

# APPENDIX A

## SELECTED FEATURES OF THE REVENUE RULING SYSTEM

Country	Public rulings are		Private rulings are			
	Issued	Binding	Issued	Binding	Subject to time limits (time limit)	Subject to fees
<b>OECD Countries</b>						
Australia	✓	✓	✓	✓	✓ (28 days) /1	x
Austria	✓	✓	✓	✓ /1	✓	✓ /1
Belgium	✓	✓	✓	✓	✓ (3 months)	x
Canada	✓	x	✓	✓	✓ (varies by tax) /1	✓ /2
Chile	✓	✓	✓	✓	x	x
Czech Republic	✓	✓	✓	✓	✓	x
Denmark	✓	✓	✓	✓	✓	✓
Estonia	✓	✓	✓	✓	(60 days) /1	✓
Finland	✓	✓	✓	✓	✓	✓
France	✓	✓	✓	✓	✓ (3 months)	x
Germany	✓	✓	✓	✓	x	✓
Greece	✓	✓	✓ /1	✓ /1	✓ (120 days)	✓
Hungary	✓	✓	✓	x	✓ (30 days)	x
Iceland	✓	✓	✓	✓ /1	✓	✓
Ireland	✓	✓	✓	✓	✓	x
Israel	✓	✓	✓	✓	✓	x /1
Italy	✓	✓ /1	✓	✓ /1	✓	x
Japan	✓	✓	✓	x	x	x
Korea	✓	✓	✓	✓	✓ (1 month)	x
Luxembourg /1	✓	✓	✓	✓	x	x
Mexico	✓	✓	✓	✓	✓ (3 months)	x
Netherlands	✓	✓	✓	✓	x	x
New Zealand	✓	✓	✓	✓	✓ (3 months)	✓
Norway	✓	✓	✓	✓	✓	✓
Poland	✓	✓	✓	✓	✓ (3 months)	✓
Portugal	✓	✓	✓	✓	✓ (150 days) /1	✓
Slovak Republic	✓	✓	✓	✓ /1	✓ /1	✓ /1
Slovenia	✓	✓	✓	✓	✓	✓
Spain	✓	✓	✓	✓	✓	x
Sweden	✓	✓	x	n.a.	n.a.	n.a.
Switzerland	✓	✓	✓	✓	x	x
Turkey	✓	✓	✓	✓	x	x
United Kingdom	✓	✓	✓	✓	✓	x
United States	✓	✓	✓	✓	x	✓
<b>Non-OECD countries</b>						
Argentina	✓	✓	✓	✓	✓ (90 days)	x
Brazil	✓	✓	✓	✓	✓ (360 days)	x
Bulgaria	✓	✓	✓	x	✓	x
China	x	x	x	x	x	x
Colombia	✓	✓	x	x	x	x
Costa Rica	✓	✓	✓	✓	✓ (2 months)	x
Croatia	✓	✓	✓	✓	x	x
Cyprus	✓	✓	✓	✓	✓ (30 days)	x
Hong Kong, China	✓	x	✓	✓	✓ (6 weeks)	✓
India	✓ /1	✓	✓ /2	x	x	✓
Indonesia	✓	✓	x	x	x	x
Latvia	✓	✓	✓	✓	✓ (1 month) /1	x
Lithuania	✓	✓	✓	✓	✓ (60 days) /1	x
Malaysia	✓	✓	✓	✓	✓ (60 days)	✓ /1
Malta	✓	✓	✓	x	x	x
Morocco	✓	✓	✓	✓	x	x
Romania	✓	✓	✓	✓	✓	✓
Russia	✓	✓	✓	✓	✓ (1 month)	x
Saudi Arabia	✓	✓	✓	✓	x	x
Singapore	✓	✓	✓	✓	✓ (varies by tax) /1	✓ /1
South Africa	✓	✓	✓	✓	✓ (varies) /1	✓ /1
Thailand	✓	✓	✓	✓	3 months	x

/1. **Australia:** Where the taxpayer's request raises particularly complex matters that will take more than 28 days to resolve after receiving all the required information, an extended reply date is negotiated. **Austria:** From 2011 only private rulings on group taxation, business restructuring or transfer pricing are binding on the revenue body and fees will be charged. **Canada:** Income Tax – within 90 business days of receipt of all essential information from the client; GST/HST – within 45 working days of receipt in the CRA. This excludes highly technical and precedent and/or policy-setting GST/HST rulings and interpretations. **Estonia:** With provision to extend by 30 days. **Greece:** Private rulings only apply as regards to Advance Pricing Agreements (APAs). **India:** Central Board of Direct Taxes issues Circulars, which are in the nature of public guidance. **Israel:** Fees are required only for rulings on mergers and acquisitions. **Latvia:** 1 month is norm but may be extended for objective reasons up to 4 months, subject to notification of this to applicant. **Italy:** Rulings are binding only on the Revenue Agency. **Lithuania:** 60 days is norm but further 60 days may be added where additional examination required. **Luxembourg:** Direct taxes only. **Malaysia:** Fees are charged only for Advanced Private Rulings. **Portugal:** 150 days is norm but can be 90 days if a request to justify its urgency is made by the taxpayer and accepted by the tax administration. **Singapore:** 8 weeks for income tax and 4 weeks for GST; expedited rulings can be made for an additional fee. **Slovak Republic:** There is no general period within which the revenue body (SFA) is obliged to issue a private ruling following a taxpayer's request. The SFA will issue (on the basis of the written request of the taxpayer) the binding statements (defined by the Tax Procedure Code) to the tax regulations application from 1 September 2014. In such cases, the issuing period is to be defined 60 days from the day of the written request delivery (max. 6 calendar months – after consultation with the taxpayer). Required fee is 1% (at minimum EUR 4 000), 2% (at minimum EUR 5 000) or 3% (at minimum EUR 6 000) of the assumed business case value. These binding statements are binding for the revenue body and the second-instance (appellate) authority. **South Africa:** Depends on complexity of ruling.

/2. **Canada:** Only private rulings on income tax matters are subject to a fee. **India:** Tax administration does not give private rulings. There is the institution of the Authority of Advance Rulings which the taxpayers may approach for a ruling on specific facts applicable to their case.

Source: OECD (2015), Tax Administration 2015: Comparative Information on OECD and Other Advanced and Emerging Economies, OECD Publishing, Paris.

# APPENDIX B

## SAMPLE LEGISLATIVE PROVISIONS FOR AN ADVANCE RULING REGIME

Set out below is a sample set of provisions establishing an advance tax rulings regime. The provisions are general in nature and in the form of simplified sample provisions. Importantly, they do not take into account the individual circumstances of any particular tax system. The ultimate legal framework for the introduction or codification of an advance ruling regime in any given country would need to take into account the specific legal tradition and system, as well as the political and administrative structure and fiscal policies, of the country concerned. Further, the more detailed procedural rules need not be reflected in the overarching law but could form part of any underlying regulations or interpretative or guidance notes. The overarching legal framework may merely operate to support the power of the tax authority to issue the rulings and codify the key features of the advance ruling regime being established.

### Chapter I—Private Rulings

Article 1. Binding Private Rulings

Article 2. Refusing an Application for a Private Ruling

Article 3. Making a Private Ruling

Article 4. Withdrawal of a Private Ruling

Article 5. Publication of Private Rulings

### Binding Private Rulings

#### Article 1.

- (1) A taxpayer may apply to the tax authority for a private ruling setting out that tax authority's position regarding the application of a tax law to a transaction which is proposed to be entered into by the taxpayer.
- (2) An application under this Article must be in writing and:
  - (a) include full details of the transaction to which the application relates together with all documents relevant to the transaction;
  - (b) specify precisely the question on which the ruling is required; and
  - (c) give a full statement setting out the opinion of the applicant as to the application of the relevant tax law to the transaction.
- (3) Subject to Article 2, the tax authority shall, within 60 days of receipt of the application under this Article, issue a private ruling on the question to the applicant.
- (4) If the taxpayer has made a full and true disclosure of all aspects of the transaction relevant to the making of a private ruling and the transaction has proceeded in all

material respects as described in the taxpayer's application for the private ruling, the private ruling is binding on the tax authority as against the taxpayer identified but is not binding on the tax authority as against any other taxpayer.

- (5) A private ruling is not binding on a taxpayer.

### Refusing an Application for a Private Ruling

#### Article 2.

- (1) The tax authority may refuse an application for a private ruling if any of the following applies:
  - (a) the tax authority has already decided the question that is the subject of the application in any of the following:
    - (i) a notice of a tax assessment served on the applicant;
    - (ii) a notice or other guidance issued by the tax authority that is in force;
    - (iii) a ruling published under Article 5 that is in force;
  - (b) the application relates to a question that is the subject of a tax audit in relation to the applicant or an objection lodged by the applicant;
  - (c) the application is frivolous or vexatious;
  - (d) the transaction to which the application relates has not been carried out and there are reasonable grounds to believe that the transaction will not be carried out;
  - (e) the applicant has not provided the tax authority with sufficient information to make a private ruling;

- (f) in the opinion of the tax authority, it would be unreasonable to comply with the application, having regard to the resources needed to comply with the application and any other matters the tax authority considers relevant;
  - (g) the making of the ruling involves the application of a tax avoidance provision.
- (2) The relevant tax authority must serve the applicant with a written notice of a decision to refuse to make a private ruling under this Article.

## Making a Private Ruling

### Article 3.

- (1) The tax authority makes a private ruling by serving written notice of the private ruling on the recipient of the ruling.
- (2) The tax authority may make a private ruling on the basis of assumptions about a future event or other matters as considered appropriate.
- (3) A private ruling must state that it is a private ruling, set out the question ruled on, and identify the following:
  - (a) the taxpayer;
  - (b) the tax law relevant to the private ruling;
  - (c) the tax period to which the ruling applies;
  - (d) the transaction to which the ruling relates;
  - (e) any assumptions on which the ruling is based.
- (4) A private ruling is made when the applicant is served with written notice of the ruling and the ruling remains in force until withdrawn under Article 4.
- (5) A private ruling sets out the tax authority's opinion on the question raised in the ruling application and is not a decision of the tax authority that can be formally reviewed, appealed or otherwise objected to, for the purposes of this law or any other law. For the avoidance of doubt, this Article does not limit in any way a taxpayer's rights with respect to any tax assessment served on the taxpayer to which the ruling relates.

## Withdrawal of a Private Ruling

### Article 4.

- (1) The tax authority may, for reasonable cause, withdraw a private ruling, in whole or part, by written notice served on the applicant.
- (2) When legislation is passed that is inconsistent with an existing private ruling, the private public ruling is treated as withdrawn to the extent of the inconsistency.
- (3) The withdrawal of a private ruling, in whole or part, has effect from:
  - (a) when paragraph (1) applies, the date specified in the notice of withdrawal; or
  - (b) when paragraph (2) applies, from the date of application of the inconsistent legislation.
- (4) A private ruling that has been withdrawn:
  - (a) continues to apply to a transaction of the applicant commenced before the ruling was withdrawn; and
  - (b) does not apply to a transaction of the applicant commenced after the ruling was withdrawn to the extent the ruling is withdrawn.

## Publication of Private Rulings

### Article 5.

- (1) The tax authority must publish a ruling made under Article 4 in the Gazette except that the identity of the applicant to whom the ruling relates must not be indicated in the publication.
- (2) When a ruling has been withdrawn in accordance with section Article 4, the tax authority must immediately publish a notice of withdrawal in the Gazette stating that the ruling ceases to be binding with effect from the date determined under Article 4(3).