

Indonesia Transfer Pricing Guide 2024

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Indonesia

1. Legal Basis

Is there a legal requirement to prepare TP documentation?

Indonesian TP Guidelines are currently regulated with MoF 172/2023 (referred to as Indonesia TP Omnibus Law) which combines various regulations related to TP, MAP, and APA, including providing clarification and improving old provisions from MoF 213/2016, MoF 49/2019, and MoF 22/2022.

Since when does a TP documentation requirement exist in your country?

2010.

Adoption of the OECD or UN legislation in your country?

OECD.

Is your country a member of the OECD, Inclusive Framework, or other OECD groups (e.g. BEPS)?

Indonesia is a member of the OECD/G20 Inclusive Framework on BEPS.

Are TP policies of multinational enterprises in principle accepted by the tax authorities, if they are in line with the OECD TP Guidelines?

Yes.

Which TP methods may be applied?

Indonesia TP Methods consist of: Comparable Uncontrolled Price ("**CUP**"); Resale Price method ("**RPM**"); Cost Plus method ("**CPM**"), Profit Split ("**PS**"); and Transaction Net Margin Method ("**TNMM**"), Comparable Uncontrolled

Transaction; Tangible asset and intangible asset valuation; and Business valuations.

Currently regulated in MoF 172/2023 Article 9 para. 2.

Is there a stated preference for any particular TP methods?

The most appropriate method should be used.

Have the documentation requirements of OECD BEPS Action 13 already been implemented (i.e. the LF, MF, and CbCR concepts)?

Yes. LF, MF and CbCR have been implemented.

Reference to documentation and statements of local government or tax authorities regarding OECD BEPS implementation status

Currently regulated in MoF 172/2023.

Is there any statute of limitation period?

There is no separate statute of limitations for TP. The statute of limitations for TP assessments will follow the statute of limitations for tax.

Under Indonesian tax law, the DGT is permitted to conduct a tax audit and issue an underpayment tax assessment of the arm's length nature of related party transactions, within five years of the relevant Fiscal Year.

The statute of limitation will be extended to 10 years in the case of the conduct of a tax fraud/tax crime.

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Reference to relevant articles of law, legislative regulation, or applicable administrative guidance that are in place for TP documentation in general.

Income Tax Law number 7 Year 1983 last amended by Harmonisation Tax Law number 7 Year 2021.

TP guidelines provide that documents for the determination of fair price or fair profit must be made available by the Taxpayer is previously regulated within MoF 213/2016, PER 32/2011, and PER 43/2010 currently regulated within MoF 172/2023.

The guidelines for TP Audit are still the same.

APA was previously regulated within MoF 22/2020 and is currently regulated within MoF 172/2023.

The exchange of information for MAP and APA which is regulated in Circular number SE - 16/PJ/2017 about the request for information and/or proof regarding related financial information for tax purposes is still valid.

2. Master File (MF)

What is the (consolidated revenue) threshold requirement for the obligation to prepare a MF?

MF is required if the Taxpayer meets certain thresholds in the previous fiscal year.

The thresholds are as follows: affiliated party transaction and:

- (i). gross revenue above IDR 50 billion;
- (ii). tangible goods affiliated party transaction above IDR 20 billion;
- (iii). transactions of intangible goods affiliated party transaction above IDR 5 billion; or
- (iv). any amount of affiliated party transaction with an affiliated party in a tax jurisdiction with a tax rate lower than the Indonesian corporate tax rate of 22%.

Point (i) to point (iii) is the threshold for the previous year while point (iv) is for the related fiscal year.

Euro Equivalent

EUR 2,639,180.

From which year does this obligation exist?

Applies for fiscal years beginning on or after 1 January 2016 with the previous year threshold.

When does the MF need to be available?

The MFs must be prepared no later than 4 months after the end of the relevant tax year. However, the MF is not necessary to be filed with the tax return. It is based on the request from the tax office.

When does it need to be submitted?

With the enactment of MoF 172/2023, MF must be available when requested by DGT one month upon request in the context of tax compliance monitoring and tax audit (Article 34).

Does the MF have to be prepared in the relevant local language?

Yes, it is mandatory to prepare MF in Bahasa.

Is documentation in English permissible?

No.

What are the possible consequences of not having the MF available?

Penalties?

Yes.

Imprisonment?

No.

Shifting of the burden of proof?

No.

Other?

No.

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To what extent do the local rules differ from the OECD standard regarding the OECD content requirements for the MF as shown in the BEPS implementation overview chart?

Consistent with OECD requirements.

3. Local File (LF)

What is the threshold requirement for the obligation to prepare a LF?

Thresholds are the same as for the MF, and the LF is required if the Taxpayer meets certain thresholds in the previous year. The thresholds are affiliated party transaction and:

- (i). gross revenue above IDR 50 billion;
- (ii). tangible goods affiliated party transaction above IDR 20 billion;
- (iii). transactions of intangible goods affiliated party transaction above IDR 5 billion; or
- (iv). any amount of affiliated party transaction with an affiliated party in a tax jurisdiction with a tax rate lower than the Indonesian corporate tax rate of 22%.

Point (i) to point (iii) is the threshold for the previous year while point (iv) is for the related fiscal year.

Euro Equivalent

EUR 2,639,180.

From which year does this obligation exist?

LF is required if the Taxpayer meets certain thresholds as mentioned above in the previous year. Applies for fiscal years beginning on or after 1 January 2016.

When does the LF need to be available?

The LF must be available at the latest of 4 months of the end of the relevant tax year. The LF is not to be filed with the tax return. However, the LF is not necessary to be filed with the tax return. It is based on a request from the tax office.

When does the LF need to be submitted?

With the enactment of MoF 172/2023, LF must be available when requested by DGT one month upon request in the context of tax compliance monitoring and tax audit (Article 34).

Does the LF have to be prepared in the relevant local language?

Yes, based on regulation, the documentation should be in Bahasa.

Is documentation in English permissible?

No. The English version is usually only for internal reports in the company's group.

What are the possible consequences of not having the LF available?

Penalties?

Yes.

Imprisonment?

No.

Shifting of the burden of proof?

No.

Other?

No.

To what extent do local rules differ from the OECD standard regarding the OECD content requirements for the LF as shown in the 2017 OECD TP Guidelines?

The Local File must include certain additional documentation and certifications for specific types of transactions. The deadline for LF and MF for availability is four months after the end of the Fiscal Year. The responsibility of providing MF is merged with LF, instead of the CbCR.

4. Country-by-Country Reporting (CbCR)

What is the threshold requirement for the obligation to prepare Country-by-Country Reporting?

If the Taxpayer is the UPE, under PMK 172/2023, where gross revenue is IDR 11 trillion or greater in the prior year, the CbCR should be prepared, with no restriction for only MNE companies. Local companies with consolidated gross revenue of IDR 11 trillion are also required to prepare CbCR.

Euro Equivalent

EUR 750 million.

From which year does this CbCR obligation exist?

For fiscal years starting from 1 January 2016.

Are Taxpayers required to notify of CbCR filing in your country?

Yes.

If yes, when and how do the tax authorities need to be notified?

CbCR filing regulation which was previously stipulated in MoF 213/2016 and PER 29/2017 is currently regulated within PMK 172/2023 in section IV.

The threshold and requirement are as above. The Indonesian Taxpayer with a related party transaction is required to submit a notification to the DGT to acknowledge whether it is required to provide the CbCR and which entity is appointed as a surrogate parent, using the standardised form in PMK 172/2023.

The notification should be submitted at the latest by:

- a) 16 months after the end of a tax year for the 2016 Tax Year; or
- b) 12 months after the end of a tax year for the 2017 Tax Year onwards.

If the reporting entity (ultimate parent or surrogate parent) is in your country, what is the CbCR submission deadline?

The CbCR together with notification should be submitted by:

- a) 16 months after the end of a tax year for the 2016 Tax Year; or
- b) 12 months after the end of a tax year for the 2017 Tax Year onwards.

The receipt of CbCR and Notification will be attached to the next fiscal year corporate tax return.

Are there any deviating submission deadlines for the secondary mechanism?

No.

Does your country have a requirement that the financial figures of the group need to be aligned?

No.

Where is the CbCR to be submitted?

Currently, based on MoF 172/2023, CbCR is required to be submitted electronically to the Indonesian DGT through the Taxpayer tax portal (Article 23 para.2).

How is the CbCR to be submitted, specifically, is there any prescribed standard?

CbCR is to be submitted with the notification before submission of Corporate Income Tax. The receipt will be attached to the Corporate Income Tax based on the Regulation of Directorate General of Tax number 29/PJ/2017. The CbCR is submitted in the prescribed digital format (XML file).

For primary and secondary filing rule: Submissions are to be made as attachments to the next fiscal year corporate tax return. The companies may not need to submit the CbCR in the primary filing mechanism if Indonesia and the countries in which the UPE resides are conducting AEOI and the EOI is already active.

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What are the possible consequences of not having the CbCR available?

Penalties?

Yes, the tax office will still receive the CIT return submission without CbCR receipt but may consider it incomplete, resulting in a penalty of IDR 1 million.

Under current regulation (Law number 7 Year 2021), If the Tax Authority issues a reprimand letter regarding the request by CbCR, DGT may issue an Underpaid Tax Assessment Letter with a penalty based on MoF monthly interest rate with a maximum of 24 months.

Imprisonment?

No.

Shifting of the burden of proof?

No.

Other?

No.

To what extent do your local rules differ from the OECD standard regarding the content requirements for the CbCR as shown in the 2017 OECD TP Guidelines?

Indonesia required an additional form (working paper of CbCR) which contains the details data per entity of forms CbC 1 and 2.

Did your country sign the Multilateral Competent Authority Agreement on the Exchange of CbCR ("CbCR MCAA")?

Yes, it was signed on 26 January 2017.

Did your country enter into other information exchange agreements, such as on a bilateral basis?

Yes.

Can a Taxpayer in your country fulfil his CbCR requirement by referring to the reporting entity in the same or another country?

Yes.

5. TP disclosure in the tax return or transfer pricing specific returns

Is there a threshold for Related Party Transactions?

Based on MoF 172/2023, there is a materiality limit for preparing TP documentation. If the Taxpayer conducts a related party transaction and:

- › Has gross revenues of more than IDR 50 billion (i.e. USD 3.1 million approx.) in the prior Fiscal Year;
- › Conducts related party transactions in the prior Fiscal Year with a value of:
 - More than IDR 20 billion (i.e. USD 1.2 million approx.) for tangible goods transactions; or
 - More than IDR 5 billion (i.e. USD 305,000 approx.) for each service, interest payment, utilisation of intangible properties or other affiliated transactions;
- › Conducts transactions with related parties that are located in countries or jurisdictions with income tax rates lower than the Indonesian corporate income tax rate, as specified in Article 17 of Income Tax Law No. 7 of 1983 as last amended by Law Number 7 Year 2021.

Does a Taxpayer need to disclose information regarding TP documentation in his tax return?

Yes, it is currently regulated in MoF 172/2023. The form is Form 3A in the Tax return. Moreover, PMK-172/2023 requires a summary of the transfer pricing documentation ("Ikhtisar Dokumen TP") to be attached to the tax return.

When a Taxpayer files a tax return for which he understands or should understand that the result reported in that tax return is too low due to incorrect TP, what could be the legal consequences?

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The summary as regulated in MoF Regulation Number 172/2023 must be submitted at the latest of four months after the end of the relevant tax year, as an attachment of the Tax Return.

There is no specific regulation for this condition. the Indonesian Tax Office may proceed to review the affiliated party transaction in tax audit which will resulted in an interest penalty on underpayment based on the MoF monthly interest rate with a maximum of 24 months.

What could be the consequences for the tax advisor/accountant/administrator drafting and filing the tax return of a client where that advisor/accountant/administrator understands or should understand that the result reported is too low due to incorrect TP?

There is no specific regulation for this condition.

Does a Taxpayer need to file TP specific returns?

No.

Please state the filing form number and name.

Disclosures related to TP must be attached to the CITR (Form 3A/3B and Summary Form).

What would be the filing deadline?

The corporate income tax return filing deadline is four months after the Fiscal Year-end.

What would be the penalties for non-compliance?

If the taxpayer does not attach the required TP documentation summary or fails to submit the Form 3A/3B, the tax return may be deemed incomplete, which incurs a flat penalty of IDR 1,000,000 under general filing provisions. If the incorrect information results in an incorrect calculation of taxable income, it will subject the Taxpayer to a tax penalty based on the interest rate per month according to the referenced interest rate (maximum 24 months) of the tax liability. In certain conditions, an uplift factor of 20% can be imposed on such interest rates.

6. Benchmarking

Is there any local guidance or requirement about the preparation of a benchmark study?

Yes. PER-22 authorises the use of public data (either foreign or domestic) commercial databases, the London Metal Exchange, and other databases for external comparables.

In practice, the Indonesian tax authorities generally use the BvD database, including Osiris and Oriana. Other guidance include:

- › steps to identify the characteristics of the transaction;
- › steps to identify the entity characterisation.
- › the financial ratio;
- › the methods to be used;
- › provide the tools of FAR analysis and comparability analysis;
- › explanation of related party transactions (intragroup services, intangible property, loan); and
- › explanation of primary, secondary, and corresponding adjustment).

Is there any stated preference for local benchmarks?

Local and ASEAN region comparables are preferred; however, if not available, Asia Pacific regional comparables may be accepted.

Are there any materiality thresholds that apply to the requirement to have a benchmark study available?

Yes (same as above).

7. Year-end, secondary, and corresponding adjustments

Are year-end/ secondary/ corresponding adjustments permissible?

Yes.

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Does the Taxpayer have to comply with any specific features or guidance?

Under the current regulation of MoF 172/2023, there is some guidance related to secondary and corresponding adjustments.

Secondary adjustment:

If a difference is found between the value of Transactions with Affiliated Parties which is not under the ALP and the value of transactions under the ALP, the DGT has the authority to determine the distribution of profits indirectly to Affiliated Parties which are treated as dividend.

The above provisions do not apply in the case where:

- i. There is an addition and/or refund of cash or cash equivalents in the amount of the difference before the issuance of the tax assessment letter; or
- ii. The Taxpayer approves the transfer price determination by the DGT.

Corresponding adjustment:

If there is a transfer price determination by the DGT through a tax audit or adjustment of TP determination by the tax treaty partner on foreign Taxpayers, domestic Taxpayers who are counterparties to the transaction can make corresponding adjustments.

Corresponding adjustments can be made in the case of domestic Taxpayers whose transfer prices are determined by the DGT:

- i. approve the determination of the transfer price by the DGT; and
- ii. does not submit legal action regarding the tax assessment letter regarding the material for determining the transfer price by the DGT.

If the counterparty is a foreign Taxpayer, the corresponding adjustment is done through the MAP.

If the counterparty is a local Taxpayer, the corresponding adjustment is done through the amendment of the CIT return, or the issuance of

the tax assessment letter, or the amendment of the tax assessment letter.

8. TP Audit and Dispute Resolution Mechanisms

What are currently the main TP areas of scrutiny by the tax authorities in your country?

Intercompany financing, intangible property, losses, and compliance with OECD BEPS.

In addition, preliminary assessments are currently included in the main TP areas of scrutiny by the tax authorities on benefit tests of the existence of the service and non-duplicating service.

Based on your experience, are joint or multilateral audits initiated and carried out?

No.

Does the Taxpayer have the option to apply for bilateral or multilateral APAs?

Yes.

Are there any restrictions?

Currently, APA is regulated in MoF regulation number 172/2023 and the maximum APA period is five Tax Years after the year the APA application is submitted.

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