

New Transfer Pricing Documentation Requirements in Indonesia

The Indonesian Minister of Finance has issued a new regulation concerning transfer pricing documentation requirements (213/PMK.03/2016, “The type of additional information mandatory to be managed and retained by taxpayers who conduct transactions with affiliated parties and its procedure”). The new rules came into effect on 30.12.2016 and are therefore applicable for fiscal years 2016 onwards.

The regulation implements new transfer pricing documentation guidelines developed by the OECD in the course of the BEPS (Base Erosion Profit Shifting) project (BEPS 13). It is to be expected that taxpayers previously not required to prepare transfer pricing documentation will be required to do so in future.

Therefore, taxpayers should immediately assess whether they may have to prepare transfer pricing documentation for FY 2016 onwards to ensure compliance with the new rules.

According to the new regulation taxpayers are now required to follow the OECD three tier documentation approach. The documentation comprises

- Master File
- Local File
- Country by Country Reports plus a so-called CbCR working paper (for selective taxpayers)

Thresholds for the preparation of transfer pricing documentation

Master File and Local File if

1. taxpayer carries out affiliated party transactions in the covered fiscal year and the gross revenue in the prior fiscal year was higher than IDR 50 billion (1 USD = ca. €. 14.200)
or
2. taxpayer’s affiliated party transactions carried out in the prior fiscal year are
 - a. for tangible goods transaction more than IDR 20 billion,

- b. for transactions involving services, intangible goods or other affiliated party transactions more than IDR 5 billion, or
3. Intercompany transactions are carried out with affiliated parties domiciled in a country with a lower corporate tax rate than 25 % (Indonesian corporate tax rate). Hence, Indonesian companies conducting intercompany transactions with Singapore-based affiliated parties might be requested to prepare a transfer pricing documentation.

If one of the criteria is satisfied, a transfer pricing documentation comprising Master and Local File is compulsory, it has to cover all intercompany transactions occurred in the fiscal year.

A CbC Report has to be filed

1. by Indonesian headquartered groups with a consolidated turnover of at least IDR 11 trillion, or
2. by Indonesian taxpayers whose parent company is domiciled in a country
 - a. which does not require to file a CbC report,
 - b. which does not have an agreement with Indonesia regarding the automatic exchange of CbCR information, or
 - c. has an agreement with Indonesia regarding the automatic exchange of CbCR information, but the country report may not be obtained by Indonesia from the country or jurisdiction concerned.

Timing for the preparation of the Master File and Local File, CbC Report

The taxpayer is obliged to prepare the two-tier transfer pricing documentation comprising Master and Local File not later than 4 months after its fiscal year end (where the fiscal year equals the calendar year, not later than 30 April).

Although the transfer pricing documentation has only to be submitted to the Indonesian Tax Authorities upon request, the taxpayer has to submit special attachment forms (3A, 3A-1, 3A-2 and additional summary form (ikhtisar)) along with its tax returns. In the new summary form (ikhtisar) additional information regarding the Master File and the Local File have to be disclosed including the date of preparation.

In case the Master File and Local File have not been prepared prior to the submission of the tax return, the filing might be considered as incomplete. Penalties for an incomplete tax filing may amount up to 200% on any unpaid tax as well as further criminal sanctions. The CbC Report has to be submitted to the Indonesian Tax Authorities not later than 12 months after the end of the fiscal year.

Content of the Files/Report

1. Master File

The Master File provides a broad overview of the group and its business operations, the applied group wide transfer pricing policy, details of the intangible assets ownership and R&D strategy of the group, financial and financing activities, explanation of the supply chain of the group's 5 largest products and/or services.

A detailed list of required information is included in the new regulations.

2. Local File

The Local File provides information on the Indonesian taxpayer. Amongst others the Local File shall give further explanations of the business activities performed in Indonesia, financial information of the taxpayer (such as transaction volumes, financial margins etc.) and has to include the economic analysis demonstrating the application of the arm's length principle.

A detailed list of required information is included in the new regulations.

3. Country by Country Reporting (CbC Report)

The content of the CbC Report is broader than defined in the BEPS 13 guidelines. Amongst others, the report has to show the following information for each group entity: income allocation, gross revenue, taxes paid, headcount, business activities, profit (or loss), tangible assets others than cash and cash equivalents.

For further guidance, information and assistance please feel free to contact us anytime.

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