New rules related to filing tax returns

The Director General of Tax (DGT) has issued Regulation No.PER-02/PJ/2019 (PER-02), dated and effective from 23 January 2019. PER-02 serves as the main regulation compiling administrative matters for all types of monthly and annual tax returns, and revokes several existing DGT regulations on these matters.

PER-02 stipulates that companies registered in the following tax offices must now submit their Corporate Income Tax Return (CITR) through e-Filing:

1. Tax offices for medium-sized taxpayers (Madya);
2. Jakarta Khusus tax offices that include:
   a) Tax offices for foreign investment companies (Penanaman Modal Asing/PMA);
   b) Tax offices for foreign companies and foreigners (Badan dan Orang Asing/Badora);
   c) Tax offices for listed companies (Perusahaan Masuk Bursa/PMB); and
3. Tax offices for large taxpayers (Large Tax Office/LTO).

Of particular note, under the list of documents that are required to be attached to the CITR, one of the new additions stipulated in this regulation is that Transfer Pricing Documentation (TPD) must be included with the filing, namely Master File, Local File, and/or Country by Country Report (CbCR). Based on this, taxpayers may be concerned that their CITR may be deemed incomplete if the TPD is not attached to the CITR during the submission.

In light of this, we would like to point out that PER-02 is a general tax regulation covering wide aspects of all types of tax returns administration. Particularly with respect to its requirements on TPD, we note that there are separate Transfer Pricing tax regulations which cover TPD reporting requirements, such as Minister of Finance Regulation No.PMK-213/PMK.03/2016 (PMK-213) and DGT Regulation No.PER-29/PJ/2017 (PER-29).

PMK-213 only requires Master and Local files to be available no later than four months after the end of the tax year. Under that regulation, the document to be submitted with the CITR is only the ‘Summary’ (Ikhtisar) which is effectively a
checklist of the content of the Master and Local files which also confirms the date as at when these files have become available. PMK-213 does require the submission of the CbCR with the subsequent year's tax return. However, if the CbCR has already been submitted to the e-CbCR in the DJP Online website prior to the submission of the CITR, the CbCR can be replaced with the receipt from the e-CbCR system.

Based on the above, there are inconsistencies between these various regulations as the TPD reporting requirements under PER-02 deviate from the requirement under PMK-213. In terms of the hierarchy of the law, PMK-213 holds a higher position than PER-02. In light of these inconsistencies, we expect that there will be further clarification issued from the DGT with regard to this matter.

We will continue to monitor the issue and issue additional guidance once further clarifications are issued.
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