

Tax News Flash

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New Transfer Pricing Tax Reporting Compliance Requirements in Indonesia

The Organization for Economic Co-operation and Development ("OECD") has initiated significant transfer pricing tax reporting reforms and in 2015 issued BEPS Action 13 regarding common international reporting standards.

On 30 Dec 2016, the Ministry of Finance of The Republic of Indonesia issued Minister of Finance Regulation No. 213/PMK.03/2016 ("PMK-213") which immediately implemented this initiative.

PMK-213 requires the preparation of three documents regarding related party transactions:

- i. A Master File ("MF"), containing general information on the group;
- ii. A Local File ("LF"), containing specific information on operations in Indonesia; and
- iii. A Country by Country Reporting file ("CBCR"), containing detailed financial and other information on each of the members of the group.

The MF and LF must be available upon request four months after each fiscal year-end, in either Bahasa Indonesia or English (for taxpayers having approval to maintain bookkeeping in English language, but it must be accompanied by a Bahasa Indonesia translation). The CBCR submission is due within one year after each fiscal year-end.

Thresholds for Preparing and Maintaining Master Files and Local Files

A MF and LF are mandated if a taxpayer meets any of the following thresholds in a fiscal year (some of the explanations are our view on this regulation):

A Taxpayer conducting:

1. Any related-party transactions and its gross revenue was above IDR 50 billion (approximately USD 3.7 million) in the previous year (in this case 2015) - there is no threshold on the total amount of related party transactions; **or**
2. Related party tangible goods transactions (sale and purchase of goods, materials, etc.) of more than IDR 20 billion (approximately USD 1.5 million); **or**
3. Related party non-tangible goods transactions (interest, royalties and/or services) of more than IDR 5 billion (approximately USD 370 thousand), **or**
4. Related party transactions of **any amount** with a related party in a jurisdiction which has a corporate tax rate lower than Indonesia's corporate tax rate, currently 25%. As there is no threshold for the level of the related party transactions, all, however small, are covered under this provision. A list of countries meeting this criteria has been published by the Indonesian Tax Office ("ITO").

Thresholds for Preparing and Maintaining CBCR Files

A CBCR is mandated if a taxpayer meets either of the following thresholds in a fiscal year (some of the explanations are our view on this regulation):

1. It is a parent entity with consolidated group revenue of more than IDR 11 trillion (approximately USD 814 million) which applies to Indonesian group companies; **or**



2. It is a part of a foreign parent entity that:
 - i. is not required to submit a CBCR, **or**
 - ii. is in a country that does not have an information exchange agreement with Indonesia, **or**
 - iii. if the ITO is unable to obtain a CBCR through an information exchange agreement.

The ITO has published a list of countries that have a suitable exchange of information arrangement with Indonesia.

PMK 213 includes an extensive list of the information to be disclosed in the CBCR.

Penalties

A taxpayer that falls under the above requirements has 4 months (12 months for CBCR) after each financial year-end to prepare and declare, starting in its 2016 corporate tax return, that it is ready to submit the MF/LF. The MF/LF must be summarized in an attachment to the annual corporate income tax return ("CITR") and the CBCR attached to the tax return of the following year.

Penalties exist for failing to prepare and submit the MF/LF upon request. Failure to prepare MF/LF is treated under Article 3(3) as not applying the arm's length principle. Failure to deliver MF/LF when requested would result, under Article 5(3), in the taxpayer being deemed as not having transfer pricing documentation.

The ITO can request the above documents for compliance checking, a tax audit, an objection, a reduction of an administrative sanction and in other cases.

Summary

The key takeaways are:

Effective date	30 Dec 2016 (fiscal year ended 2016)
Language	Bahasa Indonesia or English (accompanied with a Bahasa translation)
Due dates	MF & LF: available four months after fiscal year-end CBCR: submit 12 months after fiscal year-end
Affiliated party transactions covered	All domestic and international
Submission to Tax Office	MF & LF: Signed declaration as to their availability as an attachment to CITR. CBCR: Submitted to ITO as an attachment to CITR.
Penalties and sanctions	In accordance with the existing regulations.
Record keeping requirements	10 years
Part year annualizing	Yes
Exchange Rate	Ministry of Finance rate at end of tax year
Extensions	Not specifically covered and hence we assume that there are no extensions available unless further regulations are issued

KPMG Comments:

- PMK-213 requires the preparation of MF and LF with lower thresholds.
- It also formalizes penalties and sanctions under taxation law and regulation for failure to prepare, submit on time or upon request, declare its availability in the CITR and to prepare contemporaneously.
- Since the preparation of MF is not yet required in many countries, Indonesian taxpayers, especially PMA companies, must work together with their headquarters to obtain and provide the required information.
- While it was widely expected that Indonesia would act and issue implementing regulations, PMK-213 contains very strict requirements and tight deadlines. For example, Indonesian companies that are not a parent entity can be obliged to prepare a MF and also CBCR.
- The requirement to maintain transfer pricing documents under the previous regulation still exists and PMK-213 does not have any provision to overrule the previous regulation. However, the information in the transfer pricing document can be used to prepare the LF.

Contact us

KPMG Advisory Indonesia

Tax Services

33rd Floor, Wisma GKBI
28, Jl. Jend. Sudirman
Jakarta 10210, Indonesia

T: +62 (0) 21 570 4888

F: +62 (0) 21 570 5888

Abraham Pierre Wenang

Partner In Charge, Tax Services

Abraham.Pierre@kpmg.co.id

Eko Prajanto

Eko.Prajanto@kpmg.co.id

Anita Priyanti

Anita.Priyanti@kpmg.co.id

Iwan Hoo

Iwan.Hoo@kpmg.co.id

Ichwan Sukardi

Ichwan.Sukardi@kpmg.co.id

Bambang Budiman

Bambang.Budiman@kpmg.co.id

Collin Goh

Collin.Goh@kpmg.co.id

Jacob Zwaan

Jacob.Zwaan@kpmg.co.id

Irwan Setiawan

Irwan.Setiawan@kpmg.co.id

Esther Kwok

Esther.Kwok@kpmg.co.id

Roy Sidharta Tedja

Roy.Tedja@kpmg.co.id

Steven Derek Solomon

Steven.Solomon@kpmg.co.id

Natalia Yamin

Natalia.Yamin@kpmg.co.id

Sutedjo

Sutedjo@kpmg.co.id

Tonggo Aritonang

Tonggo.Aritonang@kpmg.co.id

Yoshiyuki Misao

Yoshiyuki.Misao@kpmg.co.id

kpmg.com/id

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