Transfer Pricing Country Summary

Indonesia

November 2021

1. Introduction

In Indonesia the OECD TP Guidelines are used as a point of reference, so as to formulate the TP policy and as a consultation for dispute resolution. Therefore, Indonesia adheres to the OECD Guidelines.

2. Laws & Regulations

a) References to OECD/EU/Local Rules

The legal framework for transfer pricing includes:

• Article 18 of the Income Tax Law, which allows the Director General of Taxation (DGT) to adjust a taxpayer's related party transactions if they are non-arm's length in nature;

• DGT Regulation No. 43/2010 entitled "Application of Common Business Practices and Arm's Length Principle in Transactions between Taxpayers and Parties who have a Special Relationship". The rules apply to both domestic and international related party dealings. This regulation is amended by DGT Regulation No.32/2011;

• Regulation No. 69/2010, Advance Pricing Agreement Procedures, dated 31 December 2010;

• The Directorate General of Tax (DGT) issued Regulation Number PER-22/PJ/2013 regarding Tax Audit Procedures for Taxpayers with Related Party Transactions.

• The Directorate General of Tax (DGT) issued The Circular Letter Number SE-50/PJ/2013 regarding The Technical Audit Guidelines for Taxpayer with Related Party Transactions.

• Regulation No. 7/PMK.03/2015, Guidelines for establishment and implementation of advance pricing agreement, dated 01 December 2015.

• The Indonesian Ministry of Finance has issued Minister of Finance Regulation number. 213/PMK.03/2016 (PMK-213), which implemented CbC Reporting, local file and master file.

• The Directorate General of Tax (DGT) issued Regulation Number PER-29/PJ/2017, which explained the procedure of CbC Reporting.

b) Definition of Related Party

Transfer pricing rules apply to both domestic and cross-border transactions between parties that have a "special relationship". Based on Income tax article 18 paragraphs 4 the definitions of related party are:

• A taxpayer who owns directly or indirectly at least 25% of equity of other taxpayers; a relationship between taxpayer through ownership of at least 25% of two or more taxpayers, as well as relationship between two or more taxpayer concerned; or

• A taxpayer who controls other taxpayer; or two or more taxpayers are directly or indirectly under the same control; or

• A family relationship either through blood or through marriage within one degree of direct or indirect lineage.

c) Nature of Transfer Pricing Documentation

The nature of TP Documentation in Indonesia follows the OECD Guidelines, as previously noted. Accordingly taxpayers are obliged to provide a Master file, a Local file and CbCR.

d) Tax Havens & Blacklists

Indonesia does not have a Tax Haven list available.

e) Advance Pricing Agreement (APA)

APA is available through Regulation No. 69/2010, Advance Pricing Agreement Procedures, dated 31 December 2010. The regulation provides only for three-year APA terms, but can include rollbacks if the prior years are not under audit. APA renewal can be conducted in the last fiscal year of the APA enactment. Regulation No.7/PMK.03/2015 dated on 12 January 2015 by the ministry of finance provides guidelines for establishment and implementation of advance pricing agreement. No fee is charged for an APA application. Advance Pricing Agreement owned by members of a Business Group and other taxation provisions related to the allocation of income among members of a Business Group must be disclosed in the master file.

f) Audit Practice

The DGT published Circular Letter No. SE-15/PJ/2018 (SE-15) addressing tax audit policies on August 13, 2018. As per SE-15, numerous indications are utilized to determine whether taxpayers should be listed on the Audit Priority Target List for transfer pricing concerns. The indications listed below are used:

- taxpayers that conduct dealings with affiliates having a zero or low effective tax rate;
- signs that a taxpayer is engaging in a transaction scheme involving businesses with little commercial substance or that contribute no economic value (reinvoicing);
- taxpayers with extensive affiliate transactions, notably in terms of sales value;
- the existence of intra-group transactions such as service supply, royalty payment, and cost distribution arrangements;
- the presence of corporate restructuring events such as mergers and acquisitions;

- The taxpayer's financial performance differs from the industry's financial performance; and
- The taxpayer has suffered a string of losses. Namely three tax years out of the previous five years.

3. Transfer Pricing Documentation

a) Level of Documentation

Indonesian transfer pricing regulation, PMK-213, dated 30 December 2016 regulates transfer pricing documentation consisting local file, master file, and CbCR.

Local and master files apply to companies with gross revenue in the preceding tax year exceeding Indonesian Rupiah (IDR) 50,000,000,000, or, with tangible goods transactions in the preceding tax year, or, services, royalties, interest or other transactions in the preceding tax year exceeding IDR 20,000,000,000 or 5,000,000,000 respectively.

Similarly, it applies to companies if their related party transactions with affiliated party are located in a jurisdiction with tax rate lower than Indonesia's (i.e. currently at 25%).

CbCR apply to parent entity of a group with consolidated gross revenue in one tax year of at least IDR 11 trillion or Euro (EUR) 750 million for foreign parent entity. Parent entity must not directly or indirectly owned by other constituent entity of a group, or it is directly or indirectly owned by other entity, but that other entity has no obligation to consolidate the financial statements of the entity.

b) Industry Analysis

By identifying value drivers for the relevant industry, a first indication of the level of profitability common in the industry is being given.

c) Company Analysis

A description of the management structure of the local entity, a local organisation chart, and a description of the individuals to whom local management reports and the country(ies) in which such individuals maintain their principal offices.

A detailed description of the business and business strategy pursued by the local entity including an indication whether the local entity has been involved in or affected by business restructurings or intangibles transfers in the present or immediately past year and an explanation of those aspects of such transactions affecting the local entity.

d) Functional Analysis

In conducting a functional analysis, an assessment is made of the significant activities and responsibilities that are performed by the related parties relevant to the Intercompany Transactions under review, the tangible and intangible assets that are employed and the risks that are borne in undertaking the business activities. Such an assessment is consistent with the recommendations that have been made in the OECD Guidelines at paragraph 1.51.

e) Choice of Transfer Pricing Method

The following methods are accepted:

– Comparable uncontrolled price (CUP) method

– Resale price method

– Cost plus method

– Profit spit method

– Transactional net margin (TNMM) method

According to SE-50/PJ/2013, after identified the business characteristics of the Taxpayer, selection of the most appropriate transfer pricing method can be determined with 2 (two) following steps:

• Identifying any available comparable data; and

• Choosing the most appropriate transfer pricing method based on fact and condition

f) Economic Analysis – Benchmark Study

Benchmark studies are considered as the most appropriate method to determine the arm's length price of intra-company transactions. According to PER-32, PER-22, and SE-50, there are two comparables which are internal comparable and external comparable. Internal comparable derive from the company, meanwhile external comparable derive from external database. In addition, for the external comparable, domestic and foreign public data are used as comparables. Asia-pasific data can also be used for benchmarking purposes if domestic comparables are not available. Full range is used when there are only two comparables; and interquartile range is used when there are three or more comparables.

g) Inter-company (IC) Legal Agreement

Although an Inter-company legal agreement formalizes the business and financial relationship between group entities, the legal agreements have a lower ranking since the OECD 2017 Guidelines made the ''conduct of parties'' the prevailing concept.

h) Production Process for TP Relevant Returns, Documents, Forms and Financials

In the chart below, the existence of the filing requirements with the details of which format is used, the latest filing date, notification requirement and its deadline, thresholds to be applied in case it exists, and the required languages are demonstrated. This information can be seen respectively for CIT, master file, local file, CbCR, local forms, annual accounts and segmented P&L documentations.

	Prepare or File?	Format	Deadline	Notification Deadline*	Threshold* (Yes/No)	Local Language (Yes/No)*(If "No", it can be filed in English)
Corporate Income Tax	File	N/A	No later than 4 months after the end of the taxpayer's fiscal year.	N/A	N/A	Yes
Master File	Prepare	Local format	No later than 4 months after the end of the taxpayer's fiscal year.	N/A	Gross revenue of more than IDR 50 billion in the prior fiscal yea	Yes
Local File	Prepare	Local format	No later than 4 months after the end of the taxpayer's fiscal year.	N/A	Gross revenue of more than IDR 50 billion in the prior fiscal yea	Yes
CbCR	File	OECD	12 months after the last day of FY	12 months after the last day of FY	Gross revenue of at least IDR 11 trillion	Yes
Annual Accounts	Prepare	N/A	No later than 4 months after the end of the taxpayer's fiscal year.	No	No	Yes
Segmented P&L	Prepare	Excel/Other	Ready upon filing CIT/TP documents.	No	No	No

* Country has signed the MCAA agreement for the filing of CBCR.

i) Mandatory Language

The transfer pricing documents must be prepared by a Taxpayer in Indonesian language.

j) Notification Requirement

Upon request, transfer pricing reports except CbCR must be submitted in the period as provided for in the provisions of laws and regulations in the taxation sector.

k) Record Keeping

Indonesian regulation does not have specific rules. The statute of limitations is generally five years, but there is no time limit in cases of suspected fraud or tax evasion. In general, documentation should be retained for up to 10 years.

l) Penalties and Interest Charges

Corporate income tax return must be attached with the summary of local, master file and CbCR notification; there will be fines IDR 1 million for uncompleted corporate income tax return, in this case, the Taxpayer is considered as not submitting the corporate income tax return. As for other penalties, there are no specific transfer pricing penalties. However, there is a general penalty of 2% per month, up to a maximum of 48%, on any late payment or underpayment of tax discovered during a transfer pricing audit. There may also be fines of 200% to 400% of the unpaid tax and imprisonment in severe cases. No interest is charged on penalties.