

GLOBAL FORUM ON
**TRANSPARENCY AND EXCHANGE OF
INFORMATION FOR TAX PURPOSES**

Model Manual on Exchange of Information for Tax Purposes



AFRICAN DEVELOPMENT BANK GROUP



WORLD BANK GROUP



BETTER POLICIES FOR BETTER LIVES

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Abbreviations and acronyms

AEOI Automatic Exchange of Information

BEPS Base Erosion and Profit Shifting

CA Competent Authority

CbC Country-by-Country

CRS Common Reporting Standard

DTC Double Taxation Convention

EOI Exchange of Information

EOIR Exchange of Information on Request

Global Forum Global Forum on Transparency and Exchange of Information for Tax Purposes

MAAC Convention on Mutual Administrative Assistance in Tax Matters as Amended by the 2010 Protocol

MCAA Multilateral Competent Authority Agreement

MOU Memorandum of Understanding

OECD Organisation for Economic Co-operation and Development

SEOI Spontaneous Exchange of Information

STE Simultaneous Tax Examination

TEA Tax Examination Abroad

TIEA Tax Information Exchange Agreement

UN United Nations

Preface



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Transparency and
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Exchange of information is an essential tool for tax authorities worldwide to ensure that all taxpayers pay the correct amount of tax. Whilst the cross-border movement of goods, services and persons was intensifying, tax authorities were facing obstacles in obtaining information about the international transactions, offshore assets and financial affairs of their residents. This scenario has changed: tax administrations have worked together and engaged in worldwide co-operation through exchange of information in tax matters:

- Exchange of information on request¹ is used when additional information for tax purposes is needed from another jurisdiction.
- Automatic exchange of information² may be activated in a cross-border situation, where a taxpayer has specific links with another jurisdiction than the jurisdiction of residence. In such cases, tax administrations automatically provide tax information to the residence jurisdiction of the taxpayer, in electronic form on a periodic basis.
- Spontaneous exchange of information takes place when a jurisdiction discovers information that is of interest for tax purposes to another jurisdiction, which is either the jurisdiction of the income source or the jurisdiction of residence.
- Other forms of administrative co-operation are also available such as simultaneous tax examinations allowing two or more jurisdictions to conduct simultaneous audits of person(s) of common or complementary interest, or tax examinations abroad to collect information in a foreign jurisdiction.

The diversity of these forms of co-operation makes it necessary to draft a manual to help tax administration officials make use of these tools in the most effective way possible. The previous manual "Exchange of Information Working Manual"³ issued in 2013 by the Global Forum and the World Bank Group was dedicated only to exchange of information on request and spontaneous exchange of information. This new manual covers a broader scope regarding exchange of information tools. It is more practical to support day to day management of exchange of information by officials working in an exchange of information unit and to guide tax auditors or field officers. All advanced topics related to exchange of information are embedded, such as the quality of the requests, group and bulk requests and impact assessment. All tax administrations have learned and keep gaining experience from their exchange of information practice. Between 2009 and 2020, over 300 000 requests for information have been received by Global Forum members and annual figures are almost universally on the rise. Nearly 100 jurisdictions automatically exchanged information in 2019 on a record number of 84 million financial accounts, covering total assets of EUR 10 trillion. This manual aims to support the enhancement of the exchange of information practice and the development of new forms of co-operation.⁴

We hope that this manual will be useful in practicing exchange of information and enhancing tax transparency. We would welcome more jurisdictions making use of exchange of information and taking advantage of it in the fight against cross-border tax evasion and avoidance for better domestic resource mobilisation.

1. To ensure the effective implementation of the standard of transparency and exchange of information on request, in 2010, the Global Forum commenced a rigorous and effective peer review and monitoring process. In 2015, the Global Forum enhanced this standard by including new requirements, especially on the availability of beneficial ownership information.

2. In 2014, the Global Forum adopted the standard of automatic exchange of financial account information and initiated a global commitment process to this standard. Subsequently, the Global Forum created a monitoring system and peer review process to ensure its effective implementation.

3. Global Forum Secretariat and World Bank Group (2013), Exchange of Information Working Manual.

4. Global Forum Secretariat, OECD (2020), Tax Transparency and Exchange of Information in Times of COVID-19, 2020 Global Forum Annual Report, available at www.oecd.org/tax/transparency/documents/global-forum-annual-report-2020.pdf

About this manual

This model manual on exchange of information (EOI) has been prepared by the Secretariat of the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum) with the co-operation of the World Bank Group and the African Development Bank.

It presents the legal and practical tools available for exchange of information (EOI) to help jurisdictions reap the benefits from international co-operation. It describes the key principles governing EOI and how the different forms of EOI can assist in the detection of tax evasion and avoidance.

This EOI manual has been developed to provide a detailed guide to assist jurisdictions, regardless of their stage of implementation of EOI, to put in place the necessary processes and procedures or to improve existing ones to ensure effective EOI.

This EOI manual is a model that can be easily tailored by a jurisdiction to address its specific needs. It covers a wide range of forms of EOI (exchange of information on request, spontaneous exchange of information, simultaneous tax examination and tax examination abroad). It also provides specific guidance on the role of:

- the EOI unit, its internal procedures and processes and its communication with field officers and foreign competent authorities for EOI for tax purposes
- the field officers and the relevant EOI rules, procedures and processes applicable to them.

It also provides checklists for use by EOI staff and a range of template letters to deal with the main communications that EOI units carry out both internally and with treaty partners. This EOI manual complements the toolkit “Establishing and Running an Effective Exchange of Information Function” issued in December 2020 by the Global Forum and the African Tax Administration Forum.⁵

5. Global Forum Secretariat, OECD (2020), *Establishing and Running an Effective Exchange of Information Function: A Joint Global Forum and ATAF Toolkit*, available at www.oecd.org/tax/transparency/documents/EOI-Unit-toolkit_en.pdf

The EOI manual is divided into three chapters:

- **Chapter 1 – Introduction:** this chapter introduces the different topics covered in the EOI manual and provides general information on the key actors and rules of EOI. It presents also rules and horizontal issues that apply across the different chapters and sections of the EOI manual.
- **Chapter 2 – The competent authority and the EOI unit:** this chapter is dedicated to competent authorities and EOI units to guide them in their EOI practice. Different forms of administrative assistance are concerned: exchange of information on request, spontaneous exchange of information, but also other EOI forms like simultaneous tax examinations or tax examinations abroad. This EOI manual can be used as a template to develop one tailored for your specific jurisdiction. This chapter covers important aspects of the management including confidentiality rules, record keeping, statistics and measurement of performance.
- **Chapter 3 – Tax auditors and field officers:** this chapter describes the key role played by tax auditors and field officers in EOI. It provides guidance about when to consider making a request for information, how to make or respond to a request, how to respect tax confidentiality rules. Templates are provided to help tax auditors draft their request as efficiently as possible.

This structure should allow jurisdictions to develop their own approach. Instead of a comprehensive EOI manual, a jurisdiction may prefer to have a specific manual for the EOI unit operations and a separate manual for field officers and tax auditors. Another jurisdiction may prefer to deal at this stage only with procedures relating to exchange of information on request and then to supplement this with other forms of EOI over time.

Assistance from the Global Forum Secretariat is available to help jurisdictions develop their own EOI manual.

The EOI manual is intended to be fine-tuned to fit the need and structure of the tax administration:

- In turquoise boxes, comments are provided in some sections and sub-sections to explain the requirements.
- The parts of the EOI manual that appear in square brackets and are highlighted in light red serve to identify the information that the tax administration needs to complete according to its situation (administrative organisation and practice, legal framework).

[Jurisdiction]

Manual for Exchange of Information for Tax Purposes

General information

General comments

The beginning of the EOI manual must contain some general components:

- a history to track changes of a specific version of the EOI manual which must be reviewed and updated periodically to keep up with changes in procedures, tools and legislation
- a table of contents
- a table of abbreviations and acronyms used in the EOI manual.

HISTORY

Version	Description (Summary of changes)	Valid from	Valid until	Author	Approved by
1.0	Initial version	Date	Date	Writer	Authority's name
1.1	Revision (reason)	Date	Date	Writer	Authority's name
2.0	Major change (reason)	Date	Date	Writer	Authority's name

TABLE OF CONTENTS

[Add a table of content].

TABLE OF ABBREVIATIONS AND ACRONYMS

[Add a table of abbreviations and acronyms].

1. Introduction

Comments on the introduction

The introduction of an EOI manual usually presents:

- The context of EOI to stress the importance of this tool for conducting effectively some key missions of a tax administration, such as ensuring tax compliance and fighting tax evasion. This can be completed by relevant domestic figures showing the use of EOI tools in the jurisdiction and its outcomes in terms of tax investigations and domestic revenue mobilisation.
- The objective of the EOI manual.
- The key elements and actors of EOI, including the horizontal issues.
- The contents of the EOI manual.

The text below provides an example that can be adapted by the competent authority or the EOI unit to its specific circumstances.

1.1. GENERAL CONTEXT ON EXCHANGE OF INFORMATION

Exchange of information (EOI) is the cross-border sharing of information for tax purposes between tax administrations to detect and prevent tax evasion, to ensure the correct application of a jurisdiction's domestic tax legislation and double taxation conventions (DTCs) and to foster domestic tax compliance.

Many taxpayers now operate across borders while the powers of tax administrations are limited by the borders of their respective jurisdictions which prevent them to obtain, under the domestic procedures, the necessary information held by a person located abroad. Therefore, tax administrations need to co-operate with each other to protect their respective tax bases. One of the key elements of this administrative co-operation is EOI.

1.2. OBJECTIVE OF THE MANUAL ON EXCHANGE OF INFORMATION FOR TAX PURPOSES

The purpose of the EOI manual is to provide guidance on carrying out the tasks involved in EOI and to clarify the various roles and responsibilities so that exchanges are carried out swiftly and effectively, while respecting the requirement for confidentiality of the information exchanged.

The EOI manual covers exchange of information on request (EOIR), spontaneous exchange of information (SEOI) but also other EOI forms like simultaneous tax examinations (STE) and tax examinations abroad (TEA).

1.3. KEY ELEMENTS AND ACTORS OF EXCHANGE OF INFORMATION

Taxpayer information is a highly sensitive information, the sharing of which is based on specific requirements to ensure confidentiality and proper use in accordance with international standards as well as international and domestic legal provisions.

EOI between tax administrations is therefore governed by specific rules and processed by specific actors.

1.3.1. The actors

1.3.1.1. The competent authority for exchange of information for tax purposes

Comments on the competent authority

An EOI manual should present the concept and the function of the competent authority (CA) in the context of EOI for tax purposes and identify who is/ are the CAs in the jurisdiction. A jurisdiction can refer to the Toolkit for Establishing and Running an Effective Exchange of Information Function⁶ for further guidance on the implementation and organisation of a CA in a tax administration.

The primary CA (i.e. the CA designated in an EOI agreement) is often the Minister of Finance, the Commissioner or their authorised representative(s).

The CA function is usually delegated to one or more operational officers, for instance the EOI unit manager. Depending on their size and the scale of their EOI activities, jurisdictions use a variety of different representatives designated as having CA status for EOI purposes. For instance, the CA function is decentralised in some jurisdictions (e.g. a delegated CA is designated in each regional office or Tax Attachés at embassies

abroad can be delegated CAs).

The primary CA will typically designate representatives who will have the authority to exchange information. This will generally be done by an official letter or order addressed by the CA to the designated representative. The identification of the primary and delegated CAs in the jurisdiction is recommended.

The delegation of the CA function is a key element for an effective and efficient management of EOI.

The paragraphs below provide a general definition of the CA, the identity of the primary CA and the delegated CAs. The approach taken in the EOI manual is to have a link to the intranet where the updated list of the CAs of the jurisdiction are listed with the reference to the delegation acts.

A CA database is available on the Global Forum website. The access is limited to CAs and all access request must be sent by email to gftaxcooperation@oecd.org. The template to update information in the CA database can be obtained on request using the same email address.

The competent authority (CA) is the person who represents a jurisdiction in the implementation of the EOI agreement and is responsible for the effective implementation of its provisions. In particular, the CA is responsible for the communications with the treaty partners and for maintaining effective working relationships with CAs in other jurisdictions.

EOI can only take place between CAs of the requesting/ receiving and requested/supplying jurisdictions, ensuring that the EOI rules – and in particular confidentiality – are respected and consistently applied.

EOI is always mediated by the CAs. Therefore, a tax auditor or official cannot contact directly his counterpart in a foreign jurisdiction to exchange information, unless it is a due designated CA.

The CA in [name of the jurisdiction] is [function – e.g. the Minister of Finance]. A delegation of the CA function has been made to the person(s) designated at [link to the up to date list on the intranet with the identity of the CAs and the legal instrument for the delegation, e.g. publish the CA form used for the CA database].

6. Global Forum Secretariat, OECD (2020), Establishing and Running an Effective Exchange of Information Function: A joint Global Forum and ATAF Toolkit, available at www.oecd.org/tax/transparency/documents/EOI-Unit-toolkit_en.pdf

Introduction

1.3.1.2. The unit for exchange of information

Comments on the unit for exchange of information

The day-to-day EOI functions are usually carried out by an EOI unit, the size and the competence of which vary from one jurisdiction to another. The EOI unit is usually headed by the primary or delegated CA and this is the approach taken in this EOI manual. As such, its position is unique acting as a bridge between the domestic functions of the tax administration (e.g. tax audit, tax management, tax collection) and the foreign tax administrations. In case the EOI unit manager is not a CA, then the procedure described in this manual should be slightly adapted.

If the EOI Unit is the primary or the central delegated CA, and depending on the features of the EOI system of the jurisdiction, the parts 1.3.1.1. and 1.3.1.2. can be merged.

The EOI unit is an essential structure to ensure the effectiveness of EOI. Guidance on the organisation of the EOI unit is available in the Toolkit for Establishing and Running an Effective Exchange of Information Function.

An EOI manual should therefore describe the EOI unit of the jurisdiction and present its main functions. Depending on the complexity of the organisation of the EOI unit, an organigram may be a useful addition in the EOI manual.

The paragraphs below introduce the organisation of the EOI unit and the function of the EOI unit manager. Chapter 2 of this manual describes the role of the CA and the EOI unit running EOI and managing the EOI function.

The day-to-day EOI work is carried out by the EOI unit managed by [identification of the EOI unit manager], who is a delegated CA. The EOI unit can be reached at the following generic email address: [add the generic governmental email address].

The **EOI unit manager** is responsible for:

- Managing the EOI processes and for monitoring the quality and efficiency and effectiveness of the EOI unit;

- Making a regular, and at least, annual report to the top management on the effectiveness of the EOI unit with proposals for improvement;
- Processing some of the EOI cases personally and, in such cases, taking on the appropriate responsibilities of the EOI officer;
- Keeping relevant and up to date database of the EOI function including its contributions to domestic resource mobilisation;
- Implementing an in country training/staff development program on EOI matters.

The EOI unit is composed of **EOI officers** who are mainly responsible for:

- Checking and logging incoming requests received from foreign CAs;
- Checking and logging outgoing requests received from tax auditors, and sending them to foreign CAs;
- Researching and obtaining information requested by foreign CAs.

1.3.1.3. Field officers and tax auditors

Comments on field officers and tax auditors

Tax officers (field officers and tax auditors) are key actors of EOI. They are at the origin of most of the requests for administrative co-operation and, depending on the model implemented by the jurisdiction, they can be central to the collection of the information requested by a foreign jurisdiction. They are the main users of EOI.

Chapter 3 of this EOI manual is centred on the field officers and tax auditors, with an emphasis on the tax auditors, as they are the tax officers that use the most EOI in their daily activities.

EOI may be used in most of the tax activities of the tax administration such as tax audit and investigation, cross-border tax collection and taxpayer management.

Field officers and tax auditors are tax officers, who may:

- initiate a request for information through the EOI unit;
- be the users of information obtained from foreign jurisdiction through the EOI unit.
- [where the EOI unit is not empowered to directly gather all kind of information from any information holder, add: “be tasked by the EOI unit to obtain information for a treaty partner”].
- identify information relevant for a foreign jurisdiction that could be exchanged spontaneously.

While the emphasis is mainly on the tax auditors and investigators in this EOI manual, the conditions and requirement related to the use of EOI apply to all tax officers.

1.3.2. The rules

An agreement for exchange of information for tax purposes

Comments on exchange of information agreements

An EOI manual should present the different types of EOI agreements the jurisdiction has entered into. In addition, it is recommended to list the EOI agreements, their status (e.g. date of entry into force, date of effect if any) and the scope of the agreement or to add a link to a place (e.g. intranet) where this information can be found so that any relevant officer can easily access the updated list of EOI agreements, their provisions and their current status. A template is available in [Annex A. List of legal bases](#). The completed template can be added in the online manual or a link to the webpage in the intranet where it is located can be added in the online EOI manual.

The paragraphs below provide basic information on the EOI agreements and propose that the list of the EOI agreements is added as an annex to the EOI manual.

Whatever the approach taken by the jurisdiction is, the list of EOI agreements should be kept up to date in co-ordination with the relevant department in charge of the treaties.

EOI is always based on an EOI agreement (i.e. an international agreement providing for EOI in tax matters).

The EOI agreement should be in force between the requesting/receiving and requested/supplying jurisdictions. Indeed, the EOI agreement contains a provision determining its date of entry into force. This date determines when the EOI agreement will become applicable as a whole for the concerned jurisdictions. Some EOI agreements may provide for a delayed entry into effect of certain provisions (i.e. certain provisions have effect at a later date than the date of entry into force or can have effect from the date of entry into force in relation to earlier taxable periods for criminal tax matters for instance).

In addition, the taxes and persons covered by the EOI agreement may vary from one agreement to another.

Finally, the form of EOI allowed may vary from one EOI agreement to another.

Table 1 provides general information on the EOI agreements entered into by [name of the jurisdiction]. However, in all instances, the provisions of the relevant EOI agreement must be checked. The list of these EOI agreements is available in [Annex A. List of legal bases](#).

Domestic legal provisions for exchange of information for tax purposes

Comments on the domestic legal provisions

An EOI manual should also briefly present the domestic legal provisions governing EOI in the jurisdiction:

- Domestic legislation should have provisions to ensure that all treaty obligations are respected under the domestic law. This may be done through a specific provision in the domestic law or through judicial interpretation that the provisions of tax treaties take precedence over domestic law in case of inconsistencies.
- Domestic legislation typically requires that taxpayers keep reliable records. It must contain a range of sanctions in cases where reliable records are not kept (e.g. interest charges, monetary penalties, assessment on the basis of an estimated tax, possible criminal consequences).

Introduction

- Domestic law must provide a sufficient basis for using information-gathering measures to obtain the requested information even in the absence of a domestic tax interest in the information, and provide for effective sanctions where this requirement is not met.
- Some jurisdiction's laws include procedures for notifying the information holder and/or the taxpayer that is subject to the enquiry prior to the supply of information. The notification may apply in the context of an individual request or a group request. For these jurisdictions, the notification rules should be also described.
- Domestic legislation must include provisions on tax confidentiality and provide administrative and/or criminal penalties for persons or authorities who improperly disclose confidential information.

In [name of the jurisdiction], EOI is governed by the [add the relevant legal and regulatory provisions with a link to them] which provides for rules on powers, procedures and legal remedies.

Record-keeping obligations

In [name of the jurisdiction], information holders are subject to the obligation to maintain certain records and information for a set period.

[Describe the record-keeping obligations applicable in the jurisdiction relating to most common information requested, add the applicable sanctions in case of failure and a link to the relevant legal provisions. For instance, "Pursuant to [legal provision], all companies must keep up to date a register of their shareholders and their beneficial owners during their lifetime. In case of a company is dissolved, the register must be maintained by its last administrators for at least 5 years following the dissolution. In case of failure with these obligations, the company (if it is not dissolved) and its administrators are liable to a fine of [amount]"].

Access powers

Comments on gathering the requested information

The EOI unit of the requested jurisdiction should

have effective access powers allowing them to gather requested information whether directly or indirectly. To perform its function, the EOI unit should have access to all available information. However, the role of the EOI unit regarding information gathering differs from one jurisdiction to another, depending on the model chosen. There are three main models:

- Model 1: the EOI unit does not carry out any information gathering function. It requests the relevant domestic tax offices to gather the information requested.
- Model 2: the EOI unit gathers only information directly available in the tax administration's systems (and other government databases). For any other type of information, it requests the relevant domestic tax offices to gather the information requested.
- Model 3: the EOI unit gathers all the information, including those not directly available in the tax administration's systems. It is empowered to exercise all the access powers of the tax administration to obtain the information held by any information holder, including other government agencies or authorities, taxpayers and third parties such as financial institutions.

Depending on the model implemented by the jurisdiction the description below should be amended by including the relevant details on whom has access to the information and must collect it for EOI purposes (e.g. the EOI officers, the field officers).

The description of the access powers and applicable sanctions in case of non-compliance as well as the procedures to follow is an important element of an EOI manual. The access powers may vary depending on the information holder (e.g. public authority, taxpayer, third party).

The following description should therefore be adapted to the circumstances of the jurisdiction.

Access powers are [list and describe the different access powers available to the EOI unit and/or the field officer and tax auditors to obtain information requested by an EOI partner, and add the reference and link to access the relevant legal and regulatory provisions].

Table 1. **General information on the EOI agreements entered into by [name of the jurisdiction]**

Type of EOI agreements entered into by [name of the jurisdiction]	Description	General features subject to the provisions of each EOI agreements
Double taxation conventions (DTCs)	DTCs are agreements made by two jurisdictions to resolve issues involving double taxation of passive and active income of each of their respective citizens. They generally include an Article on EOI based on Article 26 of the OECD Model Tax Convention on Income and on Capital ⁷ or the UN Model Double Taxation Convention ⁸ .	<p>Under a DTC, the EOI provision generally apply to all taxes and to any persons whether or not they are nationals or tax residents in line with the international standard. However, some old DTCs may contain limitations to the scope of taxes or persons covered or do not contain the exception for use for non-tax purposes.</p> <p>In addition, a request for information can usually be made concerning information that existed prior to the entry into force of the DTC, as long as the assistance with respect to this information is provided after the DTC has entered into force and its provisions have become effective.</p> <p>In general, a DTC allows for all forms of EOI (EOIR, AEOI, SEOI, TEA, STE). However, a competent authority agreement or a memorandum of understanding (MOU) may be needed to operationalise some forms of EOI (e.g. AEOI). The scope of the forms allowed by a DTC may be limited by a MOU, a protocol, an exchange of letter or any similar agreement.</p>
Tax information exchange agreements (TIEAs) [if relevant for the jurisdiction]	<p>TIEAs differ from DTCs in that they are only concerned with exchange of information. They are largely based on the 2002 OECD Model Agreement on Exchange of Information on Tax Matters.⁹</p> <p>The 2015 Model of Protocol was also adopted to cover SEOI and AEOI.¹⁰</p>	<p>TIEAs usually cover at least direct taxes and apply in respect of all persons.</p> <p>TIEAs often provide for different years covered for EOI in criminal tax matters (for which EOI is usually possible for earlier taxable periods than the entry into force) and EOI in all other tax matters.</p> <p>TIEAs usually allow only for EOIR. However, it may also cover other forms of EOI, such as SEOI and AEOI, through an additional protocol or other similar agreement.</p>

7. OECD (2017), Model Tax Convention on Income and on Capital, available at https://doi.org/10.1787/mtc_cond-2017-en

8. United Nations (2017) Model Double Taxation Convention, available at www.un.org/esa/ffd/wp-content/uploads/2018/05/MDT_2017.pdf

9. OECD (2002), Agreement on exchange of information on tax matters, available at www.oecd.org/ctp/exchange-of-tax-information/2082215.pdf

10. OECD (2015), Model protocol for the purpose of allowing the automatic and spontaneous exchange of information under a TIEA, available at www.oecd.org/ctp/exchange-of-tax-information/Model-Protocol-TIEA.pdf

Introduction

Type of EOI agreements entered into by [name of the jurisdiction]	Description	General features subject to the provisions of each EOI agreements
<p>The Convention on Mutual Administrative Assistance in Tax Matters (MAAC) [if relevant for the jurisdiction]</p>	<p>The MAAC is the most complete multilateral instrument and covers more than 140 participating jurisdictions. The MAAC has entered into force on [date] with respect to [name of the jurisdiction]. The list of the participating jurisdictions¹¹ and the provisions of the MAAC¹² are available on the OECD website.</p>	<p>The MAAC applies to any persons whether or not they are nationals or tax residents and to a wide range of taxes (with the exception of customs duties). Taxes on income of profits, taxes on capital gains which are imposed separately from the tax on income or profits and taxes on net wealth are covered, with no possibility of making a reservation. For other taxes, a reservation may be made.</p> <p>The MAAC has effect for administrative assistance in civil tax matters only in relation to future tax periods. For criminal tax matters, the MAAC has in principle effect from the date of entry into force in respect of a Party in relation to earlier taxable periods or charges to tax. However, a Party may formulate a reservation to limit the retroactivity in criminal tax matters restricting it to taxable periods from the fourth year before the entry into force of the Convention.</p> <p>The MAAC allows for all forms of EOI. However, a competent authority agreement or other similar agreement may be needed for the operationalisation of some forms of EOI (e.g. AEOI).</p> <p>For more information, the MAAC toolkit¹³, the provisions of the MAAC and the List of Declarations or Reservations¹⁴ shall be consulted.</p> <p>The Global Forum Secretariat has prepared a table to gather all the declarations and reservations of the Parties to the Convention on Mutual Administrative Assistance in tax matters. This table is available on request at gftaxcooperation@oecd.org.</p>
<p>[Add any other multilateral or regional EOI agreements (e.g. WAEMU Regulation n°08/CM/UEMOA or CARICOM Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion)]</p>	<p>[Provide a description of any other multilateral or regional EOI agreements to which the jurisdiction is entered into and add a link to these EOI agreements]</p>	<p>[Provide a description of the features of these EOI agreements with respect to the persons, taxes and period covered and the forms of assistance allowed].</p>

11. www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf

12. www.oecd.org/tax/exchange-of-tax-information/ENG-Amended-Convention.pdf

13. Global Forum Secretariat, OECD (2020), A Toolkit for Becoming a Party to the Convention on Mutual Administrative Assistance in Tax Matters, available at www.oecd.org/tax/transparency/documents/MAAC-toolkit_en.pdf

14. www.coe.int/en/web/conventions/full-list/-/conventions/treaty/127/declarations?module=declarations-by-treaty&numSte=127&codeNature=0

In [name of the jurisdiction], the different sources of information are:

- Internal tax database: [list and describe the content of the internal database maintained by the tax administration that can be accessed to gather requested information; specify whether the EOI unit and/or a field officer or tax auditor can access this database and under which procedure].
- External database: [list and describe the content of the external database available to the tax administration to gather the requested information (for instance, the Commercial Register); specify whether the EOI unit and/or a field officer or tax auditor can access this database and under which procedure].
- From the taxpayer: [provide a description of the procedure(s) to be followed by the tax administration to obtain the requested information from a taxpayer; specify whether the EOI unit and/or a field officer or tax auditor can request information from taxpayers and under which procedure].
- From third parties: [provide a description of the procedure(s) to be followed by the tax administration to obtain the requested information from a third party, including specific procedure(s) if any to access certain kind of information (e.g. information held by banks and other financial institutions or by attorneys); specify whether the EOI unit and/or a field officer or tax auditor can request information from third parties and under which procedure].

In any case, when the information is requested from the taxpayer or third parties, only the minimum information contained in the requesting competent authority letter necessary to obtain or provide the requested information can be disclosed.

In [name of the jurisdiction], the following sanctions are applied for:

- Delay in providing the requested information by [name of the administration]: [list and describe the relevant sanctions applicable as well as the reference and link to access the relevant legal and regulatory provisions].
- Providing incomplete or incorrect information to [name of the administration]: [list and describe the

relevant sanctions applicable as well as the reference and link to access the relevant legal and regulatory provisions].

- Refusal to communicate the documents and information requested by [name of the administration]: [list and describe the relevant sanctions applicable as well as the reference and link to access the relevant legal and regulatory provisions].
- Documents not kept or destroyed before the permitted time: [list and describe the relevant sanctions applicable as well as the reference and link to access the relevant legal and regulatory provisions].

Confidentiality

Comments on the confidentiality

Jurisdictions can refer to “Keeping It Safe – Joint OECD and Global Forum Guide on the Protection of Confidentiality of Information Exchanged for Tax Purposes”¹⁵ and the “Confidentiality and Information Security Management Toolkit”¹⁶.

These guides set out the best practices related to confidentiality and provide practical guidance on how to meet an adequate level of protection while recognising that different tax administrations may have different approaches to ensuring that in practice they achieve the level required for the effective protection of confidentiality.

Information received in connection with an EOI agreement is confidential. Tax confidentiality provisions in EOI agreements generally contain the following key principles:

- Information exchange may only be used for specified purposes;
- Information exchanged may only be disclosed to certain specified persons;

15. Global Forum Secretariat, OECD (2012), Keeping It Safe – Joint OECD and Global Forum Guide on the Protection of Confidentiality of Information Exchanged for Tax Purposes, available at www.oecd.org/tax/transparency/documents/global-forum-keeping-it-safe.pdf

16. Global Forum Secretariat, OECD (2020), Confidentiality and Information Security Management Toolkit available at www.oecd.org/tax/transparency/documents/confidentiality-ism-toolkit_en.pdf

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- Confidentiality extends to all related documents, communications and background information contained in a request, information received in response to a request, and any other correspondence between competent authorities for EOI for tax purposes; and
- Treaty provisions and domestic laws both apply to ensure confidentiality.

Confidentiality provisions in EOI agreements require that exchanged information must be used only in tax proceedings. However, the information obtained through EOI may be used for non-tax purposes provided that it meets the conditions set out in the applicable EOI agreement. For instance, the 2012 update to Article 26(2) of the OECD Model Tax Convention and Article 22(4) of the MAAC provide for the use for non-tax purposes if it is allowed under the laws of both States and the competent authorities of the supplying jurisdiction authorises such use.

Confidentiality is regulated by [list and describe the relevant domestic confidentiality legal and regulatory provisions and provide a link to access them. For example: “pursuant to [legal provision], except in the performance of his duties under this Law, every person who has been appointed under or who is or has been employed in carrying out or in assisting any persons to carry out the provisions of this Law shall preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to his knowledge in the performance of his duties under this Law, and shall not communicate any such matter to any person other than the person to whom such matter relates or his executor or the authorised representative of such person or such executor, nor suffer or permit any person to have access to any records in the possession, custody or control of the Commissioner”. If relevant, also add: “By application of the hierarchy of laws, the international provisions on confidentiality in the EOI area take precedence on the domestic provisions that may allow the communication of information to authorities or persons for non-tax purposes”].

In case of non-compliance with the confidentiality obligation, the applicable sanctions are [list and describe the applicable sanctions (i.e. administrative, pecuniary and/or penal sanctions) and provide a link to access the related legal and regulatory provisions. For example: “pursuant to [legal provision] any person who, as a result of their status or their profession, either for their position or for a temporary mission, is privy to a secret and who reveals that

secret can be punished by [number of years of imprisonment] and a fine of [amount]”].

Notification procedures

Comments on notification procedures

This section is only relevant for jurisdictions whose laws require the notification of the person who is the object of a request for information and/or the information holder about the request received before sending the reply to the requesting jurisdiction (prior notification) or after having sent the reply (post-exchange notification).

The notification procedure should be precisely described whether it applies to an individual request or to a group request (i.e. a request that relates to a group of taxpayers not individually identified).

In accordance with the international standard on exchange of information on request, notification rules should permit exceptions from:

- Prior notification (notably, in cases in which (i) the information request is of a very urgent nature or (ii) the notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction); and
- Time-specific post-exchange notification (e.g. when such notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction).

Notification procedures are provided for in [indicate the relevant legal and/regulatory provisions and add a link to them]. In [name of the jurisdiction], the notification procedure includes [specify if there is a prior notification requirement (i.e. notification before sending the reply to the requesting jurisdiction) and/or post-exchange notification requirements (i.e. a notification of the decision to exchange the information)]:

- For individual request, [specify the legal/regulatory basis] requires the tax administration to notify the [indicate if the notification requirement apply to the person(s) concerned by the request and/or the information holder(s)]: [describe the applicable notification procedure].

- For group request, [specify the legal/regulatory basis] requires the tax administration to notify the [indicate if the notification requirement apply to the person(s) concerned by the request and/or the information holder(s)]: [describe the applicable notification procedure].

Exception to [prior-notification and/or post-exchange notification] is provided by [specify the legal/regulatory basis and details these exceptions].

- [Exception to prior-notification is granted where the information request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction];
- [Exception to time-specific post-exchange notification is granted when such notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction. An agreement shall be reached with the requesting jurisdiction as to when the post-exchange notification can be performed].

In the case where the requesting jurisdiction requests the application of an exception to the prior or the post-notification, this request must be carefully considered. If the CA of [name of the jurisdiction] has doubts on the application of the exceptions in a specific case, clarifications must be asked to the requesting jurisdiction. If the request for the application of an exception is declined, the CA of [name of the jurisdiction] must check with the requesting jurisdiction whether the EOI request can still be treated or not.

Exchange of foreseeably relevant information

The standard of foreseeably relevance is at the core of all forms of EOI.¹⁷ The CAs of the requesting and requested jurisdictions shall exchange such information as is foreseeably relevant to secure the correct application of the provisions of the international agreement between them or of their domestic laws.

This standard applies to:

- Individual requests: it refers to a request relating to a taxpayer whether identified by name or otherwise.

- Bulk requests: it refers to a request involving several taxpayers whether identified by name or otherwise.

- Group requests: it refers to a request for information in respect of a group of persons not individually identified who have followed an identical pattern of behaviour and who are identifiable based on the detailed description of the group.

The following guidance shall be considered in appreciating the foreseeable relevance of an information:

- **How?** This standard is intended to provide for EOI in tax matters to the widest possible extent and, at the same time, to clarify that jurisdictions are not at liberty to engage in “fishing expeditions” (i.e. speculative requests that have no apparent nexus to an open inquiry or investigation) or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer. The commentary to Article 26 of the of the OECD Model of Tax Convention on Income and on Capital provides examples of situations where the information requested is “foreseeably relevant” or considered as a “fishing expedition”.¹⁸
- **When?** The foreseeable relevance applies at the time the request is made. Whether the information, once provided, actually proves to be relevant is immaterial.
- **Who?** The CAs should consult in situations in which the foreseeable relevance of requested information is not clear to the requested jurisdiction. However, once the requesting jurisdiction has provided an explanation as to the foreseeable relevance of the requested information, the requested jurisdiction may not decline a request or withhold requested information because it believes that the information lacks relevance to the underlying investigation or examination. At the same time, the requested jurisdiction is not obligated to provide information in response to requests that are “fishing expeditions”.

All foreseeably relevant information shall be subject to EOI, including bank information and information held by fiduciaries, regardless of the existence of a domestic tax interest or the application of a dual criminality principle.

17. Paragraphs 5, 5.1, 5.2 and 5.3 of the commentary to Article 26 of the OECD model of Tax Convention on Income and on Capital.

18. Available at [www.oecd.org/ctp/exchange-of-tax-information/120718_Article%2026-ENG_no%20cover%20\(2\).pdf](http://www.oecd.org/ctp/exchange-of-tax-information/120718_Article%2026-ENG_no%20cover%20(2).pdf)

Introduction

Box 1. Foreseeable relevance and group requests

The standard of “foreseeable relevance” can be met in respect of a group of taxpayers that are not individually identified provided the requesting jurisdiction gives:

- A detailed description of the group and the facts and circumstances that led to the request;
- An explanation of the applicable law and why there is reason to believe that the taxpayers in the group have been non-compliant with that law supported by a clear factual basis; and
- A demonstration that the requested information would assist in determining compliance by the taxpayers in the group. Usually, although not necessarily, a third party will have actively contributed to the non-compliance of the taxpayers in the group. A group request that merely describes the provision of financial services to non-residents and mentions the possibility of non-compliance by the non-resident customers does not meet the standard of foreseeable relevance.

Box 1 provides some guidance to meet the foreseeable relevance requirements in the case of a group request.

1.3.3. Horizontal practical matters

Translation

Comments on translation

Translation is one of the main issues between treaty partners. There is not strong recommendation in the international EOI standard on the language to be used in EOI. The key principle is that this matter must be bilaterally agreed between the relevant CAs. In practice, different options are possible, depending on the treaty partner:

- When the requesting and requested jurisdictions have the same language, the request is usually written in this common language.
- When the requesting and requested jurisdictions does not have the same language:
 - An agreement or a memorandum of

understanding may specify the language to be used in EOI correspondence. In such cases, the EOI unit should organise the translation into the specified language, as required by the agreement.

- If the EOI unit of the requesting jurisdiction can organise the translation in the language of the requested jurisdiction, the EOI request should be written in this language.
- A common third language (e.g. English or French) can also be used.

Where it is necessary for a document to be translated and the EOI unit is not able to do this, they may use the services of translators who must be subject to the same confidentiality obligations as the EOI officers. Effective sanctions should apply in case of breach of confidentiality obligations.

Therefore, in this section the rules relating to translation of outgoing and incoming correspondences and the document attached to them should be specified. The EOI manual contains an example that can be adapted depending on the circumstances of each jurisdictions.

The following procedures applies with respect to translation of documents:

- Outgoing requests shall be prepared by the tax auditor in [domestic language] and then translated into the language of the requested jurisdiction, the language agreed with the requested jurisdiction to be used in EOI correspondence (if such agreement was made), or a common third language by the EOI unit.
- When the reply to an outgoing request is not received from the requested jurisdiction in [domestic language], the EOI unit shall translate it before forwarding it to the tax auditor.
- When an incoming request is not received from the requesting jurisdiction in [domestic language], the EOI unit shall translate the requested information to collect before forwarding it to the field office. Replies to an incoming request shall be prepared by the field officer in [domestic language] and then translated into the language

of the requesting jurisdiction, the language agreed with the requesting jurisdiction to be used in EOI correspondence (if such agreement was made), or a common third language by the EOI unit. It is not necessary to translate the supporting documentation but a clear reference to the relevant document shall be made in the reply or a summary of the documents provided.

Any document that needs to be translated either in **domestic language** or a foreign language must be in principle translated by an EOI officer. If the translation cannot be done by an EOI officer, the EOI unit manager may use the services of one of the translators cleared by the **tax administration**. The translators are subject to the same confidentiality obligations as the EOI officers.

The translation of SEOI and documentation is handled by the EOI unit.

Information security

Comments on information security

Tax administrations must have policies regarding secure access, retention and disposal of confidential information, both for physical and electronic documents.

The following good practices are implemented in this EOI manual:

- Replies received by mail should be opened only by a CA or a member of the EOI unit. Therefore, it is recommended to indicate specifically the address and name of the CA of the requesting jurisdiction in the request.
- Replies received by email should be received on the generic and governmental email address of the EOI unit. Only persons authorised to receive information exchanged under an EOI agreement should be able to access the CA mailbox with password protection.
- Information and incoming requests must be appropriately classified and securely stored. The CA or EOI unit manager should take steps to ensure that its use and disclosure comply with the applicable EOI agreement.

- Physical records must be stored inside locked storage units, safe deposits, or rooms to which only the EOI unit staff should have access.
- Electronic files and databases must be kept on secured servers protected by firewalls and passwords.
- Exchanged information, both sent and received, should be suitably classified as confidential and visibly labelled as such.

For confidentiality reasons, it is recommended to store all physical records in the EOI unit and to exchange electronic records with tax auditors, through electronic channels in order to secure and speed up the EOI process.

For more guidance, refer to the Global Forum's toolkit on Confidentiality and information security management¹⁹.

The EOI officer ensures the storage of the reply under the confidentiality requirements:

- Physical replies are scanned and transformed in electronic format. The physical reply must be classified and securely stored in the EOI unit **[describe your internal process]**. The electronic version must be stored like electronic replies.
- Electronic replies must be kept on the secured server **[describe your internal process, e.g. names of folders, the tree structure of files]**.

All correspondences and documents sent or received by the EOI unit must be labelled as confidential through a "treaty stamp" for physical records or a watermark for electronic records. The text to be used is:

"CONFIDENTIAL – THIS INFORMATION IS PROVIDED UNDER THE PROVISIONS OF AN INTERNATIONAL TAX AGREEMENT AND ITS USE AND DISCLOSURE ARE GOVERNED BY THE PROVISIONS OF SUCH TAX AGREEMENT".

19. Global Forum Secretariat, OECD (2020), Confidentiality and Information Security Management Toolkit, available at www.oecd.org/tax/transparency/documents/confidentiality-ism-toolkit_en.pdf

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Means of communication

Comments on means of communication

Many jurisdictions use a dedicated generic and governmental email address for communication with treaty partners which allows any information coming into the EOI unit to be accessible to all relevant EOI officers.

Electronic transmission must be secured with an appropriate level of encryption, e.g. files can be encrypted inside a ZIP archive.

With over 100 Common Transmission System (CTS) Users already exchanging financial account information, country-by-country reports and tax rulings, many jurisdictions are now experienced in using the CTS as a means of transmission. The additional formats available in CTS 2.0 enable the transmission of all types of tax information exchange. Files that are not formatted in a prescribed XML schema format, such as PDF, Word or Excel documents, can be converted for transmission using the CTS wrapper.

The EOI unit should therefore have the necessary tools, organisation and training to encrypt and decrypt information whenever information is exchanged electronically, hence protect and enhance the confidentiality of the information exchanged with other treaty partners.

Exchange of correspondences shall be done using a secure channel of communication ensuring traceability.

The EOI unit uses a generic and governmental address for all the emails sent and received [add the email address]. Only the CAs, including the EOI unit manager and the EOI officers, have access to this mailbox which is protected by a password.

Between competent authorities

All correspondences with foreign CAs must be signed by an official with CA status. The correspondences are signed by the EOI unit manager as delegated CA. [Where a correspondence shall be signed by another person with

a CA status, the process leading to the letter being signed by the CA and the signed letter to be received by the EOI unit should be described here].

All correspondences between CAs and the documents attached to them must be sent by a secure mean of communication. They can be sent by the CA (EOI unit manager) or on its behalf by an EOI officer.

- In principle, electronic transmission of encrypted files via government e-mail addresses shall be preferred [detail the procedure to be followed, the encryption method, the system used, etc.].
- Where an electronic transmission is not possible, an international registration system where a mail tracking function is in place shall be used [detail the procedure to be followed, the service provider used, etc.].

The name and contact details of the CA in the foreign jurisdiction shall always be verified, including using the CA Database²⁰ on the Global Forum website (the access is limited to CAs and all access requests must be sent by email to gftaxcooperation@oecd.org).

Within the [name of the tax administration]

Any correspondences between the EOI unit and other departments or offices (local or regional office, specialised tax office, tax auditors, field officers etc.) within the [name of the tax administration] must be exchanged by emails using the relevant governmental email addresses. Where the exchange cannot be done by email, the correspondence shall be securely transmitted by internal mail [detail the procedure to be followed].

With a public authority

Correspondences with public authorities shall be done:

- By email to the governmental email of the relevant contact persons in case an exchange agreement is in place between the [name of the tax administration] and the relevant public authority, or the governmental email of the person responsible of that public authority [detail the procedure to be followed];

20. www.oecd.org/securesites/gfcompetentauthorities/jurisdictions.htm

- Exceptionally, by registered mail to the person responsible of that public authority [detail the procedure to be followed].

With any other information holder

Any correspondences with other information holders (e.g. person(s) concerned by an incoming request, third parties) shall be done by [indicate the mean of communication, for instance “*registered letter or email from a governmental email address*” and detail the procedure to be followed].

2. Manual for the competent authority and the exchange of information unit

General comments on Chapter 2

This chapter is dedicated to CAs and EOI units to guide them in their EOI practice. Different forms of administrative assistance are concerned: exchange of information on request (EOIR), spontaneous exchange of information (SEOI) but also other EOI forms like simultaneous tax examinations (STE) and tax examinations abroad (TEA). This EOI manual can be used as a template to develop one tailored for the specific needs of a jurisdiction.

This chapter also covers important aspects of the management including confidentiality rules, record keeping, statistics and measurement of performance.

This chapter of the EOI manual describes the procedures and management rules to be followed by the CA and the EOI unit with respect to exchange of information on request (EOIR), spontaneous exchange of information (SEOI) but also other EOI forms such as simultaneous tax examinations (STE) and tax examinations abroad (TEA).

2.1. EXCHANGE OF INFORMATION PROCEDURES

2.1.1 Exchange of information on request

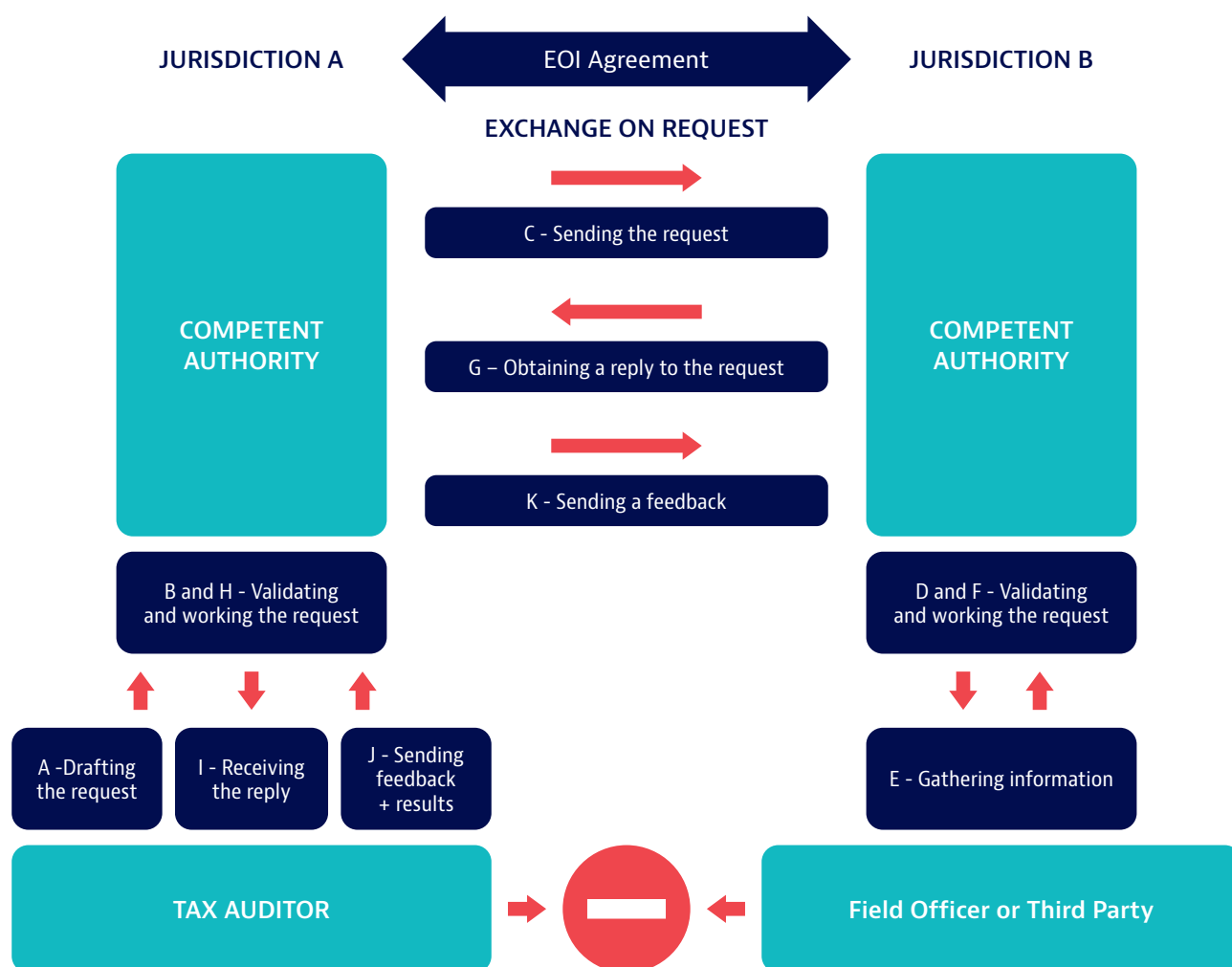
EOIR is the exchange of information based on a specific request made by one jurisdiction to another. The international standard provides that the information requested must be foreseeably relevant to the administration and enforcement of domestic tax laws of the requesting jurisdiction. While the emphasis in the following sections is on EOI for the cross-border tax audits, the conditions and requirements described apply also to EOI for other relevant tax administration function (e.g. cross-border tax collection, taxpayer management).

2.1.1.1 Sending a request for information

Ensuring the quality of outgoing requests is the responsibility of the EOI unit and is required for seeking similar quality from treaty partners.

Sending a request for information occurs where one

FIGURE 1. Sending a request for information



jurisdiction's CA asks for particular information from another CA. The information requested may relate to an examination, inquiry or investigation of a taxpayer's tax liability for specified tax years. Figure 1 shows the different steps from the need of a tax auditor to receive an information from abroad, going through the process of the request by the CAs of the requesting and requested jurisdictions and finally the reception of the information by the tax auditor. The role of the CAs is emphasised as a tax auditor cannot contact directly a foreign counterpart to exchange information unless the tax auditor has been delegated appropriate CA status.

In practice, requests for exchange of information are initiated and drafted by tax auditors in general. As a request can only be sent abroad by a CA, the request must be transferred to the EOI unit.

Once at the EOI unit, Step 1 (B on Figure 2) is to validate the request by checking (i) whether the internal means have been exhausted, (ii) whether the request is foreseeably relevant and (iii) whether there is a legal basis to initiate the exchange. If these conditions are not met, the EOI unit will request further information from the tax auditor or inform her/him that the exchange cannot take place. Step 2 (B on Figure 2) is to work the request (use of the appropriate form, translation into a foreign language, checking the contact details of the foreign CA) before sending it abroad, which is Step 3 (C on Figure 2).

When the foreign CA receives the request, it validates its receipt (internal registration, sending of an acknowledgement of receipt) and then initiates the gathering of information. The aim is to be able to send

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a response within 90 days of receipt (Step 4 – G on Figure 2) or, failing that, to send a status update.

As soon as the reply is received by the CA, it is registered and sent to the tax auditor for use in the tax audit procedure. An impact assessment is then transmitted to the EOI unit to enable it to assess the administrative co-operation.

The detailed procedure is described below.

Step 1 - Validating the outgoing request for information

Comments on the drafter of an outgoing request for information

Different possibilities exist for the reception of the request. The auditors draft either:

- the request directly on the template ([Annex B.1. Template for an outgoing request for information](#)) which is then checked by the EOI unit; or
- a dedicated document which will serve as a basis for the EOI unit to draft the request.

The approach taken in this EOI manual is that the request is drafted by the tax auditor with the EOI template provided in [Annex B.1. Template for an outgoing request for information](#) and then checked by the EOI unit. Jurisdictions using the second approach would need to adapt the relevant steps indicated in this EOI manual. Some guidance can be provided to that end by the Global Forum Secretariat if needed.

The validation process can be done either by the EOI unit manager or by an EOI officer to whom the case is assigned.

All requests for information shall follow the template in [Annex B.1. Template for an outgoing request for information](#). The draft request must be sent to the EOI unit. **[The EOI unit manager or the EOI officer to whom the case is assigned]** conducts a preliminary examination to check if the draft request ([Annex B.1. Template for an outgoing request for information](#)) is valid by verifying whether the requirements are met as described in Table 2.

Step 2 - Working the outgoing request for information

Comments on monitoring EOI requests

It is important that an EOI monitoring system is in place to register and monitor incoming requests, outgoing requests and any other types of requests. When the volume of EOI is limited, the system can be kept quite simple with a basic tracking tool used (e.g. an Excel spreadsheet), which can then be developed over time into a more sophisticated EOI tracking tool as the volume of EOI increases.

A tracking tool on an Excel Spreadsheet along with guidance is available to the Global Forum Secretariat (gftaxcooperation@oecd.org).

At minimum, some of the information that should be contained in the EOI tracking tool are:

- Reference numbers of both jurisdictions for the exchange;
- Dates the requests are sent and received;
- Dates of any subsequent correspondence with the other jurisdiction (e.g. request for clarifications);
- Name of the other jurisdiction;
- Summary of the information requested;
- Summary of the information provided;
- Status of the case (open/closed/reopened);
- Due date for response;
- Identity details for each person or entity including name, address, date of birth, and taxpayer identification number;
- Details of contact in the other jurisdiction (name, phone number and e-mail address);
- EOI officer assigned to the exchange;
- Actions taken;
- Last action date;
- Actions due;
- Reminder for next action due;
- Date of the status update sent when a reply is not provided within 90 days;
- Date the final response is issued/received.

In this EOI manual, the approach taken is that the jurisdiction has either an Excel spreadsheet or an electronic EOI tracking tool.

Table 2. **Validation of an outgoing request for information**

Requirements	Explanation
a) Whether an EOI legal basis exists with the requested jurisdiction.	<p>[The EOI unit manager or the EOI officer to whom the case is assigned] checks the list of EOI agreement entered by [name of the jurisdiction] which is available at Annex A. List of legal bases.</p> <p>If there is no EOI legal base, an EOI officer informs the tax auditor that no request can be done because of a lack of legal basis. Furthermore, where appropriate, the EOI unit manager can inform the [indicate the unit in charge of treaty negotiations (e.g. Tax Treaty Department)] about the need to have an EOI agreement with the foreign jurisdiction.</p>
b) Whether the request should be sent to a different jurisdiction.	<p>[The EOI unit manager or the EOI officer to whom the case is assigned] may consider that the request is addressed to the wrong jurisdiction (for instance the information is requested from the jurisdiction of a subsidiary instead of the jurisdiction of the parent). In that case:</p> <ul style="list-style-type: none"> ● If an EOI legal base exists, an EOI officer contacts the tax auditor to discuss the issue and agree whether to send the request to the relevant jurisdiction. ● If there is no EOI legal base, an EOI officer informs the tax auditor that no request can be done because of a lack of legal base. Furthermore, if appropriate, the EOI unit manager may inform the [indicate the unit in charge of treaty negotiations (e.g. Tax Treaty Department)] about the need to have an EOI agreement with the foreign jurisdiction.
c) Whether the request deals with periods and taxes which are covered by the EOI legal basis.	<p>[The EOI unit manager or the EOI officer to whom the case is assigned] checks the provisions of the relevant EOI agreement(s) entered by [name of the jurisdiction] to ensure that the periods and taxes investigated are covered by these EOI agreements. The list of the EOI agreements is available at Annex A. List of legal bases. The EOI unit manager can also consult the [indicate the unit in charge of treaty negotiations (e.g. Tax Treaty Department)].</p> <p>If not, an EOI officer shall discuss with the tax auditor to determine which legal base allows the broader scope and to limit the request to the periods or taxes covered.</p> <p>Where several legal bases are applicable with the requested jurisdiction, it is preferable to use only one of them to avoid potential requests for clarifications.</p>
d) Whether the request has been approved by the tax auditor's manager. [if relevant in the jurisdiction]	<p>The tax auditor's manager shall approve the EOI request by checking its relevance and its completeness and by validating the tax auditor's approach. This control contributes to improve the quality of the request and facilitates the EOIR process.</p> <p>Where the EOI request has not been approved by the tax auditor's manager, then the EOI unit manager instructs an EOI officer to send back the request to the tax auditor requesting for its approval by the relevant manager.</p>
e) Whether the information provided is sufficient and the request is clear and specific.	<p>The EOI request shall be complete and provide all relevant information, including facts, legal provisions, and supporting documentations, to demonstrate the foreseeable relevance of the request and to meet other requirements under the relevant EOI agreement (e.g. relevant justification for an exception to prior or post-exchange notification).</p> <p>Where the request is not clear or complete, the EOI unit manager instructs an EOI officer to liaise with the tax auditor to clarify and/or complete the request.</p>

Requirements	Explanation
<p>f) Whether the tax auditor has used all possible means available to obtain the information.</p>	<p>Before making an EOI request, a tax auditor shall use all domestic possible means to obtain the information, including by using domestic access powers and publicly available information (e.g. information available on internet such as online public register). This include requesting the information from the taxpayer himself, unless it would compromise the investigations.</p> <p>If it is not the case, [the EOI unit manager or the EOI officer to whom the case is assigned] requests the tax auditor to first use the relevant means available to obtain the information before resending the EOI request to the EOI unit.</p>
<p>g) Whether the requested information is "foreseeably relevant"²¹</p>	<p>The standard of "foreseeable relevance" was clarified in the 2012 Update of Article 26 of the OECD Model Tax Convention (see Exchange of foreseeably relevant information). [The EOI unit manager or the EOI officer to whom the case is assigned] verifies whether the requested information meets the foreseeable threshold. In that respect, [the EOI unit manager or the EOI officer to whom the case is assigned] checks, in addition to the other requirements, whether the request relates to the investigations of one or several taxpayers and whether the requested information is needed to carry out these investigations. The following guidance applies:</p> <ul style="list-style-type: none"> ● The international standard requires that at the time the request is made there is a reasonable possibility that the information will be relevant. Whether the information, once provided, actually proves to be relevant is immaterial. A request may therefore not be declined in cases where a definite assessment of the pertinence of the information to an ongoing investigation can only be made following the receipt of the information; ● The requesting jurisdiction determines the foreseeable relevance of the request (but an explanation must be provided). Once the requesting jurisdiction has provided an explanation as to the foreseeable relevance of the requested information, the requested jurisdiction may not decline a request or withhold requested information because it believes that the information lacks relevance to the underlying investigation or examination. EOI officers and their manager can use the Box 2 to check what information is expected from the requesting jurisdiction when a group request is made. ● In cases where the requesting jurisdiction does not provide the name or address (or both) of the taxpayer, it must include in the request other information sufficient to identify the taxpayer (e.g. bank account number). <p>Where the requested information does not meet the foreseeable relevance threshold, [the EOI unit manager or the EOI officer to whom the case is assigned] shall request from the tax auditors any clarification and additional information needed to complete the request, or agree with the tax auditors that some information shall not be requested or that the request shall not be made.</p>

Once the EOI request is validated, the following sub-steps apply:

a) The request is registered in the EOI tracking tool by the EOI officer to whom the case is assigned. The EOI officer creates a new record in the EOI tracking tool and completes all relevant fields: [indicate the fields

of the EOI tracking tool used by the jurisdiction (e.g. date of the reception from the tax auditor, requested jurisdiction, etc.)].

b) The EOI officer opens a [hard-copy and/or electronic] file for the request using [add either "the filing reference generated by the EOI tracking tool" in case an electronic tool is used or "a sequential reference number" in a manual system].

21. Commentary to Article 26 of the OECD Model recognises that "necessary", "relevant" or "may be relevant" are interchangeable with "foreseeably relevant".

- c) If the information provided by the tax auditor in the draft request is insufficient, this tax auditor should be informed in writing and requested to provide additional details to allow the request to be sent with the [Annex B.2. Outgoing request for information. Communication with the tax auditor or the field officer](#) in accordance with the relevant provision in [Means of communication](#).
- d) The EOI officer can use the checklist in Box 2 to ensure all required elements are fulfilled before sending the request for review to the EOI unit manager. If necessary, the outgoing EOIR shall be translated and be prepared in accordance with the relevant explanations in [Translation](#).

Step 3 - Sending the request for information

Where all the requirements are met, the EOI request is sent as follows:

- a) The EOI officer verifies the name and contact details of the CA in the requested jurisdiction.
- b) All supporting documents are attached to the request.
- c) The EOI request is transmitted to the EOI unit manager who checks it using the checklist in Box 2 to ensure all required elements are fulfilled.
- d) The EOI request is signed by the CA (EOI unit manager or other official with CA status).
- e) The signed request is sent with any attachments by the CA (EOI unit manager) or, on its behalf, by the assigned EOI officer.
- f) An acknowledgement is sent by the assigned EOI officer to the tax auditor/office initiating the request with the [Annex B.2. Outgoing request for information. Communication with the tax auditor or the field officer](#) in accordance with the relevant provision in [Means of communication](#).

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences in the case file in accordance with the relevant provision in [Information security](#). The EOI officer also tracks progress of the information request with the EOI tracking tool by requesting by phone or email the foreign CA a

progress report:

- after 30 days, if an acknowledgement of the request has not been received; or
- after 90 days, if the information or a status report on the request is not received by then; and
- at regular intervals thereafter, depending on the circumstances.

Every time an action is taken on the case, the EOI officer updates the EOI tracking tool and securely stores/archives a copy of the correspondences and documents in the relevant case file.

Step 4 - Obtaining a reply to the outgoing request for information

Comments on wider use of treaty-exchanged information

Once information has been obtained for tax purposes, it is possible, under certain conditions provided for by the relevant EOI agreement, to use it for other purposes such as combating money laundering and corruption. The wider use is only possible when:

- (i) the laws of the requested/supplying jurisdiction permit such use; and
- (ii) the CA of the supplying jurisdiction has authorised that the information it initially provided for tax purposes be used for another specific purpose.

Examples:

- Article 22.4 of the MAAC permits the information to be used for other purposes where such other use is authorised under the laws of the requested jurisdiction and the competent authority allows such a use, for example to combat corruption or money laundering.
- Article 26 of the OECD Model expressly provides for the possibility of sharing information by tax authorities with other law enforcement agencies and judicial authorities provided two conditions are met:
 - the information may be used for other purposes under the laws of both states; and
 - the competent authority of the supplying state authorises such use.

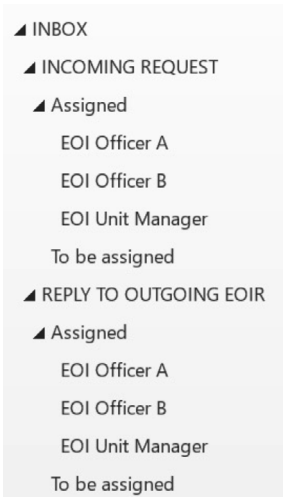
Box 2. Checklist on sending a request for information

EOI officers and manager should give careful consideration to ensure the following elements are all fulfilled before sending a request to the requested jurisdiction's CA:

- Is there a reference to an EOI agreement in force upon which the request is based (MAAC, DTC, TIEA, regional instrument)?
- Have you mentioned and checked the accuracy of the names and contact details of the CAs in both the requesting and requested jurisdiction?
- Is the reference number of the request mentioned?
- Have you identified the person(s) or entity(ies) under examination or investigation in [name of the jurisdiction] (name, date of birth for individuals, Tax Identification Number (TIN), full address or all other information sufficient to identify the taxpayer(s))?
- Have you identified the person(s) or entity(ies), in the requested jurisdiction, in relationship with the person(s) under examination or investigation in [name of the jurisdiction] (name, date of birth for individuals, TIN, full address or all other information sufficient to identify this(ese) person(s) or entity(ies))?
- Have you mentioned the taxes concerned and the tax periods under examination (day, month, year they begin and end) and the tax periods for which information is requested (if they differ from the years examined give the reasons why; for instance if there is a loss carryover, the information concerns a purchase price for determination of a capital gain)?
- Have you indicated the stage of the procedure in [name of the jurisdiction], the issues identified and whether the investigation is of a civil or administrative nature only or may also have criminal consequences?
- Have you provided the relevant background information including the tax purpose for which the information is sought, the origin of the enquiry, the reasons for the request and the grounds for believing that the information requested is held in the territory of the requested jurisdiction or is in the possession or control of a person within its jurisdiction?
- Have you specified the information requested and why it is needed? Also specify the information that may be pertinent (e.g. invoices, contracts).
- If the information is likely to be used in a court proceeding and the applicable rules of evidence require the information to be in a certain form, have you indicated the form to the requested CA? If it is a criminal investigation, have you included sufficient explanations as to the nature of criminality involved?
- If the taxpayer under investigation must be notified under the laws of the requested jurisdiction, have you mentioned the reasons for avoiding notification of the taxpayer under examination or investigation?
- If the reply is urgent, have you stated the reasons for the urgency (e.g. statute of limitation, court case) and, if applicable, indicated the date after which the information may no longer be useful?
- Have you provided:
 - (i) a statement confirming that [name of tax administration] has pursued all means available in its own territory to obtain the information except those that would give rise to disproportionate difficulties; and
 - (ii) a statement that the request is in conformity with the laws and administrative practices of [name of the jurisdiction], that [name of tax administration] could obtain the information if it was within its jurisdiction and that the request is in conformity with the legal instrument on which it is based?
- Is the request for information signed by the CA?

The following sub-steps apply when a reply to a request for information is received from a requested jurisdiction:

a) Replies received from a foreign CA are addressed to the CA. Where the reply is addressed to a CA, who is not the EOI unit manager, it should be delivered directly to the EOI unit on the day it is received:



- Replies by mail must not be opened by the mail clerk. The mail clerk stamps the reply's envelop with the date of receipt and transmit it securely and immediately to the EOI unit manager. [Describe how the reply letter must be transmitted securely to the EOI unit manager].

- Replies by email should be filed in a dedicated folder for the EOI unit manager [to mention the name of the folder; e.g. the tree diagram].

b) The EOI unit manager provides the reply to the assigned EOI officer for registration in the EOI tracking tool: [indicate the fields of the EOI tracking tool used by the jurisdiction (e.g. partial or final reply, date of the reply)].

c) The EOI officer verifies the information received against the request sent. If the response is perceived to be incomplete or inadequate, the EOI officer and manager may consider whether it is necessary, or possible, to make further enquiries to the requested jurisdiction.

d) The EOI officer labels the reply in accordance with the relevant provision and procedures on confidentiality and Information security.

e) The EOI officer provides the information to the auditor who requested it as soon as possible.

- If necessary, the reply is translated in accordance with the relevant provision in Translation

• The EOI officer shall prepare:

- a cover letter (Annex B.2. Outgoing request for information. Communication with the tax auditor or the field officer) signed by the EOI unit manager.
- the impact assessment form (Annex F.1. Impact assessment form) to be filled by the tax auditor when the tax audit will be completed

• The EOI officer forwards the reply with the cover letter and the impact assessment form to the tax auditor.

f) If the tax auditor informed the CA that the received information may be relevant for other purposes than tax purposes, the CA (EOI unit manager or another official with CA status) may request the authorisation from the CA of the requested jurisdiction. To that end, the assigned EOI officers prepare a letter by using Annex B.3. Outgoing request for information. Template for a request for wider use of the exchanged information.

g) The request to use the exchanged information for other purposes is reviewed, signed and sent by the CA (EOI unit manager or another official with CA status) or sent, on its behalf, by an EOI officer.

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives copy of any correspondences and documents in the relevant case file.

Step 5 - Sending feedback

Comments on feedback

Regular, timely and comprehensive feedbacks between CAs is important to encourage co-operation. The feedback on any forms of EOI (EOIR, AEOI, SEOI, etc.) can enhance the communication with the other CAs and improve the effectiveness of EOI.

For the information received from a foreign CA, feedbacks are usually provided by the tax auditors who use the exchanged information in the context of a tax audit or investigation. Therefore, the EOI unit must often require feedbacks from the field to ensure that there is no latent issue with a foreign partner, in particular because the CA might not always have all the elements to appreciate the quality of a reply.

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Feedbacks shall be provided to the requested jurisdiction spontaneously where deemed relevant and in all cases when requested. The following procedure applies:

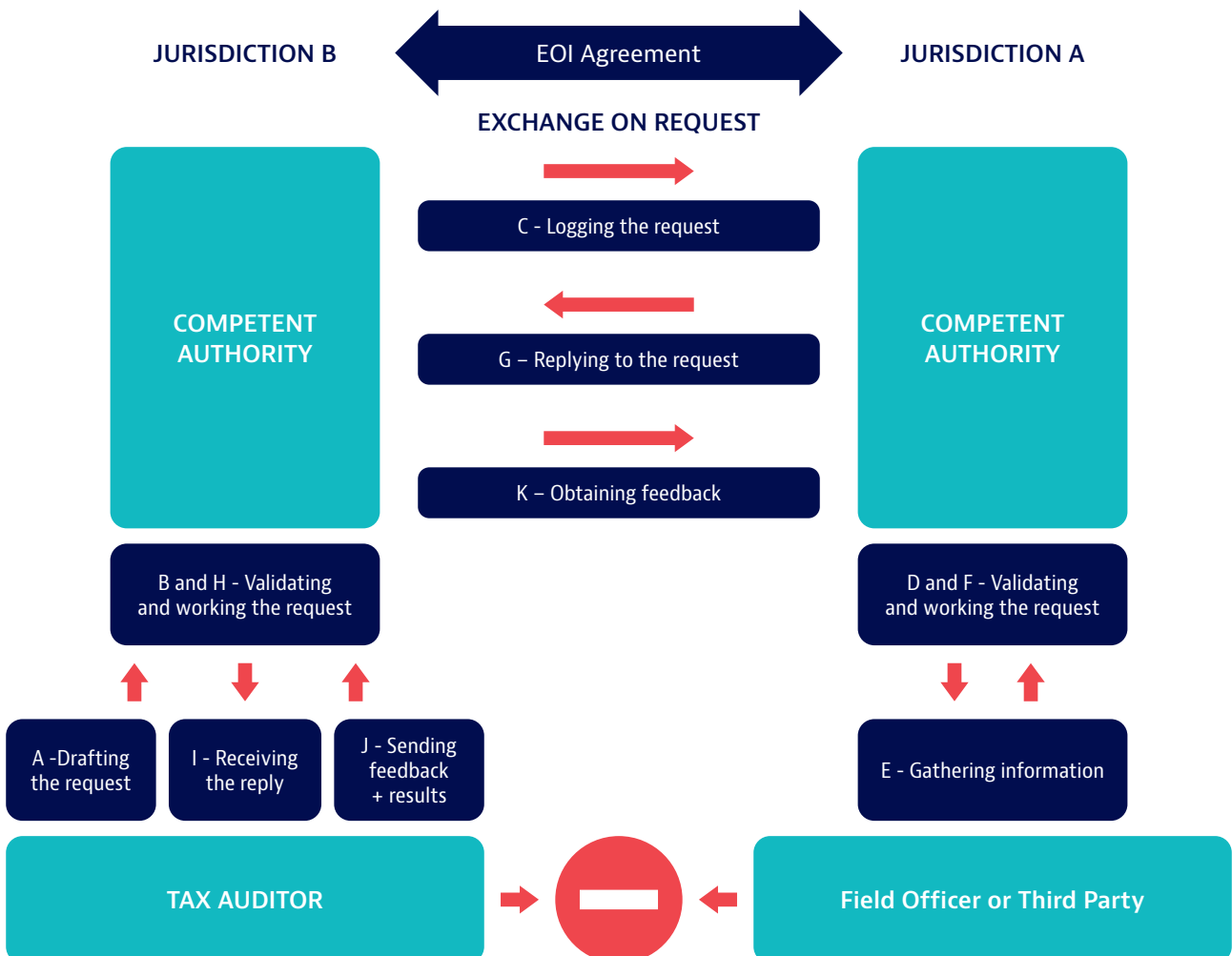
- a) The EOI officer uses the impact assessment form received from the tax auditor to draft a feedback by using the feedback template letter ([Annex F.2. Feedback](#)).
- b) The EOI unit manager reviews the draft feedback prepared by the EOI officer.
- c) The CA (EOI unit manager or another official with CA status) signs the feedback letter.
- d) The feedback letter to the foreign CA is sent by the CA (EOI unit manager or another official with CA status) or, on its behalf, by the assigned EOI officer.

The assigned EOI officer registers the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences and documents in the relevant case file.

2.1.1.2. Receiving a request for information

Ensuring fulfilment of the obligation to provide comprehensive and high-quality information in a timely manner is an integral part of the EOIR standard and is required for seeking similar co-operation from treaty partners. The work of the field officers responsible for collecting and providing the information is described in Figure 2. Like sending a request, the role of CAs is essential as a tax auditor cannot reply directly and exchange information with a foreign counterpart, unless the tax auditor has been delegated appropriate CA status.

FIGURE 2. Receiving a request for information



Step 1 - Logging the incoming request for information

Comments on information security

See comments made in [Information security](#).

Where a request for information is received from a requesting jurisdiction, the following procedure applies:

- a) Incoming requests received from a foreign CA are addressed to the CA. Where a request is addressed to a CA, who is not the EOI unit manager, it should be delivered directly to the EOI unit on the day it is received:
 - Requests received by mail must not be opened by the mail clerk. The latter stamps the request's envelop with the date of receipt and transmit it securely and immediately to the EOI unit manager. [Describe how the reply letter must be transmitted securely to the EOI unit manager].
 - Requests by email should be filed in a dedicated folder for the EOI unit manager [to mention the name of the folder].
- b) The EOI unit manager verifies the name and contact details of the CA in the requesting jurisdiction.
- c) The EOI unit manager assigns the request to an EOI officer for registration in the EOI tracking tool. The EOI officer creates a new record in the EOI tracking tool and completes all relevant fields: [to be completed according to the fields to complete in the tracking tool (e.g. national reference number, date of the reception, requesting jurisdiction)].

The EOI unit manager may take responsibility for working some cases, including those which are complex or sensitive [to be described, e.g. political exposed persons, requests from a certain jurisdiction]. In this case, the procedures applicable to the EOI officers must be followed by the EOI unit manager.
- d) The EOI officer opens a [hard-copy or electronic] file for the incoming request using [add "the filing reference generated by the EOI tracking tool" in case an electronic tool is used or "a sequential reference number" in a manual system].

- e) The EOI officer labels the incoming request in accordance with the relevant provision in [Information security](#).
- f) Once the new case has been created, an acknowledgement of receipt letter ([Annex B.4. Incoming request for information. Communication with the requesting jurisdiction](#)) is prepared by the EOI officer for signature of the CA (EOI unit manager or another official with CA status). The acknowledgement letter provides the EOI reference number allocated to the request to further facilitate communications on the case.
- g) The acknowledgement letter is sent to the requesting CA by the requested CA (EOI unit manager or another official with CA status) or, on its behalf, by the assigned EOI officer within 7 days from the receipt of the request.
- h) If necessary, the incoming request and the attached documents are translated and prepared in accordance with the relevant provision in [Translation](#).

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences and documents in the relevant case file.

Step 2 - Validating the incoming request for information

The validation of the request must be done to determine whether the request for information is valid and complete. The EOI officer checks the legal base of the request (legal instrument, taxes and period covered, valid CA's signature) and the content of the request. Box 3 presents a checklist to help the EOI unit manager and EOI officers validate the request, keeping in mind that the requested jurisdiction must provide an EOI to the widest possible extent. Table 3 presents different situations and the related applicable procedures.

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences and documents in accordance with the relevant provision in [Information security](#).

Table 3. **Validation of the incoming request for information**

Situations	Applicable procedures
<p>The request is clearly not valid</p>	<p>If after checking a request for validity, the EOI officer and the EOI unit manager consider that the request is clearly not valid (e.g. because there is no legal basis between the requesting jurisdiction and [name of the jurisdiction]), then the request will not be processed.</p> <p>The CA (EOI unit manager or another official with CA status) notifies the requesting jurisdiction as soon as possible but in any case within 15 days of receiving the request. The letter must explain the reason(s) why the request is declined. The template letter to decline the request provided in Annex B.4. Incoming request for information. Communication with the requesting jurisdiction must be used. The case is closed by the EOI officer.</p>
<p>The request is unclear or incomplete</p>	<p>The request must not be declined without consulting the CA of the requesting jurisdiction in situations in which the content of the request, the circumstances that led to the request, or the foreseeable relevance of the requested information are not clear.</p> <p>In these circumstances, the CA must always seek clarifications or additional information from the requesting jurisdiction. The following procedure applies:</p> <ul style="list-style-type: none"> ● The CA (EOI unit manager or another official with CA status) or, on its behalf, an EOI official sends, within 15 days of receiving the request, a request for clarification or additional information to the requesting jurisdiction to allow the request to be processed. ● This request must explain the reason(s) why the request cannot be processed (e.g. not enough information to identify the taxpayer) and/or why it is not clear, and the clarifications and additional information needed. <p>The template of request for clarification and/or additional information in Annex B.4. Incoming request for information. Communication with the requesting jurisdiction must be used.</p> <ul style="list-style-type: none"> ● Where the required information and/or clarifications are obtained, the CA (EOI unit manager) assesses the validity of the request and decides whether to process it. Once the requesting jurisdiction has provided an explanation as to the foreseeable relevance of the requested information, the requested jurisdiction may not decline a request or withhold requested information because it believes that the information lacks relevance to the underlying investigation or examination. The CA (EOI unit manager or another official with CA status) or, on its behalf, an EOI official notifies the CA of the requesting jurisdiction as soon as possible but in any case within 15 days of receiving the clarification and/or additional information. The procedures described where the request is valid or not valid apply as appropriate. ● If the requesting jurisdiction does not provide the clarification or additional details, the CA shall follow-up on the outstanding request with the requesting CA by all means (e.g. phone call, emails, letter). Where the requested clarifications and/or additional information are not provided, the CA notifies the requesting jurisdiction that it cannot process the request because it lacks information that is necessary for processing the request. The procedure described where the request is not valid applies.
<p>The request is fully or partially valid</p>	<p>Where the request is valid, the EOI officer starts to work on the request. If the request is incomplete in part, the case will be worked to provide information for the part of the request that is valid.</p>

Box 3. Checklist on receiving a request for information

The EOI officers and their manager should give careful consideration to ensure the following elements are all fulfilled when receiving a request:

- Is there a reference to an EOI agreement in force upon which the request is based (MAAC, DTC, TIEA, regional instrument)?
- Is the request signed by the CA of the requesting jurisdiction?
- Does the information requested relate to persons, taxes and tax periods covered by the EOI agreement?
- Does the request explain why the information requested is considered foreseeably relevant to an ongoing tax examination, investigation or inquiry?
- Is the request detailed enough? Is there sufficient background information to understand the request? Is the information provided sufficient to identify a taxpayer or group of taxpayers by name or otherwise? Does it mention the years for which the information is requested?
- Does the request include a statement that it is in conformity with the laws and administrative practices of the requesting jurisdiction, that if the information was in the requesting jurisdiction it could be obtained under the laws or in the normal course of administrative practice and that the request is in conformity with the EOI agreement on which it is based?
- Does the request include a statement that all reasonable means to obtain the information except those that would give rise to disproportionate difficulties have been pursued?

Step 3 - Working the incoming request for information

Comments on prior-notification procedure

In some jurisdictions, the person concerned with the request and/or the information holder must be notified that a valid request for information has been received and is processed. According to international EOIR

standard, a requested jurisdiction should provide for an exception from prior notification (notably, in cases in which the information request is of a very urgent nature or the notification is likely to undermine the chance of success of the investigation conducted by the requesting jurisdiction).

In the EOI manual, the notification procedures are detailed in [Notification procedures](#). Some guidance is included in the section above for jurisdictions with prior notification procedure.

Comments on gathering the requested information

As indicated in the comments on gathering the requested information (see [Access powers](#)), there are three main models:

- Model 1: the EOI unit does not carry out any information gathering function. It requests the relevant domestic tax offices to gather the information requested.
- Model 2: the EOI unit gathers only information directly available in the tax administration's systems (and other government databases). For any other type of information, it requests the relevant domestic tax offices to gather the information requested.
- Model 3: the EOI unit gathers all the information, including those not directly available in the tax administration's systems. It is empowered to exercise all the access powers of the tax administration to obtain the information held by any information holder, including other government agencies or authorities, taxpayers and third parties such as financial institutions.

These models are included in this EOI manual. The access powers available in the jurisdiction are detailed in [Access powers](#).

When working the valid incoming request, the assigned EOI officer applies the following procedure:

- a) The EOI officer notes in the EOI tracking tool whether the requesting jurisdiction has:
 - assigned any particular urgency to the request.

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Where the request is of an urgent nature, priority is given, as far as possible, to its processing.

- required that the person(s) concerned with the request not be contacted directly. In that case, the person(s) concerned must not be contacted. Where the information cannot be obtained without contacting the person(s) concerned, the CA informs the requesting CA so that it can decide either to allow the person(s) concerned to be contacted or to reconsider its request.

[Sub-step b) and c) apply only for jurisdictions with prior notification procedure]

- b) The EOI officer notes in the EOI tracking tool whether the requesting jurisdiction has requested an exception to prior notification and checks whether the conditions for such an exception mentioned in [Notification procedures](#) are met.

Where there is a lack of grounds to support the request for an exception, the CA (EOI unit manager or another official with CA status) or, on its behalf, an EOI officer asks the requesting CA for clarification or additional information necessary to allow the exception ([Annex B.4. Incoming request for information. Communication with the requesting jurisdiction](#)).

Where, after further consultation with the requesting jurisdiction, the conditions for an exception are not met, the CA (EOI unit manager or another official with CA status) or, on its behalf an EOI officer, informs the requesting CA that the request cannot be processed without a prior notification so that it can decide either to allow the person concerned to be contacted or to reconsider its request ([Annex B.4. Incoming request for information. Communication with the requesting jurisdiction](#)).

- c) Where the requesting jurisdiction has not requested an exception to prior notification or where the exception to prior notification does not apply, the EOI officer uses the notification letter template in [Annex B.7. Incoming request for information. Template letter for notification of the person concerned or information holder to notify \[the person\(s\) concerned and/or the information holder\(s\)\]](#). The procedures to be followed are detailed in [Notification procedures](#).

The assigned EOI officer registers at each step the

relevant information in the EOI tracking tool and archives a copy of all the correspondences and documents in the relevant case.

Step 4 - Replying to the incoming request for information

Comments on timelines and status update

The international EOIR standard requires that the information should be collected and transmitted to the requesting CA within 90 days and, where a full response cannot be provided within this timeline, the requested CA must provide a status update to the requesting CA.

The timelines and the status updates are monitored in the Peer Review Process of the Global Forum and are one of the important criteria in determining the level of compliance of a jurisdiction with the EOIR standard.

Following the exercise of the access powers, the EOI officer prepares a reply to the requesting jurisdiction. Table 4 presents different situations and the related applicable procedures.

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy in accordance with the provision in Information security. Where a final reply is sent to the requesting CA, the assigned EOI officer closes the case.

[Apply only for jurisdictions with time specific post exchange notification procedure]

The EOI officer notes in the EOI tracking tool whether the requesting jurisdiction has requested a time specific post exchange notification exception and checks whether the conditions for such an exception mentioned in [Notification procedures](#) are met.

Where there is a lack of grounds to support the request for a time specific post exchange notification exception or if the timing for the notification is not specified, the CA (EOI unit manager or another official with CA status) or, on its behalf, an EOI officer asks the requesting CA for clarification or additional information necessary to allow the exception

Model 1 The EOI unit does not carry out any information gathering function	Model 2 The EOI unit gathers only information directly available in the tax administration's systems (and other government databases)	Model 3 The EOI unit gathers all the information
<ul style="list-style-type: none"> ● The EOI officer contacts a local or regional office or a specialised tax office by preparing a letter following the template in Annex B.5. Incoming request for information. Template letter requesting information from local unit. The EOI officer must not send the original or a copy of the incoming request but must insert in the letter the minimum information contained in the incoming request necessary to gather the information. ● The letter shall set a date for the reply within a timeline allowing the EOI unit to process and respond the request in accordance with the standard (within 90 days). [To complete with the process on how to set an alert to monitor this time limit, e.g. a reminder in an EOI electronic tracking tool or a conditional formatting in an EOI spreadsheet tracking tool]. ● If the local or regional office concerned has not replied within the specified time, the EOI officer makes further contact with that office to find out why there is a delay. The EOI officer can give a further short period (less than 30 days) to respond. If that further period elapses without a full response, the EOI officer reviews the request with the EOI unit manager to decide the next action to take. ● When the local or regional office replies, the EOI officer shall update the EOI tracking tool [to describe actions to be taken, e.g. to insert the date of receipt from the local or regional office] and labels the records gathered in accordance with the provision in Information security. 	<ul style="list-style-type: none"> ● For information directly accessible in the tax administration's databases [or in other government databases mentioned in Access powers], the EOI officer collects the information and labels the records gathered in accordance with the provision in Information security. ● For any other type of information, the EOI officer contacts a local or regional office or a specialised tax office by preparing a letter following the template in Annex B.5. Incoming request for information. Template letter requesting information from local unit. The EOI officer must not send the original or a copy of the incoming request but must insert in the letter all the necessary elements to identify the concerned person (and the information holder if available) (name, address, tax identification number) and to gather the relevant information. ● The letter shall set a date for the reply within a timeline allowing the EOI unit to process and respond the request in accordance with the standard (within 90 days). [To complete with the process on how to set an alert to monitor this time limit, e.g. a reminder in an EOI electronic tracking tool or a conditional formatting in an EOI spreadsheet tracking tool]. ● If the local or regional office concerned has not replied within the specified time, the EOI officer makes further contact with that office to find out why there is a delay. The EOI officer can give a further short period (less than 30 days) to respond. If that further period elapses without a full response, the EOI officer reviews the request with the EOI unit manager to decide the next action to take. ● When the local or regional office replies, the EOI officer updates the EOI tracking tool [to describe actions to be taken, e.g. to insert the date of receipt from the local or regional office] and labels the records gathered in accordance with the provision in Information security. 	<ul style="list-style-type: none"> ● For information directly accessible in the tax administration's databases [or in other government databases mentioned in Access powers], the EOI officer collects the information and labels the records gathered in accordance with the provision in Information security. ● For any other type of information, the EOI officer exercises all the access powers of the tax administration and applies all the related sanctions in case of failure as described in Access powers. ● The EOI officer requests the requested information from the information holder (e.g. person concerned, third party) by preparing a letter following the template in Annex B.6. Incoming request for information. Template letter requesting information from the taxpayer / third party. The EOI officer must not send the original or a copy of the incoming request but must insert in the letter all the necessary elements to identify the concerned person (name, address, tax identification number) and to gather the relevant information. The letter shall set a date for the reply within a timeline allowing the EOI unit to process and respond the request in accordance with the standard (within 90 days). [To complete with the process on how to set an alert to monitor this time limit, e.g. a reminder in an EOI electronic tracking tool or a conditional formatting in an EOI spreadsheet tracking tool]. ● If the information holder has not replied within the specified time, the EOI officer makes further contact with that information holder to find out why there is a delay [or apply any domestic provision in case of a reminder procedure]. The EOI officer can give a further short period (less than 30 days) to respond [or apply any other time limit in a domestic provision in case of a reminder procedure]. If that further period elapses without a full response, the EOI officer reviews the request with the EOI unit manager to decide the next action to take [sanctions or other compelling access powers (such as seizure of documents) to be considered if applicable in the domestic legislation – to be described]. ● When the information holder replies, the EOI officer updates the EOI tracking tool [to describe actions to be taken, e.g. to insert the date of receipt from the information holder] and labels the records gathered in accordance with the provision in Information security.

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Table 4. **Replying to the incoming request for information**

Situations	Applicable procedures
<p>Partial information is already gathered while the collection of other information is still ongoing</p>	<ul style="list-style-type: none"> a) The EOI officer drafts a partial reply by using the template letter in Annex B.4. <u>Incoming request for information. Communication with the requesting jurisdiction.</u> For a complete understanding of the requesting jurisdiction, the EOI officer specifies it is a partial reply and indicates when the remaining information would be provided, if possible. The EOI officer replies to the questions asked by the requesting jurisdiction reproducing the question and then providing the reply when possible or indicating the information remains to be provided. b) The EOI unit manager reviews the draft document prepared by the EOI officer by checking the legal base of the reply (legal instrument, taxes and period covered) and the content of the reply. Box 4 presents a checklist to help EOI unit managers validate the reply. c) The CA (EOI unit manager or another official with CA status) or, on its behalf, an EOI officer sends the partial reply to the requesting CA.
<p>All the requested information is gathered</p>	<ul style="list-style-type: none"> a) The EOI officer drafts a final reply by using the template letter in Annex B.4. <u>Incoming request for information. Communication with the requesting jurisdiction.</u> The EOI officer replies to the questions asked by the requesting jurisdiction reproducing the question and then providing the reply. b) The EOI unit manager shall review the draft document prepared by the EOI officer by checking the legal base of the reply (legal instrument, taxes and period covered) and the content of the reply. Box 4 presents a checklist to help EOI unit managers validate the reply. c) The CA (EOI unit manager or another official with CA status) or, on its behalf, an EOI officer sends the final reply to the requesting CA. By default, the template in Annex B.4. <u>Incoming request for information. Communication with the requesting jurisdiction</u> asks the receiving CA to provide a feedback on the usefulness of the information provided to help improve future exchanges. In case a feedback would not be required, the last sentence of the template for partial or final reply should be removed.
<p>No information is available within 90 days since the receipt of the request</p>	<ul style="list-style-type: none"> a) Within 90 days of receipt of the request [complete with the process on how to set an alert to monitor this time limit, e.g. a reminder in an EOI electronic tracking tool or a conditional formatting in an EOI spreadsheet tracking tool], the EOI officer drafts a status update for the requesting jurisdiction using the template in Annex B.4. <u>Incoming request for information. Communication with the requesting jurisdiction.</u> The EOI officer drafts a status update every 90 days until a final reply is issued. b) After review by the EOI unit manager, the CA (EOI unit manager or another official with CA status) or, on its behalf, an EOI officer sends the status update to the requesting CA.
<p>No information is available despite the use of all access powers</p>	<ul style="list-style-type: none"> a) Where it has not been possible, despite best efforts, to obtain the information requested, the EOI officer drafts a reply by using the template letter in Annex B.4. <u>Incoming request for information. Communication with the requesting jurisdiction</u> to inform the requesting jurisdiction, as soon as possible, that the information cannot be provided and the reasons why it cannot be provided. b) After the review of the EOI unit manager, the CA (EOI unit manager or another official with CA status) or, on its behalf an EOI officer sends the final reply to the requesting CA.

(Annex B.4. Incoming request for information. Communication with the requesting jurisdiction).

An agreement shall be reached with the requesting jurisdiction as to when the post-exchange notification can be performed.

Where, after further consultation with the requesting jurisdiction, the conditions for an exception are not met, the CA (EOI unit manager or another official with CA status) or, on its behalf an EOI officer, informs the requesting CA that the request cannot be processed without a time specific post exchange notification so that it can decide either to allow the person concerned to be contacted or to reconsider its request ([Annex B.4. Incoming request for information. Communication with the requesting jurisdiction](#)).

Where no specific time for post exchange notification exception is requested or exception to post exchange notification does not apply, the EOI officer uses the notification letter template in [Annex B.7. Incoming request for information. Template letter for notification of the person concerned or information holder to notify \[the person\(s\) concerned and/or the information holder\(s\)\]](#).

The procedures to be followed are detailed in [Notification procedures](#).

2.1.2. Spontaneous exchange of information

SEOI enables the provision of information that is foreseeably relevant to a foreign CA and that has not been previously requested. This means that, if a field officer or tax auditor identifies in the course of its work information that could be relevant for another jurisdiction, it should inform the EOI unit which will decide whether to spontaneously share it (as long as there is a legal basis for such a SEOI between both jurisdictions) through the CA. The effectiveness of SEOI largely depends on the ability of field officers and tax auditors and officers to identify, in the course of their activities (e.g. tax management, tax audit and investigation), information that may be relevant for a foreign tax administration.

While the focus is on tax auditors in the following sub-sections, the conditions and requirement described apply to any relevant field officer.

2.1.2.1. Sending a spontaneous exchange of information

SEOI is particularly valuable in uncovering specific cases of tax evasion. The opportunity for providing spontaneous information usually arises when an auditor or investigator comes across details of income

Box 4. Checklist on sending a reply to a request for information

EOI officers and their manager should give careful consideration to ensure the following elements are all fulfilled before sending a reply:

- Is there the reference to the EOI agreement pursuant to which the information is provided (MAAC, DTC, TIEA or a Regional agreement)?
- Are the reference numbers of both the requesting jurisdiction and [name of the jurisdiction] mentioned?
- Have you included the information requested, including copies of documents (e.g. records, contracts, invoices) as well as any information not specifically requested but likely to be useful based on the information provided in connection with the request?
- Is this an interim/partial or full response. If partial, indicate when you plan to send the remaining information.
- If applicable, is there an explanation why certain information could not be provided or could not be provided in the form requested.
- Is the currency specified?
- Have you mentioned the type of action taken to gather the information?
- Have you mentioned the tax periods for which the information is provided?
- A reminder that the use of the information provided is subject to the applicable confidentiality rules (this must be done by adding the confidentiality stamp on the information provided or including a watermark if the information is sent electronically).
- Is the reply signed by the CA?

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or a transaction that appears to be taxable in another jurisdiction but where the tax due may not have been paid. This allows treaty partners to discover tax evasion in specific cases, as well as general tax evasion schemes. Instances of double non-taxation may also be uncovered in this way.

SEOI may occur where:

- There are grounds for suspecting that there may be a significant tax loss by the treaty partner.
- A person liable to tax obtains a reduction in, or an exemption from, tax in one jurisdiction which would give rise to an increase in tax or to liability to tax in the other jurisdiction.
- Business dealings between a person liable to tax in one jurisdiction and a person liable to tax in the other jurisdiction are conducted through one or more

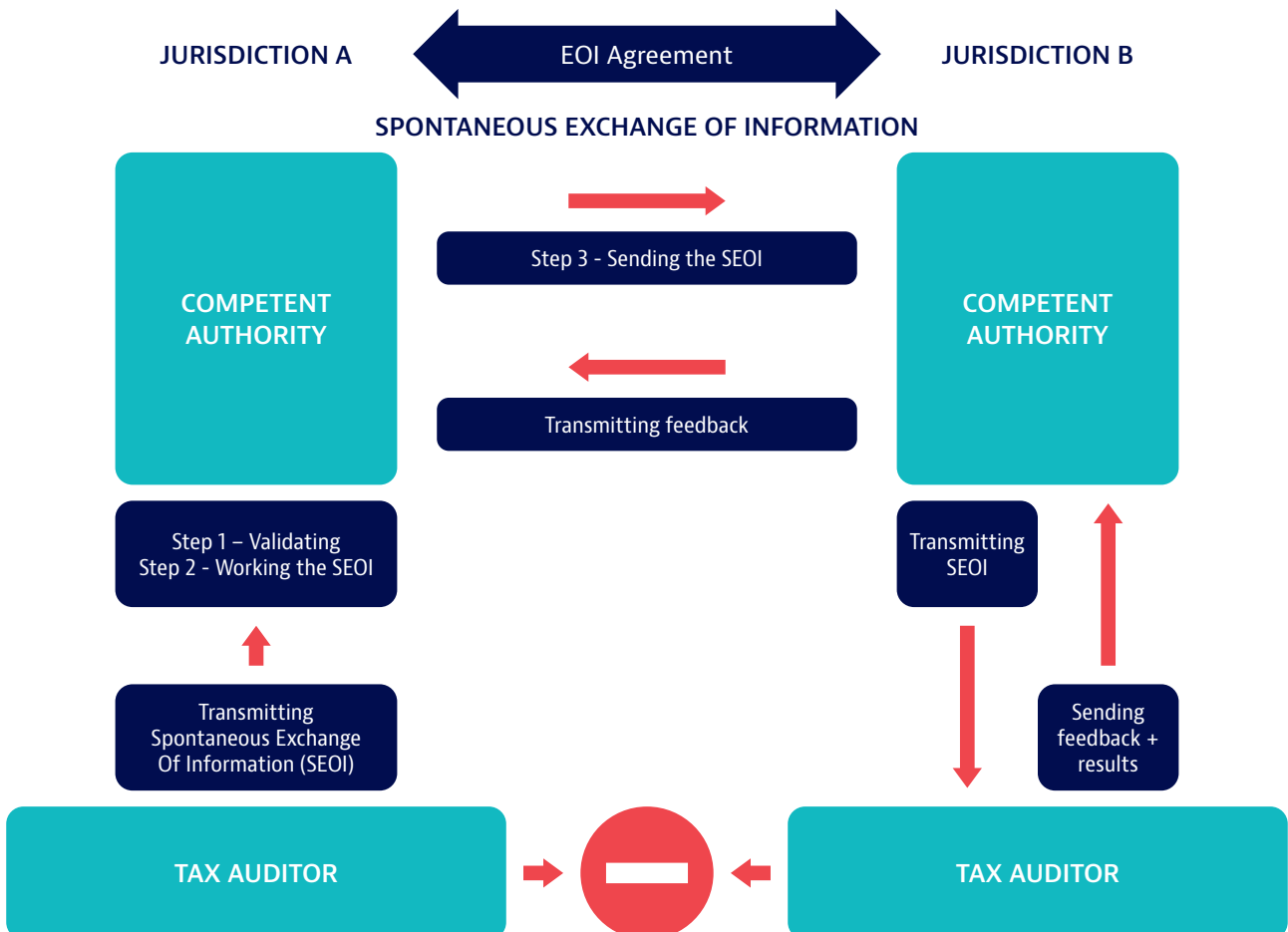
jurisdictions in such a way that a loss of tax may result in one of the jurisdictions, or in both.

- There are grounds for supposing that a loss of tax may result from artificial transfers of profits within groups of enterprises.

In practice, SEOI is initiated and drafted by tax auditors by using the outgoing SEOI form in [Annex C.1. Template for an outgoing spontaneous exchange of information](#). As information can only be sent abroad by a CA, the SEOI must be transferred to the EOI unit.

Once at the EOI unit, Step 1 is to validate the SEOI by checking whether the information is likely to be relevant and whether there is a legal basis to initiate the exchange. If these conditions are not met, the EOI unit will request further information from the tax auditor/officer or inform him/her that the exchange

FIGURE 3. **Sending a spontaneous exchange of information**



cannot take place. Step 2 is to work the SEOI (use of the appropriate form, translation into a foreign language, checking the contact details of the foreign competent authority) before sending it abroad, which is Step 3.

When the foreign competent authority receives the information, it validates its receipt (internal registration, sending of an acknowledgement of receipt) and then can transmit a feedback about the usefulness of the information.

The detailed procedure is described below.

Step 1 - Validating the outgoing spontaneous exchange of information

Comments on the drafter of an outgoing SEOI

Different possibilities exist for the reception of the information. Tax auditors draft:

- directly on the outgoing SEOI using the template in [Annex C.1. Template for an outgoing spontaneous exchange of information](#) which is then checked by the EOI unit; or
- a dedicated document which will serve as a basis for the EOI unit to draft the request using the abovementioned template.

The approach taken in this EOI manual is that the SEOI is drafted by the tax auditor and then checked by the EOI unit. Jurisdictions using the second approach would need to adapt the relevant steps indicated in this EOI manual. Some guidance can be provided to that end by the Global Forum Secretariat if needed.

The validation process can be done either by the EOI unit manager or by an EOI officer to whom the case is assigned.

All proposals for SEOI shall follow the template in [Annex C.1. Template for an outgoing spontaneous exchange of information](#). The proposal must be sent to the EOI unit. The EOI unit manager conducts a preliminary examination to check if the SEOI is valid by verifying whether the requirements are met as described in Table 5.

Step 2 - Working the outgoing spontaneous exchange of information

Comments on monitoring SEOI

The comments made regarding the monitoring of EOI requests are also relevant for SEOI.

At minimum, information that should be contained in the EOI tracking tool includes:

- Reference numbers of both jurisdictions for the exchange;
- Dates the SEOI are sent and received;
- Name of the supplying or receiving jurisdiction as appropriate;
- Summary of the information sent or received.

Once the outgoing SEOI is validated, the following sub-steps apply:

- a) The EOI unit manager assigns the outgoing SEOI to an EOI officer for registration in the EOI tracking tool. The EOI officer creates a new record in the EOI tracking tool and completes all relevant fields [indicate the fields of the EOI tracking tool used by the jurisdiction (e.g. date of the reception from the tax auditor, receiving jurisdiction)].
- b) The EOI officer opens a [hard-copy and/or electronic file for the case using [add “the filing reference generated by the EOI tracking tool” in case an electronic tool is used or “a sequential reference number” in a manual system]].
- c) If the SEOI provided is insufficient, the tax auditor should be informed in writing and requested to provide additional details to allow the information to be sent with [Annex C.2. Outgoing spontaneous exchange of information. Communication with the tax auditor or the field officer](#).
- d) If necessary, the SEOI should be prepared in accordance with the provision in [Translation](#).

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Table 5. **Validation of an outgoing spontaneous exchange of information**

Requirements	Explanation
a) Whether an EOI legal base exists with the receiving jurisdiction.	<p>[The EOI unit manager or the EOI officer to whom the case is assigned] checks the list of EOI agreement entered by [jurisdiction] which is available at Annex A. List of legal bases.</p> <p>If there is no EOI legal base, an EOI officer informs the tax auditor that no information can be sent because of a lack of legal base. Furthermore, where appropriate, the EOI unit manager can inform the [indicate the unit in charge of treaty negotiations (e.g. Tax Treaty Department)] about the need to have a EOI agreement with the foreign jurisdiction.</p>
b) Whether the information should be sent to a different jurisdiction.	<p>[The EOI unit manager or the EOI officer to whom the case is assigned] may consider that the information shall be sent to a different jurisdiction (for example, it is proposed to send the information to the source jurisdiction instead of the residence jurisdiction, where tax consequences could be drawn). In that case:</p> <ul style="list-style-type: none"> ● If an EOI legal base exists, an EOI officer contacts the tax auditor to discuss the issue and agree to send the information to the relevant jurisdiction. ● If there is no EOI legal base, an EOI officer informs the tax auditor that no information can be sent because of a lack of legal base. Furthermore, if appropriate, the EOI unit manager may inform the [indicate the unit in charge of treaty negotiations (e.g. Tax Treaty Department)] about the need to have an EOI agreement with the foreign jurisdiction.
c) Whether the information relates to periods or taxes which are covered by the EOI legal base.	<p>[The EOI unit manager or the EOI officer to whom the case is assigned] checks the provisions of the relevant EOI agreement(s) entered by [name of the jurisdiction] to ensure that the information relates to periods and taxes covered by these EOI agreements. The list of the EOI agreements is available in Annex A. List of legal bases. The EOI unit manager can also consult the [indicate the unit in charge of treaty negotiations (e.g. Tax Treaty Department)].</p> <p>If not, an EOI officer shall discuss with the tax auditor whether there is a legal base for SEOI for the periods or taxes covered.</p> <p>Where several legal bases are applicable with the receiving jurisdiction, it is preferable to use the one which is the most appropriate.</p>
d) Whether the SEOI has been approved by the tax auditor's manager. [if relevant in the jurisdiction]	<p>The tax auditor's manager shall approve the SEOI by checking its relevance and its completeness and by validating the tax auditor's proposal. This control contributes to improve the quality of the SEOI and facilitates the SEOI process.</p> <p>Where the SEOI has not been approved by the tax auditor's manager, [the EOI unit manager or the EOI officer to whom the case is assigned] sends back the proposal to the tax auditor requesting for its approval by the relevant manager.</p>
e) Whether the SEOI is clear, and specific.	<p>The SEOI shall be clear and specific. It shall provide all relevant information, including facts and supporting documentation to assist the receiving jurisdiction and limit subsequent additional requests.</p> <p>Where the SEOI is not clear or complete, [the EOI unit manager or the EOI officer to whom the case is assigned] liaises with the tax auditor to clarify and/or complete the SEOI.</p>

- e) By default, the template in [Annex C.1. Template for an outgoing spontaneous exchange of information](#) asks the receiving CA to provide a feedback on the usefulness of the information provided to help improve future exchanges. In case a feedback would not be required, sentence (b) in item 10 of the outgoing SEOI template should be removed.
- f) The EOI officer labels the records in accordance with the provision in Information security.

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences or documents in the relevant case.

Step 3 – Sending the spontaneous exchange of information

Where all the requirements are met, the SEOI is sent as follows:

- a) The EOI officer verifies the name and contact details of the CA in the receiving jurisdiction.
- b) All supporting documents are attached to the SEOI.
- c) The SEOI is passed to the EOI unit manager who checks it using the checklist in Box 5.
- d) The SEOI is signed by the CA (EOI unit manager or other official with CA status).
- e) The signed SEOI is sent with any attachments by the CA (EOI unit manager) or, on its behalf, by the assigned EOI officer in accordance with the provision in [Means of communication](#).
- f) An acknowledgement is sent by the assigned EOI officer to the tax auditor initiating the SEOI with the reference and date of the sending to the receiving jurisdiction with [Annex C.2. Outgoing spontaneous exchange of information. Communication with the tax auditor or the field officer](#).

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences or documents in the relevant case.

Box 5. Checklist on sending a spontaneous exchange of information

EOI officers and their manager should give careful consideration to ensure the following elements are all fulfilled before sending a SEOI to the receiving jurisdiction:

- Is there a reference to an EOI agreement providing for SEOI in force upon which the information is sent (MAAC, DTC, regional instrument)?
- Have you mentioned and checked the accuracy of the names and contact details of the CA in the receiving jurisdiction?
- Have you identified the identity of the person(s) to whom the information relates: name, date of birth (for individuals), marital status (if relevant), Tax Identification Number (TIN) and address (including e-mail or internet addresses, if known)?
- Have you identified the person from whom the information was obtained and, if relevant, their relationship to the person(s) to whom the information relates: name, marital status (if relevant), TIN (if known), addresses (including e-mail or internet addresses if known), registration number in case of a legal entity (if known), flow charts, diagrams or other documents illustrating the relationships between the persons involved)?
- If the information involves a payment or transaction via an intermediary have you mentioned the name, addresses of the intermediary, including, where bank information is involved, the name and address of the bank branch as well as the bank account number?
- Have you explained the reasons why the information was gathered and why the information is thought to be of interest to the receiving jurisdiction (for money amounts indicate the currency)?
- Have you indicated how the information was obtained and identify the source of the information provided, e.g. tax return, third-party information?
- Is a feedback requested on the usefulness of the information (if so, sentence (b) in item 10 of the outgoing SEOI template must be present)?
- Is there a treaty stamp or a watermark on all records that the use of the information provided is subject to the tax confidentiality provisions of the EOI agreement?
- Is the SEOI signed by the CA?

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2.1.2.2. Receiving a spontaneous exchange of information

Incoming SEOI may be valuable to discover tax evasion cases. This form of co-operation may develop over time as the supplying and receiving jurisdictions reciprocate and provide feedbacks on the usefulness of the information provided. With main partners, specific cases for SEOI may be agreed through a competent authority agreement or a memorandum of understanding to list specific cases where a SEOI shall be performed.

Step 1 - Logging the incoming spontaneous exchange of information

Where a SEOI is received from a supplying jurisdiction, the following procedure applies:

a) Incoming SEOI received from a foreign CA are addressed to the CA. Where an incoming SEOI is

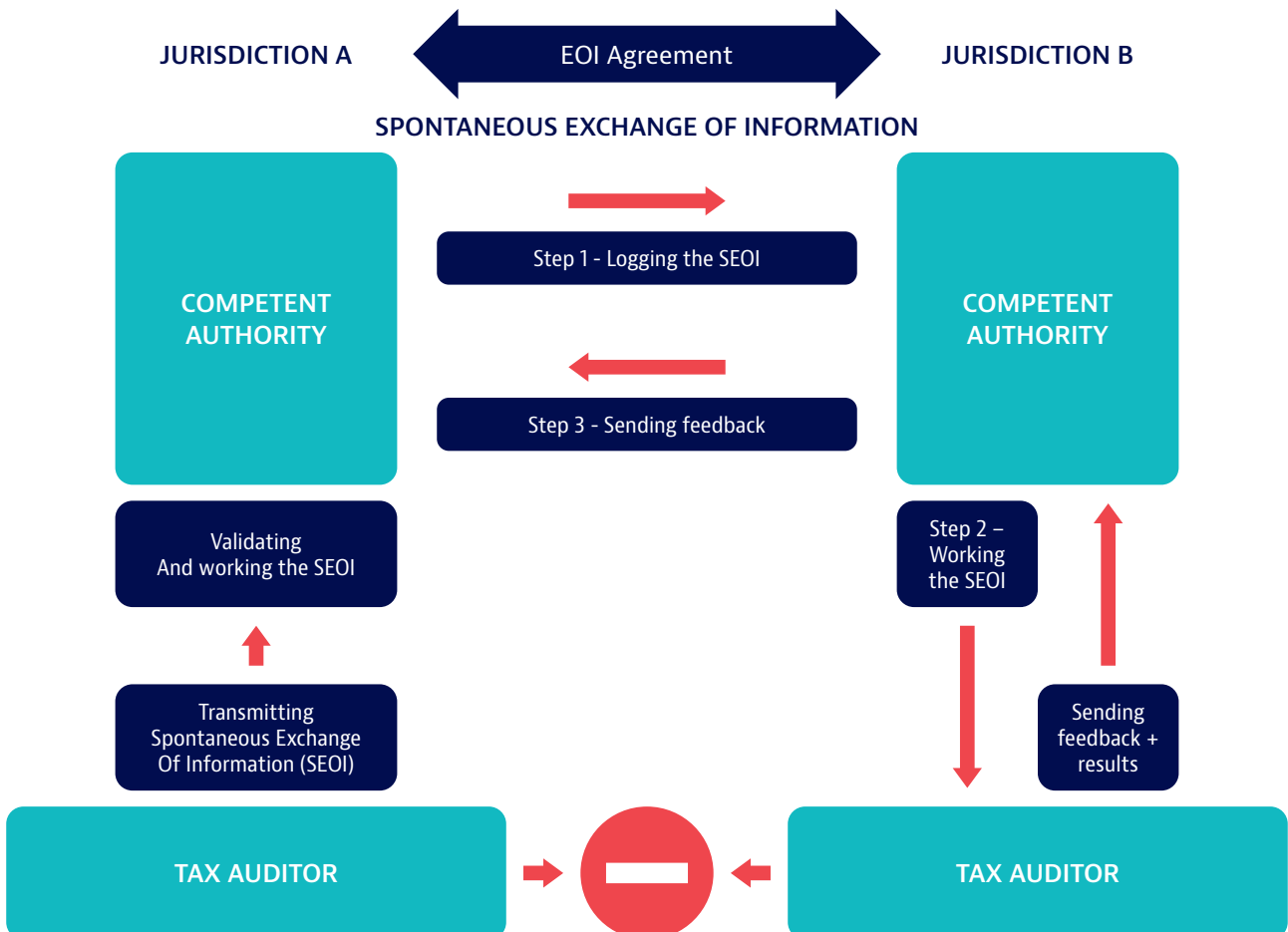
addressed to a CA, who is not the EOI unit manager, it should be delivered directly to the EOI unit on the day it is received:

- SEOI received by mail must not be opened by the mail clerk. The latter stamps the request's envelop with the date of receipt and transmit it securely and immediately to the EOI unit manager. [Describe how the reply letter must be transmitted securely to the EOI unit manager].
- SEOI by email should be filed in a dedicated folder for the EOI unit manager [mention the name of the folder].

b) The EOI unit manager verifies the name and contact details of the CA in the supplying jurisdiction.

c) The EOI unit manager checks the potential usefulness of the information provided spontaneously:

FIGURE 4. Receiving a spontaneous exchange of information



- The information may reveal a tax loophole requiring a review of policy and legislation. In that case, subject to anonymisation, the information may be shared with [\[indicate the relevant policy division\(s\)\]](#).
 - The information may be case-specific, in which case it may be forwarded to the field officer or the tax auditor in charge of the taxpayer concerned or involved.
- d) The EOI unit manager assigns the SEOI to an EOI officer for registration in the EOI tracking tool. The EOI officer creates a new record in the EOI tracking tool and completes all relevant fields: [\[to be completed according to the fields to complete in the tracking tool \(e.g. national reference number, date of the reception, supplying jurisdiction\)\]](#).
- e) The EOI officer opens a [\[hard-copy or electronic\]](#) file for the incoming SEOI using [\[add “the filing reference generated by the EOI tracking tool” in case an electronic tool is used or “a sequential reference number” in a manual system\]](#).
- f) The EOI officer labels the incoming SEOI in accordance with the provision in [Information security](#).
- g) Once the new case has been created, an acknowledgement letter ([Annex C.3. Incoming spontaneous exchange of information. Template for acknowledgment letter to the supplying jurisdiction](#)) is prepared by the EOI officer for signature of the CA (EOI unit manager or another official with CA status). This letter provides the EOI reference number allocated to the SEOI to further facilitate communications on the case.
- h) The acknowledgement letter is sent to the supplying CA by the receiving CA (EOI unit manager or another official with CA status) or, on its behalf, by the assigned EOI officer within 7 days from the receipt of the incoming SEOI in accordance with the provision in [Means of communication](#).

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences and documents in the relevant case.

Step 2 – Working the spontaneous information

Comments on wider use of treaty-exchanged information

Refer to the comments made in [Step 4 - Obtaining a reply to the outgoing request for information](#).

Once the incoming SEOI is logged, the following procedure is carried out:

- a) The EOI officer provides the information to the relevant tax auditor as soon as possible.
- If necessary, the information received spontaneously is translated in accordance with the provision in [Translation](#).
 - The EOI officer prepares:
 - a cover letter ([Annex C.4. Incoming spontaneous exchange of information. Template letter to auditor accompanying information received from supplying jurisdiction](#)) signed by the EOI unit manager; and
 - the impact assessment form ([Annex F.1. Impact assessment form](#)) to be filled by the tax auditor when the tax audit will be completed.
 - The EOI officer forwards the information with the cover letter and the impact assessment form to the relevant tax auditor in accordance with the provision in [Means of communication](#). When transmitting the information to the relevant tax auditor, the EOI officer is responsible for ensuring that only the specific information needed by the particular auditor is forwarded. Bulk information should not be forwarded.
- b) If the received information may be relevant for other purposes than tax purposes, the CA (EOI unit manager or another official with CA status) may request the authorisation from the CA of the supplying jurisdiction. To that end, the assigned EOI officers prepare a letter by using the template [Annex C.5. Incoming spontaneous exchange of information. Template for a request for wider use of the exchanged information](#).

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- c) The request to use the exchanged information for other purposes is reviewed, signed and sent by the CA (EOI unit manager or another official with CA status) or sent, on its behalf, by an EOI officer.

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences and documents in the relevant case file.

Step 3 – Sending feedback

Comments on feedback

Refer to the comments made in [Step 5 - Sending feedback](#).

Feedbacks shall be provided to the supplying jurisdiction spontaneously where deemed relevant and in all cases when requested. The following procedure applies:

- a) The EOI officer uses the impact assessment form received from the tax auditor to draft a feedback by using the [Annex F.2. Feedback](#)
- b) The EOI unit manager reviews the draft feedback prepared by the EOI officer.
- c) The CA (EOI unit manager or another official with CA status) signs the feedback letter.
- d) The feedback letter to the foreign CA is sent by the CA (EOI unit manager or another official with CA status) or, on its behalf, by the assigned EOI officer.

The assigned EOI officer registers the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences and documents in the relevant case.

2.1.3. Using simultaneous tax examination

Comments on the national co-ordinator of simultaneous tax examination

The jurisdiction should appoint at least one STE co-ordinator, responsible for the overall co-ordination

and management of STE activities, in particular for the STEs that are initiated by their own country. An STE co-ordinator takes care of the different tasks involved in STE management: selection, initiation, co-ordination and reporting.

In general, the STE co-ordinator is part of the EOI unit (but he/she can also be part of another department, e.g. tax audit). The STE co-ordinator shall have a CA status. Therefore, it is recommended to provide this information for the CA database.

The usual role and responsibilities of the national STE co-ordinator are reproduced in this EOI manual.

An STE is an arrangement between two or more jurisdictions to examine, at the same time, the tax affairs of a person or persons in which they have a common or related interest. Each jurisdiction conducts such examination from its own territory but with the main objective of exchanging any relevant information obtained with the other jurisdiction(s). At the request of a jurisdiction, two or more jurisdictions may therefore consult together for the purposes of determining cases and procedures for an STE. There is no obligation to accept a request for tax examination from another jurisdiction.

In [\[name of the jurisdiction\]](#), an STE co-ordinator with CA status is established within the EOI unit. The STE co-ordinator:

- is the first point of contact for STE enquiries, either from within [\[name of the tax administration\]](#) or from foreign tax administrations;
- is responsible for the overall co-ordination of STEs in [\[name of the jurisdiction\]](#);
- ensures good communication with foreign STE co-ordinators, and with national tax auditors and relevant unit within [\[name of the tax administration\]](#);
- actively promotes STEs within [\[name of the tax administration\]](#) using for example intranet information pages, training and meetings for tax audit directors, managers and auditors;
- ensures the correct implementation of STE rules and procedures;

- is responsible for the production of reports (for each meeting, and in the end the final report);
- takes care of processing the STEs in the fastest and most efficient timeframe.

An STE can only be used in the context of a tax audit or investigation.

Step 1 – Selecting a simultaneous tax examination

Comments on selecting a simultaneous tax examination

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An STE should be considered when active collaboration with another jurisdiction is necessary to get an overall view of the facts and circumstances that determine the tax liability of the taxpayer(s) involved.

The cases for potential STEs may be identified in several ways, for example:

- during national audits;
- during national risk analysis process when selecting cases for national or regional audit plans and projects;
- by using the expertise of the fraud investigators or anti-fraud units;
- by using the individual analysis of the tax position of large and medium sized companies or groups (e.g. shifting profit allocation methods, or transfer of a business activity).

At national level

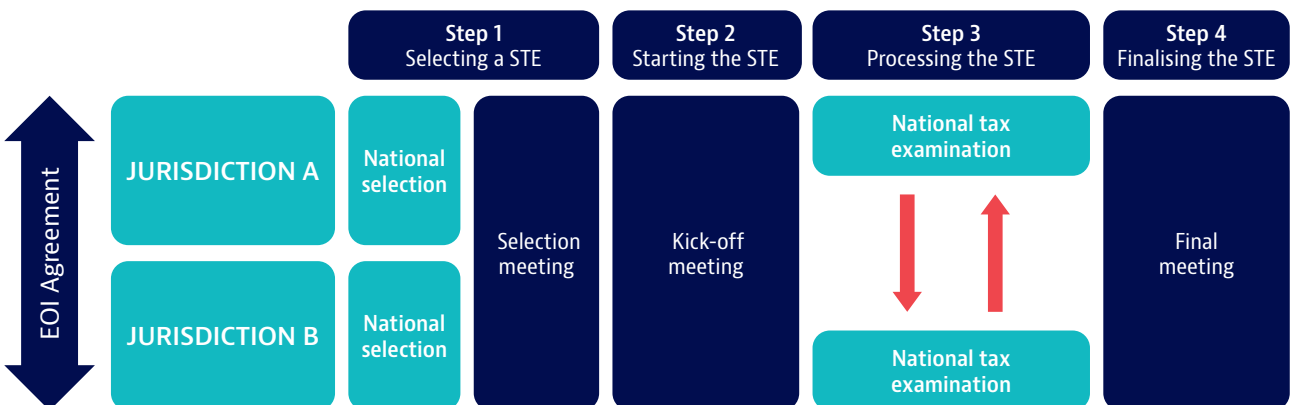
The STE co-ordinator shall be proactive in the case

Box 6. Checklist on selecting cases for a simultaneous tax examination

The STE co-ordinator shall use the following elements to check if a case is suitable for an STE before sending an STE request to a foreign jurisdiction’s CA or STE co-ordinator:

- Is the requesting jurisdiction confident that the tax examination with a foreign jurisdiction will largely contribute to the timely and successful resolution of a domestic tax case?
- How important and significant is the case? A jurisdiction should not make a request in minor cases. It should be noted, however, that the amount of tax involved should not be the only factor to consider when determining whether or not the case is minor. Other factors may include, for example, the extent of the compliance risk (e.g. there may be several similar cases of this nature), the assessment of whether the taxpayer is involved in aggressive tax planning, the potential to assist in the resolution of other domestic cases, etc.
- Does the tax administration of the requesting jurisdiction have sufficient resources to fund the official(s) nominated to participate in the STE?
- Is the tax administration of the requesting jurisdiction aware of the policy of the requested jurisdiction regarding STEs?

FIGURE 5. Using simultaneous tax examination



Manual for the competent authority and the exchange of information unit

selection by setting up regular meetings with [indicate the relevant audit unit: for example the tax audit department, large business unit, high-net-worth individuals unit, regional tax audit directorate] and using tools and risk management programmes for the selection of risks and audit targets [to be described].

When receiving an STE proposal from a tax auditor (with an STE proposal – [Annex D.1. Template to propose](#)

a simultaneous tax examination), the STE co-ordinator checks if the case is suitable for an STE before proposing a selection meeting to other foreign STE co-ordinators. Box 6 provides a checklist to ensure an STE has an added-value and if the process can deliver the operational aims. Box 7 gives some examples of criteria to consider when selecting potential STE cases.

At the international level

[Name of the jurisdiction] can initiate an STE by inviting relevant foreign CA(s) to take part to it or it can be invited to participate to an STE proposed by a foreign CA. Table 6 presents the procedures applicable to an STE.

Box 7. Criteria to consider when selecting potential cases for simultaneous tax examination

The following criteria may be taken into account when selecting potential STE cases:

- a history of taxpayer non-compliance, missing traders or planned bankruptcies, or other types of links to tax fraud cases;
- suspicions of non-payment of the correct amount of direct and/or indirect taxes in another jurisdiction;
- risks related to specific business sectors (e.g. digital economy, trade in second-hand cars, mobile phones, construction sector with cross-border workers);
- suspicious movements of goods or transaction flows that appear to have no business purpose;
- loss of payroll taxes (withholding taxes) in relation to cross-border workers, foreign labour and employee leasing;
- existence of transactions involving non-cooperative jurisdictions, no or low tax jurisdictions, or preferential treatment;
- the transfer of profits from one jurisdiction to another as a result of transactions between associated companies that do not respect the arm's length principle, i.e. the use of different types of transfer pricing methods to avoid taxes;
- concerns about the real substance of a company's activities in another jurisdiction;
- indications of understated profits or turnover by companies in other jurisdictions;
- concerns about the tax residence of a person or company.

Box 8. Preliminary examination of cases for simultaneous examination

The following issues should be addressed in the preliminary examination of an STE case:

- review of tax history of the taxpayers to examine, compliance information, registration information, previous audits, compliance of tax returns and payments;
- information on ownership, board members, company management, group structure (history/background);
- activities (information on sectors and branches), assets;
- review of financial statements;
- review of tax returns (e.g. direct and indirect taxes);
- review of relevant decisions and judgements;
- collection and review of information available from other sources (third-party information, internet, newspapers, etc.);
- identification of relevant tax problems and risk areas;
- identification of ongoing or forthcoming criminal investigations;
- overview of information exchanged relevant to the audit period;
- other particular circumstances of importance to the STE.

Table 6. **Applicable procedures to select a simultaneous tax examination**

Situations	Applicable procedures
<p>[Name of the jurisdiction] is the initiating jurisdiction</p>	<p>a) The STE co-ordinator invites all the STE co-ordinators from the concerned jurisdictions listed in the STE proposal drafted by the tax auditor for a selection meeting [describe the process whether the selection meeting is virtual or physical – financial framework should be described for the costs]. The STE co-ordinator:</p> <ul style="list-style-type: none"> • prepares the invitation to the meeting and the draft agenda; • sends practical information (schedule, venue etc.) and information on how the participating jurisdictions should prepare for the meeting; • asks the participating jurisdictions to provide the appropriate CA mandate (Annex D.2. Simultaneous tax examination. Template to provide a competent authority mandate). <p>b) The STE co-ordinator, with the relevant tax auditors, shall collect and analyse internal and external information available for their own taxpayers before the meeting. Box 9 provides guidance for the preliminary examination.</p> <p>c) The STE co-ordinator provides a CA mandate of competent authority to the tax auditors involved in the STE (Annex D.2. Simultaneous tax examination. Template to provide a competent authority mandate).</p> <p>d) During the selection meeting, the STE co-ordinator:</p> <ul style="list-style-type: none"> • confirms that participating auditors have proof of their CA status; • gathers presentations of the findings in the pre-audit phase in each participating jurisdiction; • compares the collected information; • leads the discussion whether an STE would be the most appropriate and successful tool.
<p>[Name of the jurisdiction] is a participating jurisdiction</p>	<p>a) After receiving an invitation from the initiating jurisdiction, the STE co-ordinator shall acknowledge receipt and confirms the attendance of [name of the jurisdiction] or not.</p> <p>b) In case of participation, the STE co-ordinator organises the attendance [process to be described, e.g. authorisation to travel, travel and accommodation arrangements, costs reimbursements].</p> <p>c) The STE co-ordinator, with the involved tax auditors, collects and analyses internal and external information available for their own taxpayers before the meeting. Box 9 provides guidance for the preliminary examination.</p> <p>d) The STE co-ordinator prepares a presentation for the meeting and send it in advance to the STE co-ordinator of the initiating jurisdiction.</p>

Step 2 – Starting the simultaneous tax examination

Comments on the kick-off of a simultaneous tax examination



After the selection meeting, a kick-off meeting should be set up. When a selection meeting has already

resulted in firm agreements on how the STE should be carried out a kick-off meeting might not be necessary.

The purpose of the kick-off meeting is to:

- develop the examination project and exchange additional information on the taxpayers;
- get an overview of the case;

- discuss the overall approach and strategy of the STE.

The minutes of the kick-off meeting should be drafted during the meeting so that all participants agree on the content. Completing them during the meeting would allow participants to ask for clarification and avoid misunderstandings. It is important to remember that there are cultural differences and differences in methods and procedures in each jurisdiction, so everything should be clear and agreed from the start.

Table 7 describes the procedures to be followed where an STE initiated or not by [name of the jurisdiction] is launched.

Step 3 – Processing the simultaneous tax examination

Comments on the processing of the simultaneous tax examination

After the selection/kick-off meeting, assigned auditors of the participating jurisdictions can carry out tax audits, each working in their own jurisdiction. The success of the STE depends on a good project plan and communication between the auditors of the participating jurisdictions who are given CA Status for this audit. It is important that auditors always keep

Table 7. **Applicable procedures to start a simultaneous tax examination**

Situations	Applicable procedures
[Name of the jurisdiction] is the initiating jurisdiction	<p>a) The STE co-ordinator invites the STE co-ordinators of the jurisdictions that have agreed to participate for a kick-off meeting [describe the process whether the selection meeting is virtual or physical – Financial framework should be described for the costs]:</p> <ul style="list-style-type: none"> • prepares the invitation to the meeting and the draft agenda; • sends practical information (schedule, venue etc.) and information on how the participating jurisdictions should prepare for the meeting; • asks the participating jurisdictions to provide the appropriate CA mandate. <p>b) During the kick-off meeting, the STE co-ordinator:</p> <ul style="list-style-type: none"> • confirms that participating auditors have proof of their CA status; • displays presentations of the findings in the pre-audit phase in each participating jurisdiction; • reaches an agreement on the project plan for the STE. The STE co-ordinator must use the project plan template in Annex D.3. Simultaneous tax examination. Project plan; • follows up tasks for each participant (who will take care of what, and when?). <p>c) The STE co-ordinator is responsible for drafting the minutes of the kick-off meeting and preferably gets them approved at the end of the meeting.</p> <p>d) For supporting good communication and a common understanding of the competence of each participant to exchange information (CA status), the STE co-ordinator prepares a table with communication details of the group and shares it with all participants (Annex D.5. Simultaneous tax examination. Table of participants).</p>
[Name of the jurisdiction] is a participating jurisdiction	<p>a) [Name of the jurisdiction] prepares a brief presentation for the kick-off meeting based on the information gathered about its own taxpayer(s). This information is communicated by the STE co-ordinator to the initiating jurisdiction before the meeting.</p> <p>b) [Name of the jurisdiction] decides on who will attend the kick-off meeting and the STE co-ordinator provide a CA status to the participating tax auditors using the template in Annex D.2. Simultaneous tax examination. Template to provide a competent authority mandate.</p>

their own STE co-ordinator informed of the progress of their own audit and that they contact the STE co-ordinator immediately if any problems arise.

EOI procedures are carried out by the tax auditors with a CA Status in accordance with the provisions described for an exchange of information on request (2.1.1.1 Sending a request for information or 2.1.1.2. Receiving a request for information) or a spontaneous exchange of information (2.1.2.1. Sending a spontaneous exchange of information or 2.1.2.2. Receiving a spontaneous exchange of information). The STE co-ordinator must always be informed about the EOI carried out by the tax auditors [process to be described, e.g. monthly meeting between the STE co-ordinator and the tax auditors].

During the audit, the STE co-ordinator should immediately be contacted by the tax auditors if any problem occurs. The STE co-ordinator shall act as an intermediary, discussing with its counterparts to resolve any issues.

Table 8. **Applicable procedures to finalise a simultaneous tax examination**

Situations	Applicable procedures
[Name of the jurisdiction] is the initiating jurisdiction	<p>a) The STE co-ordinator shall invite all STE co-ordinators of the jurisdictions that have agreed to participate for a final meeting [describe the process whether the final meeting is virtual or physical – Financial framework should be described for the costs]. The STE co-ordinator:</p> <ul style="list-style-type: none"> • prepares the invitation to the meeting and the draft agenda; • sends practical information (schedule, venue etc.) and information on how the participating jurisdictions should prepare for the meeting; • asks the participating jurisdictions to provide the appropriate CA mandate; • asks the participating jurisdictions to send their contributions for the final report to the STE co-ordinator of [name of the jurisdiction] within the specified deadline. [The final report template in Annex D.4. Simultaneous tax examination. Final report could be used by participating jurisdictions to draft their contributions]. <p>b) The STE co-ordinator compiles the contributions into a complete draft final report (Annex D.4. Simultaneous tax examination. Final report). This complete final report outlines the outcomes of the different national tax examinations. After the report is finalised, it is distributed to the participants in the STE and the involved STE co-ordinators.</p> <p>c) During the final meeting, the STE co-ordinator of [name of the jurisdiction] shall:</p> <ul style="list-style-type: none"> • confirm that participating auditors have proof of their CA status; • display presentations of the findings of the STE; • reach an agreement on the final report for the STE. The STE co-ordinator uses the final report template in Annex D.4. Simultaneous tax examination. Final report.
[Name of the jurisdiction] is a participating jurisdiction	<p>a) [Name of the jurisdiction] prepares a contribution for the final meeting [by using the final report template in Annex D.4. Simultaneous tax examination. Final report]. The STE co-ordinator must receive result indicators [amount of tax and penalties, revenue losses prevented, tax avoidance scheme detected] of the STE in [name of the jurisdiction] from the tax auditors [process to be described]. The impact assessment in Annex F.1. Impact assessment form can be used.</p> <p>b) This contribution is communicated by the STE co-ordinator to the STE co-ordinator of the initiating jurisdiction in advance of the final meeting.</p> <p>c) [Name of the jurisdiction] shall decide who will attend the final meeting and the STE co-ordinator shall provide a CA status to the participating tax auditors (Annex D.2. Simultaneous tax examination. Template to provide a competent authority mandate).</p>

Step 4 – Finalising the simultaneous tax examination

Comments of the finalisation of the simultaneous tax examination

The final stages of an STE are the final meeting, and the production of the final report and the results indicators document.

- The final meeting is an opportunity for the STE co-ordinator and the STE auditors from the participating jurisdictions to meet and discuss the conclusions to be drawn from the STE. The final meeting provides the overall analysis of the STE. It is an opportunity to check whether the objectives of the STE have been achieved. The objectives of the meeting are (among others) to:
 - review the strategic agreements that were made at the beginning of the project;
 - assess whether the timetable set out in the STE audit plan and agreed at the kick-off meeting has been met;
 - review the STE project plan, audit techniques, tax adjustments, other results;
 - agree on indicators of success;
 - assess administrative co-operation, e.g. the quality and timing of the information exchanged;
 - approve the final report.
- The final report contains an overview of the results and conclusions of the STE. It should be completed and submitted by the initiating jurisdiction, in principle within one month after the final meeting.

When all participating jurisdictions finalise their tax examination, the tax auditors of [name of the jurisdiction] shall consult the STE co-ordinator on the decision to close down the STE. Table 8 describes the applicable procedures to finalise an STE.

2.1.4. Using tax examination abroad

Comments on the participation of authorised tax officials in a tax examination abroad

The participation of authorised foreign tax officials in a tax examination conducted by the requested jurisdiction may be passive or active.

- Some jurisdictions may allow only passive participation of foreign tax officials in a tax audit. In this case, the participation of foreign tax officials will be limited to observing the relevant parts of the tax audit and liaising directly with the tax officials of the requested jurisdiction. Foreign tax officials are not allowed to question taxpayers or other persons directly in the context of this form of tax audit abroad.
- Other jurisdictions may allow the active participation of authorised foreign tax officials. In these circumstances, some jurisdictions may, for example, allow foreign tax officials to conduct interviews and review the records of the taxpayers under audit.

The decision to allow or reject a foreign tax official to be present in a tax examination conducted by the requested jurisdiction rests exclusively with the CA of the requested jurisdiction.

This sub-section is not relevant for jurisdictions where the domestic law or practice does not allow for TEA.

Jurisdictions may opt for a TEA, which involves the representatives of the CA of one jurisdiction being allowed by the CA of the requested jurisdiction to be present at the appropriate part of a tax examination in the requested jurisdiction. However, the CA of the requested jurisdiction makes all the decisions with respect to such examination including the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions to which such examinations shall adhere to. There is no obligation to accept the presence of a foreign tax auditor.

TEA can only take place in the context of a tax audit or investigation.

2.1.4.1 – Sending a request for a tax examination abroad

Figure 6 shows the different steps from the need of a tax auditor to go abroad for a tax examination, going through the process of the request by the CAs of the requesting and requested jurisdictions and finally the attendance abroad by the tax auditor.

The following procedures must be followed where a proposition for a TEA is contemplated.

Step 1 – Validating the outgoing request for a tax examination abroad

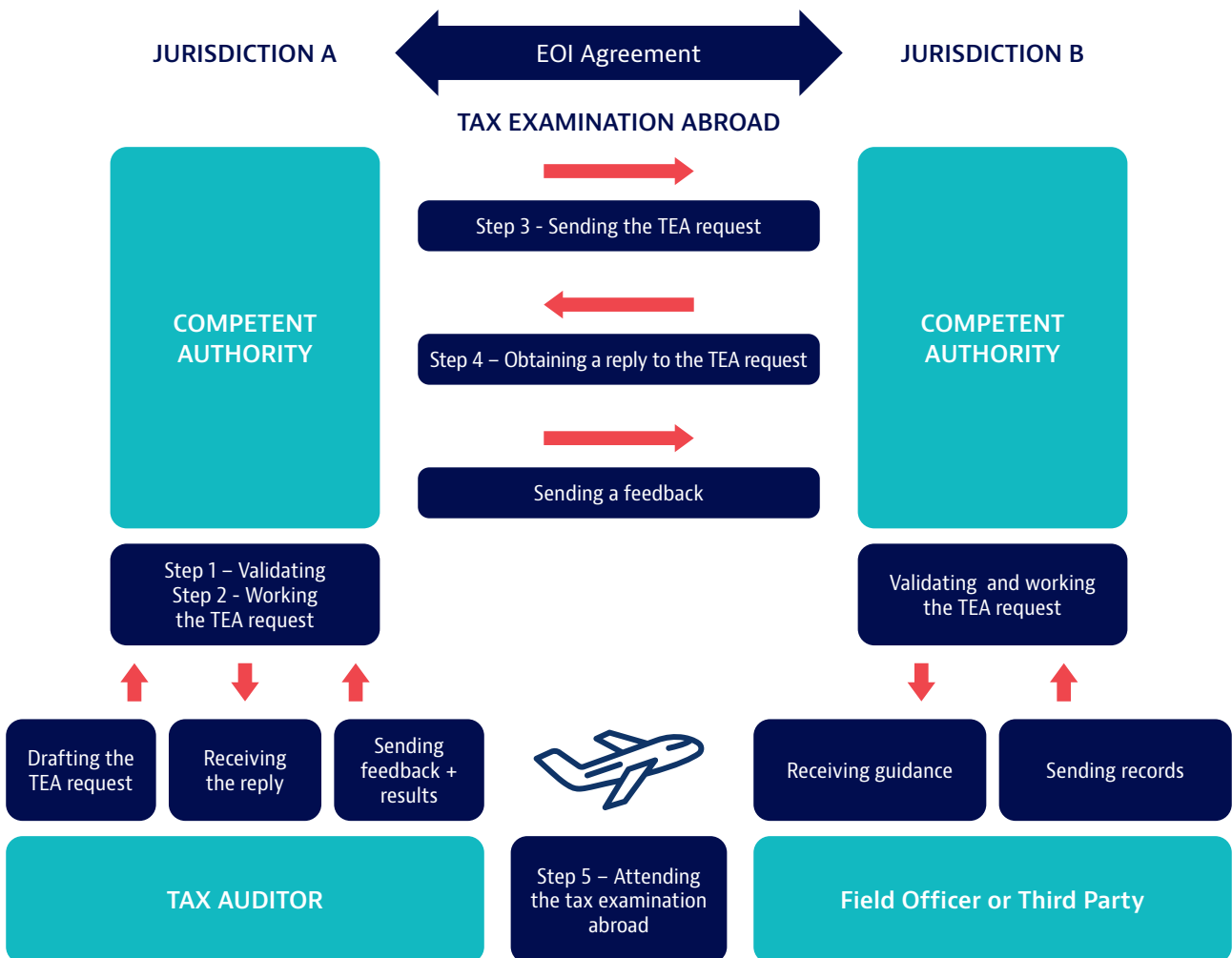
Comments on the drafter of a request for a tax examination abroad

Before requesting a TEA, internal means and the regular EOIR process should have been exhausted in order to avoid an additional burden for the requested jurisdiction. The request for a TEA should follow a prior EOIR by the requesting jurisdiction or the receipt of a SEOI. It may be considered appropriate to make an EOIR and request for TEA at the same time in certain circumstances (e.g. where time is limited).

Different possibilities exist for the reception of the request:

- auditors draft the request directly on the outgoing TEA template ([Annex E.1. Template for an outgoing tax examination abroad](#)) which is then checked by the EOI unit; or

FIGURE 6. Sending a request for a tax examination abroad



- auditors draft a dedicated document which will serve as a basis for the EOI unit to draft the request.

The approach taken in this EOI manual is that the request for TEA is drafted by the tax auditor and then checked by the EOI unit. Jurisdictions using the second approach would need to adapt the relevant steps indicated in this EOI manual.

All requests for TEA shall follow the template [Annex E.1. Template for an outgoing tax examination abroad](#).

The request must be sent to the EOI unit. The EOI unit manager conducts a preliminary examination to check if the request is valid by verifying whether the requirements are met as described in Table 9.

Step 2 - Working the outgoing request for tax examination abroad

Comments on monitoring incoming and outgoing request for tax examination abroad

A monitoring system should be in place to register and

monitor incoming and outgoing TEA requests.

At minimum, some of the information that should be contained in the EOI tracking tool is:

- Reference numbers of both jurisdictions for the exchange;
- Dates the TEA requests are sent and received;
- Dates of any subsequent correspondence with the requesting or requested jurisdiction as appropriate (e.g. request for clarifications);
- Name of the requesting or requested jurisdiction as appropriate;
- Date of the tax examination abroad.

Additional information can be provided:

- Status of the case (open/closed/reopened);
- Identity details for each person or entity including name, address, date of birth, and taxpayer identification number;
- Details of contact in requesting or requested jurisdiction as appropriate (name, phone number and e-mail address);

Table 9. **Validation of an outgoing request for tax examination abroad**

Requirements	Explanation
a) Whether a prior EOIR has been made or an SEOI received.	The EOI unit manager checks if a request for information has been made (or a spontaneous exchange of information received) prior to the TEA request and the reasons why the remaining information should be collected through a TEA (e.g. need to interview the holder of the information). Box 9 provides a checklist to help the EOI unit manager and officers consider the relevance of the TEA request.
b) Whether an EOI legal base exists with the requested jurisdiction.	The EOI unit manager checks the list of EOI agreement entered by [name of the jurisdiction] which is available at Annex A. List of legal bases . If there is no EOI legal base, an EOI officer informs the tax auditor that no request for TEA can be done because of a lack of legal base. Furthermore, where appropriate, the EOI unit manager can inform the [indicate the unit in charge of treaty negotiations (e.g. Tax Treaty Department)] about the need to have an EOI agreement with the foreign jurisdiction.
c) Whether the request has been approved by the tax auditor's manager. [if relevant in the jurisdiction]	The tax auditor's manager shall approve the TEA request by checking its relevance and its completeness and by validating the tax auditor's approach. This control contributes to improve the quality of the TEA request and facilitates the TEA process. Where the TEA request has not been approved by the tax auditor's manager, then the EOI unit manager instructs an EOI officer to send back the request to the tax auditor requesting for its approval by the relevant manager.

- EOI officer assigned to the exchange;
- Actions taken;
- Last action date;
- Actions due;
- Reminder for next action due.

Once the TEA request is validated, the following sub-steps apply:

- a) The EOI unit manager assigns the TEA request to an EOI officer for registration in the EOI tracking tool. The EOI officer creates a new record in the EOI tracking tool and completes all relevant fields: [indicate the fields of the EOI tracking tool used by the jurisdiction (e.g. date of the reception from the tax auditor, requested jurisdiction, etc.)].
- b) The EOI officer opens a [hard-copy or electronic] file for the request using [add “the filing reference generated by the EOI tracking tool” in case an electronic tool is used or “a sequential reference number” in a manual system].
- c) If the TEA request provided is insufficient, the tax auditor should be informed in writing and requested to provide additional details to allow the request to be sent with [Annex E.3. Outgoing tax examination abroad. Communication with the tax auditor or the field officer](#).
- d) If the TEA request is already drafted on the outgoing TEA template ([Annex E.1. Template for an outgoing tax examination abroad](#)), the EOI officer can use the Box 9 to ensure all required elements are fulfilled before sending the request for review to the EOI unit manager. If necessary, the outgoing TEA request shall be translated and be prepared in accordance with the provision in Translation.
- e) If the EOI request isn't already drafted on the outgoing TEA template ([Annex E.1. Template for an outgoing tax examination abroad](#)) in accordance with the provision in Translation, the EOI officer shall complete the form and especially file:
 - The item 5 by adding the reference of the prior EOIR or SEOI;
 - The item 19 by adding the request for a tax examination abroad as further requirements with:
 - The reasons and motives for the request;
 - The special reasons why the physical presence of tax official(s) is crucial;
 - The names of the authorised officers and the instrument of authorisation;
 - If applicable, details of the specific issues requested to be examined;
 - If applicable, details of the preferred timing of the tax examination; and
 - Any other details that may be applicable in the nominated case.
- f) The EOI officer can use the Box 10 to ensure all required elements are fulfilled before sending the request for review to the EOI unit manager.

Step 3 - Sending the request for tax examination abroad

Where all the requirements are met, the TEA request is sent as follows:

- a) The EOI officer verifies the name and contact details of the CA in the requested jurisdiction.
- b) All supporting documents are attached to the request.
- c) The TEA request is signed by the CA (EOI unit manager or other official with CA status).
- d) The signed request is sent with any attachments by the CA (EOI unit manager) or, on its behalf, by the assigned EOI officer.
- e) An acknowledgement is sent to the tax auditor/office initiating the TEA request with the reference and date of the sending to the requested jurisdiction using [Annex E.3. Outgoing tax examination abroad. Communication with the tax auditor or the field officer](#).

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The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences and documents in the case file. The EOI officer also tracks progress of the TEA request with the EOI tracking tool by requesting by phone or email the foreign CA a progress report:

- after 30 days, if an acknowledgement of the request has not been received; or
- at regular intervals thereafter, depending on the circumstances.

Box 9. Checklist on deciding a tax examination abroad

The EOI officers and their manager should give careful consideration to ensure the following elements are all fulfilled before sending a TEA request to the requested jurisdiction's CA:

- Is the [name of tax administration] confident that the tax examination in the foreign jurisdiction will largely contribute to the timely and successful resolution of a domestic tax case?
- Could the domestic tax case be efficiently and appropriately resolved using other methods?
- How important and significant is the case? A jurisdiction should not make a TEA request in minor cases. It should be noted, however, that the amount of tax involved should not be the only factor to consider when determining whether the case is minor or not. Other factors may include, for example, the extent of the compliance risk (e.g. there may be several similar cases of this nature), the assessment of whether the taxpayer is involved in aggressive tax planning, the potential to assist in the resolution of other domestic cases, etc.
- Does the [name of tax administration] has sufficient resources to fund the official(s) nominated to participate in the TEA?
- Is the [name of tax administration] aware of the policy of the requested jurisdiction regarding TEA?
- What are the statutory minimum record-keeping requirements for taxpayers in the requested jurisdiction?

Step 4 - Obtaining a reply to the outgoing request for tax examination abroad

The following sub-steps apply when a reply to a TEA request is received from a requested jurisdiction:

- a) Replies received from a foreign CA are addressed to the CA. Where the reply is addressed to a CA, who is not the EOI unit manager, it should be delivered directly to the EOI unit on the day it is received:
 - Replies by mail must not be opened by the mail clerk. The mail clerk stamps the reply's envelop with the date of receipt and transmit it securely and immediately to the EOI unit manager. [Describe how the reply letter must be transmitted securely to the EOI unit manager].
 - Replies by email should be filed in a dedicated folder for the EOI unit manager [to mention the name of the folder].
 - The EOI unit manager provides the reply to the assigned EOI officer for registration in the EOI tracking tool: [indicate the fields of the EOI tracking tool used by the jurisdiction].
 - b) The EOI officer labels the reply in accordance with the provision in [Information security](#).
 - c) **If the requested jurisdiction refuses the TEA:**
 - The EOI officer informs the tax auditor who requested it as soon as possible:
 - The EOI officer prepares a cover letter ([Annex E.3. Outgoing tax examination abroad. Communication with the tax auditor or the field officer](#)) signed by the EOI unit manager
 - The EOI officer forwards an electronic copy of the reply with the cover letter to the tax auditor.
 - The EOI officer closes the case.
- If the requested jurisdiction accepts the TEA:**
- The EOI officer informs the tax auditor who requested it as soon as possible:
 - The EOI officer prepares a cover letter ([Annex E.3.](#)

Outgoing tax examination abroad. Communication with the tax auditor or the field officer) signed by the EOI unit manager. This cover letter shall provide information from the requested jurisdiction about:

- the time and place of the examination;
 - the relevant logistical arrangements;
 - the authority or official designated to carry out the examination (e.g. name, title, contact details); and
 - the procedures and conditions required by the requested jurisdiction for the conduct of the examination.
- The EOI officer forwards an electronic copy of the reply with the cover letter to the tax auditor.

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives copy of any correspondences and documents in the relevant case file.

Step 5 – Attending a tax examination abroad

Comments on the drafter of a request for a tax examination abroad

Foreign tax officials are required to participate in the tax examination abroad in accordance with, and to the extent permitted by, the procedures and conditions stipulated by the responsible official of the requested jurisdiction.

The responsible official in the requested jurisdiction may determine the extent and modalities of the participation of the foreign tax official(s) during the tax examination. For example, foreign tax officials may be permitted to participate actively (e.g. suggest questions during interviews with taxpayers) or be restricted to a passive role (e.g. merely be present during the tax examination).

In all situations, foreign tax officials are bound by the secrecy provisions of the relevant EOI agreement.

Where the TEA request is accepted by the requested jurisdiction, the attendance and participation are organised as follows:

- a) The EOI unit organises the attendance of the designated tax auditor(s). [Process to be described, e.g. designation, authorisation to travel, travel and accommodation arrangements, costs reimbursements].
- b) [Name of the jurisdiction] decides who will attend the tax examination abroad and the EOI unit manager provides a CA status to the participating tax auditors (Annex E.2. Tax examination abroad. Competent authority mandate).
- c) After the TEA, the EOI officer must receive the records collected by the tax auditor(s) and labels them in accordance with the provision in Information security. The case file is closed by the EOI officer.
- d) The EOI officer sends to the tax auditor the impact assessment form (Annex F.1. Impact assessment form) to be filled when the tax audit will be completed.
- e) If the received information may be relevant for other purposes than tax purposes, the CA (EOI unit manager or another official with CA status) may request the authorisation from the CA of the requested jurisdiction. To that end, the assigned EOI officers prepare a letter by using Annex B.3. Outgoing request for information. Template for a request for wider use of the exchanged information.
- f) The request to use the exchanged information for other purposes is reviewed, signed and sent by the CA (EOI unit manager or another official with CA status) or sent, on its behalf, by an EOI officer.

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives copy of any correspondences and documents in the relevant case file.

2.1.4.2 – Receiving a request for a tax examination abroad

Such examinations are particularly useful in the area of transfer pricing and in identifying tax evasion schemes. The work of the EOI unit responsible for setting up the tax examination on the premises by foreign tax auditors is described in Figure 7.

The following procedures must be followed where a proposition for a TEA is received from a foreign jurisdiction.

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Step 1 - Logging the incoming request for a tax examination abroad

Where a request for a TEA is received from a requesting jurisdiction, the following procedure applies:

a) Incoming TEA requests received from a foreign CA are addressed to the CA. Where a request is addressed to a CA, who is not the EOI unit manager, it should be delivered directly to the EOI unit on the day it is received:

- Requests received by mail must not be opened by the mail clerk. The latter stamps the request's envelop with the date of receipt and transmit it securely and immediately to the EOI unit manager. [Describe how the reply letter must be transmitted securely to the EOI unit manager].

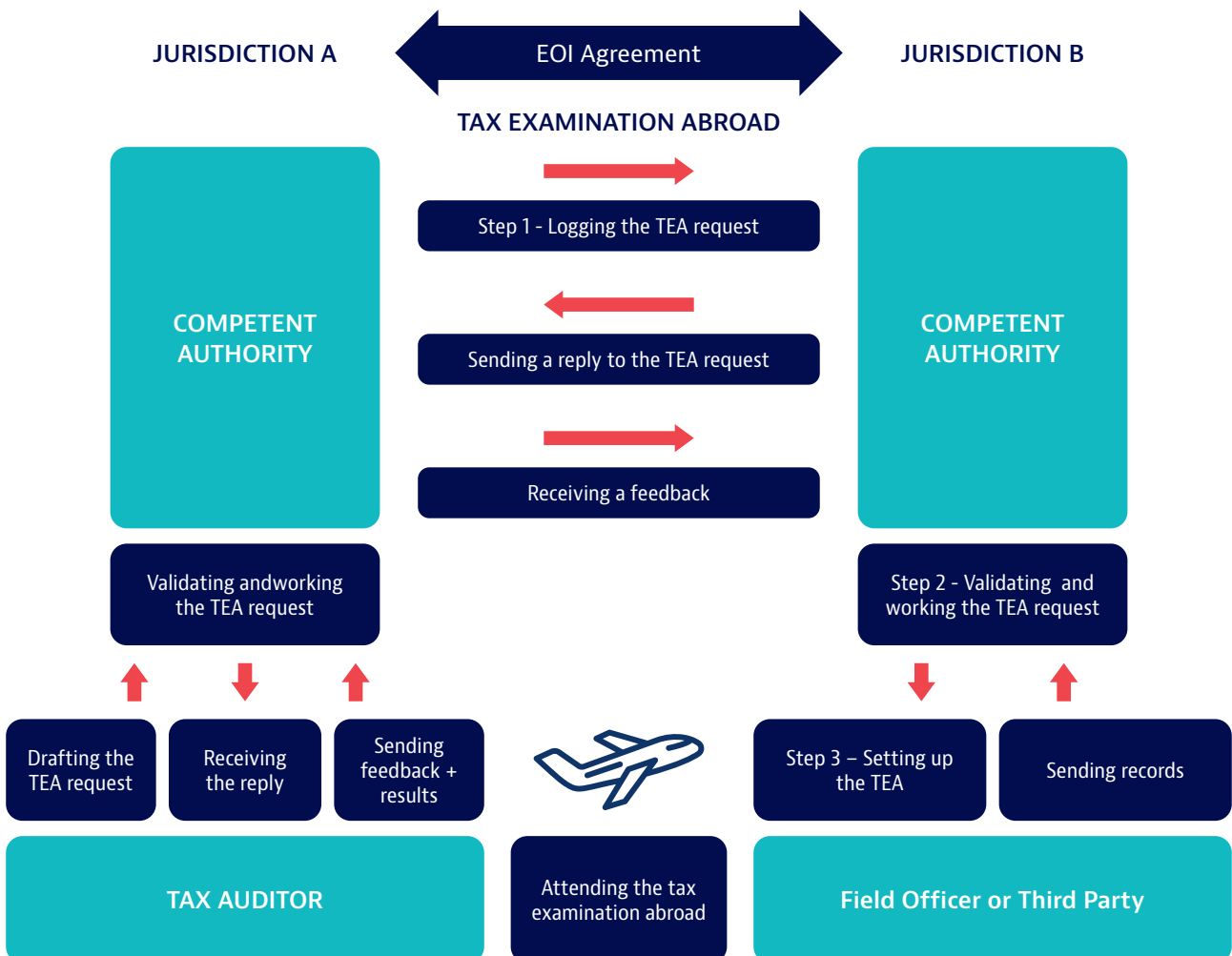
- Requests by email should be filed in a dedicated folder for the EOI unit manager [to mention the name of the folder].

b) The EOI unit manager verifies the name and contact details of the CA in the requesting jurisdiction.

c) The EOI unit manager assigns the TEA request to an EOI officer for registration in the EOI tracking tool. The EOI officer creates a new record in the EOI tracking tool and completes all relevant fields: [to be completed according to the fields to complete in the tracking tool (e.g. national reference number, date of the reception, requesting jurisdiction)].

The EOI unit manager may take responsibility for working some cases, including those which are complex or sensitive [to be described, e.g. political exposed persons, requests from a certain jurisdiction].

FIGURE 7. Receiving a request for a tax examination abroad



In this case, the procedures applicable to the EOI officers must be followed by the EOI unit manager.

- d) The EOI officer opens a [hard-copy or electronic] file for the incoming TEA request using [add “the filing reference generated by the EOI tracking tool” in case an electronic tool is used or “a sequential reference number” in a manual system].
- e) The EOI officer labels the incoming TEA request in accordance with the provision in [Information security](#).
- f) Once the new case record has been created, an acknowledgement letter ([Annex E.4. Incoming tax examination abroad. Communication with the requesting jurisdiction](#)) prepared by the EOI officer for signature of the CA (EOI unit manager or another official with CA status). The acknowledgement letter provides the EOI reference number allocated to the request to further facilitate communications on the case.
- g) The acknowledgement letter is sent to the requesting CA by the requested CA (EOI unit manager or another

official with CA status) or, on its behalf, by the assigned EOI officer within 7 days from the receipt of the request.

- h) If necessary, the incoming TEA request and the attached documents are translated and prepared in accordance with the provision in [Translation](#).

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences and documents in the relevant case file.

Step 2 - Validating and replying to the incoming request for a tax examination abroad

The validation of the TEA request must be done to determine whether the TEA request is valid and complete. The EOI officer checks the legal base of the request (legal instrument, taxes and period covered, valid CA's signature) and the content of the request. Box 10 presents a checklist to help EOI unit managers and EOI officers validate the TEA request. Table 10 presents different situations and the related applicable procedures.

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences and documents in the relevant case file.

Step 3 – Setting up the tax examination

Box 10. Checklist on accepting an incoming tax examination abroad

This decision whether to accept or reject a request to attend a tax examination should be made after considering the issues listed in the following checklist:

- Is the presence of foreign tax administrations officials (or a foreign tax administration official) at the specified tax examination contrary to domestic policy or procedure?
- Would the requesting jurisdiction be able to reciprocate if it were the requested jurisdiction?
- Is the presence of foreign tax administration officials (or a foreign tax administration official) at a specified tax examination regarded as an infringement of sovereignty?
- Is there sufficient information contained in the request to make an informed decision?
- What additional information is required to make an informed decision?
- Is the presence of foreign tax administration officials (or a foreign tax administration official) in the specified tax examination necessary?

Comments on attending a tax examination abroad

Some countries may only permit passive participation of foreign tax officials in a tax examination. In such instances, participation by foreign tax officials would be limited to observing relevant parts of the tax examination and only liaising directly with the tax officials of the requested country. Foreign tax officials would not be permitted to directly interview taxpayers or other individuals under this form of tax examination abroad.

Other countries may permit active participation of authorised foreign tax officials. Under such circumstances, some countries may, for example, allow foreign tax officials to conduct interviews and examine records pertaining to the taxpayers under examination.

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Table 10. **Validation of the incoming request for information**

Situations	Applicable procedures
<p>The TEA request is clearly not valid</p>	<p>If after checking a TEA request for validity, the EOI officer and the EOI unit manager consider that the request is clearly not valid (e.g. because there is no legal basis between the requesting jurisdiction and [name of the jurisdiction]), then the request will not be processed.</p> <p>The CA (EOI unit manager or another official with CA status) notifies the requesting jurisdiction as soon as possible but in any case within 15 days of receiving the request. The letter must explain the reason(s) why the request is declined. The template letter to decline the request provided in Annex E.4. Incoming tax examination abroad. Communication with the requesting jurisdiction must be used.</p> <p>The case file is closed by the EOI officer.</p>
<p>The TEA request is unclear or incomplete</p>	<p>The request must not be declined without consulting the CA of the requesting jurisdiction.</p> <p>In this case, the CA must always seek clarifications or additional information from the requesting jurisdiction. The following procedure applies:</p> <ul style="list-style-type: none"> ● The CA (EOI unit manager or another official with CA status) or, on its behalf, an EOI official sends, within 15 days of receiving the request, a request for clarification or additional information to the requesting jurisdiction to allow the request to be processed. This request must explain the reason(s) why the request cannot be processed (e.g. not enough information to identify the taxpayer) and/or why it is not clear, and the clarifications and additional information needed. The template of request for clarification and/or additional information in Annex E.4. Incoming tax examination abroad. Communication with the requesting jurisdiction must be used. ● Where the required information and/or clarifications are obtained, the CA (EOI unit manager) assesses the validity of the request and decides whether to process it. The CA (EOI unit manager or another official with CA status) or, on its behalf, an EOI official notifies the CA of the requesting jurisdiction as soon as possible but in any case within 15 days of receiving the clarification and/or additional information. The procedures described where the request is valid or not valid apply as appropriate. ● If the requesting jurisdiction does not provide the clarification or additional details, the CA shall follow-up on the outstanding request with the requesting CA by all means (e.g. phone call, emails, letter). Where the requested clarifications and/or additional information are not provided, the CA notifies the requesting jurisdiction that it cannot process the request because it lacks information that is necessary for processing the request. The procedure described where the request is not valid applies.
<p>The TEA request is valid but rejected</p>	<p>Where the EOI unit manager considers that the participation of foreign tax officials to a tax examination is not suitable (see Box 10), the CA (EOI unit manager or another official with CA status) notifies the requesting jurisdiction as soon as possible but in any case within 15 days of receiving the request. The letter must explain the reason(s) why the request is declined. The template letter to decline the request provided in Annex E.4. Incoming tax examination abroad. Communication with the requesting jurisdiction must be used.</p> <p>The case file is closed by the EOI officer.</p>

Situations	Applicable procedures				
<p>The TEA request is valid and accepted</p>	<p>Where the request is valid and accepted by the EOI unit manager, the following procedure apply:</p> <table border="1" data-bbox="485 551 1436 1301"> <thead> <tr> <th data-bbox="485 551 963 600">[If the TEA is organised by the EOI unit]</th> <th data-bbox="963 551 1436 600">[If the TEA is organised by a local or regional office or a specialised tax office]</th> </tr> </thead> <tbody> <tr> <td data-bbox="485 600 963 1301"> <ul style="list-style-type: none"> ● The EOI officer prepares the arrangements [in accordance with the provision in Access powers – local units to contact to set-up the tax examination] to communicate to the requesting jurisdiction: <ul style="list-style-type: none"> ● time and place of the examination; ● relevant logistical arrangements; ● authority or official designated to carry out the examination (e.g. name, title, contact details); ● procedures and conditions (e.g. active or passive presence of the foreign tax auditor, power to interview the taxpayer or not) required by [name of the jurisdiction] for the conduct of the examination. </td> <td data-bbox="963 600 1436 1301"> <ul style="list-style-type: none"> ● The EOI officer instructs the relevant local or regional office, or specialised tax office to provide an arrangement proposal for the TEA. [procedure to be described. A phone call followed by a written confirmation is recommended]. ● If the local/regional/specialised tax office concerned has not made any proposal within [time to be specified; 15 days is recommended], the EOI officer makes further contact with that office to find out why there is a delay. The EOI officer may give a further short period [time to be specified; less than 15 days is recommended] to respond. If that further period elapses without a full response, the EOI officer reviews the situation with the EOI unit manager to decide the next action to take. </td> </tr> </tbody> </table> <ul style="list-style-type: none"> ● When all arrangements are finalised, the EOI officer drafts a reply using the TEA reply template letter in Annex E.4. Incoming tax examination abroad. Communication with the requesting jurisdiction. ● The EOI unit manager reviews the draft document prepared by the EOI officer by checking the legal base of the reply (legal instrument, taxes and period covered) and the content of the reply. Box 10 presents a checklist to help EOI unit managers validate the reply. ● The CA (EOI unit manager or another official with CA status) or, on its behalf, an EOI official notifies the CA of the requesting jurisdiction. 	[If the TEA is organised by the EOI unit]	[If the TEA is organised by a local or regional office or a specialised tax office]	<ul style="list-style-type: none"> ● The EOI officer prepares the arrangements [in accordance with the provision in Access powers – local units to contact to set-up the tax examination] to communicate to the requesting jurisdiction: <ul style="list-style-type: none"> ● time and place of the examination; ● relevant logistical arrangements; ● authority or official designated to carry out the examination (e.g. name, title, contact details); ● procedures and conditions (e.g. active or passive presence of the foreign tax auditor, power to interview the taxpayer or not) required by [name of the jurisdiction] for the conduct of the examination. 	<ul style="list-style-type: none"> ● The EOI officer instructs the relevant local or regional office, or specialised tax office to provide an arrangement proposal for the TEA. [procedure to be described. A phone call followed by a written confirmation is recommended]. ● If the local/regional/specialised tax office concerned has not made any proposal within [time to be specified; 15 days is recommended], the EOI officer makes further contact with that office to find out why there is a delay. The EOI officer may give a further short period [time to be specified; less than 15 days is recommended] to respond. If that further period elapses without a full response, the EOI officer reviews the situation with the EOI unit manager to decide the next action to take.
[If the TEA is organised by the EOI unit]	[If the TEA is organised by a local or regional office or a specialised tax office]				
<ul style="list-style-type: none"> ● The EOI officer prepares the arrangements [in accordance with the provision in Access powers – local units to contact to set-up the tax examination] to communicate to the requesting jurisdiction: <ul style="list-style-type: none"> ● time and place of the examination; ● relevant logistical arrangements; ● authority or official designated to carry out the examination (e.g. name, title, contact details); ● procedures and conditions (e.g. active or passive presence of the foreign tax auditor, power to interview the taxpayer or not) required by [name of the jurisdiction] for the conduct of the examination. 	<ul style="list-style-type: none"> ● The EOI officer instructs the relevant local or regional office, or specialised tax office to provide an arrangement proposal for the TEA. [procedure to be described. A phone call followed by a written confirmation is recommended]. ● If the local/regional/specialised tax office concerned has not made any proposal within [time to be specified; 15 days is recommended], the EOI officer makes further contact with that office to find out why there is a delay. The EOI officer may give a further short period [time to be specified; less than 15 days is recommended] to respond. If that further period elapses without a full response, the EOI officer reviews the situation with the EOI unit manager to decide the next action to take. 				

The following procedure applies where foreign tax auditors are authorised by the CA to participate to a tax examination:

- a) Before the arrival of the foreign tax auditors, the EOI officer:
- checks with the field officer designated to carry out the examination if all arrangements are ready.
 - must have received from the foreign jurisdiction

a CA status for the foreign tax auditors who will attend the tax examination in [name of the jurisdiction].

- grants a CA status to the field officer to allow the EOI with the [Annex E.2. Tax examination abroad. Competent authority mandate.](#)
- b) The tax examination must be carried out in accordance with the domestic laws of [name of the jurisdiction] and the parameters of the TEA agreed by [name of the jurisdiction].

- [For passive participation add: “**in case of passive participation:** foreign tax auditors are not allowed to conduct interviews nor to examine records. Where possible, foreign tax auditors should endeavour to provide domestic tax officials in advance with a list of questions to be asked of taxpayers and documents to be consulted and copied. The EOI may take place during or after the on-site tax examination. If the foreign tax auditors have not been able to go on site, a second on-site tax examination may be necessary to collect the missing information”].
 - [For active participation add: “**in case of active participation:** foreign tax officials are allowed to conduct interviews and examine records pertaining to the taxpayers under examination. The exchange of information may take place during or after the on-site tax examination”].
- c) After the tax examination, the EOI officer asks the field officer designated to carry out the examination to provide a copy of all the records collected during the tax examination by the foreign tax auditor.
- d) When the designated field officer replies, the EOI officer update the EOI tracking tool [to describe actions to be taken, e.g. to insert the date of receipt from the local or regional office] and labels the records in accordance with the provision in [Information security](#).
- e) The EOI officer stores/archives the records gathered in the case file containing the incoming TEA request.

The assigned EOI officer registers at each step the relevant information in the EOI tracking tool and securely stores/archives a copy of any correspondences and documents in the relevant case file. At the end of the TEA, the EOI officer closes the case.

2.2. MANAGING THE EXCHANGE OF INFORMATION FUNCTION

The EOI function is managed by the EOI unit which is headed by the EOI unit manager. The EOI unit sets up the EOI processes, develops the EOI tools (forms, manuals, IT tools, etc.), trains on EOI, and monitors and reports on the EOI activity. The EOI unit ensures compliance with the formal (form, language used) and substantive (legal basis, internal exhaustion of resources, foreseeable relevance) requirements.

2.2.1. Organising the processes for exchange of information

Comments on the organisation of exchange of information

The organisation of the work on EOI depends on a number of factors:

- The quantity of requests sent and/or received by the jurisdiction;
- The organisation of the EOI unit (centralised or decentralised, nature of administrative assistance provided);
- The existence of a centralised tax database;
- The access rights of the EOI unit to the tax administration database, other government databases and public and commercial databases;
- The ability of the EOI unit to gather third party information.

An important function of the EOI unit is to monitor the EOI activity. The monitoring can be conducted manually or electronically:

- Manually, there should be a physical register and/or an Excel spreadsheet in which all EOI cases are entered with identification information and status.
- Electronically, a software can be built to track the EOI activity in a more automated manner, including automatic generation of status reports, letters and status updates.

A tracking tool on an Excel Spreadsheet is available to the Global Forum Secretariat (gftaxcooperation@oecd.org).

List of the competent authorities

The availability and accuracy of the list of the CAs for EOI for tax purposes is critical to ensure that treaty and domestic requirements, including on confidentiality, are complied with and that the EOI process is effective.

The EOI unit manager is responsible for maintaining up to date the list of CAs and communicating changes to foreign CAs.

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Any change relating to the identity of the CA(s) in [name of the jurisdiction] shall be notified to the foreign CAs.

Without delay, the changes shall be:

- reflected on the website of the [name of tax administration];
- notified to the CAs of the main EOI partner jurisdictions; and
- notified by email to the Global Forum Secretariat (gftaxcooperation@oecd.org) so that the Competent Authority Database it maintains is up to date.

The EOI unit manager also ensures an effective access to the Competent Authority Database on the Global Forum website to all delegated CAs and to the EOI officers in order to verify the CA status of the foreign EOI partners when receiving or sending information.

Tracking tool for exchange of information

The EOI activity is monitored through an EOI tracking tool [provide a description of the tracking tool used].

The EOI unit manager is responsible for:

- Maintaining and developing the EOI tracking tool and the related policies;
- Ensuring that the EOI tracking tool is up to date at any point of time, that all requests are recorded [supervision process to be described, e.g. regular audits on a sample of requests];
- Providing, removing and monitoring access to the EOI tracking tool by all relevant stakeholders (CAs, EOI unit manager, EOI officers) [describe the procedure to give and remove access as well as the monitoring of the access to the tool].

The EOI officers are responsible for recording all the cases assigned to them and entering the required information in accordance with the policy defined by the EOI unit manager.

Templates for exchange of information

The EOI unit manager is responsible for developing relevant templates to continuously improve the

functioning of the EOI activity. In particular, the EOI unit manager ensures the availability and easy access of the templates by all the domestic tax offices which can potentially initiate a request [add a link to the intranet website where the templates can be downloaded and attach the templates to the EOI manual].

The EOI unit manager updates all templates as often as needed and create new templates (forms, letters, emails) when needed.

EOI officers as well as field officers and tax auditors must use the relevant template as required in the EOI manual.

Manual for exchange of information

The EOI unit manager is responsible for:

- Developing the internal policies and processes for exchange of information. [Indicate which authority in the jurisdiction approves the policies and processes. It can be the EOI unit manager, or another delegated CA (e.g. the head of the tax administration) or in small jurisdiction the minister of finance].
- Enforcing the policies and processes which must be followed by the EOI officers as well as the field officers and tax auditors.

The applicable policies and processes are codified in an EOI manual. The EOI unit manager ensures the availability and easy access by all the domestic tax offices which can potentially initiate a request [add a link to the intranet website where the templates can be downloaded and attach the templates to the EOI manual].

The EOI unit manager updates the EOI manual as often as needed [e.g. an annual update is recommended during the first quarter with Y-1 statistics to show the progress made by the jurisdiction in tax transparency matters]. The updates and changes are recorded in the history table at the beginning of this EOI manual.

The policies and procedures described in the EOI manual must be followed by the EOI officers, the field officers and the tax auditors.

2.2.2. Ensuring confidentiality

Comments on confidentiality

The provisions on tax confidentiality of information exchanged are found in Article 26 paragraph 2 of the OECD Model, Article 8 of the Model TIEA and Article 22 of the MAAC. These provisions require that information be kept confidential and set limits on the persons to whom the information can be disclosed and on the purposes for which the information may be used. Article 26 of the OECD Model and Article 22 of the MAAC contain the additional requirement that information should be treated as secret in the same manner as information obtained under domestic law.

The confidentiality rules cover CA letters, including the letter requesting information. It is understood that the requested jurisdiction can disclose the minimum information contained in a CA letter (but not the letter itself) necessary for the requested jurisdiction to be able to obtain or provide the requested information to the requesting jurisdiction, without frustrating the efforts of the requesting jurisdiction.

Improper disclosure may damage the jurisdiction's international reputation and affect future exchange of information with treaty partners. Improper disclosure is punished by severe administrative, and possibly criminal, penalties.

The Global Forum has published a "Confidentiality and Information Security Management Toolkit"²². Mainly designed for AEOI purposes, the toolkit also provides detailed guidance on implementing the building blocks of a legal and ISM framework that adheres to internationally recognised standards or best practices and ensures the confidentiality of the exchanged information. Jurisdictions can also refer to "Keeping It Safe – Joint OECD and Global Forum Guide on the Protection of Confidentiality of Information Exchanged for Tax Purposes"²³.

See also [Information security](#).

The EOI unit manager ensures that access to EOI files, physical and electronic, is monitored and documented:

- Where physical files are maintained, all EOI information, documentation and correspondence must be stored in secure storage units. Only [staff to be described, e.g. CA, EOI unit manager, EOI officers – Security measures to be detailed, e.g. electronic pass, photo-ID, coded entry systems] have access to the storage unit.
- For electronic EOI information, document or correspondence, only [staff to be described, e.g. CA, EOI unit manager, EOI officers, field officers – Security measures to be detailed, e.g. individual login, password] have access to the EOI database.

2.2.3. Training

The EOI unit manager must:

- Supervise the development of training material on EOI, including on related confidentiality requirements;
- Ensure the availability of appropriate materials and trainings on EOI to other officials of the tax administration [add a link to the intranet where relevant training material is accessible; a link to the e-learning courses developed by the Global Forum secretariat which are free of charge for tax officials can also be indicated as well as other resources developed by the Global Forum²⁴].
- Prepare an annual planning of trainings for relevant stakeholders of the tax administration that require special EOI training [define the relation with the Human Resource (HR) Department, the Information Security Officer, the IT Department and any other relevant person or authority; describe the relevant staff to be trained (e.g. new audit staff, international tax auditors, other field officers), the nature, extent and frequency of EOI training];
- Set up a training team [describe the team and the co-ordination (if relevant) with the HR Department the training school (if any)];

22. Global Forum Secretariat, OECD (2020), Confidentiality and Information Security Management Toolkit available at www.oecd.org/tax/transparency/documents/confidentiality-ism-toolkit_en.pdf

23. Global Forum Secretariat, OECD (2012), Keeping It Safe – Joint OECD and Global Forum Guide on the Protection of Confidentiality of Information Exchanged for Tax Purposes, available at www.oecd.org/tax/transparency/documents/global-forum-keeping-it-safe.pdf

24. E-learning courses are available at www.oecd.org/tax/tax-global/self-paced-training.htm. Other resources, including toolkits are available at www.oecd.org/tax/transparency/resources/

- Evaluate the effectiveness of the EOI training provided and use this feedback to refine future courses [describe the evaluation process and add a link to the relevant domestic evaluation form].

EOI officers are responsible for producing training syllabus, material and case studies that cover the key EOI topics and for delivering the training [if relevant add: “with experienced tax auditors”]. [List the existing training material and add a link to the intranet where they are made available. Add any other training material made available such as the e-learning courses and toolkits developed by the Global Forum secretariat].

2.2.4. Statistics and evaluation reports

The monitoring and evaluation of the EOI unit activity contribute to the continuous improvement of the EOI process. They also inform relevant stakeholders (e.g. the head of the tax administration, the minister of finance, members of the Parliament) on the effectiveness of administrative co-operation as well as the adequacy of the resources allocated to the EOI unit.

Every year, the EOI unit manager produces an annual report on the EOI activity of the previous year, which includes:

- Statistics and narrative on the EOI framework [provide details: e.g. number of EOI staff, number of EOI trainings provided, number and types of EOI training materials created; comparison with previous year; any relevant explanation];
- Statistics and narrative on the EOIR activity [provide details: e.g. number of EOIR sent and received; Number of EOIR replied and number of EOIR still pending; number and percentage of acknowledgements of receipt sent on EOIR received; number and percentage of EOIR fully replied within 90 days / 180 days / within a year / more than a year; number and percentage of partial replies or status updates when no full reply within 90 days; number of EOIR partners; comparison with previous year; any relevant explanation];
- Statistics and narrative on the SEOI activity [provide details: e.g. number of SEOI sent and received, number of SEOI partners; comparison with previous year; any relevant explanation];

- Statistics on other forms of EOI [e.g. number of STEs or TEAs; comparison with previous year; any relevant explanation];

- [When the EOI unit is also in charge of AEOI: statistics and narrative on the AEOI activity (e.g. number of AEOI partners, number of AEOI data sent and received, amount of assets; comparison with previous year; any relevant explanation)];

- Proposals for improvements if any.

The EOI annual report is sent to [detail the list of recipients to be detailed] [if relevant add: “and published on [add a link, e.g. intranet]].

2.2.5. Measurement of performance

The assessment of the impact of EOI informs relevant stakeholders (e.g. the head of the tax administration, the minister of finance, members of the Parliament) on the effectiveness of administrative co-operation and on its impact on the fight against tax evasion and other illicit financial flows and domestic resource mobilisation.

Every year, the EOI unit manager prepares an impact assessment report on EOI using the forms to be filed in by field officers and tax auditors ([Annex F.1. Impact assessment form](#)). The report includes:

- Performance measurement indicator [detail the quantitative and qualitative indicators: e.g. amount of additional tax base, revenue, interests and/or penalties, sorted by type of EOI and/or economic sector; new tax evasion schemes identified if any or sector needed more tax investigation focus; etc.];
- Analysis of the indicators, including presentation of relevant case studies and trends;
- Proposals for improvement, if any.

The EOI performance report shall be sent [detail the list of recipients to be detailed] [if relevant add: “and published on [add a link, e.g. intranet]].

3. Manual for tax auditors and field officers

General comments on Chapter 3

This chapter describes the key role played by tax auditors and field officers in EOI. It provides guidance about when to consider making a request for information, how to make or respond to a request, how to respect tax confidentiality rules. Templates are provided to help tax auditors draft their request as efficiently as possible.

In the course of their investigations (desk based or onsite), tax auditors may need to seek and obtain information that is outside their jurisdiction. If they have not been able to obtain this information domestically (by questioning the taxpayer, a third party, consulting databases) and have exhausted the means available to them internally then they may resort to one of the forms of EOI (EOIR, STE, TEA). Similarly, if they discover information that is foreseeably relevant to a foreign tax administration, they can initiate a SEOI.

Other tax officials, such as officers of taxpayers management, tax collection, VAT refund, may also initiate an EOI to carry out their activities provided that the above conditions are met.

The field officers are the tax administration officials responsible for collecting the information when it is not already available in the internal databases. They may belong to different departments (tax compliance department, tax audit department) but they have in common the ability to use the access powers to gather the information allowed by the domestic legislation. It is necessary to make these officials aware of the exchange of information because, since they are not necessarily beneficiaries of this exchange, they may not fully understand the usefulness of co-operation and see it as an additional administrative task.

Warning: A tax auditor cannot contact directly a foreign counterpart to exchange information. EOI can only take place between the CA of [name of the jurisdiction] and the CA of the requested jurisdiction. In [name of the jurisdiction], all requests for information must be sent to the EOI unit, headed by the EOI unit manager who is an authorised representative of the CA. By-passing the CA would constitute a breach of tax

confidentiality and the tax auditor will be subject to sanctions (see [Confidentiality](#)).

This chapter of the EOI manual describes the procedures and managements rules to be followed by tax officials with respect to exchange of information on request (EOIR), spontaneous exchange of information (SEOI) but also other EOI forms such as simultaneous tax examinations (STE) and tax examinations abroad (TEA).

3.1. EXCHANGE OF INFORMATION ON REQUEST

Comments on exchange of information on request

EOIR occurs where one jurisdiction's CA asks for particular information from another CA. The information requested may relate to an examination, inquiry or investigation of a taxpayer's tax liability for specified tax years.

EOIR is one of the mechanisms that allows tax auditors to obtain information located beyond their national borders. For EOIR to take place, it is necessary to have: a legal instrument; a designated responsible person (the CA); information which is available and accessible with the capacity to be exchanged; legal powers; and the infrastructure and resources to respond to requests.

EOI requests can only be made via the CA.

EOI is the cross-border sharing of information between tax administrations to detect and prevent tax evasion and to ensure, among other things, the correct application of a jurisdiction's domestic tax legislation. Many taxpayers now operate cross-border and, therefore, tax administrations need to co-operate with each other to protect their respective tax bases and collect their taxes.

EOIR occurs where the CA of a jurisdiction asks for particular information from a foreign CA that is foreseeable relevant for tax purposes. The EOIR mechanism is described in details in [2.1.1 Exchange of information on request](#).

EOIR allows field officers and tax auditors to obtain information located beyond the national borders

provided that prior conditions are met. While the emphasis is mainly on tax auditors in the following sub-sections, the conditions and requirements described below apply to any relevant field officer.

3.1.1. Sending a request for information

EOIR allows a field officer or tax auditor to obtain relevant information which are held abroad for its tax work covering tax compliance, tax audit, tax collection and recovery and litigation.

EOIR can be used not only for income tax (personal or company) but also for indirect taxes (e.g. VAT or GST) or wealth tax (e.g. to identify financial assets or immovable property). EOIR is also very useful to determine the tax residency of a taxpayer. The scope of information that can be requested is very broad, such as:

- Identity and legal and beneficial ownership on all forms of domestic or foreign legal entities (e.g. companies, partnerships, foundations) and arrangements (e.g. trusts, *anstalten*, *fideicomiso*, *fiducie*).
- Accounting information including accounting records, financial accounting statements, underlying supporting documentation (e.g. invoices, vouchers, contracts, receipts), deeds, asset documents and correspondence, company management-related documentation (e.g. minutes of board meetings, resolutions, distributions). This type of information is very important to demonstrate the effectiveness of a transaction, assess a transfer pricing policy or crosscheck the tax base for VAT.
- Banking information including information on the account, information regarding the identity, legal structure and beneficial owner of the account holder, any information on transactions or parties to financial transactions and financial information.
- Assets held by individuals, directly or indirectly, such as immovable property or financial assets.
- Movable or immovable assets of individuals or entities to check their solvency for tax collection or tax recovery.

Tax auditors can find some EOIR case studies in the Box 11. However, a request for information can only be contemplated where certain conditions are met.

Box 11. EOIR case studies

Case study 1 – Inbound loan

Taxpayer T, a resident of jurisdiction A, pays interest on a loan made by company C, resident in jurisdiction B. Taxpayer T claims not to be the beneficial owner of company C. Tax auditors suspect that taxpayer T is the beneficial owner of company C and that the “loan” was actually an attempt to repatriate previously unreported income earned in jurisdiction A. (e.g. because company C does not require any collateral or security for the loan or the credit conditions otherwise depart from what is typically agreed between unrelated parties).

The CA may request:

- Accounting records/financial statements of company C for the relevant years;
- Relevant contracts and the related bank information evidencing the transfers, copies of signature cards on company C’s bank accounts;
- All documents indicating the source of the funds if the financial statements show that company C did not have the necessary capital to make the loan;
- Information on the identity of the shareholders and/or beneficial owners in company C.

Case study 2 – Outbound loan

Resident taxpayer T grants a loan to company C, resident in jurisdiction B. Unusual credit conditions lead to the suspicion, that taxpayer T is related to company C, and that company C, has made a back-to-back loan to another person at normal credit conditions, thus shifting considerable profits to company C.

The CA may request:

- Accounting records/ financial statements of company C;
- Related contracts and bank statements on the receipt and on the use of the loan;
- Statement of dividend payments or other payments to shareholders of company C;
- Information on shareholders and beneficial owners in company C.

Case study 3 – Services re-invoicing

Resident company A claims a deduction for services invoiced by company C, resident in foreign jurisdiction B. However, the tax official auditing company A learns that the services were performed by resident taxpayer T. The income tax return of taxpayer T only shows income from services provided to company C and the amount invoiced by taxpayer T to company C is significantly smaller than the amount invoiced by company C to company A. The tax auditor suspects that company C only acts as a re-invoicing agent because taxpayer T’s lifestyle far exceeds his declared income. The auditor suspects that company C charges taxpayer T only a small fee for its re-invoicing services and that the difference between the amount declared by taxpayer T and the amount invoiced by company C (minus its fee) is paid into a bank account held by taxpayer T with a bank resident in jurisdiction B.

The CA may request:

- Names and addresses of persons employed by company C;
- Invoices of taxpayer T to company C and any payments made to him;
- All accounts payable of company C with respect to taxpayer T for the years under investigation;
- Accounting and financial records of company C (in particular any bank records showing transfers by company C to taxpayer T).

Case study 4 – Import and export transaction using conduit companies

Resident company T purchases electronic components for use in its manufacturing operations from company C, resident in jurisdiction B. A tax inspector auditing company T becomes suspicious because the price charged by company C to company T far exceeds comparable prices in the industry. The tax inspector suspects that the amount invoiced is significantly higher than the amount company C pays to the producer of the components. The tax inspector further suspects that in reality company C acts as an agent and that its likely paper profits are paid to a third party related to company T.

The CA may request:

- Information about direct imports/exports or the imports/exports via company C (invoices of the forwarding agents, customs documents);

- Information about size and operation of company C's premises and warehouses (e.g. copy of the lease showing size of premises and any rental payments due);
- Information about number of employees of company C;
- Information about the persons acting for company C, their remuneration, actual salary and social security payments;
- Accounting records/financial statements for company C;
- If company C claims to be an independent agent: information about the persons acting as agent, names and addresses, their remuneration, proof of the actual salary and social security payments made.

Based on the information provided by the CA of jurisdiction B the tax inspector is able to prove that company C deposited the difference between the purchase and the sales price (minus a small fee) into an account which individual A, the sole shareholder of company T, has with a bank resident in jurisdiction B. A had not disclosed these payments in his income tax return.

Case study 5 – Tax collection and recovery

A taxpayer in debt with the tax administration in jurisdiction A declares himself insolvent. As a consequence of the EOIR with jurisdiction B, the tax administration of jurisdiction A knows that the taxpayer has sufficient assets abroad to cover his debt.

Since the tax administration of jurisdiction A cannot locate the taxpayer, but knows his address in jurisdiction B where the taxpayer resides, the CA of jurisdiction A asks the CA of jurisdiction B to notify the taxpayer of the settlement and payment claim.

Simultaneously, as a consequence of jurisdiction A's request to jurisdiction B, injunctive measures are applied to the respective assets in jurisdiction B, to prevent the taxpayer from transferring the assets held abroad.

If the taxpayer does not honour the payment, after a request from jurisdiction A, jurisdiction B will carry out coercive recovery measures to collect the tax claim and transfer the resources collected to jurisdiction A.

Step 1 – Exhausting all internal means to obtain the required information

Before considering drafting a request for information, a tax auditor shall make sure that all means available to obtain the information in [name of the jurisdiction] have been pursued, with the possible exception of those that would give rise to disproportionate difficulties (proportionality).

The exception applies in cases in which it could be easier for the requested jurisdiction to obtain the information sought than for [name of the jurisdiction] as a requesting jurisdiction. For example, obtaining information from one supplier in the requested jurisdiction may lead to the same information as seeking information from a large number of buyers in the requesting jurisdiction.

The tax auditor must therefore pursue all possible means available in [name of the jurisdiction] to obtain the required information before contemplating a request for information:

- By exploiting any domestic databases;
- By using all domestic access powers available, including by asking to the taxpayer concerned itself;
- By consulting publicly available sources in the other jurisdiction, such as public data bases maintained by regulators in foreign jurisdictions (On-line National Trade Registers are a good source of information for instance). These public databases can provide considerable information such as registration details, ownership information, financial statements and annual reports. Box 13 provides a list of some relevant websites with public information.

Through EOIR a tax auditor is able to obtain from abroad relevant information that could have been accessed to in [name of the jurisdiction] if this information was available. However, EOIR cannot be used to obtain information that the laws or administrative practices of [name of the jurisdiction] does not allow.

Step 2 – Drafting an outgoing request for information

Before drafting a request for information, the tax auditor must check whether an EOIR legal base exists with the requested jurisdiction.

Box 12. Examples of Internet public sources

The following websites can provide relevant information to the tax auditors before making an EOIR.

- [Global Forum review reports](#)
- [Financial Action Task Force \(FATF\) mutual evaluations](#)

- [Know Your Country](#)
- [Wikipedia list of company, tax and statistical business registers](#)

[Add any other relevant source of information identified].

Box 13. Checklist on sending a request for information

Tax auditors should give careful consideration to ensure the following elements are all fulfilled before sending a request to the EOI unit:

- Is there a reference to an EOI agreement in force upon which the request is based (MAAC, DTC, TIEA, regional instrument)?
- Have you identified the person(s) or entity(ies) under examination or investigation in [name of the jurisdiction] (name, date of birth for individuals, TIN, full address or all other information sufficient to identify the taxpayer(s))?
- Have you identified the person(s) or entity(ies), in the requested jurisdiction, in relationship with the person(s) under examination or investigation in [name of the jurisdiction] (name, date of birth for individuals, TIN, full address or all other information sufficient to identify this(ese) person(s) or entity(ies))?
- Have you mentioned the taxes concerned but also the tax periods under examination (day, month, year they begin and end) and the tax periods for which information is requested (if they differ from the years examined give the reasons why for instance if there is a loss carryover, the information concerns a purchase price for determination of a capital gain)?
- Have you indicated the stage of the procedure in [name of the jurisdiction], the issues identified and whether the investigation is of a civil or administrative nature only or may also have criminal consequences?
- Have you provided the relevant background information including the tax purpose for which the information is sought, the origin of the enquiry, the reasons for the request and the grounds for believing that the information requested is held in the territory of the requested jurisdiction or is in the possession or control of a person within its jurisdiction?
- Have you specified the information requested and why it is needed? Also specify the information that may be pertinent (e.g. invoices, contracts).
- If the information is likely to be used in a court proceeding and the applicable rules of evidence require the information to be in a certain form, have you indicated the required form?
- If the taxpayer under investigation must be notified under the laws of the requested jurisdiction, have you mentioned the reasons for avoiding notification of the taxpayer under examination or investigation?
- If the reply is urgent, have you stated the reasons for the urgency (statute of limitation, court case, etc.) and, if applicable, indicated the date after which the information may no longer be useful?
- Have you provided
 - (i) a statement confirming that [name of the tax administration] has pursued all means available in its own territory to obtain the information except those that would give rise to disproportionate difficulties; and
 - (ii) a statement that the request is in conformity with the laws and administrative practices of [name of the jurisdiction], that [name of the tax administration] could obtain the information if it was within its jurisdiction and that the request is in conformity with the legal instrument on which it is based.

- The tax auditor must consult the list of EOI agreement and their relevant provisions, which is available at [Annex A. List of legal bases](#) (see also [An agreement](#)), to ascertain that an EOI agreement is in force and allows for EOIR with respect to the persons, the taxes and the periods for which the information is requested.
- Where there are multiple legal bases with one jurisdiction, the tax auditor must use the one that best cover the persons, the taxes and the periods for which the information is requested. When multiple legal bases are equally applicable, it is recommended to use only one of them to avoid a request for clarification from the requested jurisdiction.
- Where there is no adequate EOI legal base, the tax auditor cannot make any request. Nevertheless, the tax auditor shall inform the EOI unit of the lack of legal instrument so that the relevance of an EOI agreement with the concerned jurisdiction is considered.

For any question about the existence or the relevance of an EOI legal base, the tax auditor can contact the EOI unit (see [1.3.1.2. The unit for exchange of information](#)).

The tax auditor must draft the outgoing request for information using the template in [Annex B.1. Template for an outgoing request for information](#) and use the Box 13 to ensure all required elements are fulfilled before sending the request to the EOI unit.

Step 3 – Sending the request to the exchange of information Unit

Once the request for information is drafted:

- a) the tax auditor must submit the request to its manager for review and approval. The tax auditor's manager shall approve the EOI request by checking its relevance and its completeness and by validating the tax auditor's approach. This control contributes to improve the quality of the request and facilitates the EOIR process; and
- b) once approved, the tax auditor must forward the request to the EOI unit ([add the generic email address](#)) for final review and transmission to the foreign CA.

- Where the request is not clear, incomplete or where the procedure described is not complied with the EOI unit will get back to the tax auditor for any clarification, complement or action. The tax auditor must respond to the request of the EOI unit within [add a deadline, for instance 15 days](#).

- c) The EOI unit informs the tax auditor when the request is sent.

Step 4 – Receiving a reply

As long as the request is still pending, the EOI unit monitors the process and is in contact with the foreign CA.

When a partial or final reply is received, the EOI unit will make the information available to the tax auditor. The tax auditor must:

- ensure that the confidentiality of the information is preserved. The storage of the reply must be done under the confidentiality and information security requirements (see [Information security](#)). In case of non-compliance, the tax auditor is subject to sanctions (see [Confidentiality](#)).
- use the information only for tax purposes. If the tax auditor needs to use the information for other purposes, it is mandatory to request the prior authorisation of the supplying foreign jurisdiction. To do so, the tax auditor must contact the EOI unit ([add the generic email address](#)) which will handle the request.
- fill the impact assessment form ([Annex F.1. Impact assessment form](#)) and send it to the EOI unit ([add the generic email address](#)) when the tax audit is completed. This form is provided to the tax auditor by the EOI unit along with the final reply of the requested jurisdiction.

3.1.2. Receiving a request for information

Comments on the role of field officers and tax auditors in responding to a request for information

As explained in the comments on gathering the requested information (see [Access powers](#)), the modalities of

collection of the information requested by a foreign jurisdiction may depend on the domestic legislation, the category of information holder and the access powers of the EOI unit (i.e. whether it can directly obtain information from any information holder).

Sub-section 3.1.2 on receiving a request for information is only relevant for jurisdictions where field officers and tax auditors are instructed by the EOI unit to obtain the information sought by a foreign jurisdiction.

Where the EOI unit directly gather the information from any information holder, the sub-section 3.1.2 is not needed.

Foreign jurisdictions may request information from [name of the jurisdiction]. The EOI unit is responsible for collecting the requested information and provide it to the foreign jurisdiction. Where needed, the EOI unit can request field officers and tax auditors to obtain and provide the requested information. In that case, the following procedure applies.

Step 1 – Being assigned with an incoming request for information

The CA of [name of the jurisdiction] assigns the incoming request to a local unit for collecting information. A letter signed by the EOI unit manager (template in [Annex B.5. Incoming request for information. Template letter requesting information from local unit](#)) is sent to the local unit. The letter includes:

- the reference number of the case attributed by the EOI unit;
- a reminder of the confidentiality obligations;
- all the necessary elements to identify the concerned person and the information holder (name, address, tax identification number),
- the relevant information to gather;
- guidance on the collection of the information, if any (e.g. a specific format for the information to be collected, the fact that the taxpayer must not be contacted in certain cases); and

- the deadline by which the required information must be provided to the EOI unit.

Only the information strictly needed for gathering the required information is provided to the field officer or tax auditor and, in no circumstances, the request itself is shared.

Step 2 – Gathering the information requested

The assigned local unit must start the process for gathering the information requested without any delay. In case of difficulties or clarification needed, the local unit must immediately contact the EOI unit.

The field officer must exercise the access powers provided by [name of the jurisdiction]'s legislation to obtain the required information. In case of failure of an information holder with its obligations, the relevant sanctions provided by [name of the jurisdiction]'s legislation must be applied. The access powers and applicable sanctions are described in [Access powers](#).

The local unit contacts the information holder (taxpayer or third party) by using a letter following the template in [Annex B.6. Incoming request for information. Template letter requesting information from the taxpayer / third party \[or any internal tax form to gather information\]](#). The letter contains:

- all the necessary elements to identify the concerned person (name, address, tax identification number) and to gather the relevant information;
- a date for the reply [add the deadline by which the information must be provided in accordance with the domestic legislation; for example: within 4 weeks from the date of the letter]; and
- A reference to the legal obligation to reply and the applicable sanctions in case of failure.

If the information holder has not replied within the specified time, the local unit makes further contact with that information holder to find out why there is a delay. The local unit can give by letter a further short period [add the period: e.g. less than 30 days] to respond. If that further period elapses without a full response, the local unit reviews the request with the EOI unit to

decide the next action to take, including the application of sanctions and the use of other available procedures to obtain the requested information.

Step 3 – Sending an interim report to the EOI unit in complex cases

Some requests for information may be complex requiring detailed investigation and collection of information from various sources. Therefore, it may not be possible to collect the requisite information in a short period of time.

In these cases, the local unit must send an interim report to the EOI unit if a final reply cannot be provided within 45 days of the assignment. This interim report provides the information collected so far and the likely date by which the full and complete information will be provided.

Step 4 – Providing the EOI unit with the requested information

When the required information is obtained from the information holder, the local unit forwards a report with the replies to the questions and the related records and documents to the EOI unit [generic email address to add] without any delay. The report contains:

- The reference number of the case attributed by the EOI unit;
- A brief summary of actions taken and efforts made for collecting the information;
- Problems in collecting the information, if any;
- Point wise reply to the questions provided by the EOI unit reproducing the question and then providing the answer;
- Additional information, if any, to be sent to the foreign CA as a SEOI;
- Annexures as required.

Where the EOI unit receives a feedback from the requesting jurisdiction on the usefulness of the information provided, the EOI unit shares a summary with the local unit which has gathered the information.

3.2. SPONTANEOUS EXCHANGE OF INFORMATION

Information is exchanged spontaneously when one jurisdiction, having obtained information in the course of administering its own tax laws which it believes will be of interest to one of its treaty partners for tax purposes passes on this information without the latter having asked for it.

The effectiveness of SEOI largely depends on the ability of field officers and tax auditors to identify, in the course of their activities (e.g. tax management, tax audit and investigation), information that may be relevant for a foreign tax administration. When such an information is identified, the EOI unit will decide to spontaneously share it (as long as there is a legal basis for such a SEOI between both jurisdictions. The SEOI mechanism is described in details in [2.1.2. Spontaneous exchange of information](#).

While the focus is on tax auditors in the following developments, the conditions and requirement described apply to any relevant field officer.

3.2.1. Sending a spontaneous exchange information

During an investigation or audit, tax auditors may identify information which may be of relevance to foreign tax administrations. Such an information may be sent to the EOI unit for a SEOI with the relevant foreign CA.

Step 1 – Detecting an information relevant to a foreign tax administration

Several circumstances may arise during audits and investigations that could prompt a SEOI. Without being exhaustive, the relevance of a SEOI should be considered in the following situations:

- Grounds for suspecting that there may be a significant loss of tax in another jurisdiction;
- Payments made to residents of another jurisdiction where there is suspicion that they have not been reported;
- A person liable to tax obtains a reduction in or an exemption from tax in one jurisdiction which could give rise to an increase in tax liability to tax in another jurisdiction;

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- Business dealings between a person liable to tax in a jurisdiction and a person liable to tax in another jurisdiction are conducted through one or more jurisdictions in such a way that a saving in tax may result in one of the other jurisdictions or in both;
- A jurisdiction has grounds for suspecting that a saving of tax may result from artificial transfers of profits within groups of enterprises; and
- Where there is likelihood of a particular tax avoidance or evasion scheme being used by other taxpayers.

Box 14 provides some case studies.

Step 2 – Drafting a report for the EOI unit

When an information is identified as suitable for a SEOI, the tax auditor should:

- 1 discuss with its manager to determine whether the information is worth transmitting to a foreign jurisdiction.
- 2 check if an EOI legal base exists with the receiving jurisdiction by consulting checks the list of EOI agreement entered by [name of the jurisdiction] which is available at [Annex A. List of legal bases](#) (see also [An agreement](#)).

Box 14. Case studies on spontaneous exchange of information

Case study 1

An audit of company X in jurisdiction A reveals a payment of EUR 50 000 for management fees paid to an unrelated company Y in jurisdiction B. An examination of the invoices indicates this amount was paid to company Y but an examination of the company X bank account shows two deposits made on the same day, one for an amount of EUR 35 000, the other for EUR 15 000.

The auditor observes an entry made in the managing director's diary that states, "Joe Z (the individual who provided the management services) requests payment of EUR 35 000 into the company Y bank account and EUR 15 000 into the Joe Z bank account".

Suspecting the second amount may not be disclosed in the accounts of company Y and believing the information could therefore be of use to the tax administration in jurisdiction B, the auditor initiates a SEOI with jurisdiction B via the CA.

Case study 2

Information provided anonymously to the tax administration in jurisdiction A reveals that John X, a resident of jurisdiction A, has been in receipt of substantial sums of cash deposited into his bank account from his father in jurisdiction B, who owns a restaurant. John X has told people that his father sends the cash for two reasons:

(1) his father can avoid paying tax on his restaurant business income by sending significant cash takings offshore; and

(2) he can provide some financial assistance to his son in jurisdiction A.

An audit of John X reveals that he has never lodged a tax return in jurisdiction A although his bank statements show he has derived large amounts of taxable interest income derived from the cash deposited by his father. The auditor calculates that EUR 50 000 has been periodically deposited into John X's bank account throughout the tax year.

The auditor believes the information gathered throughout the audit would be of use to the tax administration of jurisdiction B because the auditor suspects the income may not have been reported in that jurisdiction. The auditor therefore discusses the matter with his competent authority with the view to providing a SEOI to jurisdiction B. The SEOI will include, among other things, a copy of the auditors' report, copies of relevant bank statements and the name of John X's father.

Case study 3

Jurisdiction A uses the exemption method for the purposes of avoiding double taxation on employment income. Maria, a resident in jurisdiction A, was exempted from tax in jurisdiction A because she was employed for more than 183 days in jurisdiction B during the tax year. Because the tax convention between jurisdiction A and jurisdiction B assigns taxing rights on Maria's employment income to jurisdiction B, jurisdiction A spontaneously informs jurisdiction B that it granted a tax exemption to Maria for the tax year.

- Where there is an adequate legal basis, the tax auditor must draft the outgoing SEOI using the template in [Annex C.1. Template for an outgoing spontaneous exchange of information](#) and use Box 15 to ensure all required elements are fulfilled before sending the SEOI to the EOI unit.
- Where there is no adequate EOI legal base, no SEOI can take place. Nevertheless, the tax auditor shall inform the EOI unit of the lack of legal instrument so that the relevance of an EOI agreement with the concerned jurisdiction is considered.
- For any question about the existence or the relevance of an EOI legal base, the tax auditor can contact the EOI unit (see [1.3.1.2. The unit for exchange of information](#)).

3.2.2. Receiving a spontaneous exchange of information

The EOI unit may receive SEOI from foreign jurisdictions. After clearance by the EOI unit, the following procedure apply.

Step 1 – Using the spontaneous exchanged information

The information received spontaneously from the foreign jurisdiction is provided by the EOI unit to the relevant local unit for carrying out the necessary enquiries and taking appropriate action for the purposes of avoiding tax evasion and avoidance.

The assigned local unit must evaluate the information and, if warranted, take the appropriate actions for investigation [detail the domestic procedures to be followed; for instance, desk audit, on-site audit].

Step 2 – Providing feedback

When all the information is checked and the relevant investigations carried out, the local unit must send the impact assessment form in [Annex F.1. Impact assessment form](#) to the EOI unit which includes:

- the reference number of the case attributed by the EOI unit;
- a brief summary of the actions taken and efforts made for checking and using the information;

Box 15. Checklist for sending a spontaneous exchange information

Tax auditors should give careful consideration to ensure the following elements are all fulfilled before sending a SEOI to the EOI unit:

- Is there a reference to an EOI agreement in force upon which the SEOI can be sent (MAAC, DTC, regional instrument)?
- Have you identified the person(s) or entity(ies) to whom the information relates: name, date of birth (for individuals), marital status (if relevant), Tax Identification Number (TIN) and address (including e-mail or internet addresses, if known)?
- Have you identified the person(s) or entity(ies) from whom the information was obtained and, if relevant, their relationship to the person(s) or entity(ies) to whom the information relates: name, marital status (if relevant), TIN (if known), addresses (including e-mail or internet addresses if known), registration number in case of a legal entity (if known), flow charts, diagrams or other documents illustrating the relationships between the persons / entities involved)?
- If the information involves a payment or transaction via an intermediary have you mentioned the name, addresses of the intermediary, including, where bank information is involved, the name and address of the bank branch as well as the bank account number?
- Have you explained the reasons why the information was gathered and why the information is thought to be of interest to the receiving jurisdiction (for money amounts indicate the currency)?
- Have you indicated how the information was obtained and identify the source of the information provided, e.g. tax return, third-party information?
- Is a feedback requested on the usefulness of the information (if so a feedback, sentence (b) in item 10 of the outgoing SEOI template (in [Annex C.1. Template for an outgoing spontaneous exchange of information](#)) must be present)?

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- problems in checking the information, if any;
- additional revenue identified, penalties imposed, prosecution launched; and
- additional information, if any, to be sent to the foreign CA as a SEOI.

The local unit must provide this impact assessment to the EOI unit within [add the deadline by which the impact assessment must be provided; for instance, two weeks after the completion of the investigation].

3.3. USING SIMULTANEOUS TAX EXAMINATION

An STE enables two or more jurisdictions to co-ordinate their tax investigations on a person or group of persons and to share the result. Concretely, the jurisdictions participating in an STE examine, at the same time and within their own territory, the tax affairs of a person or group of persons in which they have a common or related interest. At the end of the examinations, they exchange between themselves the relevant information obtained. The STE mechanism is described in details in [2.1.3. Using simultaneous tax examination](#).

Tax auditors play an important role in STEs:

- They may initiate an STE (Step 1);
- They may participate to STEs they have initiated or that have been proposed by another jurisdiction (Step 2).

Step 1 – Considering a simultaneous tax examination

A tax auditor may consider an STE when active collaboration with another jurisdiction is necessary to get an overall view of the facts and circumstances that determine the tax liability of the taxpayer(s) involved. Box 16 provides a checklist to ensure an STE has an added value and if the process can deliver the operational aims. Box 7 gives some examples of criteria to consider when selecting potential STE cases. Box 17 provides some STE case studies.

Where the tax auditor considers an STE relevant, the tax auditor must:

- a) draft an STE proposal using the template in [Annex D.1. Template to propose a simultaneous tax examination](#);

- b) obtain approval from its manager;
- c) send it to the STE co-ordinator [add contact details].

The STE co-ordinator of [name of the jurisdiction] checks if the case is suitable for an STE:

- If the STE co-ordinator finds the proposal not suitable, the tax auditor is informed and request for information should be considered instead.
- If the STE co-ordinator finds the proposal suitable, the STE co-ordinator proposes a selection meeting to other foreign STE co-ordinators.

Step 2 – Co-ordinating with foreign jurisdictions

Where an STE is proposed by [name of the jurisdiction] or a foreign jurisdiction, a selection meeting is organised to discuss whether it is appropriate to launch it.

- The tax auditor is invited by the STE co-ordinator for a selection meeting.
- The tax auditor collects and analyses internal and external information available for its own taxpayers

Box 16. Checklist on proposing a simultaneous tax examination

The tax auditor shall use the following elements to check if a case is suitable for an STE before sending a request to the EOI unit:

- Is the tax auditor confident that the tax examination with a foreign jurisdiction will largely contribute to the timely and successful resolution of a domestic tax case?
- How important and significant is the case? A jurisdiction should not make a request in minor cases. It should be noted, however, that the amount of tax involved should not be the only factor to consider when determining whether or not the case is minor. Other factors may include, for example, the extent of the compliance risk (e.g. there may be several similar cases of this nature), the assessment of whether the taxpayer is involved in aggressive tax planning, the potential to assist in the resolution of other domestic cases, etc.

before the meeting and provides this information to the STE co-ordinator [describe the procedure and the template to be used]. Box 8 provides guidance for the preliminary examination.

- The tax auditor is granted a CA status by the STE co-ordinator for the selection meeting.

Step 3 – Starting the simultaneous tax examination

Where the launch of an STE proposed by [name of the jurisdiction] or a foreign jurisdiction is agreed, the tax auditor is invited by the STE co-ordinator for a kick-off meeting.

During the kick-off meeting, the tax auditor:

- presents the findings in the pre-audit phase in [name of the jurisdiction].
- discusses the project plan for the STE with the participants in order to draft a project plan (template in Annex D.3. Simultaneous tax examination. Project plan).

The tax auditor is granted a CA status by the STE co-ordinator for the duration of the STE.

Step 4 – Processing the domestic tax audit in the context of a simultaneous tax examination

Regarding the domestic audit, the tax auditor(s) of [name of the jurisdiction] follows tax audit procedures of [name of the jurisdiction] like any regular tax audit.

Throughout the STE, the tax auditors (having CA status) of the participating jurisdictions should have interim contacts with each other. Information gathered during their audits may be exchanged through the process agreed in the kick-off meeting.

The STE co-ordinator must always be informed about the EOI carried out by the tax auditors [describe the process; for instance, monthly meeting between the STE co-ordinator and the tax auditors involved].

Step 5 – Finalising the audit

The final stages of an STE are the final meeting, the production of the final report and the results indicators document. The following procedure applies:

Box 17. Case studies on simultaneous tax examinations

Case study 1

The STE concerns the football industry, with a specific interest in all types of "image rights". The kick-off meeting was used to create more understanding on the football industry by making an inventory of general tax risks and regulations, learning about different domestic/international regulations relating to football and the interpretation of those regulations. Some of the risks detected are the abuse of trust structures and intermediary companies abroad. These companies receive significant payments both from sport entities, and from important firms as publicity fees. STEs have been conducted in different jurisdictions to cover different international transactions and financial flows.

Case study 2

Jurisdiction A has initiated an STE involving a worldwide operating company that provides taxi services on a location based service.

The company, originating from jurisdiction B, is operating through a jurisdiction A based head office that is responsible for all non-jurisdiction B activities in the group. Through a high profile computer system in jurisdiction A, taxi drivers and customers on a worldwide level are linked to each other. Payment for the taxi ride is made through a credit card facility which is managed at the jurisdiction A head office. The income of the company consists of a 20% commission that is charged to the taxi driver for bringing them their business.

Main objectives of the STE were to assess whether:

- the right transfer pricing principles have been used for allocating the company profits between the jurisdiction A head office and the local support offices that were set up in all jurisdictions where the company is operating.
- for internal services and services to third parties full VAT is paid by the right parties in the right jurisdictions.
- the taxi drivers that operate as customers of the company are paying local VAT for the taxi ride and income tax on their profits to the right amounts and in the right jurisdiction.

During the STE, the company gave full co-operation on delivering the income information of the local taxi drivers. National audits have revealed that about 25 % of the drivers did not or not completely file their income to the tax administration.

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- The tax auditor of [name of the jurisdiction] must consult the STE co-ordinator on the decision to close down an STE.
- The tax auditor prepares and sends its contribution for the final report to the STE co-ordinator within the specified deadline. The tax auditor must use the template in Annex D.4. *Simultaneous tax examination. Final report* or the template provided by the initiating jurisdiction.
- The tax auditor must provide to the STE co-ordinator result indicators [amount of tax and penalties, revenue losses prevented, tax avoidance scheme detected] of the STE in [name of the jurisdiction] through the impact assessment form (Annex F.1. *Impact assessment form*).
- A final report must be prepared:
 - Where the STE was initiated by [name of the jurisdiction], the contributions of the tax auditors of the jurisdictions involved are compiled by the STE co-ordinator of [name of the jurisdiction] into a complete draft final report (template in Annex D.4. *Simultaneous tax examination. Final report*), distributed to the participants in the STE and the involved STE co-ordinators before the final meeting.
 - Where the STE was initiated by another jurisdiction, then the STE co-ordinator sends the contribution of [name of the jurisdiction] to the initiating jurisdiction before the final meeting.
- The tax auditor must receive the final report from its STE co-ordinator who invites the tax auditor to participate for a final meeting.
- During the final meeting, the tax auditor:
 - presents the findings in [name of the jurisdiction].
 - discusses the final report for the STE with the participants.

3.4. USING TAX EXAMINATION ABROAD

Comments on tax examination abroad

The participation of authorised foreign tax officials in a tax audit conducted by the requested jurisdiction may be passive or active.

Some jurisdictions may allow only passive participation of foreign tax officials in a tax audit. In this case, the participation of foreign tax officials will be limited to observing the relevant parts of the tax audit and liaising directly with the tax officials of the requested jurisdiction. Foreign tax officials would not be allowed to question taxpayers or other persons directly in the context of this form of overseas tax audit.

Other jurisdictions may allow the active participation of authorised foreign tax officials. In these circumstances, some jurisdictions may, for example, allow foreign tax officials to conduct interviews and review the records of the taxpayers under audit.

A TEA which involves the representatives of the CA of one jurisdiction being allowed by the CA of the requested jurisdiction to be present at the appropriate part of a tax examination in the requested jurisdiction. However, the CA of the requested jurisdiction makes all the decisions with respect to such examination including the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions to which such examinations shall adhere to. There is no obligation to accept the presence of a foreign tax auditor. Tax auditors can find some TEA case studies in Box 18.

3.4.1. Sending a request for a tax examination abroad

Tax examination abroad procedure operates by enabling tax administrations, to the extent allowable by its domestic law, to permit authorised tax officials of another jurisdiction to participate in the conduct of tax examinations carried out by the requested jurisdiction. The participation of authorised foreign tax officials in a tax examination being carried out by the requested country may be passive or active.

Step 1 – Exhausting all other possible means

Before considering drafting a request for a TEA, the tax auditor shall make sure that all means available to obtain the information in [name of the jurisdiction] have been pursued:

- By exploiting any domestic databases;

Box 18. **Case studies on tax examination abroad**

Case study 1

Company A is registered in jurisdiction A. Its corporate purpose is the online retail sale of tires.

Mr. B is tax resident in jurisdiction B. Company B is registered in jurisdiction B with Mr B as the sole shareholder and director.

Company A and Company B are bound by a service agreement under which Company B provides the following services: IT support with development of the customer website; bid manager for AdWords campaigns, Back/middle Office and Call centre.

The tax authorities in jurisdiction B consider that the effective management headquarter of Company A was located in jurisdiction B during the period covered by their tax audit. A seizure procedure took place in jurisdiction B and tends to confirm that Company A was managed from jurisdiction B by Mr B and had material, technical and human operating resources in jurisdiction B provided by Company B.

The general objective of the TEA in this case would be to verify the economic reality of Company A business and its relationship with Company B. To shed light on the risks of fraud, it is necessary to be able to examine in jurisdiction A, in Company A's accounting records, the commercial conditions of the transactions and the financial flows. More specifically, the tax authorities of jurisdiction B could be interested in being present during the tax examination and to interview the key managers of Company A.

Case study 2

A renewable energy certificate is a certificate corresponding to the environmental attributes of energy produced from renewable sources. The functioning of this market is similar to that of carbon allowances. These certificates are marketable securities. When a taxpayer obtains a renewable energy certificate, it can sell it to a trader.

Company A in jurisdiction A is a company specialised in the implementation of construction work programmes financed by the national renewable energy certificate scheme. Company A acts as an intermediary between the energy distributor and the beneficiaries of the programmes.

In order to optimise the profitability of the renewable energy certificate obtained, Company A sells them to Company B in jurisdiction B, in accordance with the terms of a partnership agreement established between the two companies.

The tax audit of Company A revealed some cases of over-invoicing producing fictitious renewable energy certificates unduly granted to Company B.

The general objective of the TEA request would be to verify the economic reality of Company B's business and its relationship with Company A. It seems necessary to examine in jurisdiction B Company B's accounting records, the commercial conditions of renewable energy certificates transactions, the financial flows, the methods for determining sales prices, the margin generated on transactions and Company B's internal organisation and the exact role of its employees or representatives in relations with operators in jurisdiction A.

- By using all domestic access powers available, including by asking to the taxpayer concerned itself;
- By consulting publicly available sources in the other jurisdiction, such as public data bases maintained by regulators in foreign jurisdictions (On-line National Trade Registers are a good source of information for instance). These public databases can provide considerable information such as registration details, ownership information, financial statements and annual reports. Box 12 provides a list of some relevant websites with public information;
- By sending a prior request for information to the

requested jurisdiction.

Step 2 – Drafting a request

Before drafting a request for TEA, the tax auditor must check whether an EOI legal base exists with the requested jurisdiction.

- The tax auditor must consult the list of EOI agreement and their relevant provisions, which is available at [Annex A. List of legal bases](#) (see also [An agreement](#)), to ascertain that an EOI agreement is in force and allows for TEA with respect to the persons, the taxes and the periods for which the information is requested.

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- Where there are multiple legal bases with one jurisdiction, the tax auditor must use the one that best cover the persons, the taxes and the periods for which the information is requested. When multiple legal bases are equally applicable, it is recommended to use only one of them to avoid a request for clarification from the requested jurisdiction.
- Where there is no adequate EOI legal base, the tax auditor cannot make any TEA request. Nevertheless, the tax auditor shall inform the EOI unit of the lack of legal instrument so that the relevance of an EOI agreement with the concerned jurisdiction is considered.
- If applicable, details of the specific issues requested to be examined;
- If applicable, details of the preferred timing of the tax examination; and
- Any other details that may be applicable in the nominated case.
- The tax auditor can use the Box 19 to ensure all required elements are fulfilled before sending the TEA request to the EOI unit.

Step 3 – Sending the request for a tax examination abroad to the exchange of information Unit

For any question about the existence or the relevance of an EOI legal base, the tax auditor can contact the EOI unit (see [1.3.1.2. The unit for exchange of information](#)).

Once the TEA request is drafted:

The tax auditor must draft the outgoing TEA request using the template in [Annex E.1. Template for an outgoing tax examination abroad](#) and especially:

- The item 5 by adding the reference of the prior request for information sent or SEOI received;
- The item 19 by adding the request for a tax examination abroad as further requirements with:
 - The reasons and motives for the request;
 - The special reasons why the physical presence of tax official(s) is crucial;
- a) the tax auditor must submit the request to its manager for review and approval; and
- b) once approved, the tax auditor must forward the request to the EOI unit ([\[add the generic email address\]](#)) for final review and transmission to the foreign CA.
 - Where the request is not clear, incomplete or where the procedure described is not complied with the EOI unit will get back to the tax auditor for any clarification, complement or action. The tax auditor must respond to the request of the EOI unit within [\[add a deadline, for instance 15 days\]](#).
- c) The EOI unit informs the tax auditor when the TEA request is sent.

Box 19. **Checklist on proposing a tax examination abroad**

The tax auditor should give careful consideration to ensure the following elements are all fulfilled before sending a TEA request to the EOI unit:

- Is the tax auditor confident that the tax examination in the foreign jurisdiction will largely contribute to the timely and successful resolution of a domestic tax case?
 - Could the domestic tax case be efficiently and appropriately resolved using other methods?
 - How important and significant is the case? A jurisdiction should not make a request in minor cases.
- It should be noted, however, that the amount of tax involved should not be the only factor to consider when determining whether or not the case is minor. Other factors may include, for example, the extent of the compliance risk (e.g. there may be several similar cases of this nature), the assessment of whether the taxpayer is involved in aggressive tax planning, the potential to assist in the resolution of other domestic cases, etc.
- What are the statutory minimum record-keeping requirements for taxpayers in the requested jurisdiction?

Step 4 – Obtaining a reply to the outgoing request for tax examination abroad

The decision to allow or reject a foreign tax official to be present in a domestic tax examination rests exclusively with the CA of the jurisdiction where the examination has been requested. As long as the request is still pending, the EOI unit monitor the process and is in contact with the foreign CA:

- If the requested jurisdiction refuses the TEA, the tax auditor is informed by the EOI unit.
- If the requested jurisdiction accepts the TEA, the tax auditor is informed by the EOI unit which shares the information provided by the requested jurisdiction:
 - the time and place of the examination;
 - the relevant logistical arrangements;
 - the authority or official designated to carry out the examination (e.g. name, title, contact details); and
 - the procedures and conditions required by the requested jurisdiction for the conduct of the examination.

Step 5 – Attending a tax examination abroad

The tax auditor is invited by the EOI unit to attend the tax examination in the requested jurisdiction and is granted a CA status by the EOI unit manager for the duration of the TEA. Table 11 presents different sequences and the related applicable procedures.

3.4.2. Receiving a request for a tax examination abroad

The EOI unit may receive requests for a TEA from other jurisdictions. There is no obligation to accept a TEA. This remains a discretionary decision of the EOI unit. Where the EOI unit decides to allow the TEA, then the following steps must be followed.

Step 1 – Being assigned with an incoming request for tax examination abroad

The CA of [name of the jurisdiction] assigns the incoming request for a TEA to a local unit. Concretely, the EOI unit:

- explains the TEA request to the local unit in a phone call;
- sends to the local unit a written confirmation; and
- discusses the arrangements to set-up:

Table 11. **Applicable procedure during a tax examination abroad**

Situations	Applicable procedures
During the TEA	The tax auditor is required to participate in accordance with, and to the extent permitted by, the procedures and conditions stipulated by the official of the requested jurisdiction. This official determines the extent of the tax auditor’s participation during the tax examination.
During and after the TEA	The tax auditor ensures the storage of the TEA records under the confidentiality requirements (see Information security).
After the TEA	The tax auditor shall send the records collected to the EOI unit ([add the generic email address]).
After the completion of the tax audit in [name of the jurisdiction]	The tax auditor must provide to the EOI unit result indicators [amount of tax and penalties, revenue losses prevented, tax avoidance scheme detected] through the impact assessment form (Annex F.1. Impact assessment form). The information shall be used by the tax auditor only for tax purposes. If the tax auditor needs to use the information for other purposes, it is mandatory to request the prior authorisation of the supplying foreign jurisdiction. To do so, the tax auditor must contact the EOI unit [generic email address to add] which will handle the request.

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- time and place of the examination;
- relevant logistical arrangements;
- authority or official designated to carry out the examination (e.g. name, title, contact details);
- procedures and conditions (e.g. active or passive presence of the foreign tax auditor, power to interview the taxpayer or not) required by [name of the jurisdiction] for the conduct of the examination.
- drafts a cover letter to deliver the collected information to the foreign tax auditor(s) by using the TEA reply template in [Annex E.5. Incoming tax examination abroad. Delivery of collected information](#). It is recommended to deliver the collected information when the foreign tax auditor is still in [name of the jurisdiction];
- ensures the storage of the TEA records under the confidentiality requirements (see [Information security](#)).

Considering these elements, the local unit makes a proposal to the EOI unit within [add a deadline, e.g. 15 days].

Step 2 – Starting the tax examination

Once all the arrangements for the TEA are finalised, the tax examination in [name of the jurisdiction] can start:

- The tax official of the local unit involved in the TEA is granted a CA status by the EOI unit manager for the duration of the TEA in order to be able to provide information to the foreign tax auditor(s).
- The tax official receives the foreign tax auditor in the tax office for a presentation of participants and a discussion about the procedure. The tax official must verify that the foreign tax auditor(s) are granted a CA status. During this meeting, the tax official and the foreign tax auditor(s) agree on the records to collect and the questions to ask during the interview.
- During the tax audit on the premises, the tax official supervises the extent of participation of the foreign tax auditor(s) as agreed in the TEA arrangement.
- During the tax examination, the tax official shall collect the records to be exchanged and interview the taxpayer.

Step 3 – Finalising the tax examination

After the tax examination, the tax official:

- makes two copies of the collected records (one for the EOI unit and one for the foreign tax auditor(s));
- labels all the collected records in accordance with the provision in [Information security](#);

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Annex A. List of legal bases

The Global Forum Secretariat can provide a spreadsheet indicating for the MAAC:

- The date of entry into force.
- The details of the mandatory notifications (Annex A – list of taxes to which the MAAC applies and Annex B – designation of competent authority(ies)).
- The details of the potential declarations ("Annex C – Definition of the word “national” for the purpose of the MAAC, Notification procedures, Tax examination abroad, Territorial application).
- The details of the potential reservations (Taxes covered, Recovery of tax claims and tax claims in existence before the entry into force of the MAAC, Service of documents, Criminal tax matters).

This spreadsheet can be adapted with the other legal instruments in force in your jurisdiction. This table is available on request at gftaxcooperation@oecd.org.

JURISDICTION	LEGAL BASE	ENTRY INTO FORCE	SCOPE	OTHER PURPOSES WITH PRIOR AUTHORISATION	SIMULTANEOUS CONTROL	ASSISTANCE IN RECOVERY	SERVICE OF DOCUMENT	LINK
JURISDICTION A	DOUBLE TAXATION CONVENTION	01/01/2004	Taxes on income or profits Taxes on capital gains which are imposed separately from the tax on income or profits Taxes on net wealth	Yes/No	Yes/No	Yes/No	Yes/No	www.mof.gov
JURISDICTION A	MAAC	01/01/2015	...	Yes	Yes	Yes	Yes	www.mof.gov
JURISDICTION A	REGIONAL DIRECTIVE	01/01/2010	...	Yes/No	Yes/No	Yes/No	Yes/No	www.mof.gov
JURISDICTION A	TIEA	01/01/2009	...	Yes/No	Yes/No	Yes/No	Yes/No	www.mof.gov
JURISDICTION B	DOUBLE TAXATION CONVENTION	01/01/1982	...	Yes/No	Yes/No	Yes/No	Yes/No	www.mof.gov

Annex B. Exchange of information on request

Annex B.1. Template for an outgoing request for information

The model template below is an annotated version of the standard form template for requests for information under TIEAs that was developed by OECD's Working Party 10. The template is available to CAs on request (gftaxcooperation@oecd.org).

Request for Information under the [TIEA/DTC/MAAC] applicable between [jurisdiction] and [jurisdiction]

The completed form constitutes a confidential communication between the competent authorities governed by [legal basis].

1.	To:	<i>To be completed by the EOI unit.</i>	
2.	From:	<i>To be completed by the EOI unit.</i>	
3.	Contact point	Name:	<i>To be completed by the EOI unit because the contact point should have the authority to exchange information.</i>
		Email:	
		Telephone:	
		Language skills:	
4.	Legal Basis:	<i>Choose a legal instrument in force and applicable between your jurisdiction and the requested jurisdiction.</i>	
5.	Reference numbers and related matters	Reference number:	<i>To be completed by the EOI unit.</i>
		Initial request:	Please tick: <input type="checkbox"/> yes <input type="checkbox"/> no If no, please provide reference number(s) and date(s) of any related request(s) and/or response(s):
		Number of attachments to the request:	<i>Please provide all relevant supporting documentation (e.g. charts, copies of invoices, contracts).</i>
		Total number of pages for all attachments:	

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6.	Urgency of reply	Date, if any, after which information would no longer be useful:	
		Urgent reply required due to:	<p>Please check the box:</p> <p><input type="checkbox"/> Statute of limitation; date:</p> <p><input type="checkbox"/> Suspected criminal tax matter</p> <p><input type="checkbox"/> Court case</p> <p><input type="checkbox"/> Other reasons (please specify):</p>
7.	Summary		<i>Please give a short and concise description regarding the tax purpose of the investigation and the purpose of request.</i>
8.	Identity of subject/group under examination or investigation:		<p><i>The identification of the person(s) or entity(ies) under examination or investigation:</i></p> <ul style="list-style-type: none"> • <i>full name (first name, family name, entity name),</i> • <i>date of birth (for individuals),</i> • <i>Tax Identification Number (TIN) / VAT number,</i> • <i>full address (including e-mail or internet addresses, if known).</i> <p><i>It is possible to make a bulk request (information relating to a number of taxpayers individually identified) or a group request (information relating to a group of taxpayers, not individually identified but with a similar pattern).</i></p> <p><i>When making a group request, the requesting jurisdiction must provide a detailed description of the group.</i></p> <p><i>In cases where the requesting competent authority does not provide the name or address of the taxpayer, it must include other information sufficient to identify the taxpayer (e.g. bank account number).</i></p>
9.	Tax period/s under investigation or taxable event for which or in relation to which the information is sought:		<p><i>The tax periods under examination (day, month, year they begin and end), and the tax periods for which information is requested (if they differ from the years examined give the reasons why; for instance if there is a loss carryover, the information concerns a purchase price for determination of a capital gain).</i></p> <p><i>Please verify that the applicable EOI agreement is in place and in force for the period of the request and the period under review. For older years, if prosecution or assessment would ordinarily be proscribed by the applicable statute of limitations, please describe how the limitations period is held open, or is expected to be held open.</i></p>
10.	Tax(es) to which the request relates:		<i>Please review the applicable EOI agreement and add the name of the tax(es) (e.g. corporate income tax). Add also the type of tax(es) (personal, corporate, etc.) if the name of the tax(es) is not sufficiently indicative of the type of tax.</i>

11.	Purpose in accordance with the applicable EOI instrument, for which the information is requested:	<p>Please check one or more boxes:</p> <p><input type="checkbox"/> determination, assessment and collection of taxes of civil/ administrative tax matters,</p> <p><input type="checkbox"/> investigation or prosecution of criminal tax matters,</p> <p><input type="checkbox"/> other (please specify):</p>
12.	<p>Relevant background:</p> <p><i>Please provide the necessary background information, which would typically include a brief summary of the ongoing examination or investigation and how the requested information relates to this examination or investigation. Please indicate the stage of the procedure in the requesting jurisdiction, the issues identified and whether the investigation is of a civil or administrative nature only or may also have criminal consequences. Where references are made to domestic law it is useful to provide some explanation as the foreign competent authority will not be familiar with your laws.</i></p> <p><i>Insert any other factual basis for request, such as information from similar taxpayers' examinations, interviews, or other research, if applicable, as well as the model of behaviour regarding the group.</i></p> <p><i>Where any other persons (e.g. individuals, companies, partnerships, trusts, etc.), including foreign persons, are relevant to the examination or investigation and the request, please specify, to the extent known, their relationship to the taxpayer and provide information sufficient to identify these persons.</i></p> <p><i>Insert an enclosure showing the scheme/structure, if applicable.</i></p> <p><i>If preferred, refer to an attachment to provide the relevant background alternatively include a summary of the relevant background with the full description in an attachment enclosed.</i></p>	
13.	<p>Explanation to confirm that all possible domestic means have been pursued to obtain the information requested, except those that would give rise to disproportionate difficulties:</p> <p><i>Please provide the necessary information to confirm that all means available within your territory have been pursued to obtain the information, except those that would give rise to disproportionate difficulty. In case you have abstained from using any means available in your own territory to obtain the information because this would give rise to disproportionate difficulties, please provide a description of the means and of the disproportionate difficulties.</i></p>	
14.	<p>Reasons why the information requested is foreseeably relevant for the tax purpose indicated/investigation:</p> <p><i>Please insert reasons for believing that the information requested is relevant to your investigation. This could include an explanation of the applicable tax law or criminal law, and why there is reason to believe that the concerned taxpayers have been non-compliant and how the information would assist in determining compliance of these taxpayers.</i></p> <p><i>The standard of "foreseeable relevance" can be met in respect of a group of taxpayers that are not individually identified provided the requesting State gives:</i></p> <ul style="list-style-type: none"> <i>• A detailed description of the group and the facts and circumstances that led to the request;</i> <i>• An explanation of the applicable law and why there is reason to believe that the taxpayers in the group have been non-compliant with that law supported by a clear factual basis; and</i> <i>• Shows that the requested information would assist in determining compliance by the taxpayers in the group. Usually, although not necessarily, a third party will have actively contributed to the noncompliance of the taxpayers in the group.</i> 	

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15.	Information requested:	<p><i>The requested information should be foreseeable relevant and in concordance with the information provided in the previous sections, e.g. relevant background. Please be as specific as possible about the information you are requesting, as it will form the basis for any domestic information gathering measures taken by the requested jurisdiction.</i></p> <p><i>For group requests, please consider whether only data/information (no documents) could be sufficient. Please give numbers/letters to the questions to ease their administration.</i></p>
16.	Grounds for believing that the requested information is held in the requested jurisdiction or is within the possession or control of a person within its jurisdiction:	<p><i>For instance, when the foreign taxpayer(s) or entity(ies) are tax registered in the requested jurisdiction or if assets (financial accounts, immovable property, intellectual property) are held in the requested jurisdiction.</i></p>
17.	Name and address of any person believed to be in possession of the information requested (to the extent known):	<p><i>The identity of any foreign taxpayer(s) or entity(ies) relevant to the examination or investigation and, to the extent known, their relationship to the person(s) under examination or investigation:</i></p> <ul style="list-style-type: none"> • <i>name,</i> • <i>marital status (if relevant),</i> • <i>TIN (if known),</i> • <i>addresses (including e-mail or internet addresses if known),</i> • <i>registration number in the case of a legal entity (if known),</i> • <i>charts, diagrams or other documents illustrating the relationships between the persons involved.</i>
18.	Request to refrain from notifying the persons under investigation or concerned:	<p>Please tick: <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>Please indicate reasons:</p> <p><input type="checkbox"/> If yes, the authority responsible in the requesting state confirms that it would be able to guarantee this course of action in similar circumstances.</p>
19.	Form, if any, in which information is requested:	<p>In the case of the production of copies, authentication is required:</p> <p>Please tick: <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>If yes, which ones:</p> <p>Further requirements, such as translation of reply:</p> <p>Please tick: <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>If yes, which ones:</p>

20.

In making the request, the requesting competent authority states that:

(a) all information received in relation to this request will be kept confidential and used only for the purposes permitted in the agreement which forms the basis for this request;

(b) the request is in conformity with its law and administrative practice and is further in conformity with the agreement on the basis of which it is made;

(c) the information would be obtainable under its laws and in the normal course of its administrative practice in similar circumstances.

[Date]

[Authorised signature of requesting competent authority]

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Annex B.2. Outgoing request for information. Communication with the tax auditor or the field officer

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

Your reference: [to be completed]

[Date]

Exchange of Information under Article [XX] of [insert EOI agreement]

Dear [insert name of the tax auditor/official],

I refer to your request of [insert date] [if relevant add: "*and subsequent correspondence of [insert dates]*"] for exchange of information with [insert name of the requested jurisdiction].

[To insert in case of a request for clarification]

In order to process the request please provide us with the following clarifications and/or additional details:

[Outline the nature of the clarifications and/or additional details required and why it is necessary for the processing of the request].

[To insert when the request is sent to the requested jurisdiction]

The request has been sent to [insert name of the requested jurisdiction] on the [insert date] under the reference [to be completed]. The reply will be forwarded as soon as it will be received.

[To insert when a reply is received from the requested jurisdiction]

The information requested has [been received / not been received] from the tax administration of [insert name of requested jurisdiction] and a copy of the letter [and documents requested] [is / are] attached.

This information is to be treated as confidential. The use and disclosure of this information is governed by the provisions of [insert reference to domestic law] and Article [XX] of [insert EOI agreement]. These documents are "treaty confidential" and should be stored securely. It is not permitted to make copies of them or to forward them to other offices without prior consultation with the EOI unit.

[Only if the request is replied add: "*In order to assess the quality and the usefulness of this reply, you are required to complete and return to the EOI unit the attached impact assessment form when your tax audit will be completed*".]

Should you have any queries relating to this matter, please contact [insert name of contact with position and phone and e-mail details].

Yours sincerely,

[Signature of the EOI unit manager/EOI officer]

Annex B.3. Outgoing request for information. Template for a request for wider use of the exchanged information

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

Your reference: [to be completed]

[Date]

Exchange of Information under Article [XX] of [insert EOI agreement]

Dear [name of the CA in the requested jurisdiction],

I refer to your reply dated [insert date] in relation to the above case which we received on [insert date].

In line with [reference to the relevant provision of the EOI agreement, e.g. Article 22.4 of the MAAC], I request the permission to use information and documents received pursuant to [insert EOI agreement] for the following purposes other than tax purposes.

[Information and documents to be used for other purposes to be detailed].

[Specification of the other purposes to be detailed].

Should you have any queries relating to this matter, please contact [insert name of contact with position and phone and e-mail details].

This letter and the information it contains are governed by the confidentiality provisions under Article [XX] of [insert EOI agreement].

Yours sincerely,

[Signature of the CA]

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Annex B.4. Incoming request for information. Communication with the requesting jurisdiction

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

Your reference: [to be completed]

[Date]

Exchange of Information under Article [XX] of [insert EOI agreement]

Dear [name of the CA in the requesting jurisdiction],

[To insert to acknowledge receipt of the request]

I acknowledge receipt of your request dated [insert date] for information in relation to the above case which we received on [insert date].

Enquiries are being carried out and I will issue a full response to you as soon as possible.

[To insert to request clarification and/or additional information]

I refer to your request dated [insert date] for information in relation to the above case which we received on [insert date].

In order to process the request please provide us with the following clarifications and/or additional details:

[Outline the nature of the clarifications and/or additional details required and why it is necessary for the processing of the request].

[To insert to decline to process the request]

[If additional details were requested and provided please refer to the date of request and date they were provided].

I regret to inform you that after reviewing your request, it cannot be processed for the following reasons:

[Outline the reasons why the request cannot be processed].

[To insert to provide a status update (when no reply is provided within 90 days)]

I wish to inform you that we have not yet been able to obtain the requested information. [Add some descriptive details as to why the information has not yet been provided].

We will endeavour to forward the requested information to you as promptly as possible. We expect to be able to provide this information by [insert date].

[To insert to provide a partial or final reply]

We wish to inform you that we have [partially] completed our enquiries and have [partially obtained / obtained / not obtained] the information needed to respond to your request.

Please find attached [add details of attached documentation]

...

I would appreciate if you could inform us, in due course, whether and how the information and documentation provided has helped you in your investigation.

Should you have any queries relating to this matter, please contact [insert name of contact with position and phone and e-mail details].

This letter and the information it contains are governed by the confidentiality provisions under Article [XX] of [insert EOI agreement].

Yours sincerely,

[Signature of the CA]

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Annex B.5. Incoming request for information. Template letter requesting information from local unit

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

[Date]

Request for information

Dear [name of the manager of the local or specialised tax office],

A request for exchange of information has been received from [insert name of foreign tax authority] pursuant to Article [XX] of [insert EOI agreement].

Please provide the information described below on the following taxpayer(s):

Name	Last Known Address

Information to be provided:

[add the requested information]

[add the requested information]

...

When complying, please refer to the reference number above and attach a copy of this letter. Please respond within [XX] days from receipt of this letter.

Should you have any queries relating to this matter, or in the unlikely event that the information holder challenges our authority to obtain the information requested please contact me [insert telephone and e-mail details].

This letter and the information it contains are governed by the confidentiality provisions under Article [XX] of [insert EOI agreement].

Yours sincerely,

[Signature of the EOI unit manager]

Annex B.6. Incoming request for information. Template letter requesting information from the taxpayer / third party

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

[Date]

Request for information

Dear [name of the taxpayer/third party],

In accordance with [insert reference to relevant provision of domestic law] the following documents and information are required for the use of the tax authorities:

[Insert details of the information required].

The information should be provided to this Office on or before [insert date]. In case of non-compliance, sanctions specified in [insert reference to relevant provision of domestic law] can be applied.

The documents and information provided will be treated in confidence. Any inquiry on this matter should be directed to [insert name of contact with position and phone and e-mail details].

Yours sincerely,

[Signature of the tax official]

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Annex B.7. Incoming request for information. Template letter for notification of the person concerned or information holder

This template can be used for the notification of the person concerned or the information holder where such a notification is provided by domestic laws

Our reference: [to be completed]

Please quote our reference in all correspondence.

[Date]

Dear [name of the person concerned or the information holder],

Under the terms of [insert a reference to the domestic law or regulations], I wish to inform you that a request for information has been made under the provisions of Article [XX] of [insert name of the EOI agreement].

Enquiries [are being or have been] carried out with the [insert name of bank or third party] in accordance with the powers given to me by [insert reference to law or regulation].

Any inquiry on this matter should be directed to [insert name of contact with position and phone and e- mail details].

Yours sincerely,

[Signature of the EOI unit manager]

Annex C. Spontaneous exchange of information

Annex C.1. Template for an outgoing spontaneous exchange of information

Spontaneous information under the [EOI agreement] applicable between [jurisdiction] and [jurisdiction]

The completed form constitutes a confidential communication between the competent authorities governed by [legal basis].

1.	To		
2.	From		
3.	Contact point	Name	
		Email	
		Telephone	
4.	Legal Basis		
5.	Reference number		
6.	Identity and address of the person involved in the sending jurisdiction	<p>Individual</p> <p><i>First name LAST NAME – date of birth</i></p> <p><i>Address</i></p>	
		<p>Entity</p> <p><i>NAME – identification number</i></p> <p><i>Address</i></p>	
7.	Identity and address of the person involved in the receiving jurisdiction	<p>Individual</p> <p><i>First name LAST NAME – date of birth</i></p> <p><i>Address</i></p>	
		<p>Entity</p> <p><i>NAME – identification number</i></p> <p><i>Address</i></p>	

Annexes

8.	Taxes to which the request relates and time period in relation to which the information is sought <i>Taxes – Time period</i>	
9.	Information transmitted	
10.	In exchanging the information, the competent authority requests: (a) that all information transmitted in relation to this spontaneous exchange will be kept confidential and used only for the purposes permitted in the agreement which forms the basis for this request; (b) a feedback on the usefulness of the information.	

[Date]

[Authorised signature of the competent authority]

Annex C.2. Outgoing spontaneous exchange of information. Communication with the tax auditor or the field officer

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

Your reference: [to be completed]

[Date]

Exchange of Information under Article [XX] of [insert EOI agreement]

Dear [insert name of the tax auditor/official],

I refer to your spontaneous information of [insert date] [if relevant add: "*and subsequent correspondence of [insert dates]*"] for exchange of information with [insert name of the requested jurisdiction].

[To insert in case of a request for clarification]

In order to process the spontaneous exchange of information please provide us with the following clarifications and/or additional details:

[Outline the nature of the clarifications and/or additional details required and why it is necessary for the processing of the spontaneous exchange of information].

[To insert when the spontaneous information is sent to the requested jurisdiction]

The spontaneous exchange of information has been sent to [insert name of the requested jurisdiction] on the [insert date] under the reference [to be completed].

I would like to thank you for having carried out this form of co-operation, which is useful for our foreign partner and fosters a climate of trust that encourages the receipt of spontaneous information in return.

Should you have any queries relating to this matter, please contact [insert name of contact with position and phone and e-mail details].

Yours sincerely,

[Signature of the EOI unit manager/EOI officer]

Annexes

Annex C.3. Incoming spontaneous exchange of information. Template for acknowledgment letter to the supplying jurisdiction

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

Your reference: [to be completed]

[Date]

Exchange of Information under Article [XX] of [insert EOI agreement]

Dear [name of the CA in the requested jurisdiction],

Thank you for your letter of [insert date] containing the spontaneous exchange of information in the above case.

We are grateful for your assistance in this matter. The information received has been passed on to the auditor/auditors responsible for the case and we will, in due course, provide you with feedback on the use and importance of this information.

Should you have any queries relating to this matter, please contact [insert name of contact with position and phone and e-mail details].

This letter and the information it contains are governed by the confidentiality provisions under Article [XX] of [insert EOI agreement].

Yours sincerely,
[Signature of the CA]

Annex C.4. Incoming spontaneous exchange of information. Template letter to auditor accompanying information received from supplying jurisdiction

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

Your reference: [to be completed]

[Date]

Exchange of Information under Article [XX] of [insert EOI agreement]

Dear [insert name of auditor/official],

[Receiving jurisdiction] has received a spontaneous information from [supplying jurisdiction].

This information is to be treated as confidential. The use and disclosure of this information is governed by the provisions of [insert reference to domestic law] and Article [XX] of [insert EOI agreement]. These documents are “treaty confidential” and should be stored securely. It is not permitted to make copies of them or to forward them to other offices without prior consultation with the EOI unit.

You are asked to check whether the information received reveals non-compliance and if so, to take appropriate actions.

In order to assess the quality and the usefulness of this information, please complete and return to the EOI unit the attached impact assessment form when your tax audit will be completed.

Should you have any queries relating to this matter, please contact [insert name of contact with position and phone and e-mail details].

Yours sincerely,

[Signature of the EOI unit manager/EOI officer]

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Annex C.5. Incoming spontaneous exchange of information. Template for a request for wider use of the exchanged information

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

Your reference: [to be completed]

[Date]

Exchange of Information under Article [XX] of [insert EOI agreement]

Dear [name of the CA in the requested jurisdiction],

I refer to your spontaneous exchange of information dated [insert date] in relation to the above case which we received on [insert date].

In line with [reference to the relevant provision of the EOI agreement, e.g. Article 22.4 of the MAAC], I request the permission to use information and documents received pursuant to [insert EOI agreement] for the following purposes other than tax purposes.

[Information and documents to be used for other purposes to be detailed].

[Specification of the other purposes to be detailed].

Should you have any queries relating to this matter, please contact [insert name of contact with position and phone and e-mail details].

This letter and the information it contains are governed by the confidentiality provisions under Article [XX] of [insert EOI agreement].

Yours sincerely,

[Signature of the CA]

Annex D. Simultaneous tax examination

Annex D.1. Template to propose a simultaneous tax examination

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

[Date]

Proposal for a simultaneous tax examination

Dear [insert name of STE co-ordinator],

Please find below a proposal for a simultaneous tax examination:

Description of the case

[Explanation of the business and relevance of an STE].

Actions taken

[Description of actions taken: start of the audit, requests for information].

Risk analysis

[Description of taxes and related risks identified].

Identification of the companies

[Description of the companies to be involved in the STE (name, address, jurisdiction, tax identification number) and explanation of their involvement].

Identification of the jurisdictions

[Description of the jurisdictions to be involved in the STE and explanation of their involvement].

Project plan

[Description of audit activities to do with foreign jurisdictions and expected timeframe of the STE].

Should you have any queries relating to this matter, please contact [insert name of contact with position and phone and e-mail details].

Yours sincerely,

[Signature of the tax auditor or manager of the tax audit unit]

Annexes

Annex D.2. Simultaneous tax examination. Template to provide a competent authority mandate

Designation of competent officials for the direct exchange of information pursuant to [legal basis to be completed, e.g. Article 8 of the MAAC].

[Name of the jurisdiction] has agreed to participate in a simultaneous tax examination (STE), pursuant to [legal basis to be completed, e.g. Article 8 of the MAAC] led by [initiating jurisdiction].

Pursuant to [legal basis to be completed, e.g. Article 8 of the MAAC] I hereby authorise [name of official and administration] to exchange information directly with authorised competent officials and authorities of the other jurisdictions participating in the simultaneous tax examination.

I also authorise [name of official and administration] to attend meetings that are organised during the course of this STE, and that take place in one of the other participating jurisdiction. This authorised official must, at all times, carry proof of his/her identity and this authorisation when attending any meetings relevant to this examination.

This authorisation comes into force from [date of authorisation] and remains in force until the STE is finalised. [Name of official and tax administration] is bound by all of the provisions of the [legal basis to be completed, e.g. the MAAC] for the period of this authorisation.

[Signature of the CA of [name of the jurisdiction]]

Annex D.3. Simultaneous tax examination. Project plan

The tax authority of [initiating jurisdiction] has decided to launch a simultaneous tax examination on the company [name of the company] and its business partners. The initiated simultaneous tax examination will be conducted with the participation of [participating jurisdictions].

Legal Basis

[Legal basis to be completed, e.g. Article 8 of the MAAC]

Description of the case

[Here you give a description of the company that is being audited and, if possible, the transactions that you consider to be at risk].

Taxpayers concerned by the project

[Which taxpayers from which countries are part of the STE. If possible, also define their position in the transactions subject to the STE].

Objectives of the STE

The objectives of the STE are as follows:

[Summarise the objectives of the STE, giving a brief description of each objective].

Audit activities

[Here you give a description of the audit activities to be performed].

Audit period

In principle, the STE will cover the period :

- Direct taxation [to be completed]
- Indirect taxation [to be completed]

Depending on the evolution of the STE, the audit period may be adapted during the STE if necessary and appropriate.

Exchange of information

In order to maximise the speed of exchange of information, all jurisdictions will designate at least one auditor as a competent authority for exchange of information. A file containing all official designations will be kept by the project management and provided to all participants of the project team.

Taking into account national email conventions, auditors with a competent authority status will be able to exchange information directly with other auditors with a competent authority status.

Criminal investigations

If it is decided in a jurisdiction that audit activities should be transformed into criminal investigations, this should be reported to the project management immediately. The project management will then be able to adapt the project lines to these changes.

Communication with the taxpayer

[Depending on the case, you can either decide that all jurisdictions are in contact with their local taxpayer or that a central contact will be maintained by the project management].

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Time management

The time management of all audit activities carried out within the project will be handled by the project management. The project activities will be carried out within the timeframe described here.

[For each audit activity a deadline and additional agreement can be noted].

During the STE, all delegations will periodically inform the project management of the progress made at national level. Progress will be reported by jurisdictions at the end of each month. These reports will be followed by a report from the project management after one week.

Annex D.4. Simultaneous tax examination. Final report

The report should briefly explain the objective and outcome of the STE.

1. Executive summary
2. General Information
3. Description of the case
4. Selection procedures, risk analysis, objectives of the STE
 - 4.1 Selection procedures
 - 4.2 Risk analysis
 - 4.3 Objectives of the STE
5. Methodology of the STE
 - 5.1 Meeting methodology
 - 5.2 Communication methodology
 - 5.3 Use of mutual assistance tools
6. Results of the audit
7. Tax interpretation
8. Results of the STE
 - 8.1 Tax adjustments of the STE
 - 8.2 Other results
 - 8.3 General remarks
 - 8.4 Recommendations
9. Contact point for more detailed information

Annexes

Annex D.5. Simultaneous tax examination. Table of participants

Jurisdiction	Name of participants	Role during the STE (tax auditor, STE co-ordinator)	Competent authority (yes/no)	Contact details

Annex E. Tax examination abroad

Annex E.1. Template for an outgoing tax examination abroad

Request for a tax examination abroad under the [EOI agreement] applicable between [jurisdiction] and [jurisdiction]

The completed form constitutes a confidential communication between the competent authorities governed by [legal basis].

1.	To:		
2.	From:		
3.	Contact point	Name:	
		Email:	
		Telephone:	
		Language skills:	
4.	Legal Basis:		
5.	Reference numbers and related matters	Reference number:	
		Initial request:	Please tick: <input checked="" type="checkbox"/> yes <input type="checkbox"/> no <i>Before sending a request for a tax examination abroad, it is recommended to have sent a prior exchange of information on request or received a spontaneous exchange of information. Therefore, the reference of this previous EOI should be mentioned to ease the link for the requested jurisdiction.</i>
		Number of attachments to the request:	
		Total number of pages for all attachments:	

Annexes

6.	Urgency of reply	Date, if any, after which information would no longer be useful:	
		Urgent reply required due to:	<p>Please check the box:</p> <input type="checkbox"/> Statute of limitation; date: <input type="checkbox"/> Suspected criminal tax matter <input type="checkbox"/> Court case <input type="checkbox"/> Other reasons (please specify):
7.	Summary		
8.	Identity of subject/group under examination or investigation:		
9.	Tax period/s under investigation or taxable event for which or in relation to which the information is sought:		
10.	Tax(es) to which the request relates:		
11.	Purpose in accordance with the applicable EOI instrument, for which the information is requested:		<p>Please check one or more boxes:</p> <input type="checkbox"/> determination, assessment and collection of taxes of civil/ administrative tax matters, <input type="checkbox"/> investigation or prosecution of criminal tax matters, <input type="checkbox"/> other (please specify):
12.	Relevant background:		
13.	Explanation to confirm that all possible domestic means have been pursued to obtain the information requested, except those that would give rise to disproportionate difficulties:		
14.	Reasons why the information requested is foreseeably relevant for the tax purpose indicated/investigation:		
15.	Information requested:		
16.	Grounds for believing that the requested information is held in the requested jurisdiction or is within the possession or control of a person within its jurisdiction:		

17.	Name and address of any person believed to be in possession of the information requested (to the extent known):	
18.	Request to refrain from notifying the persons under investigation or concerned:	<p>Please tick: <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>Please indicate reasons:</p> <p><input type="checkbox"/> If yes, the authority responsible in the requesting state confirms that it would be able to guarantee this course of action in similar circumstances.</p>
19.	Form, if any, in which information is requested:	<p>In the case of the production of copies, authentication is required:</p> <p>Please tick: <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>If yes, which ones:</p> <p>Further requirements, such as translation of reply:</p> <p>Please tick: <input checked="" type="checkbox"/> yes <input type="checkbox"/> no</p> <p>If yes, which ones:</p> <p><i>The request for the form of a tax examination abroad shall be elaborated in this item by providing:</i></p> <ul style="list-style-type: none"> • <i>The reasons and motives for the request;</i> • <i>The special reasons why the physical presence of tax official(s) is crucial;</i> • <i>The names of the authorised officers and the instrument of authorisation;</i> • <i>If applicable, details of the specific issues requested to be examined;</i> • <i>If applicable, details of the preferred timing of the tax examination; and</i> • <i>Any other details that may be applicable in the nominated case</i>
20.	<p>In making the request, the requesting competent authority states that:</p> <p>(a) all information received in relation to this request will be kept confidential and used only for the purposes permitted in the agreement which forms the basis for this request;</p> <p>(b) the request is in conformity with its law and administrative practice and is further in conformity with the agreement on the basis of which it is made;</p> <p>(c) the information would be obtainable under its laws and in the normal course of its administrative practice in similar circumstances.</p>	

[Date]

[Authorised signature of requesting competent authority]

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Annex E.2. Tax examination abroad. Competent authority mandate

Designation of competent officials for the direct exchange of information pursuant to [legal basis to be completed, e.g. Article 9 of the MAAC].

[Jurisdiction] has requested to participate in a tax examination abroad (TEA) pursuant to [legal basis to be completed, e.g. Article 9 of the MAAC] in [requested jurisdiction].

Pursuant to [legal basis to be completed, e.g. Article 9 of the MAAC], I hereby authorise [name of official and administration] to exchange information directly with authorised competent officials and authorities of [requested jurisdiction].

I also authorise [name of official and administration] to attend meetings that are organised during the course of this TEA, and that take place in [requested jurisdiction]. This authorised official must, at all times, carry proof of his/her identity and this authorisation when attending any meetings relevant to this examination.

This authorisation comes into force from [date of authorisation] and remains in force until the TEA is finalised. [Name of official and tax administration] is bound by all of the provisions of the [legal basis to be completed, e.g. the MAAC] for the period of this authorisation.

[Signature of the CA]

Annex E.3. Outgoing tax examination abroad. Communication with the tax auditor or the field officer

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

Your reference: [to be completed]

[Date]

Exchange of Information under Article [XX] of [insert EOI agreement]

Dear [name of auditor/official],

I refer to your request for a tax examination abroad of [insert date] [if relevant add: "*and subsequent correspondence of [insert dates]*"] for a tax examination abroad with [insert name of the requested jurisdiction].

[To insert in case of a request for clarification]

In order to process the request for a TEA please provide us with the following clarifications and/or additional details:

[Outline the nature of the clarifications and/or additional details required and why it is necessary for the processing of the request].

[To insert when the request is sent to the requested jurisdiction]

The request for a TEA has been sent to [insert name of the requested jurisdiction] on the [insert date] under the reference [to be completed]. The reply will be forwarded as soon as it will be received.

[To insert when a reply is received from the requested jurisdiction]

The tax examination abroad has been:

- [refused by [insert name of the requested jurisdiction]].
- [agreed by [insert name of the requested jurisdiction]] under the following conditions:
 - [time and place of the examination];
 - [relevant logistical arrangements];
 - [authority or official designated to carry out the examination (e.g. name, title, contact details)]; and
 - [procedures and conditions required by the requested jurisdiction for the conduct of the examination].

Should you have any queries relating to this matter, please contact [insert name of contact with position and phone and e-mail details].

This letter and the information it contains are governed by the confidentiality provisions under Article [XX] of [insert EOI agreement].

Yours sincerely,

[Signature of the CA]

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Annex E.4. Incoming tax examination abroad. Communication with the requesting jurisdiction

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

Your reference: [to be completed]

[Date]

Exchange of Information under Article [XX] of [insert EOI agreement]

Dear [name of the CA in the requesting jurisdiction],

I refer to your request for a tax examination abroad dated [insert date] in relation to the above case which we received on [insert date].

[To insert to acknowledge receipt of the request]

I acknowledge receipt of your request for a tax examination abroad dated [insert date] in relation to the above case which we received on [insert date].

Your request will be reviewed and a reply will be provided within [add the deadline].

[To insert to request for clarification]

In order to process the request for a tax examination abroad please provide us with the following additional details :
[Outline the nature of the additional details required and why it is necessary for the processing of the request].

[To insert to reply to the request]

[if relevant add: "*and to subsequent correspondence of [insert dates of correspondence]*".

We wish to inform you that:

- [if the request is rejected] your request is rejected because [reasons to be detailed].
- [if the request is accepted] your request is accepted under the following conditions:
 - [time and place of the examination];
 - [relevant logistical arrangements];
 - [authority or official designated to carry out the examination (e.g. name, title, contact details)]; and
 - [procedures and conditions required by the requested jurisdiction for the conduct of the examination].

Should you have any queries relating to this matter, please contact [insert name of contact with position and phone and e-mail details].

This letter and the information it contains are governed by the confidentiality provisions under Article [XX] of [insert EOI agreement].

Yours sincerely,

[Signature of the CA]

Annex E.5. Incoming tax examination abroad. Delivery of collected information

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

Your reference: [to be completed]

[Date]

Exchange of Information under Article [XX] of [insert EOI agreement]

Dear [insert name of foreign tax auditor with a CA status],

I refer to your request for a tax examination abroad dated [insert date] in relation to the above case which we received on [insert date] [if relevant add: "*and to subsequent correspondence of [insert dates of correspondence]*"].

During the tax examination we have attended together on [insert date], the following information and records have been collected:

[Add details of attached documentation].

This letter and the information it contains are governed by the confidentiality provisions under Article [XX] of [insert EOI agreement].

I would appreciate if you could inform us, in due course, whether and how the information and documentation provided has helped you in your investigation.

Yours sincerely,

[Signature of the domestic tax auditor with a CA status]

Annex F. Impact assessment and feedback

Annex F.1. Impact assessment form

This model of EOI impact assessment form was discussed and approved by the participants to the Africa Initiative meeting in October 2020 and the participants to the Punta del Este Declaration Initiative in November 2020. **The template, which includes drop-down lists, can be provided by the Global Forum Secretariat upon request.**

Date: DD/MM/YYYY

- Result of the use of information obtained on request
- Result of the use of information obtained spontaneously
- Result of the use of information obtained automatically

Service: [Name of the service]

Officer: [Name of the officer]

Reference case number of the providing jurisdiction	[Number]	Jurisdiction providing information	[Name of the jurisdiction]
Domestic/internal reference case number	[Number]		
Taxpayer investigated		Date of taxation	
[identification of the taxpayer, whether an entity or an individual]		DD/MM/YYYY	
Additional tax base identified (1):	Out of the amount in the left column, percentage and additional tax base attributable to information exchange (2):	Nature of the tax(es) and audited period(s) (3)	
Additional tax base (a): [Amount in local currency]	Percentage (b): Choose an item ▼ Additional tax base attributable to information exchange (c): [Amount in local currency]	Tax(es): [Name of the tax(es)] Period(s): From DD/MM/YYYY to DD/MM/YYYY Tax(es): [Name of the tax(es)] Period(s): From DD/MM/YYYY to DD/MM/YYYY	

Additional revenue identified (4):	Out of the amount in the left column, percentage and additional revenue attributable to information exchange (5):	
<p>Taxes: [Amount in local currency]</p> <p>Penalties: [Amount in local currency]</p> <p>Interests: [Amount in local currency]</p> <p>Total additional revenue identified (d): [Amount in local currency]</p>	<p>Percentage (e): <u>Choose an item ▼</u>.</p> <p>Total attributable to information exchange (f): [Amount in local currency]</p>	
Outline of the case (6)		
Use for other purposes (7)	<input type="checkbox"/> No <input type="checkbox"/> Yes, please specify:	

Notes to the assessment form

This form shall be used in cases where information obtained through exchange of information, either on request, spontaneously or automatically, has been used.

- 1. Additional tax base identified:** it refers to the additional tax base identified in the case. This is the difference between the tax base known by the tax administration (for instance the tax base declared by the taxpayer) and the tax base identified after the controls or investigations carried out by the tax administration, irrespective of whether exchange of information has been used or not. It can be the consequence of the non-declaration or under-declaration of income, of the deduction of non-authorized or fictitious expenses, etc.
- 2. Percentage and additional tax base attributable to information exchange:** the official handling the case shall assess to which extent the information obtained through exchange of information has contributed to increase or secure the additional tax base identified. To facilitate the assessment, the official shall use the closest percentage proposed in the list.
Then, the additional tax base attributable to information exchange can be calculated:
 $[(a) \times (b)\% = (c)]$.
- 3. Nature of the taxes and audited period:** the tax or taxes investigated and the related audited period(s).
- 4. Additional revenue identified:** it refers to the total amount of revenue identified in the case, including the penalties and interests.
- 5. Percentage and additional revenue attributable to information exchange:** the use of the information obtained on request, automatically or spontaneously may have directly or indirectly lead to the identification of additional revenues. To facilitate the assessment, the official shall use the closest percentage proposed in the list.
Then, the additional revenue attributable to information exchange can be calculated:
 $[(d) \times (e)\% = (f)]$.
- 6. Outline of the case:** please provide a concise description of the case, the investigation, the information obtained, how it was used to achieve the final outcome.
- 7. Use for other purposes:** please indicate if the information has been used for other purposes than tax purposes. Information can also be used for the fight against other serious crimes (e.g. money-laundering, corruption) by allowing information received by a country to be used for non-tax purposes provided certain conditions are met (i.e. such use is allowed by the laws of both the requested and requesting Party and prior authorisation of the Requested Party is obtained).

Annex F.2. Feedback

Our reference: [to be completed]

Please quote our EOI number in all correspondence.

Your reference: [to be completed]

[Date]

Exchange of Information under Article [XX] of [insert EOI agreement]

Dear [requested/supplying CA],

Following the information provided on [date], the information was overall [very useful / useful / partially useful / not useful].

[If deemed not useful, please specify why: too late / incomplete / not relevant / other].

As part of the result directly related to the information provided, I can confirm that:

- The person about whom our Tax Administration received information [is a resident in our country for tax purposes / is not a resident in our country for tax purposes].
- The taxpayer named in the information exchanged [was taxed / was not taxed].
- The information provided [was used in an ongoing procedure / resulted in the initiation of a new procedure for the taxpayer reported / did not result in any substantial actions].

[Provide the amount (specify the currency) by which the taxable income of the taxpayer was increased as a consequence of the information received, as well as the tax and penalties charged (if any)].

I confirm that this information is governed by the provisions under Article [XX] of [insert EOI agreement].

Yours sincerely,

[Signature of the CA]

Annex G. Useful resources

Relevant information on International standards on tax transparency and exchange of information

- Global Forum on Transparency and Exchange of Information for Tax Purposes:
www.oecd.org/tax/transparency
- Exchange of Information on Request:
www.oecd.org/tax/transparency/what-we-do
- Automatic Exchange of Information:
www.oecd.org/tax/automatic-exchange/
- Common Reporting Standard:
www.oecd.org/tax/automatic-exchange/common-reporting-standard/
- Technical assistance available from the Global Forum on Transparency and Exchange of Information for Tax Purposes:
www.oecd.org/tax/transparency/what-we-do/
- Key publications and documentation of the Global Forum:
www.oecd.org/tax/transparency/documents/key-publications-and-documents.htm
- Country monitoring by the Global Forum:
www.oecd.org/tax/transparency/country-monitoring/
- Compliance ratings following peer reviews against the standard of EOIR:
www.oecd.org/tax/transparency/documents/exchange-of-information-on-request-ratings.htm
- OECD's e-learning in taxation:
www.oecd.org/tax/tax-global/self-paced-training.htm

Legal text and commentaries on the MAAC

- OECD and Council of Europe (2011), The Multilateral Convention on Mutual Administrative Assistance in Tax Matters: Amended by the 2010 Protocol, OECD Publishing, available at dx.doi.org/10.1787/9789264115606-en
- The text of the Amended Convention in [English](#), [French](#), [German](#) (unofficial translation), [Spanish](#) (unofficial translation) and [Portuguese](#) (unofficial translation) available at www.oecd.org/tax/exchange-of-tax-information/convention-on-mutual-administrative-assistance-in-tax-matters.htm
- The Revised Explanatory Report to the Convention on Mutual Administrative Assistance in Tax Matters as Amended by 2010 Protocol available at www.oecd.org/ctp/exchange-of-tax-information/Explanatory_Report_ENG_%2015_04_2010.pdf

General information on the MAAC

- Flyer on the Convention on Mutual Administrative Assistance in Tax Matters available at www.oecd.org/tax/exchange-of-tax-information/ENG_Convention_Flyer.pdf (also available in [French](#) and [Spanish](#))

- Chart of participating jurisdictions (signatures and entry into force) available at www.oecd.org/tax/exchange-of-tax-information/Status_of_convention.pdf
- List of declarations, reservations and other communications available at www.coe.int/en/web/conventions/full-list/-/conventions/treaty/127/declarations?module=declarations-by-treaty&numSte=127&codeNature=0

Multilateral Competent Authority Agreements for automatic exchange of information

- Multilateral Competent Authority Agreement on the Exchange of CbC Reports (the "CbC MCAA"), for the automatic exchange of Country-by-Country Reports available at www.oecd.org/tax/beps/beps-actions/action13/
- Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (the "CRS MCAA"), for the automatic exchange of financial account information pursuant to the Common Reporting Standard available at www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/

Toolkits and guides

- Global Forum Secretariat, OECD (2012), Keeping It Safe – Joint OECD and Global Forum Guide on the Protection of Confidentiality of Information Exchanged for Tax Purposes, available at www.oecd.org/tax/transparency/documents/global-forum-keeping-it-safe.pdf
- Global Forum Secretariat and IDB (2019), A Beneficial Ownership Implementation Toolkit, available at www.oecd.org/tax/transparency/documents/beneficial-ownership-toolkit.pdf
- Global Forum Secretariat (2020), A Toolkit for Becoming a Party to the Convention on Mutual Administrative Assistance in Tax Matters, available at www.oecd.org/tax/transparency/documents/MAAC-toolkit_en.pdf
- Global Forum Secretariat (2020), Confidentiality and Information Security Management Toolkit, available at www.oecd.org/tax/transparency/documents/confidentiality-ism-toolkit_en.pdf
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