

Insurance Tax Highlights – Asia Pacific Indonesia

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The Standard for the Automatic Exchange of Financial Account Information in Tax Matters

The Standard for the Automatic Exchange of Financial Account Information in Tax Matters (EOI Standard) is a result of the declaration by G20 finance ministers in April 2013 that they wanted automatic exchange of information to be the global standard and their endorsement in February 2014 of the Common Reporting Standard (CRS). This is also a part of the work of the Global Forum on Transparency and Exchange of Information for Tax Purposes to address tax evasion, consisting of 120 members, including Indonesia.

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The EOI Standard sets out a minimum standard of information to be exchanged. Jurisdictions may choose to exchange information beyond the minimum standard. In order to limit the opportunities for taxpayers to circumvent the model, a reporting standard requires a broad scope across the following dimensions:

- The scope of financial information reported
- The scope of account holders subject to reporting
- The scope of financial institutions required to report.

The EOI Standard will require governments to exchange information annually about financial accounts, which information is obtained from financial institutions as well as from specified insurance companies. Implementation of the EOI Standard will require translating the CRS into domestic law.

A multilateral agreement on Automatic Exchange of Financial Account Information was signed by 51 jurisdictions in Berlin on 29 October 2014. The agreement specifies what information will be exchanged and when, as set out in the OECD's standard for the EOI Standard. Most of the signatories to the agreement have pledged to begin exchanging information by September 2017. Signing this agreement depends on the readiness of each endorsing country. The countries that have signed this agreement are considered as early adopters. Although Indonesia has endorsed the implementation of this EOI Standard, it has not signed the agreement yet.

In Indonesian taxation law, provisions concerning EOI are covered under Article 32A of the Income Tax Law No.36/2008 and Article 59 of Government Regulation No.74/2011 with reference to General Tax Provisions (*Ketentuan Umum dan Tata Cara Perpajakan/KUP*) Law No. 16/2009. EOI procedure has also been stipulated by the Minister of Finance through the issue of Regulation No.60/PMK.03/2014(PMK-60), which covers three types of EOI: by request, spontaneous, and automatic EOI.

It will be worth paying attention to how the EOI standard interacts with domestic laws, especially with secrecy matters that apply to financial institutions based on the current laws and regulations.

Base Erosion and Profit Shifting (BEPS) – What does it mean for Indonesia?

In recent years, Indonesia has put forward several measures in the international tax area in a bid to prevent abusive tax practices, such as the requirement of Directorate General of Taxes (DGT) Forms for treaty access. This implies that there is a need for such measures in order to protect against the erosion of tax revenue from such practices. Therefore, it is only logical that Indonesia is very supportive of the BEPS project.

Although Indonesia is not a member of the OECD, it is one of the G20 countries. Indonesia is one of the countries that joined the declaration of the BEPS project in Paris and it has been involved in the working groups on the action plans.

With the commitment to this project, it is expected that Indonesia will apply the tools and recommendations provided in the deliverables. Of course, there may be different levels of implementation for each action, depending on the availability of existing measures under domestic tax rules and whether there are any legal challenges to the implementation of the recommendations.

It is likely that Indonesia will review the existing rules to make them more in line with the BEPS deliverables. Where there is no existing rule on a certain issue, it is anticipated that new rules will be introduced. Stronger connections with other countries, especially within the region, are also expected, as is a legal framework to support the expected transparency on data provision.

From the taxpayers' side, especially for members of multinational group companies, we can expect that the tax compliance burden will increase.

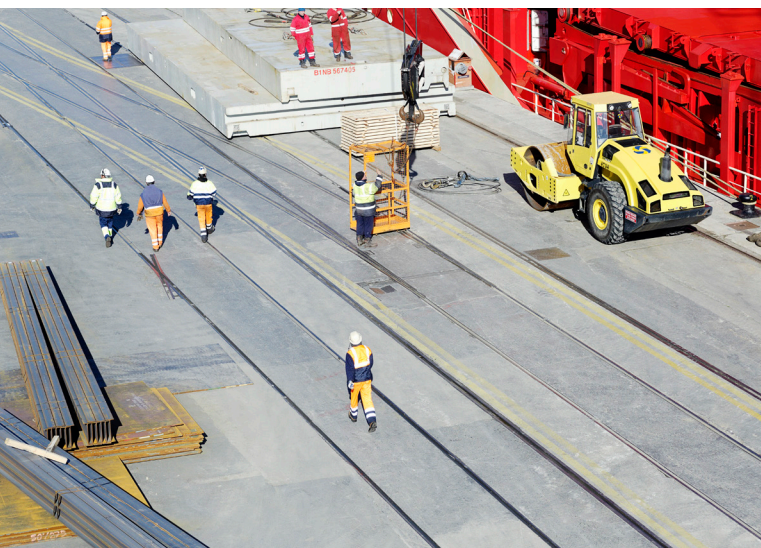
Financial services industry (including insurance) has been a target of tax audit in 2014

The DGT has set the 2014 tax audit revenue target to be Rp 24 trillion (approximately US\$ 2.2 billion), increased by 30% from the 2013 target of Rp 18.5 trillion. This target, along with the tax audit strategy and plan, is stipulated in the DGT Circular Letter No.SE-15/PJ/2014 (SE-15) dated 21 March 2014.

The factors considered to determine industry sectors for tax audit target remain mostly the same as in previous years:

- Industries where compliance levels in previous years were low;
- Industries that make a significant contribution to the economy and tax revenue;
- Industries that are expected to be booming in 2014; and
- Industries with high growth rate.

On top of the strategy, there is also a tax audit plan in relation to the statute of limitations for the fiscal years that will expire by the end of 2014 and 2015. The corporate taxpayers target for 2014 tax audits are those in the business of property and financial services. The financial services industry, which includes insurance, has been a target of tax audits for the past three consecutive years, i.e. since 2012.





In addition, Tax Audit Instruction Letters based on manual risk analysis at the DGT level may be issued on taxpayers:

- a) that have transactions with domestic related parties (group taxpayers), including individuals related to the transactions;
- b) in the oil and gas sectors;
- c) that have transactions with related parties (transfer pricing audit apart from normal tax audit due to tax overpayment);
- d) that are subject to a joint audit between the DGT and external parties.

Based on recent trends of tax audits on taxpayers in the business of financial services, the Indonesian Tax Authority has started to request that taxpayers complete a detailed list of questions in relation to related party transactions. Early preparation to complete this list of questions is critical to ensure taxpayers under tax audit can provide their response within the deadline given by the tax auditors.

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