



Transfer Pricing Developments

We are pleased to provide below a summary of the latest developments in Transfer pricing globally which are expected to have an impact on the transfer pricing landscape in Indonesia:

Source of News	News Update
<p>BEPS Actions 8-10 and Action 13 Approved by OECD Council www.oecd.org (June 15, 2016)</p>	<p>On 23 May 2016, the OECD Council approved the amendments to the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations ("Transfer Pricing Guidelines"), as set out in the 2015 BEPS Report on Actions 8-10 "Aligning Transfer Pricing Outcomes with Value Creation" and Action 13 "Transfer Pricing Documentation and Country-by-Country Reporting".</p> <p>The specific changes introduced in the Transfer Pricing Guidelines by these Reports are as follows:</p> <ul style="list-style-type: none"> • The current provisions of Chapter I, Section D of the Transfer Pricing Guidelines – "<i>Guidance for applying the arm's length principle</i>" are deleted in their entirety and replaced by the new guidance. In summary, the new guidance focuses on substance over contractual arrangement - actual conduct of the parties (functions) and capacity to manage and control the risks (decisions as well as financial) in application of the arm's length principle. • Paragraphs are added to Chapter II of the Transfer Pricing Guidelines, immediately following paragraph 2.16 which states that CUP method would generally be an appropriate method for commodities transactions using quoted price as a reference and undertaking reliable accurate adjustments to eliminate differences.

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- A new paragraph is inserted following paragraph 2.9 which states that "*the use of Rule of Thumb*" cannot be applied as an evidence to test the arm's length nature of price or profit.
 - The current provisions of Chapter V of the Transfer Pricing Guidelines are deleted in their entirety and replaced by new guidance and annexes on the transfer pricing documentation and CbCR. The new provisions provide the three-tiered approach to transfer pricing documentation –Master File, Local File and Country by Country Report.
 - The current provisions of Chapter VI of the Transfer Pricing Guidelines are deleted in their entirety and replaced by new guidance and annex on "*Special Considerations for Intangible Property*". In summary, the new guidance differentiates between economic owner and legal owner of intangibles, the execution of value creating development, enhancement, maintenance, protection and exploitation of intangibles (DEMPE functions) and appropriate remuneration thereto.
 - The current provisions of Chapter VII of the Transfer Pricing Guidelines are deleted in their entirety and replaced by new guidance on "*Special Consideration for Intra-Group Services*". The new guidance introduces the concept of low-value adding services and also requires greater transparency through specific reporting requirements.
 - The current provisions of Chapter VIII of the Transfer Pricing Guidelines are deleted in their entirety and replaced by new guidance on "*Cost Contribution Agreements*". The new provision provides guidance for determining whether the conditions established by associated enterprises for transactions covered by the Cost Contribution Agreement are consistent with the arm's length principle.

The conforming changes are expected to be approved later in 2016. Until then, it is stipulated that the provisions of the Transfer Pricing Guidelines should be interpreted to be consistent with those provisions of the **Transfer Pricing Guidelines which have been amended by the 2015 BEPS Report on Actions 8-10 and 2015 BEPS Report on Action 13** and, in case of perceived inconsistencies, the modified provisions prevail.

Indonesia signatory to Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information

www.oecd.org
(June 28, 2016)

The Multilateral Competent Authority Agreement ("the MCAA") is a multilateral framework agreement that provides a standardised and efficient mechanism to facilitate the automatic exchange of information in accordance with the Standard for Automatic Exchange of Financial Information in Tax Matters.

The Republic of Indonesia, along with 83 other countries (as of 28 June 2016), is a signatory to the MCAA on Automatic Exchange of Financial Account Information in Tax Matters. The intended date of first information exchange by the Indonesian Tax Authorities is September 2018.

Announcement:

We are pleased to announce that Deloitte Tax Solutions' Transfer Pricing Practice has been awarded the Indonesian Transfer Pricing Firm of the Year award at International Tax Review's (ITR) Asia Tax Awards.

The ITR Asia Tax Awards represent the views of the leading tax publication on the most excellent and prominent tax advisers in Asia. The 2016 Asia Tax Awards is the sixth ITR tax awards ceremony in Asia, after a break of six years since it was last held in 2010.

The entire team of Deloitte Tax Solutions would like to extend our heartiest appreciation to all our Clients for the trust bestowed upon us. This trust drives our professionals in providing seamless services to our clients and achieving milestones like this.



Contacts

If you have any questions concerning the issues in this Transfer Pricing Alert, please contact a Transfer Pricing Professional at our Deloitte office as follows:

Roy David Kiantiong

Partner - Indonesia Transfer Pricing Leader
+62 21 29923100 ext. 33899
rkiantiong@deloitte.com

Carlo Llanes Navarro

Senior Technical Advisor
+62 21 29923100 ext. 33878
cnavarro@deloitte.com

Balim

Director
+62 21 29923100 ext. 33877
bbalim@deloitte.com

Shivaji Das

Technical Advisor
+62 21 29923100 ext. 33871
sdas@deloitte.com

Amit Sharma

Technical Advisor
+62 21 29923100 ext. 33881
asharma2@deloitte.com

Eddy Ivan Utama

Senior Manager
+62 21 29923100 ext. 33610
eutama@deloitte.com

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