

Indonesia

Transfer Pricing Country Profile

Updated October 2017

		SUMMARY	REFERENCE
The Arm's Length Principle			
1	Does your domestic legislation or regulation make reference to the Arm's Length Principle?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 18 para. 3 of Income Tax Law (Law Number 36 of 2008 concerning fourth amendment of Law Number 7 of 1983) Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJeko6A%3D
2	What is the role of the OECD Transfer Pricing Guidelines under your domestic legislation?	As reference for formulating our transfer pricing policy and regulation and for dispute settlement.	
3	Does your domestic legislation or regulation provide a definition of related parties? If so, please provide the definition contained under your domestic law or regulation.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No The term related parties means: <ol style="list-style-type: none"> a. a Taxpayer who owns directly or indirectly at least 25% of equity of other Taxpayers; a relationship between Taxpayer through ownership of at least 25% of equity of two or more Taxpayer, as well as relationship between two or more Taxpayer concerned; b. a Taxpayer who controls other Taxpayer) or two or more Taxpayers are directly or indirectly under the same control (through management or technology even though there is no ownership); or c. a family relationship either through blood or through marriage within one degree of direct or indirect lineage. 	Article 18 para. 4 of Income Tax Law Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJeko6A%3D

Transfer Pricing Methods

4	<p>Does your domestic legislation provide for transfer pricing methods to be used in respect of transactions between related parties?</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>If affirmative, please check those provided for in your legislation:</p> <table border="1" style="width: 100%; text-align: center;"> <thead> <tr> <th>CUP</th> <th>Resale Price</th> <th>Cost Plus</th> <th>TNMM</th> <th>Profit Split</th> <th>Other (If so, please describe)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td style="text-align: center;"><input checked="" type="checkbox"/></td> </tr> </tbody> </table> <p>Our domestic legislation also allows the use of other method such as: valuation technique, market based approach, and others.</p>	CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<p>Article 18 para. 3 of Income Tax Law</p> <p>Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJeko6A%3D</p>
CUP	Resale Price	Cost Plus	TNMM	Profit Split	Other (If so, please describe)										
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>										
5	<p>Which criterion is used in your jurisdiction for the application of transfer pricing methods?</p>	<p>Please check all that apply:</p> <p><input type="checkbox"/> Hierarchy of methods</p> <p><input checked="" type="checkbox"/> Most appropriate method</p> <p><input type="checkbox"/> Other (if so, please explain)</p> <p>Indonesia adopts the most appropriate method. However, if traditional transaction method and a transactional profit method can be applied in an equally reliable manner, the traditional transaction method is preferable to the transactional profit method. Moreover, where the comparable uncontrolled price method (CUP) and another transfer pricing method can be applied in an equally reliable manner, the CUP method is to be preferred.</p>	<p>Article 11 para 2 of Director General Regulation Number 32 of 2011</p> <p>Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJilnp8%3D</p>												
6	<p>If your domestic legislation or regulations contain specific guidance on commodity transactions, indicate which of the following approaches is followed.</p>	<p><input type="checkbox"/> For controlled transactions involving commodities, the guidance contained in paragraphs 2.18-2.22 of the TPG is followed.</p> <p><input type="checkbox"/> Domestic legislation mandates the use of a specific method for controlled transactions involving commodities (if so, please explain)</p> <p><input checked="" type="checkbox"/> Other (if so, please explain)</p> <p>Transfer pricing regulation does not contain specific mention to a method to be used for commodity. However, in our regulation regarding transfer pricing documentation we encourage the use of CUP for commodity.</p>	<p>Minister of Finance Regulation Number 213 of 2016</p> <p>Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJqinKM%3D</p>												

Comparability Analysis

7	<p>Does your jurisdiction follow (or largely follow) the guidance on comparability analysis outlined in Chapter III of the TPG?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>We adopt 5 comparability analysis that includes:</p> <ul style="list-style-type: none"> a. characteristic of property transferred or services provided; b. functional analysis; c. contractual terms of the transactions; d. economic circumstances; and e. business strategies. 	<p>Article 5 of Director General Regulation Number 43 of 2010</p> <p>Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJiim6M%3D</p>
8	<p>Is there a preference in your jurisdiction for domestic comparables over foreign comparables?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Indonesia transfer pricing guidelines do not specifically mention that local comparable is preferable, but in practice the local comparable is preferred.</p>	
9	<p>Does your tax administration use secret comparables for transfer pricing assessment purposes?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>In existing regulation, there is no restriction to use secret comparables. However, until so far we have not yet made use of any secret comparables in audit or litigation.</p>	
10	<p>Does your legislation allow or require the use of an arm's length range and/or statistical measure for determining arm's length remuneration?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Indonesia use interquartile range (Q1-Q3) on applying arm's length principles.</p>	<p>Article 13 of Director General Regulation Number 43 of 2010</p> <p>Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJiim6M%3D</p>
11	<p>Are comparability adjustments required under your domestic legislation or regulations?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>When necessary and possible, comparability adjustment can be made to eliminate the effect of any differences to the price or to the profit being tested.</p>	<p>Article 4 para 1 of Director General Regulation Number 32 of 2011</p>

Intangible Property

12	Does your domestic legislation or regulations contain guidance specific to the pricing of controlled transactions involving intangibles?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 17 of Director General Regulation Number 32 of 2011 Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJilnp8%3D
		Indonesia follows the guidance provided in OECD Transfer Pricing Guidelines 2010 version. We are now in the process to revise the current regulation, by which recommendation in BEPS 8-10 will be further embodied.	
13	Does your domestic legislation or regulation provide for transfer pricing rules or special measures regarding hard to value intangibles (HTVI)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
14	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving intangibles?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Intra-group Services

15	Does your domestic legislation or regulations provide guidance specific to intra-group services transactions?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 16 of Director General Regulation Number 32 of 2011 Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJilnp8%3D
		Regulation on intra-group services transactions is in line with OECD Transfer Pricing Guidelines 2010 version.	
16	Do you have any simplified approach for low value-adding intra-group services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
17	Are there any other rules outside transfer pricing rules that are relevant for the tax treatment of transactions involving services?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Cost Contribution Agreements

18	Does your jurisdiction have legislation or regulations on cost contribution agreements?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 17A of Director General Regulation Number 32 of 2011 Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJilnp8%3D
		Indonesia follows the guidance provided in OECD Transfer Pricing Guidelines 2010 version.	

Transfer Pricing Documentation

19	Does your legislation or regulations require the taxpayer to prepare transfer pricing documentation?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <i>If affirmative, please check all that apply:</i> <input checked="" type="checkbox"/> Master file consistent with Annex I to Chapter V of the TPG <input checked="" type="checkbox"/> Local file consistent with Annex II to Chapter V of the TPG <input checked="" type="checkbox"/> Country-by-country report consistent with Annex III to Chapter V of the TPG <input type="checkbox"/> Specific transfer pricing returns (separate or annexed to the tax return) <input type="checkbox"/> Other (specify):	Minister of Finance Regulation Number 213 of 2016 Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJqinKM%3D
20	Please briefly explain the relevant requirements related to filing of transfer pricing documentation (i.e. timing for preparation or submission, languages, etc.)	Timing for availability: a. Masterfile and local file: 4 months after the fiscal year ended b. CbCR: 12 months after fiscal year ended Timing for submission a. Masterfile and local file: on request by DGT b. CbCR: together with the submission of subsequent year's tax return and taxpayer is obliged to submit CbCR and its notification electronically, at the latest, 12 months after the fiscal year ended	Article 4 and 7 Minister of Finance Regulation Number 213 of 2016 Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJqinKM%3D
21	Does your legislation provide for specific transfer pricing penalties and/or compliance incentives regarding transfer pricing documentation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No The penalty is governed in the General Provisions and Tax Procedures Law.	Article 13 Minister of Finance Regulation Number 213 of 2016 Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJqinKM%3D

22	<p>If your legislation provides for exemption from transfer pricing documentation obligations, please explain.</p>	<p>Taxpayer who does not meet the following criteria is exempt for transfer pricing documentation obligation:</p> <ol style="list-style-type: none"> a. annual gross turnover in the preceding taxable year no more than 50billion Rupiah; b. annual value of related party transaction in the preceding taxable year: <ol style="list-style-type: none"> 1. no more than 20billion Rupiah for tangible goods transaction; or 2. no more than 5billion Rupiah for each of service provision, interest payment, utilization of intangible goods, or any other related party transactions; or c. have no related party transaction in a country or jurisdiction with income tax rate lower than income tax rate as referred to in Article 17 of Income Tax Law. <p>In addition, taxpayer that has an APA agreement with DGT is exempt to file transfer pricing documentation for the specific transaction that is covered in the agreement.</p>	<p>Article 2 para 2 Minister of Finance Regulation Number 213 of 2016</p> <p>Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJqinKM%3D</p>
Administrative Approaches to Avoiding and Resolving Disputes			
23	<p>Which mechanisms are available in your jurisdiction to prevent and/or resolve transfer pricing disputes?</p>	<p>Please check those that apply:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Rulings <input type="checkbox"/> Enhanced engagement programs <input checked="" type="checkbox"/> Advance Pricing Agreements (APA) <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Unilateral APAs <input checked="" type="checkbox"/> Bilateral APAs <input checked="" type="checkbox"/> Multilateral APAs <input checked="" type="checkbox"/> Mutual Agreement Procedures <input checked="" type="checkbox"/> Other (<i>please specify</i>): Objection and appeal 	
		<p>The dispute can also be solved through objection and appeal process.</p> <p>We basically don't have Multilateral APA program. However, if the covered transactions and covered entities are from more than 2 countries, the APA can be conducted by applying multiple Bilateral APAs with the countries concerned. For example, the covered entities in the requested APA are Indonesia, X country, and Y country. Then, Indonesia would conduct BAPA program with Country X and Country Y simultaneously.</p>	

Safe Harbours and Other Simplification Measures

24	Does your jurisdiction have rules on safe harbours in respect of certain industries, types of taxpayers, or types of transactions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
25	Does your jurisdiction have any other simplification measures not listed in this questionnaire? If so, please provide a brief explanation.	No.	

Other Legislative Aspects or Administrative Procedures

26	Does your jurisdiction allow/require taxpayers to make year-end adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
		Taxpayers are allowed to make year-end adjustments based on self-assessment system.	
27	Does your jurisdiction make secondary adjustments?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Article 18 para 3 of Income Tax Law Link (in Bahasa Indonesia): http://ketentuan.pajak.go.id/index.php?r=aturan/rinci&idcrypt=oJeko6A%3D
		There is also a possibility that equity is stated as debt, namely disguised equity. In such case, the Director General of Taxes is authorized to characterize debt as equity. This re-characterization may be made by comparing the ratio of the company's liabilities to the company's equity of independent parties, or based on other data. As a result, interest paid with respect to that debt is not deductible and in the hands of shareholders the payment is considered as dividend which is subject to tax.	

Other Relevant Information

28	Other legislative aspects or administrative procedures regarding transfer pricing	N/A	
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29	<p>Other relevant information (e.g. <i>whether your jurisdiction is preparing new transfer pricing regulations, or other relevant aspects not addressed in this questionnaire</i>)</p>	<p>Indonesia is in the process of preparing a new Minister of Finance Regulation concerning transfer pricing guideline.</p> <p>Indonesia is also in the process to revise the current regulation, by which recommendation in BEPS 8-10 will be further adopted.</p> <p>Safe harbours measures will be introduced in the next regulation.</p>	
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