

FORUM ON TAX ADMINISTRATION

**Joint Audit 2019 –
Enhancing Tax Co-operation and
Improving Tax Certainty**
Implementation Package



Joint Audit 2019
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Implementation Package

Draft

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Joint Audit Profile

A Joint Audit Profile could facilitate the initiation of an international audit and provides information that might be relevant or helpful when engaging in forms of mutual assistance, especially for jurisdictions that are currently not actively involved.

A Joint Audit is understood as two or more tax administrations joining together to examine an issue(s)/transaction(s) of one or more related taxable persons (both legal entities and individuals) with cross-border business activities, perhaps including cross-border transactions involving related affiliated companies organised in the participating jurisdictions, and in which the tax administrations have a common or complementary interest, while proceeding in a pre-agreed and co-ordinated manner guaranteeing a high level of integration in the process and including the presence of officials from the other tax administration where the tax administrations jointly engage with the taxpayer, enabling the taxpayer to share information with them jointly and having Competent Authority representatives from each tax administration for the exchange of information included in each team.

Joint Audit Profile of < Jurisdiction >

Last updated: March 2019

General Information

Relevant tax legislation in English language is available at:¹

< please provide link >

List of jurisdictions with which <Jurisdiction> has international agreements that allow the conduct of an international audit is available at:

< please provide link >

Competent Authority

Contact person(s) and agency to address a Joint Audit request to:

- a) *Name(s):*
- b) *Function(s):*
- c) *Name of Organisation:*
- d) *Mailing address(es):*
- e) *Phone number(s):*
- f) *Email address(es):*

Expected timeframe to confirm the receipt of request: < please specify >

¹ Where legislation is not available in English, please indicate where legislation is available in local language.

Language(s), in which Joint Audit can be requested: < please specify >

English template for a Memorandum of Understanding (MoU) is available at:

< please provide link >

< Jurisdiction > allows for the following forms of presence

	Form of presence of foreign officials allowed	YES/NO	Further requirements
1.	Presence of foreign officials allowed		
	If the answer to the first question is yes, please indicate:		
2.	Passive Presence of foreign tax officials allowed during an examination at the tax administration's offices		
3.	Passive Presence of foreign tax officials allowed during an examination of host jurisdiction officials at the premises of the taxpayer		
4.	Active Presence allowed, i.e. the participation with host jurisdiction officials in interviews of individuals and during the examination of books and records by foreign officials		

A. CASE SELECTION

<i>s/n</i>		<i>Legislative reference (optional)</i>	<i>Detailed explanation</i>
1.	Please describe the statutes of limitation framework in your national legislation and its impact to conduct an audit.		
2.	Please indicate whether it is possible to re-audit the same taxpayer for the same fiscal year if a domestic audit has already been conducted. If the re-opening of the audit finding is subject to certain requirements, please describe which requirements have to be met.		
3.	Please indicate whether your audit cycles are flexible if you wanted to audit earlier or later than your domestic cycle would suggest.		
4.	Please describe how many audit cycles are usually covered in a domestic audit.		
5.	Please describe how many years after the filing of the tax return your audit cycle would generally commence (if audit cycles differ by taxpayer's type, please specify)		
6.	Is it possible in your country to audit 'real time' or is a tax audit only possible after the receipt of a tax return.		
7.	Please indicate whether any other reasons (circumstances, provisions) can limit the conduct of an international audit (e.g. the participation in a co-operative compliance programme that limits the possibility to conduct unilateral or joint audits).		

B. CONDUCTING AN AUDIT			
<i>s/n</i>		<i>Legislative reference (optional)</i>	<i>Detailed explanation</i>
1.	Please indicate whether you have to inform the taxpayer a) about the request to exchange information or the request to conduct an international audit b) before exchanging information or engaging in the conduct of an international audit.		
2.	Please describe the requirements to initiate a domestic audit and clarify whether these requirements have to be met in a Joint Audit (e.g. written notification).		
3.	Please describe your overall investigative audit powers (e.g. the right to ask for books and records; for emails or to demand questions to be answered verbally or in writing; the right to request access the premises of the taxpayer, etc. including enforcement measures).		
4.	Please list the main restriction of those audit powers (e.g. requests that would be inadmissible or subject to certain requirements to be admissible under domestic law).		

5.	Please list the measures that can be undertaken to compel a taxpayer to comply with a request during an audit (e.g. fines, warrant, subpoena, detention of management etc.).		
6.	Please indicate whether your legislation, your regulations or your administrative practice limit: a) the duration of a domestic or international audit b) the presence of auditors at the premises of the taxpayer during an audit c) any other limitations including administrative requirements for approval or governance.		

C. Joint Audit process (expectation management)				
<i>s/n</i>		<i>Response</i>	<i>Detailed explanation</i>	<i>Where publicly available information and guidance can be found</i>
1.	Please indicate whether the personnel assigned to a Joint Audit case will be exclusively assigned to this case.			
2.a.	Please indicate whether your domestic legal framework foresees the mandatory involvement of the taxpayer (e.g. notification requirements, participation in meetings etc.).			
2.b.	Please indicate whether your domestic legal framework forbids the involvement of the taxpayer during any stage of the audit process.			
2.c.	Please describe the involvement of the taxpayer during the stages of the audit process in your domestic practice.			
3.	Please indicate whether your national legal framework limits the audit powers of foreign auditors.			
4.	Please indicate whether you have means available for secure telephone and video conferencing (and if so, please provide a comprehensive list).			

D. Completion of Audit				
<i>s/n</i>		<i>Response</i>	<i>Detailed explanation</i>	<i>Where publicly available information and guidance can be found</i>
1.	Please indicate whether you have MAP Competent Authority (MAP CA) present during a Joint Audit to ensure a common outcome? If this is the case, please indicate whether the MAP CA is present from the beginning or only when disputes arise.			
2.	If you do not have MAP CA present during a Joint Audit, please indicate if you have other measures to mitigate the risk of outcomes leading to double taxation, e.g. organisational set-up for an accelerated MAP procedure. If this is the case, please indicate the time frame in which such procedure has to be completed (provide contact details of MAP CA).			
3.	Please indicate whether your domestic legislation provides a legal basis for a downward adjustment.			

4.	Other domestic legislation that influences the adjustments from a tax audit (e.g. restrictions for downward adjustments, time barriers).			
5.	Do you conclude an audit with a final report according to your domestic audit practice?			
6.	What is the legal value of a final report in your jurisdiction?			

Memorandum of Understanding – Joint Audits²

Memorandum of Understanding (MoU)

between

*Tax administrations of _____
(hereafter “Party 1”)*

and

*Tax administrations of _____
(hereafter “Party 2”, together the “Parties”)*

regarding Joint Audits

² This template may be amended according to the needs of the undersigned Parties.

Preamble

The Parties desire

- a) to increase compliance in international tax matters
- b) to improve effectiveness of and cooperation in tax audits on cross-border matters
- c) to reduce costs for taxpayers and tax administrations alike
- d) to reduce the number of mutual agreement procedures and disputes on cross-border tax matters

Therefore, the Parties have agreed this MoU³ that sets forth the understanding of the Parties with respect to the conduct of Joint Audits. It addresses the principal operational aspects when conducting Joint Audits and outlines the main provisions to be respected by the Parties.

General Provisions

1.1. Scope

The Parties agree that the subject of Joint Audits may be all taxes levied by or on behalf of the Parties and covered by the applicable international legal instrument.

1.2. Definitions

1) “Joint Audit”:

Under this agreement is understood as

- two or more tax administrations joining together to
- examine an issue(s) / transaction(s) of one or more related taxable persons (both legal entities and individuals) with cross-border business activities, perhaps including cross-border transactions involving related affiliated companies organized in the participating countries, and in which the countries have a common or complementary interest;
- proceeding in a pre-agreed and coordinated manner and including the presence of officials from the other tax administration
- where the tax administrations jointly engage with the taxpayer, enabling the taxpayer to share information with them jointly;
- and the teams include Competent Authority representatives from each tax administration for the exchange of information.

³ This MoU is intended as framework agreement and is not a Convention.

- 2) “Simultaneous Tax Examination”:
refers to an arrangement between two or more tax administrations to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain. The conduct of a simultaneous tax examination means to align domestic audit activities in two or more jurisdictions.
- 3) “Passive Presence”:
officials may be present at the administrative offices of the other State and may be present during administrative enquiries carried out in the other territory by the officials of the host jurisdiction.
- 4) “Active Presence”:
officials may be present at the administrative offices and/or premises of the taxpayer in the other State, may be present during administrative enquiries carried out in the other territory by the officials of the host jurisdiction, and may, where they are present during such an administrative enquiry, interview individuals and examine books and records.

1.3. Applicable international legal instrument

- 1) Exchange of information during the conduct of the Joint Audit will be based on:
<indicate the appropriate>
- Convention on Mutual Administrative Assistance in Tax Matters (Mutual Assistance Convention)
Articles 5, 7, 8 and 9 of the Mutual Assistance Convention
 - Bilateral treaty for the avoidance of double taxation between _____ <name of the treaty>, Articles 6-21 as applicable, 25 and 26 of the double tax treaty between Party 1 and Party 2;
 - Domestic implementation of the EU Council Directive 2011/16/EU on administrative cooperation in the field of taxation between the Parties <indicate the applicable provisions that implement the EU Directive into domestic law>
 - other [e.g. regional arrangements such as the Nordic Convention, EU regulations on different types of taxes etc.]
- 2) Information exchanged during any Joint Audit will be covered by the applicable legal instrument and enjoy the protection extended to similar information under the national law of the Parties.

1.4. Applicable audit provisions

- 1) Where Parties agree to allow Active Presence of tax officials of the other Party in their territory, they acknowledge that audit powers can only be vested in tax officials by their respective domestic legal framework. The Parties acknowledge that for the conduct of a

Joint Audit where tax officials are present in the other State, i.e. the host State, the following applies <indicate the applicable>:

- Each tax official applies the audit provisions of his/her domestic legal framework
 - Each tax official applies the audit provisions of his/her domestic legal framework to the extent that such provisions do not go further than the provisions of the domestic legal framework of the host State
 - other [explain the bilateral agreement]
- 2) Regardless of the applicable audit provisions of the domestic legal framework, the Parties agree to consider the following options
- to arrange pre-meetings every time, before a tax official is actively present abroad
 - to take minutes of every meeting between the members of the participating Joint Audit teams
 - to take notes of every meeting or interview with the taxpayer
 - other [please add]

Specific Provisions

1.5. Case Selection:

1.5.1. Criteria for case selection

In general, the Parties will consider the conduct of a Joint Audit where a Party has proposed a Joint Audit, the information contained in the proposal indicates that a Joint Audit would be an appropriate action and the requested Party has a common or complementary interest in conducting a Joint Audit. This includes cases where

- there are reasons to believe that a domestic audit alone even if supplemented by information exchange or other forms of international tax co-operation would be less efficient or less successful in developing a full understanding and appreciation of the facts;
- particular issues, a transaction or series of transactions lead a tax administration to the view that a tax examination on a unilateral basis may lead to double taxation, for example in case of a cross-border business restructuring;
- the case under consideration is similar to types of cases that are already part of the existing MAP pipeline;
- two treaty partners experience an expansion in cross-border trade and investment and a Joint Audit would help to build relationships and facilitate a better understanding of each other's auditing rules, practices and procedures;
- a case has made no or little progress in MAP and there is reason to believe that a Joint Audit intervention has the potential to unlock the situation;

- APA negotiations have taken a long time and a Joint Audit would allow to create tax certainty for past years and/or otherwise assist in resolving the issues for future years;
- where a joint or separate risk assessment has led two or more tax administrations to the view that a particular issue, transaction or series of transactions presents a material international tax risk.
- Other [*add any other case selection criteria*]

1.5.2. Procedures for case selection

- 1) Either Party, in accordance with their respective internal practices and procedures, may independently propose cases for a joint audit.
- 2) Furthermore, the Parties agree to set up regular [*can be further determined*] case selection meetings (face-to-face or via telephone and/or videoconferencing), during which each Party presents the cases that meet the case selection criteria in order to perform joint risk assessment and select cases to be audited jointly.
- 3) Each Party will provide the other Party during the case selection meeting with sufficient information to allow the other Party to evaluate the benefits of participating in the proposed Joint Audit. The other Party may request additional information and possibly a further preliminary meeting as needed to determine its participation.
- 4) If a Party accepts the Joint Audit proposal(s), the Party will confirm the acceptance of the proposed Joint Audit(s) in writing as soon as possible and no later than two months after the receipt of the Joint Audit proposal and will name one or more designated representative(s) responsible for the coordination of the respective Joint Audit (Joint Audit coordinator). The requested Party will notify the proposing Party within the two-month timeframe whether it requires more time to respond to a Joint Audit proposal.
- 5) The inclusion of (a) Joint Audit(s) under this MoU will not preclude tax and law enforcement officials of either country from seeking other forms of assistance that may be authorised under other international agreements and/or under the laws or practices of the respective countries.

1.6. Taxpayer

- 1) This MoU does not confer any rights or benefits to any taxpayer or other third party.
- 2) The Parties will perform their duties in a manner that recognizes taxpayer rights of privacy and will ensure that each Party's activities are consistent with that Party's laws, regulations, and administrative practices.

1.7. Audit specific arrangements

- 1) The Parties will agree on a specific Joint Audit Exam Plan for each selected joint audit case in accordance with the agreed Joint Audit Exam Plan Template and the needs of the specific case.
- 2) Each Party may appoint a representative that is responsible to coordinate the Joint Audit(s) as mentioned under 1.5.
- 3) Where there are more than two Parties conducting a Joint Audit, the proposing tax administration will take the lead in organising the procedure unless the involved Parties agree otherwise.
- 4) Every Joint Audit is limited to the taxpayers and the objectives as set out in the respective Joint Audit Exam Plan as agreed by the Parties. Parties can agree to extend the respective Joint Audit.
- 5) When completing the Joint Audit the Parties will summarise the audit evidence, draw conclusions and reach a final agreement on the outcome of the Joint Audit where possible. The Parties agree to record the outcome of the conducted Joint Audit in a Final Joint Audit Report.
- 6) The taxes due and the tax position of the taxable person(s) are subsequently determined by the respective Parties according to their domestic laws.
- 7) Consideration is to be given to fast track MAP in those cases where Parties could not achieve a common conclusion on the outcome of a Joint Audit leaving the taxpayer exposed to double taxation. The audit evidence as gathered during the Joint Audit will be made available to the respective Competent Authorities.
- 8) The Parties may consider the conclusion of an Advance Pricing Agreement (APA) after the completion of a Joint Audit to obtain tax certainty also for future periods.

1.8. Communication

The Parties may agree on specific communication and disclosure arrangements and establish a communication protocol to cover technical aspects.

Final Provisions

1.9. Costs

- 1) The ordinary costs associated with the conduct of a Joint Audit will be borne by each participating Party.
- 2) The Parties will endeavour to allocate by agreement any extraordinary costs associated with the examination that would otherwise be borne disproportionately by one Party.

1.10. Evaluation

Parties agree to evaluate the effectiveness of the conducted Joint Audits.

1.11. Amendment

- 1) This MoU can be amended at any time by written agreement.
- 2) Parties may consult each other at any time to facilitate the operation of this MoU.

1.12. Termination

- 1) This MoU may be terminated by giving a three month' written notice by either Party or by agreement.
- 2) If the MoU was only signed by two Parties the validity of the MoU ends three months after receipt of the notice.
- 3) If the MoU was signed by more than two Parties the MoU stays in force between the remaining Parties and only the Party giving the notice will withdraw from the MoU three months after receipt of the notice.
- 4) Where termination takes effect before to the completion of a particular Joint Audit the Parties will discuss actions prior to a termination to minimise loss of time and expense resulting from an incomplete Joint Audit. Each Party is entitled to pursue whatever course of action is available under the applicable domestic laws.
- 5) After termination of a Joint Audit, information obtained by either Party in the course of that Joint Audit may continue to be used consistent with the applicable legal instrument under 1.4. and the law of the Party intending to use such information.

1.13. Date of effect

This MoU enters into effect on the latter of the dates on which it has been signed by the last Party to this arrangement. The MoU will continue until terminated pursuant to Sec. 1.12.

Joint Audit Proposal Form

Initiating Jurisdiction

Initiating Jurisdiction	
Initiating Competent Authority (EOI-) representative / contact <i>(indicate Name(s) and position/title of Competent Authority)</i>	
Email address	
Phone number	
Case reference number in initiating country	

Legal Base

Legal Base	
Indication of administrative cooperation sought <i>(indicate what type of cooperation is envisaged, e.g. simultaneous audit, presence of tax officials, Joint Audit)</i>	
Legal reference for cooperation <i>(indicate legal framework that serves as basis for the request, e.g. Mutual Assistance Convention, EU-Directive, etc.)</i>	
Joint Audit Profile reference or reference to domestic legal framework <i>(please provide an overview of the relevant domestic legal possibilities that you prefer to use in this Joint Audit, related to the proposed audit approach below)</i>	

Taxpayer Information

	In initiating Jurisdiction
Taxpayer Name & Address	
Taxpayer Identification Number	
Taxpayer's business sector & activities	
Reason for Joint Audit selection: (include risk analysis)	
Any other relevant information <i>(e.g. taxpayer involvement or request not to notify the taxpayer about this proposal, for example because of suspected fraud)</i>	

	In requested Jurisdiction
Taxpayer Name & Address	
Taxpayer Identification Number	
Taxpayer's business sector & activities	
Reason for Joint Audit selection: (include risk analysis)	
Any other relevant information <i>(e.g. taxpayer involvement or request not to notify the taxpayer about this proposal, for example because of suspected fraud)</i>	
Indication whether and which other jurisdiction(s) receive(s) a Joint Audit Proposal.	

{add further jurisdictions if applicable}

EOI details of the requested Jurisdiction(s)	
Contact details of the requested jurisdiction <i>(check the Joint Audit Profile of the other jurisdiction(s))</i>	Jurisdiction: <ul style="list-style-type: none"> ▪ Competent Authority contact person: ▪ Function: ▪ Name of Organisation: ▪ Email Address: ▪ Phone number: <i>{add further jurisdictions if applicable}</i>
Previous exchange of information, if any	

<i>(indicate reference number, date, etc.)</i>	
Audit scope and Objective	
<u>Case description</u> <i>(Please provide a short case description)</i>	
<u>Audit scope</u> <i>(indicate:</i> <ul style="list-style-type: none"> ▪ <i>Proposed financial years under audit</i> ▪ <i>Possible transaction(s) covered</i> ▪ <i>Possible cross border tax issues</i> ▪ <i>Time schedule, e.g. considering the statute of limitation</i> ▪ <i>Other)</i> 	
<u>Objective</u> <i>(indicate audit intention:</i> <ul style="list-style-type: none"> ▪ <i>What is the audit objective</i> ▪ <i>What audit activities are foreseen, e.g. collective information requests, analysis of records, etc.</i> ▪ <i>Provide reasons why cooperation of the requested jurisdiction is required</i> 	
<u>Proposed audit approach:</u> <i>(indicate, if there are specific audit measures foreseen to collect evidence and indicate whether the Joint Audit Profile leaves uncertainties whether such activities can be executed, e.g.</i> <ul style="list-style-type: none"> ▪ <i>interview key personnel</i> ▪ <i>request for specific email correspondence</i> ▪ <i>request for minutes of the Board meetings</i> ▪ <i>collecting third party information that may be relevant to cross check information in the requested country</i> ▪ <i>request real time information</i> 	

Response to the Proposal

Response	
<p><u>Acceptance of the proposal</u></p> <p><i>(indicate decision on the proposal to conduct a Joint Audit. The initiating jurisdiction will contact the requested jurisdiction to plan the next steps)</i></p>	
<p><u>Rejection of proposal</u></p> <p><i>(If you do not intend to accept this proposal for participation please inform the initiating jurisdiction of your refusal of this proposal in writing providing your reasoning why you are rejecting the proposal)</i></p>	
<p><u>Proposal under consideration</u></p> <p><i>(indicate whether more time or further information is needed to decide on the further process, e.g.</i></p> <ul style="list-style-type: none"> ▪ <i>if the initiating jurisdictions can clarify certain questions</i> ▪ <i>if a selection meeting is considered useful to discuss the possibilities of a Joint Audit cooperation</i> ▪ <i>other)</i> 	
<p><u>Other relevant information, e.g.:</u></p> <ul style="list-style-type: none"> ▪ <i>proposed years under audit (statute of limitation)</i> ▪ <i>any remarks referring to the proposed audit activities</i> 	

Joint Audit Exam Plan

relating to the joint audit of
<NAME of the TAXPAYER(S)>

(hereafter the “Taxpayer”, the audit hereafter the “Joint Audit”)

by the tax administration of

<JURISDICTION 1>
(hereafter “Party 1”)

and

<JURISDICTION 2>
(hereafter “Party 2”, Party 1 and Party 2 together the “Parties”)

{if applicable}

and

JURISDICTION 3
(hereafter “Party 3”, together “the Parties”)

Preamble

The purpose of this Joint Audit Exam Plan is to record and facilitate the envisaged collaboration and to outline the scope of the Joint Audit including roles and responsibilities.

{Where the Parties have not concluded a Memorandum of Understanding, relevant sections have been added and are shown in brackets where applicable}

Introduction

- 1) The Joint Audit was initiated by Party 1 on <date on the Audit Proposal form, case reference number – if any – on the Audit Proposal form>.
- 2) The Parties agree to conduct the Joint Audit consistent with this Joint Audit Exam Plan *{if applicable}* and the Memorandum of Understanding of <date of the latest signatory>.

{If the Parties have not concluded an MoU the sections below should be included in the Joint Audit Exam Plan}

- 3) The exchange of information during the conduct of the Joint Audit will be made under <indicate relevant provision of relevant applicable international legal framework>.
- 4) The ordinary costs associated with the conduct of the Joint Audit will be borne by each Party. The Parties will determine what costs associated with the examination are considered extraordinary costs in advance and will endeavour to allocate these extraordinary costs evenly between the Parties.

Joint Audit case information

1. Case description

{This section should provide a general overview of the taxpayers, including business model, organisational structure and general background information (e.g. compliance history, compliance information, previous audits, registration history, ownership structure, etc.). It should further describe the selection criteria that were used to select the case for a Joint Audit and provide an overview of the tax issues that are going to be examined.}

2. Scope and objective

{This section specifies the scope of the Joint Audit and determines the financial years in scope and summarises the types of taxes and the transactions that are going to be examined, for example:}

The Joint Audit shall cover the period commencing <insert date> and ending <insert date> which represents the following financial years of the Taxpayer:

1. <insert Party 1 financial years under examination and the applicable period of limitations for each year>
2. <insert Party 2 financial years under examination and the applicable period of limitations for each year>

The Parties agree to audit <specify relevant transactions and/ or tax issues>

1.
2.
3.

If the Parties prior to the completion of the Joint Audit identify other transactions or taxpayers with a relevant nexus to the ongoing Joint Audit, the Parties shall within reasonable time take a decision – in common understanding and with common approval – whether to include such transactions or taxpayers within the scope of the Joint Audit or exchange information on such transactions or taxpayers relevant for the Joint Audit.

The scope can be graphically depicted as follows:

Jurisdiction	tax years in scope	Name and identification of the taxpayer	Activities of the taxpayer (optional)	Type of tax/ transactions
<i>Party 1</i>	<i>year 1 – 3</i>	<i>Taxpayer X</i>	<i>Head office</i>	
<i>Party 2</i>	<i>year 2 - 3</i>	<i>Taxpayer Y</i>	<i>Sales office</i>	
<i>Party 3</i>	<i>year 1 - 3</i>	<i>Taxpayer Z</i>	<i>Group R&D centre</i>	
<i>Etc.</i>	<i>Etc.</i>	<i>Etc.</i>	<i>Etc.</i>	

Participants and Audit Approach

{For further background information please see Chapter 7.3 of the report “Joint Audit 2019 – Enhancing tax co-operation and improving tax certainty”}

3. Participants and roles

- 1) The Parties agree that this case requires expertise in <insert applicable requirements for the specific Joint Audit: e.g. transfer pricing expert, international tax law experts etc.>. A contact list of the members of each Joint Audit Team and their assigned roles is included in the **Annex A** to this Joint Audit Exam Plan.
- 2) Each Party may appoint a representative that is responsible to supervise and to coordinate the Joint Audit(s).

4. Communication

The Parties agree to use the communication channels and follow the communication procedure as outlined in **Annex B**.

5. Presence of tax officials abroad

- 1) The Parties provide each Joint Audit Team member with a mandate to be present on the territory of the other jurisdiction(s).
- 2) The Parties agree for the conduct of a Joint Audit that tax officials of one Party are present in the territory of another Party in the form of <indicate applicable>
 - Passive Presence* during the examination carried out at the tax administration’s office by officials of the host jurisdiction
 - Passive Presence* during the examination carried out at the taxpayer’s premises by officials of the host jurisdiction
 - Active Presence, i.e.* to examine books and records and interview individuals directly together with officials of the host jurisdiction at the tax administration’s office and at the taxpayer’s premises.
 - other

{If the Parties have not concluded an MoU and wish to allow Active Presence, the following sections should be included in the Joint Audit Exam Plan}

Where Parties agree to allow Active Presence of tax officials of the other Party/Parties in their territory, they acknowledge that audit powers can only be vested in tax officials by their respective domestic legal framework and agree the following <indicate applicable>:

- Each tax official applies the audit provision of his/her domestic legal framework

- Each tax official applies the audit provision of his/her domestic legal framework to the extent that such provisions do not reach further than the provisions of the domestic legal framework of the host State
 - other [explain the bilateral agreement]
- 3) The Parties agree on a certain code of conduct for the presence of tax officials in the territory of the other Party <indicate the applicable>.
- to schedule pre-meetings in any form before engaging directly with the taxpayer in order
 - to define the audit information relevant for the case;
 - to define the most effective and efficient methods to collect the information;
 - to coordinate the questions to be asked,
 - to define the examination approach of delivered records and documents
 - to address how to proceed if a taxpayer does not comply with a request.
 - to prepare minutes of all meetings and to share these minutes for feedback and further input or amendments with all participating tax officials and - depending on the facts and circumstances of the case - with the taxpayer.
 - Other [please add]

Timeframe

6. Timeframe

{Below is a table that illustrates possible types of activities and how responsibilities can be shared between the Joint Audit parties. The table is not complete and the kind of actions and their order will differ from case to case, depending on the approach that parties consider most efficient and effective}

The following points should be borne in mind:

- *The steps and timelines should be defined early in the process, to allow the Parties and the Taxpayer to prepare accordingly. This is particularly important if the Joint Audit includes more than two Parties.*
- *The Parties should agree and outline when and where the audit activities are going to be conducted.*
- *The Parties should schedule conference calls on a regular basis (for example weekly, bi-weekly or monthly depending on the case) to monitor the progress of the Joint Audit and to update the Joint Audit Exam Plan. The dates will preferably be agreed and scheduled at the start of the audit activities to avoid planning difficulties.*
- *Whether the timelines can be met will depend on the commitment and the cooperation of the Parties. Regular monitoring of the timelines enhances the visibility of the progress and can therewith improve the process.*

- *In order to ensure the commitment of the Taxpayer, the Parties should communicate timelines and outline the importance of a (pro)active collaboration during the procedure to speed up the process.*
- *The Parties should reassess the audit activities and timelines on a regular basis and amend the Joint Audit Exam Plan if the conduct of the Joint Audit so suggests}*

The Parties agree the following audit steps and timelines for the conduct of the Joint Audit:

Act ion #	Date	Action	Due date	Activities/ responsibilities	Status
1		Organise a first meeting to discuss and agree on the draft Joint Audit Exam Plan and prepare <ul style="list-style-type: none"> - a draft agenda that includes <ul style="list-style-type: none"> • discussion of the relevant tax issues • identification of relevant audit evidence • decision on audit activities to be performed and by whom • verification of the deadlines under the statutes of limitation. • discussion of dates for intermediate contact moments to avoid planning difficulties. - list of participants to be invited 		Party 1	<i>completed</i>
2		Send out collective request for information to the taxpayer in all relevant jurisdictions and determine timeframe within which information is expected	xx-yy-zzzz	Draft from Party 1 – to be completed by all participants	<i>open</i>
3		Plan and prepare arrangements for visiting the company premises in the relevant jurisdictions	xx-yy-zzzz	Party 1	<i>open</i>
4		Joint meeting to analyse the audit information received and discuss the next steps / prepare for following actions.		<to be determined>	
##		Etc.			

##.		Evaluation of audit evidence and draft recording of the fact & figures to be discussed.		<to be determined>	
##		Final meeting			

Conclusion

{For further background information please see Chapter 7.5 of the report “Joint Audit 2019 – Enhancing tax co-operation and improving tax certainty”}

7. Completion of Joint Audit

The Parties agree to summarise the outcome of the Joint Audit in a Final Joint Audit Report. For this purpose, the Parties will use the Final Joint Audit Report template.

The Final Joint Audit Report does not have a legally binding effect for the domestic tax treatment. The Parties agree <indicate the applicable>

- to share the Final Joint Audit Report with the taxpayer in their respective jurisdictions
- to communicate the outcome of the Final Joint Audit Report with the taxpayer before finalising the report to allow final input of the taxpayer
- not to share the Final Joint Audit Report or its outcome with the taxpayer
- <Other>

{If the Parties have not concluded an MoU the following section on evaluation should be included in the Joint Audit Exam Plan}

8. Evaluation

The Parties agree to evaluate the effectiveness of the Joint Audit.

Annex A
Joint Audit Team Members and Roles

Name	Role	Competent Authority Status (EOI) (yes/no)	Contact Details (E-mail, phone, address)
Party 1			
	<i>Joint Audit Team Coordinator</i>		
	<i>Examiner</i>		
	<i>Examiner</i>		
	<i>Examiner</i>		
	<i>Optional: Tax Treaty Analyst (MAP)</i>		
	<i><To be extended with other Roles, if desirable></i>		
Party 2			
	<i>Joint Audit Team Coordinator</i>		
	<i>Examiner</i>		
	<i>Examiner</i>		
	<i>Examiner</i>		
	<i>Optional: Tax Treaty Analyst (MAP)</i>		
	<i><To be extended with other Roles if desirable></i>		

Taxpayer			
	Party 1	NA	
	Party 2	NA	

Annex B

COMMUNICATION PROTOCOL

The Parties recognise that the ability to efficiently communicate and share information with each other is essential to the success of the Joint Audit.

Suggested Protocol for Joint Meetings and Updates:

- 1) The Parties ensure that information can be shared freely between the Joint Audit teams by having a Competent Authority from each Party present at all Joint Meetings or by delegating Competent Authority status to the auditors participating in the meetings.
- 2) Party 1 shall organise and host the initial call or meeting. In the initial meeting, the Parties may agree on arrangements for further meetings and/or calls. Further meetings will be organised and held in turns between the Parties.
- 3) Prior to any joint meeting or call an agenda is prepared by the Parties.
- 4) Following any joint meeting the Parties will determine which Joint Audit Team will prepare minutes and exchange them with the other respective other Party.
- 5) The Parties shall seek to meet/interact on a regular basis (for example weekly, bi-weekly or monthly depending on the case) or as the conduct of the Joint Audit requires.
- 6) Party 1 will have regular contact with the audit coordinator(s) of the participating jurisdiction(s) to make sure that the Joint Audit proceeds well, and that the agreed timelines are met.

Communication with the taxpayer:

Given that the Parties may have different approaches regarding taxpayer communication and the level of transparency they should agree beforehand

- if every jurisdiction will inform their own taxpayer or whether Party 1 will lead the communication with all concerned taxpayers.
- on the timing when the taxpayer will be informed about the Joint Audit.
- whether or not the taxpayer will be invited to share information during the first (initial) meeting or any follow up meeting
- <other>

Communication in digital environment – sharing confidential information.

Before the start of a Joint Audit, the Parties will agree on arrangements for the secure exchange of information (e.g. passwords to exchange encrypted emails and exchanging electronic documents, use of secure networks such as CTS).

Final Joint Audit Report

I. Preamble

The purpose of the Final Joint Audit report is to summarise all the facts and information gathered during the conduct of the Joint Audit and to specify whether and to which extent the Parties achieved a common understanding on the outcome of the Joint Audit.

The Parties herewith also acknowledge the importance to record a full description of the facts and circumstances on which the Parties could not achieve agreement in order to support any subsequent procedure following the Joint Audit.

II. Audit conclusion

Reference is made to the Joint Audit Exam Plan of <insert date> regarding <indicate taxpayer>. The outcome of the Joint Audit can be summarised as follows:

{Please summarize in wording and/or graphically depicted}

Audit issues	Year 1	Year 2	Year 3
Issue 1	< Agreement/ disagreement>		
Issue 2	< Agreement/ disagreement>		
Issue 3	< Agreement/ disagreement>		

The Parties achieve a common understanding on the following facts and circumstances

- <specify all facts and circumstances about which Parties achieved common understanding>

The Parties could not achieve a common understanding regarding the following transactions

- <specify transactions that Parties could not achieve common understanding, specify whether the divergent understanding results from different interpretation of the facts or a different legal interpretation>

III. Summary of audit process

III.1. Case description and Objectives

{Parties can insert the case description used in the Joint Audit Exam Plan}

III.2. Description of the audit process

The Parties conducted the following audit activities: <specify the applicable>

- <indicate audit activities performed> {e.g. were collective questionnaires set out, did parties visit the premises of the tax payers in participating jurisdictions, a brief indication of the type of audit (transfer pricing examination, audit of presumed tax avoidance scheme, residence etc.)}

- <indicate summary of the audit evidence collected that provides the basis for an adjustment of the domestic tax assessment>
- <indicate any obstacles encountered during the audit process if any and whether it was possible to conduct all the audit activities as foreseen>

IV. Next steps

<indicate the applicable>

- The Parties achieved a common understanding on all relevant facts and circumstances of the Joint Audit. Therefore, the Parties agree on the following steps
 - Jurisdiction 1 <indicate how the outcomes will be taken forward into national assessments >
 - Jurisdiction 2 <indicate how the outcomes will be taken forward into national assessments >
 - Conclude an APA for the taxable years <indicate relevant timespan>
 - other
- The Parties acknowledge that they could not achieve a common understanding on all facts and circumstances of the Joint Audit case and agree to take the following steps:
 - Jurisdiction 1 <indicate how the outcomes will be taken forward into national assessments >
 - Jurisdiction 2 <indicate how the outcomes will be taken forward into national assessments >
 - Pursue case in fast-track MAP
 - Other

V. Final remarks

<fill out as applicable>

Practical Guidance for Joint Audit Process

Initiation / Case Selection	Preparation	Audit	Audit completion	Evaluation
<p><u>Strategic objectives</u></p> <p><u>Domestic selection procedure</u></p> <ul style="list-style-type: none"> • Define case selection criteria and procedure <ul style="list-style-type: none"> ○ Top down selection (data based risk analysis) ○ Bottom up selection (auditors/ relation managers bringing cases forward) ○ Requests by taxpayers <p><u>International selection procedure</u></p> <ul style="list-style-type: none"> • Joint case selection based on selection meetings and joint selection criteria <p><u>Initiation of joint audit</u></p> <ul style="list-style-type: none"> • Analyse legal basis • Check Joint Audit Profile* of partner jurisdiction(s) • Prepare Joint Audit Proposal Form* for partner jurisdiction(s) • Organise selection meeting to discuss further approach if necessary <p><u>Proposal of other jurisdiction</u></p> <ul style="list-style-type: none"> • Accept Joint Audit proposal, or • Refuse Joint Audit proposal (provide reasons) <p><u>Notification of the taxpayer</u> (depending on the facts and circumstances of the case)</p>	<p><u>Domestic preparation of Joint Audit</u></p> <ul style="list-style-type: none"> • Collect and review relevant information available • Identify relevant audit topics and risk areas • Identify criminal activities (if applicable) <p><u>Conclude MoU* or ad hoc agreement</u></p> <ul style="list-style-type: none"> • Agree on governing principles of intended collaboration • Specify applicable legal framework (or refer Joint Audit Profile*), agreed audit approaches and possible escalating strategies <p><u>Select joint audit team</u></p> <ul style="list-style-type: none"> • Assign joint audit coordinator • Arrange for EOI-CA in the team • Ensure that background knowledge to the case is available (e.g. local auditors) • Assign experts (TP, MAP CA) if necessary <p><u>Preparation of initial meeting</u></p> <ul style="list-style-type: none"> • Organise face-to-face meeting • Prepare presentations for other tax administration • Prepare and agree Joint Audit Exam Plan* with defined audit objectives, expected results and risk areas (initiating jurisdiction) <p><u>Set up communication channels</u></p>	<p><u>Conduct of Joint Audit</u></p> <ul style="list-style-type: none"> • Prepare collective information requests • Agree on specific audit activities and how to conduct them in practice (taking into account particular procedures of the participating jurisdictions) • Plan preparation meetings between auditors before visiting the tax payer • Prepare minutes after each meeting with the members of the other audit team(s) and after meetings with the taxpayer • Update the members of the other audit team(s) on a regular basis (via meetings, calls, videoconferencing) on the audit progress • Update the taxpayer on a regular basis and consult about interim outcomes, depending on the facts and circumstances of the case • Where necessary update Joint Audit Exam Plan* and adjust/extend audit activities. 	<p><u>Final Audit phase</u></p> <ul style="list-style-type: none"> • Organise final meeting with all audit teams to discuss and agree on outcome of joint audit • Prepare draft Final Joint Audit Report*, including areas where an agreement could not be reached between the tax administrations to support subsequent procedures • Schedule a final meeting with the taxpayer to present proposed adjustments and to allow final input • Finalise Final Joint Audit Report* and share with the taxpayer • Adjust domestic tax assessment where necessary 	<p><u>Evaluation</u></p> <ul style="list-style-type: none"> • Collect relevant data and review the lessons learned to improve future procedures; • Evaluation criteria could include <ul style="list-style-type: none"> - Achieving the defined audit objectives - Respecting the time schedule - Coordination of audit activities - Analysis of cost& benefits

*templates are available at www.oecd.org/tax/forum-on-tax-administration/publications-and-products/.

FORUM ON TAX ADMINISTRATION

Joint Audit 2019 – Enhancing Tax Co-operation and Improving Tax Certainty

Implementation Package

The report *Joint Audit 2019 – Enhancing Tax Co-operation and Improving Tax Certainty* identified a number of best practices to support international co-operation and in particular the conduct of Joint Audits. In this context the participants of the Joint Audit Project 2018/2019 developed a Joint Audit Implementation Package that includes relevant templates and model agreements that can facilitate and streamline any practical aspects of the conduct of a Joint Audit. The Joint Audit Implementation Package is being kept up to date on a regular basis.