available in cases where real estate is held through foreign entities.

1. Regular exchange of readily available information

1.1. Building block 1: Understanding the information jurisdictions have

Current state of play

As highlighted in the July 2023 report, at present information exchanges between tax administrations on real estate are limited to what is available to such tax administrations. In order to refine the understanding of the scope of information that is currently available to tax administrations, and that therefore could

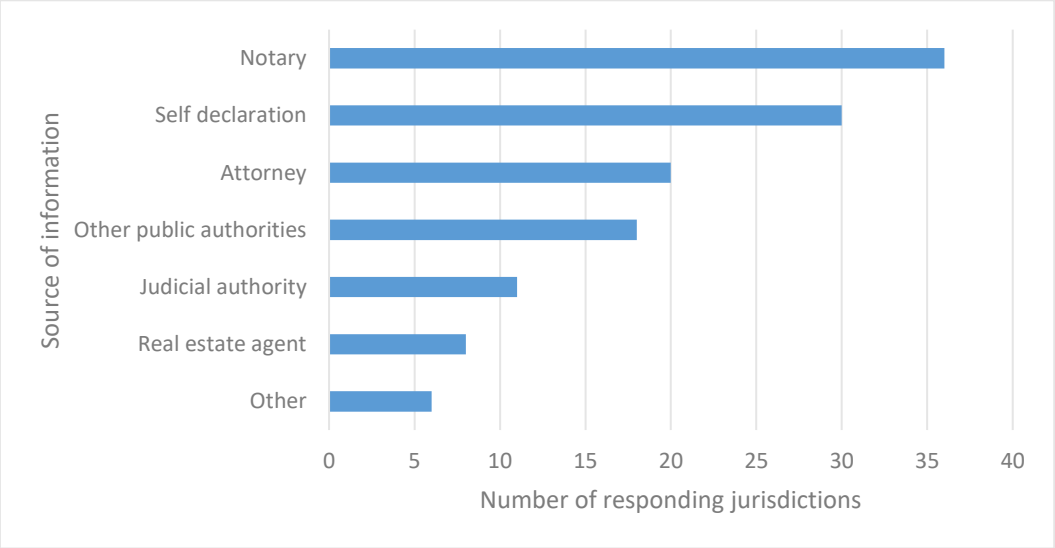
[2] OECD (2017), *Standard for Automatic Exchange of Financial Account Information in Tax Matters, Second Edition*, OECD Publishing, Paris, https://doi.org/10.1787/9789264267992-en.

potentially be exchanged in the short-term, the OECD recently conducted the 2024 Survey, covering acquisitions, disposals and holdings of real estate, as well as information on recurrent income derived from real estate and information on the beneficial owners of real estate.

Regarding acquisitions, disposals and holdings of real estate, tax administrations generally have access to information repositories, such as real estate registers and government databases, that contain information about the name of the owner, the date of birth in case the owner is an individual, the address and the percentage of ownership. An important current limitation in this context is that only a minority of repositories include the jurisdiction(s) of tax residence and the Tax Identification Number (TIN) of the jurisdiction of residence of the owner, seller or acquirer. In addition, very few repositories maintaining real estate information include information on the beneficial owner when the legal owner is an entity. With respect to the asset itself, the repositories would generally maintain detailed information, with the asset title number or reference, the address of the asset and the type of real estate (e.g., house, an apartment, a building, land, etc.). At a transactional level, most repositories also contain details providing the date of the transaction, the type of acquisition (e.g., inheritance, donation, purchase, subdivision of title, etc.) and the acquisition price of the real estate. However, few repositories include more detailed financial information, for instance on mortgages or pledges.

In terms of the sources of the information filed in the repository, notaries, self-declarations and public authorities are the main sources of the information populated in the repositories on acquisitions, disposals and holdings of real estate information, as indicated in the figure below.

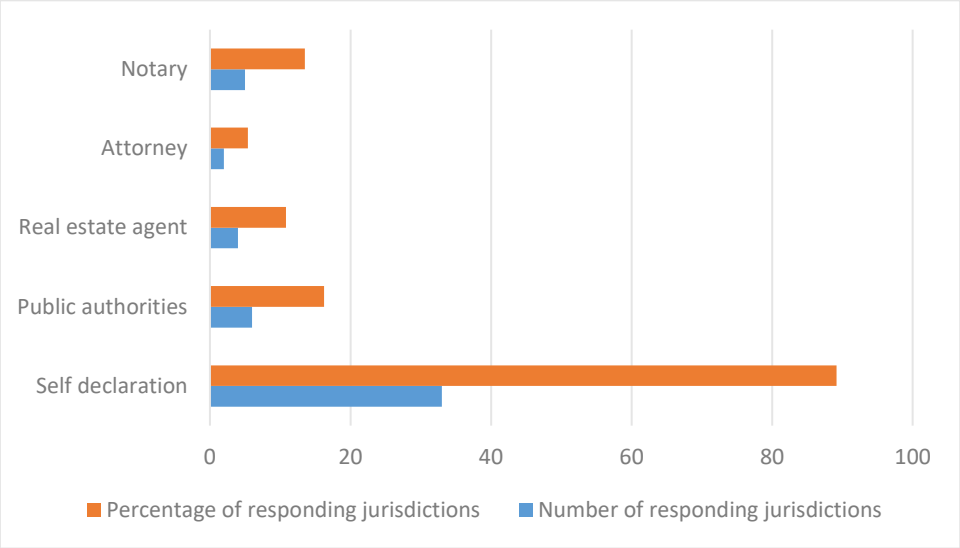
Figure 1. Sources of the information on transactions and holdings of real estate



Source: OECD 2024 Survey on enhancing tax transparency on real estate

With respect to information on recurrent income from real estate, the name, date of birth and address of the owner are widely available, while the jurisdiction(s) of tax residence is available in about half of the responding jurisdictions, which is a significantly higher proportion than for acquisitions, disposals and holdings of real estate. This is because information on recurrent income is primarily maintained by tax authorities on the basis of taxpayers' self-declarations, with relatively little third party reporting, as shown in the below figure on the sources of information on recurrent real estate income.

Figure 2. Sources of the information on recurrent income derived from real estate



Source: OECD 2024 Survey on enhancing tax transparency on real estate

In instances where the legal owner of the real estate is a legal entity or a legal arrangement, the 2024 Survey suggests that repositories containing real estate information only exceptionally provide for beneficial ownership information. While many countries maintain a beneficial ownership register, only a minority of about one third of the respondents is able to link up the real estate register with its beneficial ownership register.

Finally, a large majority of tax administrations have indicated that the information that is available to them on acquisitions, disposals and holdings of real estate, as well as on recurrent income derived therefrom is accessible and structured in a manner that makes it feasible to prepare such information for more structured, regular exchanges of information with interested partner jurisdictions.

Items for further action

In light of the above findings, it appears feasible to identify a common set of information items that can form the basis for a coordinated approach for exchanging information on acquisitions, disposals and holdings of real estate, as well as on recurrent real estate income, on a regular, spontaneous, or automatic basis.

It is worthwhile noting, however, that this information will only cover information on the jurisdiction of tax residence and the TIN of the owner of the real estate in a very limited number of occasions, which means that, as a practical matter, the tax residence of the owner, and thus the intended receiving jurisdiction will need to be derived from the available address information on the owner. Similarly, exchanges with the jurisdiction of tax residence of the beneficial owner, in cases where the real estate is held through a legal entity of arrangement, will be limited, due to the frequent absence of available information on the identity and tax residence of the beneficial owner with the tax administration of the jurisdiction in which the real estate is located.

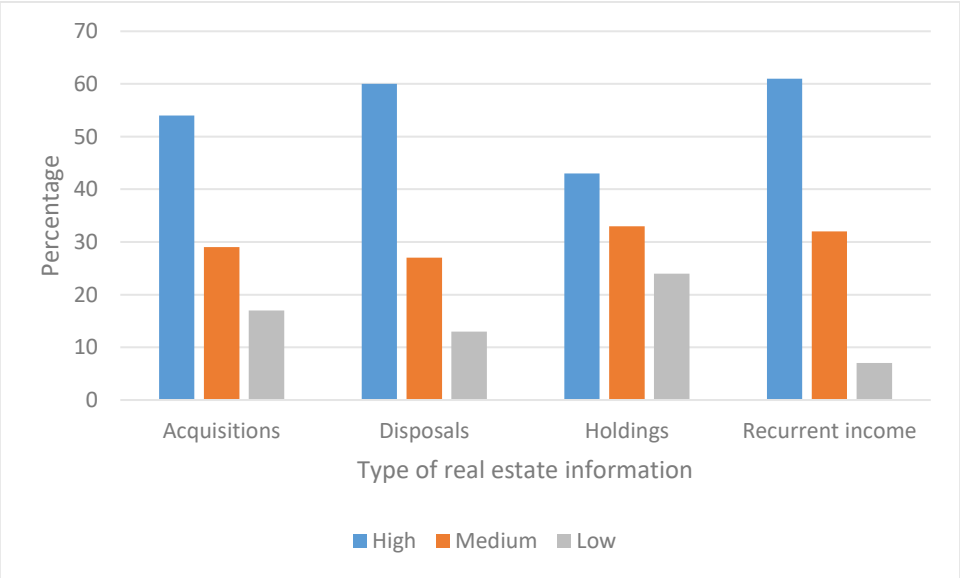
1.2. Building block 2: Understanding the information jurisdictions need

Current state of play

Jurisdictions take different approaches to the taxation of real estate, including in the context of capital gains on disposals, income tax on rental receipts, transfer taxes on real estate transfers, as well as for purposes of wealth or inheritance taxes. In the cross-border context, where the jurisdiction of tax residence of the owner diverges from the jurisdiction where the property is located, the right to tax income from real estate is determined by domestic law in combination with the applicable income tax treaty, which will typically give the primary right to tax real estate income (including capital gains) to the source jurisdiction. At the same time, most treaties apply the credit method to prevent double taxation, and thus additional tax may be due in the jurisdiction of tax residence of the owner where it applies higher tax rates on such income. In addition, real estate holdings may also be relevant in assessing the application of wealth and inheritance taxes in combination with any applicable gift and estate tax treaties.

Based on the 2024 Survey, countries have a strong interest in receiving information on foreign real estate of their residents. The degree of priority for which the information would be used is the highest for information on disposals and for information on recurrent income derived from real estate, as shown in the figure below.

Figure 3. Priority level regarding the intended use of information per type of real estate of information



Source: OECD 2024 Survey on enhancing tax transparency on real estate

With respect to the use of information on real estate held abroad, the 2024 Survey showed that tax administrations would rely on the information for a range of aspects in their tax compliance work, in particular (i) to ensure that the funds used to acquire the real estate were properly declared and taxed, (ii) to apply inheritance and wealth taxes, (iii) to tax capital gains upon disposal and (iv) to tax rental income from such real estate. To this end, tax administrations would ideally receive information on the legal and beneficial owners, on the real estate asset, on the value of transactions, and on the recurrent income derived therefrom.

Items for further action

In combination with the findings on the availability of information under building block 1, the input from tax administrations on the information needs can be relied upon to establish a profile for each interested jurisdiction setting out the items it is able to make readily available for exchange and the items it would be interested in receiving. The jurisdictional profile could be split in three main sections: transactions (acquisitions and disposals), holdings and recurrent income. For each of these sections, jurisdictions would then indicate which ownership and financial information they have available for exchange and which information is foreseeably relevant to be received. This profile could then be matched with the corresponding profile of other jurisdictions to more fully exploit the potential for reciprocal exchange relationships.

1.3. Building block 3: A legal basis for automatic and spontaneous exchange of information

Current state of play

As highlighted in the July 2023 report, exchanges in the area of real estate are taking place already, but often in a fragmented manner. As a purely legal matter, the MAAC[3] enables the exchange of real estate information for tax purposes (including for income, wealth and inheritance taxes) on an on-request, spontaneous and automatic basis between its nearly 150 participating jurisdictions. In addition, a wide range of bilateral tax treaties and tax information exchange agreements permit the sharing of tax-relevant real estate information.

In spite of the existence of a wide-reaching international legal architecture, the actual exchange practice in the area of real estate differs significantly between jurisdictions and regions, as summarised in Table 1.

[3] https://www.oecd.org/en/topics/convention-on-mutual-administrative-assistance-in-tax-matters.html

Table 1. Existing automatic exchange of information frameworks for real estate

	First European Union Directive on Administrative Cooperation (DAC 1) [4]	OECD Model Reporting Rules for Digital Platforms [5]	MAAC/Bilateral treaties based on Article 26 of the OECD[6]/UN MTC[7]
Geographical scope	European Union Member States	26 jurisdictions under DPI MCAA and European Union Member States (through DAC 7)	N/A
Information exchanged	Recurrent income, transactions and ownership, to the extent information is readily available to tax authorities	Recurrent income from immovable property rented via online platforms	Recurrent income, transactions and ownership
Standardised reporting/due diligence procedures	No	Yes	No
Standardised exchange format	Yes	Yes	Yes

Source: OECD

The findings from the 2024 Survey confirm that exchanges on real estate are currently taking place mostly between European Union Member States under DAC1, and to a lesser extent amongst a broader range of jurisdictions under the MAAC and bilateral tax treaties (DTCs).

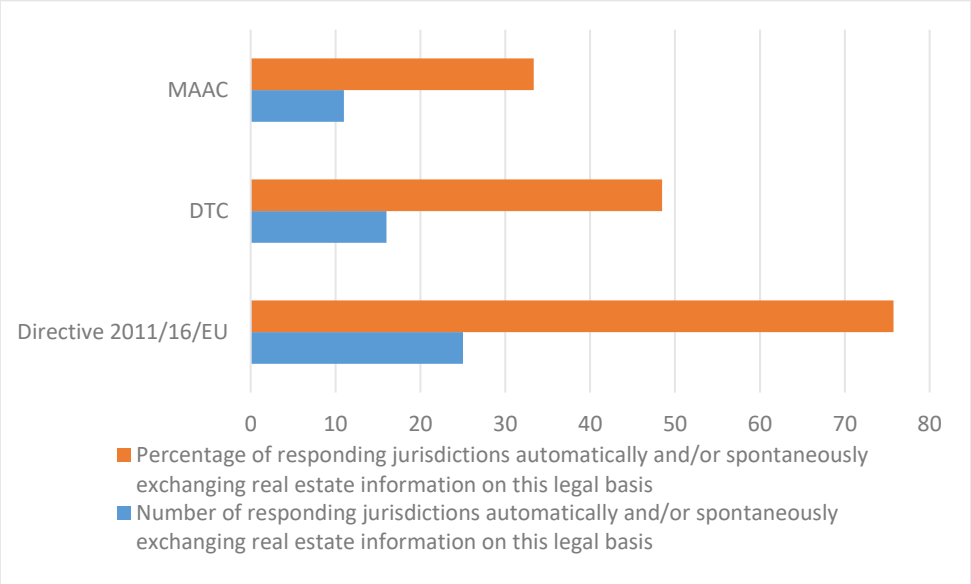
[4] https://eur-lex.europa.eu/legal-content/fr/TXT/?uri=celex%3A32011L0016

[5] OECD (2020), *Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy*, OECD Publishing, Paris, https://doi.org/10.1787/d7973047-en.

[6] OECD (2017), *Model Tax Convention on Income and on Capital: Condensed Version 2017*, OECD Publishing, Paris, https://doi.org/10.1787/mtc_cond-2017-en.

[7] https://www.un.org/esa/ffd/wp-content/uploads/2018/05/MDT_2017.pdf

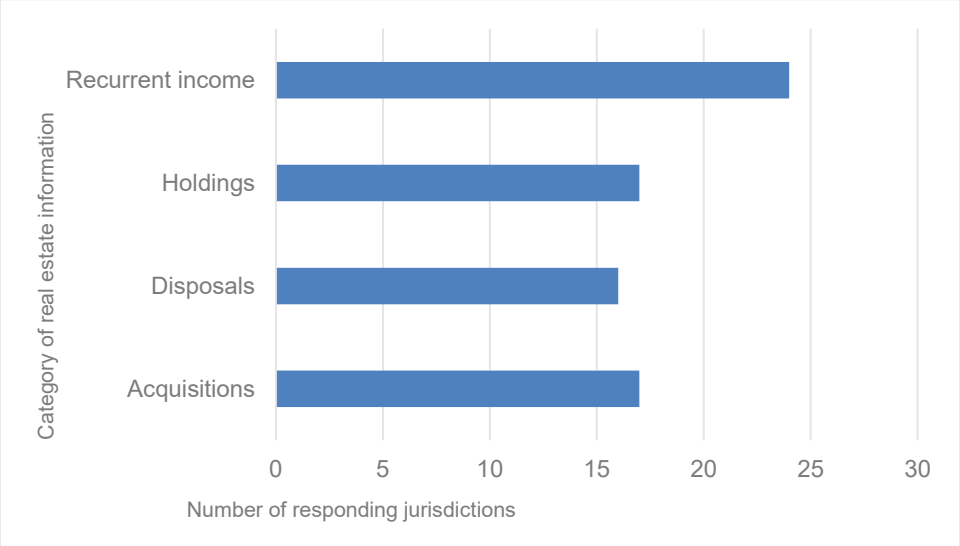
Figure 4. Legal instruments relied upon for exchanges of real estate information



Source: OECD 2024 Survey on enhancing tax transparency on real estate

The types of information exchanged are quite balanced. Information on recurrent income derived from real estate is the first type of real estate information exchanged, but information on acquisitions, disposals and holdings are also being exchanged.

Figure 5. Categories of real estate information being exchanged



Source: OECD 2024 Survey on enhancing tax transparency on real estate

Regarding the information being exchanged, information on the asset, the legal ownership information and information on the transaction is included in most instances. Information on the beneficial owner is exchanged to a lesser extent, which can be explained by the lack of availability of such information, as highlighted above in the context of building block 1.

These findings confirm that despite there being an international legal basis in place for the exchange of real estate information for tax purposes between a wide range of jurisdictions, exchanges are limited and are mostly taking place on request. Automatic exchanges are concentrated among European Union Member States, covering a limited set of data, with differing data points being exchanged depending on what is available to the respective tax administrations.

Items for further action

The above analysis (together with the proposal for building block 2 to establish an inventory that matches the information that jurisdictions have with the information that is foreseeably relevant for interested partner jurisdictions to receive), creates a basis to draft a legal instrument in the form of a Multilateral Competent Authority Agreement under the MAAC that allows jurisdictions to commence more structured exchanges on real estate, on a spontaneous or automatic basis.

As not all jurisdictions have the same needs, and not all jurisdictions have the same information available, a Multilateral Competent Authority Agreement could be designed in a modular manner:

- A first module that would cover real estate holdings by non-residents. From a legal perspective, this would take the form of a single spontaneous exchange of information on the basis of (i) information on the (tax) residency of the legal and/or beneficial owner(s) of the real estate available to the sending jurisdiction and (ii) an opt-in by the interested receiving jurisdiction, in which the foreseeable relevance on the information is demonstrated;
- Building on the first module, a second module that would cover the spontaneous exchange of information on real estate transactions, i.e., acquisitions and/or disposals. These spontaneous exchanges would take place at regular intervals and would again be based on the premise that the sending jurisdiction has information on the (tax) residence of the transacting parties and that the interested receiving jurisdictions have opted into the exchanges by demonstrating the foreseeable relevance on the information; and
- A third module would cover the exchange of information on recurrent real estate income. Given the nature of the information, this module could be structured as an annual automatic exchange of information, to the extent the sending jurisdiction has information on the (tax) residence of the non-resident taxpayer, and the receiving jurisdiction has demonstrated the foreseeable relevance of the information. This would complement the exchange of information under the OECD Model Reporting Rules for Digital Platforms which already provide for the automatic exchange of information on recurrent income from immovable property rented via online platforms.

1.4. Building block 4: An efficient operational framework for the exchanges

Current state of play

With the launch of the Common Transmission System, which already facilitates the secure transmission of CRS and Country-by-Country Reports between tax administrations, there is a common system in place that enables jurisdictions to securely exchange real estate information with each other. There is, however, currently no comprehensive international IT-format that captures the relevant information on transactions in, ownership of and income from real estate in a consistent manner. The OECD Standard Transmission Format (STF) covers information in relation to real estate income, but currently does not allow information on real estate holdings and transactions to be collected and reported in a standardised XML-format.

Therefore, jurisdictions wishing to exchange such information either rely on the transmission of unstructured documents and information or would need to agree a particular format. This situation leads to undesirable outcomes. For instance, the use of different formats leads to data handling and usability

restrictions, both for the tax administration collecting the information, and for the tax administration receiving and using the information. This is particularly true when information is provided in an unstructured format, such as text documents or data tables. In addition, the concurrent use of different formats increases costs for the involved tax administrations for collecting, sorting, exchanging and using the information, as processes cannot be automated and information cannot be extracted from, and fed into the systems of tax administrations in an efficient manner.

Items for further action

In light of these considerations, it would make sense to introduce a structured and standardised IT-format, to allow sending tax administrations to efficiently compile the information for exchange and receiving tax administrations to seamlessly integrate the information into their systems for the purpose of their tax compliance activities. This could build on the OECD STF format and could, inter alia, draw inspiration from the current electronic formats in use for the exchange on the ownership of and income from real estate under the European Union Directive on Administrative Cooperation.

This approach would ensure that the benefits of the existing exchanges on real estate information, as well as new exchanges of information on real estate holdings, transactions and income of non-resident taxpayers that is already available to tax administrations, can be used to the largest extent possible. It would also improve the operational framework for the exchanges by introducing a structured and standardised IT-format, which will in turn allow sending tax administrations to efficiently compile the information for exchange and receiving tax administrations to seamlessly integrate the information into their systems for the purpose of their tax compliance activities.

1.5. Assessment of the costs and benefits

Putting in place these first building blocks would enable all readily available information on transactions, holdings and recurrent income to be exchanged on a regular basis and in a legally and technically consistent manner. This will help tax administrations to better carry out their compliance work and to get a more advanced picture of real estate assets and income that taxpayers hold and realise abroad. The common format will facilitate matching and automated risk assessment, for instance to compare assets and income of taxpayers. The modular approach composed of a single spontaneous exchange of information on the real estate holdings by non-residents., the regular spontaneous exchange of information on acquisitions and/or disposals and the annual automatic exchange on recurrent real estate income would ensure the necessary flexibility to accommodate the varying levels of information needs and information availability of participating jurisdictions. As this approach would be limited to information that is readily available in participating jurisdictions and rely on existing exchange infrastructure in many jurisdictions, the implementation cost should be limited.

There are, however, important limitations that remain. In this respect, the 2024 Survey highlighted the following key issues:

- The manner in which information is held and reported (e.g., in registers or domestic tax returns) may mean that **such information is not readily shareable** with tax administrations of other jurisdictions. For instance, where real estate information is recorded in separate local registers, tax authorities cannot easily access such information so as to permit it to be exchanged spontaneously or automatically;
- The information may be **incomplete and may not match the needs of tax administrations** of partner jurisdictions. For instance, jurisdictions that do not generally tax individuals on rental income or capital gains will not have the corresponding information readily available;

- The information may **not always identify the jurisdiction of (tax) residence** of the real estate owner or beneficial owner, making it difficult to identify the accurate recipient jurisdiction;
- The information may **not include the TIN of the jurisdiction of tax residence** of the real estate owner, which is important for allowing the tax administration of the jurisdiction of residence of a taxpayer to match the information to the taxpayer's file; and
- The information will **generally not include beneficial ownership information**. Such information can be important to identify individuals that make use of foreign legal entities or arrangements to invest in real estate in order to hide undeclared income from the tax authorities, in particular in the high-end real estate market.

2. Enhancing the consistency and quality of the information

2.1. Building block 5: Common due diligence and reporting requirements for real estate exchanges

Current state of play

As outlined above there is substantial progress that can be made within the existing framework, but shortcomings will remain. This is primarily due to the absence of reliable data sources for certain information items, or the absence of solid due diligence procedures to ensure that the information is complete, reliable and up to date.

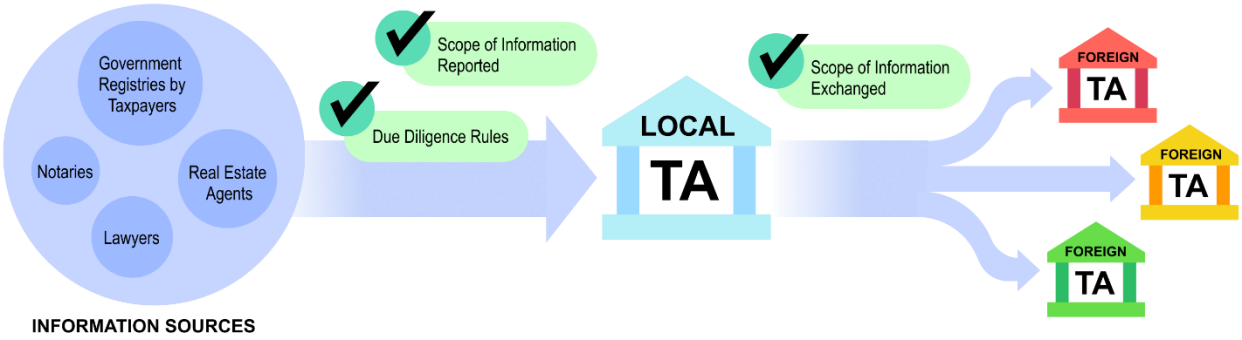
Items for further action

In order to overcome these information deficiencies, it could be contemplated to develop common reporting and due diligence rules, aimed at ensuring that high-quality and complete information that is foreseeably relevant for receiving jurisdictions is available for exchange by tax administrations.

With respect to transactions to acquire or dispose of real estate, this would consist of a set of common reporting and due diligence obligations on relevant service providers, in particular notaries, lawyers and real estate agents that facilitate, and/or on government registries that record, acquisitions and disposals of real estate, in order to support the spontaneous exchange of such information. The information collected and exchanged would be standardised and defined with residence jurisdictions' tax compliance needs in mind. The information collected would include the tax residences and the TINs of the jurisdictions of residence of the parties to the transaction, as well as essential financial information on the real estate acquired or disposed. It could also include information on beneficial ownership information where real estate is acquired through legal entities. Similar to the CRS, this would provide verified, consistent and quality information, while ensuring that the information reaches those tax authorities for which this information is foreseeably relevant. This information could then be exchanged in a commonly agreed IT-format and on the basis of a Multilateral Competent Authority Agreement on a spontaneous basis following a transaction or at more regular intervals.

The architecture designed on that basis is reflected in Figure 6:

Figure 6. AEOI on the basis of common reporting and due diligence rules



Source: OECD

In addition to acquisitions and disposals, it could be contemplated to also exchange information on recurrent income from foreign real estate. This would require the tax administration of the jurisdiction in which the real estate is located to collect information on the jurisdiction of tax residence of the owner of the real estate, including the TIN issue by that jurisdiction, for instance as part of the annual tax return. This could also be partially achieved by extending third party reporting from operators to digital platform operators to other intermediaries.

This information, together with the information on the recurrent income, could then be exchanged in a commonly agreed IT-format and on the basis of a Multilateral Competent Authority Agreement on an automatic basis.

2.2. Assessment of the costs and benefits

Enhanced due diligence and reporting requirements would ensure that information on acquisitions and disposals, as well as recurrent income is not only exchanged when it is readily available but is systematically collected.

In addition, the information would be collected in a high-quality manner, reflecting the information needs of receiving tax administrations. In particular it would ensure that the information collected includes tax residency and TIN information for both exchanges on recurrent income and transactions, and that beneficial ownership information would be more systematically available when real estate is acquired or disposed by a legal entity or arrangement.

The costs associated with this approach would need to be further assessed but are likely to vary between jurisdictions, depending on how much information they are already collecting today. In some jurisdictions this may just me a matter of adding a couple of information items to existing reporting requirements, such as beneficial ownership information (which is already required to be collected under applicable anti-money laundering (AML) rules by many professional intermediaries) and the (beneficial) owners' TIN and jurisdiction of tax residence. In other jurisdictions, more structural changes would most likely be required.

While these steps would mean significant progress compared to the current landscape, the access to beneficial ownership information outside of the context of transactions in real estate will have remaining gaps. This is in particular the case where real estate has been held for a long period of time through legal entities or arrangements. In those cases, there would not be a moment for collection and exchange of up-

to-date and qualitatively solid beneficial ownership information. This also applies to cases where real estate has changed beneficial owner by a sale of shares or interest in a legal entity or arrangement holding the real estate in directly. Such patterns are particularly frequent in the context of High-Net Worth Individuals holding real estate abroad and therefore it is important to identify pathways to bridge this gap.

The following section therefore explores possible approaches for enhancing the quality and access to up-to-date beneficial ownership information on real estate assets held through legal entities or arrangements.

3. Ensuring the availability of up-to-date beneficial ownership information on real estate

3.1. Building block 6: Systemic collection of and fast-track access to up-to-date beneficial ownership information

Current state of play

Very few jurisdictions systematically collect up to date beneficial ownership information in connection with real estate located in their jurisdiction. Real estate registers in most instances only include information about the legal owners of real estate, their main purpose being to provide clarity and certainty about legal title to a property. Some jurisdictions have introduced real estate specific beneficial ownership registers (for instance the Land Ownership Transparency Register introduced in British Columbia, Canada). Others have implemented registers of the beneficial ownership of foreign legal entities and arrangements owning local real estate (such as for instance the United Kingdom Register of Overseas Entities).[8]

By contrast, many jurisdictions have implemented, or are in the course of implementing, beneficial ownership registers with respect to legal entities and arrangements located in their jurisdiction to comply with various international AML standards.[9] Recent amendments to the FATF's international standards on anti-money laundering and countering the financing of terrorism require that companies hold adequate, accurate and up-to-date information on their own beneficial ownership, and that jurisdictions also require beneficial ownership information to be held by a public authority or body functioning as beneficial ownership registry or an alternative mechanism.[10] Such developments are currently taking place, amongst others, in the European Union, Japan, the United Kingdom, by means of the Person of Significant Control (PSC)[11] register, and the United States, where reporting requirements of the Corporate Transparency Act (CTA) were issued in September 2022 and have taken effect this year.[12]

Given an evolving architecture that includes both real estate registers and beneficial ownership registers that provide for various types of access, one approach to ensure tax authorities are able to gain fast-track access to up-to-date information about resident taxpayers holding real estate through one or more legal entities or arrangements for tax purposes, is to consider leveraging these developments as appropriate.

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[8] https://www.gov.uk/government/collections/register-of-overseas-entities

[9] https://www.openownership.org/en/map/

[10] FATF Public Statement on revisions to Recommendation 24, https://www.fatf-gafi.org/en/publications/Fatfrecommendations/R24-statement-march-2022.html.

[11] https://www.gov.uk/guidance/people-with-significant-control-pscs

[12] https://www.fincen.gov/boi

Items for further action

In order to build an architecture allowing tax authorities to obtain fast-track access to the information contained in real estate and beneficial ownership registers for the purpose of ascertaining whether particular taxpayers directly or indirectly own real estate abroad, the following key items could be taken into consideration:

- The first aspect would be the adoption of **digital land registers and beneficial ownership registers.** This is not an area where only developed countries have been making progress. Over the past years several developing countries have been actively engaging in efforts to not only improve the digitalisation of land registries, but to also link land registries with their tax administrations. For instance, the African Tax Administration Forum (ATAF), has identified a strong trend in property tax reforms happening across the African continent to use technology to improve efficiency across the property tax cycle.[13]The development of digital ownership registers could not only enhance domestic tax collection but also provide a foundation for better governance and economic development by ensuring that land information is accurate, accessible and secure.
- Currently, different approaches are adopted in terms of who can get access to information contained in real estate and beneficial ownership registers, ranging from direct and unlimited public access, over access to individuals that can demonstrate a legitimate interest, to restricted access reserved to (domestic) competent authorities, including tax authorities. While the international Standard for the Exchange of Information upon Request requires the availability of beneficial ownership information of legal entities and arrangements that is accessible to domestic tax authorities for exchange of information upon request by tax authorities in partner jurisdictions, it does not mandate direct access of tax authorities to such registers. In order to ensure efficient and fast-track access of foreign tax authorities to such information, it could be considered to **grant tax authorities access to the relevant real estate registers and beneficial ownership registers**, subject to appropriate access conditions as described further below, to ensure that the provisions of information in a cross-border context can take place swiftly and efficiently;
- Typically, both real estate and beneficial ownership registers are not primarily set up for tax purposes. Therefore, such registers frequently do not contain crucial information for tax purposes, such as the tax residency and the TIN of the legal and beneficial owners. In order to ensure tax authorities can fully and effectively benefit from the information available in registers, they would ideally contain the **tax residence and TIN of the legal and beneficial owners**;
- Where real estate is held indirectly through legal entities and arrangements, in particular in a multijurisdictional setting, it is important that **information from multiple registers can be associated and combined in a reliable and efficient manner**. To that end, one or more common identifiers for both the legal entities and arrangements, as well as their legal and beneficial owners should be agreed. TINs, Legal Entity Identifiers or business registration numbers could serve this purpose;
- Taking into account the often historic, country-specific and decentralised nature of real estate registers, it may be challenging to achieve a fully common structured and electronically searchable data set. In the context of beneficial ownership information, there is, however a much stronger move towards standardisation. Even though the FATF Recommendations do not mandate the form or formats in which beneficial owner information of legal entities and arrangements needs to be kept, the recent adoption of a new AML package in April 2024 has paved the way towards a common, searchable and machine-readable data format for beneficial ownership information in the

[13] ATAF, Five tenets for consideration when undertaking property tax reform in Africa, December 2021 (p. 9), https://events.ataftax.org/index.php?page=documents&func=view&document_id=152.

European Union. Similarly Open Ownership developed an open standard providing guidance for collecting, sharing and using high-quality data on beneficial ownership (the Beneficial Ownership Data Standard), which has already been used by several jurisdictions when implementing beneficial registers. The current momentum could therefore be used to seek to ensure that beneficial ownership registers increasingly contain a **commonly structured and electronically searchable data set**;

- In order to ensure that information queried by the tax administration of one jurisdiction can be transmitted efficiently to that tax administration by the competent authority of the other jurisdiction, an efficient technical and operational architecture is of great importance. This could be achieved through an **API and an agreed common IT-format** that defines the items to be searched and to be communicated in response; and
- In the frequent instances where access to real estate and beneficial ownership registers is not (fully) publicly available, cross-border access to such registers would require an appropriate **international legal instrument** to define the conditions and modalities for querying and receiving such information for tax purposes. This could take the form of a bilateral or multilateral competent authority agreement, concluded on the basis of the MAAC or an applicable DTC.

3.2. Assessment of the costs and benefits

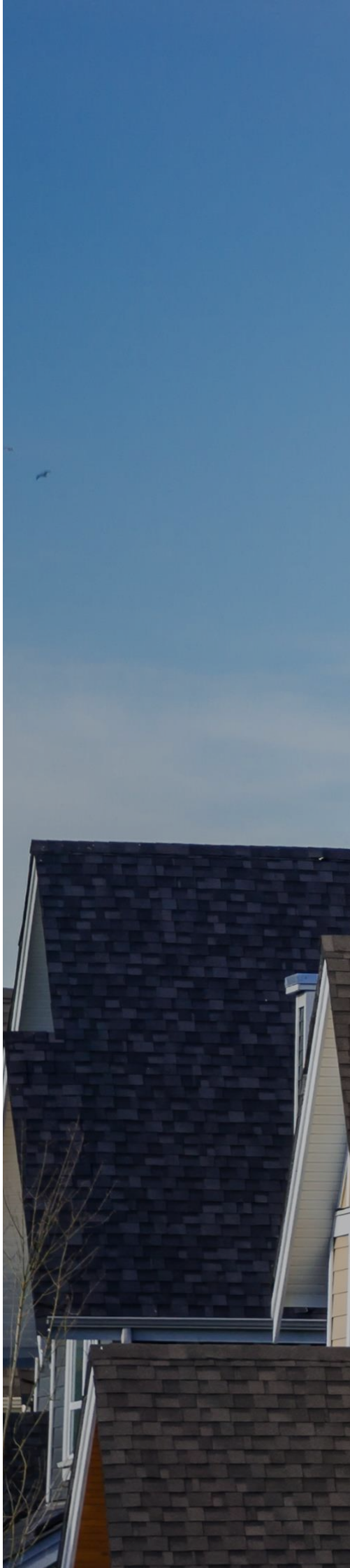
The key benefit of this approach is that it would give tax administrations more real-time access to beneficial ownership information in respect of foreign real estate held by their taxpayers, instead of receiving periodic exchanges of transactional information. More broadly, to the extent information would be directly accessible, the periodic exchanges of such information could likely be switched off.

While this approach is ambitious and represents a vision for the long term, it builds on developments that are already on their way and would enhance tax transparency of beneficial owner information in ways that have relevance beyond real estate. For those reasons, there appears to be merit in further analysing its technical, legal and financial implications.

Strengthening International Tax Transparency on Real Estate – From Concept to Reality

OECD REPORT TO G20 FINANCE MINISTERS AND CENTRAL BANK GOVERNORS, JULY 2024, BRAZIL

In July 2023, following a request from the Indian G20 Presidency, the OECD delivered a report making the case for enhanced tax transparency on real estate and setting out a number of conceptual solutions to improve the existing architecture on a voluntary basis. Since then, technical work has continued at OECD-level to refine the understanding of the information needs of tax administrations, the information they have available and the steps needed to deliver increased transparency in this area. Against this background, this report sets out the building blocks to bring increased transparency into practice. These building blocks can be adopted incrementally by interested jurisdictions, starting with maximising exchanges of readily available information between interested jurisdictions and progressively moving towards more structural solutions for international co-operation on real estate, underpinned by reliable data sources and efficient methods for receiving the information that is relevant for tax purposes. These structural solutions would also ensure access to beneficial owner information when real estate is held through legal entities or arrangements. This report was prepared by the OECD to inform the discussions at the July 2024 meeting of G20 Finance Ministers and Central Bank Governors, at the request of the G20 Brazilian Presidency.



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