

taxBlitz

Tax & Customs Update

Affiliated Companies to Create Notifications as CBC Report Regulations are Strengthened

Directorate General of Taxes (DGT) reaffirms the obligation to report the transfer pricing documents in a new format, especially for Country by Country (CbC) Report for companies or entities engaging in affiliated transactions.

This reaffirmation of Base Erosion and Profit Shifting (BEPS) action plan 13 implementation is stated in Regulation of Director General of Taxes (*Perdirjen*) Number 29/PJ/2017 on Procedures for CbC Report Management, issued on December 29, 2017.

The aforementioned *Perdirjen* is the technical regulation of the Minister of Finance (MoF) Regulation Number 213 Year 2016 on Types of Documents and/or Additional Information that Must Be Kept by Taxpayers Engaging in Transactions with Parties Having Special Relationship, and the Management (of the Documents).

This obligation to make CbC Reports targets Corporate Taxpayers or domestic companies, which act either as a parent company or as a constituent/affiliate of a business group headquartered abroad (non-resident tax subject). The point is, this provision covers member-companies of multinational business groups, both the companies included in the consolidated financial reports and Permanent Establishments (PE), so long as they have a separate financial report.

For Taxpayers acting as parent companies in Indonesia, the obligation to make CbC Reports addresses the companies and the entities whose consolidated gross income or consolidated revenue is more than IDR11 trillion.

As for domestic companies that are constituent entities or whose parent company is located abroad, there are several conditions and notes in CbC reporting, as follows:

- The companies have consolidated gross income equivalent to EUR750 million at minimum; or
- The country of the parent company does not make CbC reporting compulsory; or
- The country of the parent company does not enter into information exchange agreement with the Indonesian government; or
- The Indonesian government cannot access the CbC Report.

The CbC Report will only be used by Tax Authorities to evaluate the risk of tax evasion. The information and data that must be included in the report include:

- a) Income allocation;
- b) Taxes paid;
- c) Business activity by country;
- d) Accumulation of retained earnings;

- e) Number of employees;
- f) Tangible assets; and
- g) List of business group members.

CRITERIA OF TAXPAYERS	Director General of Taxes Number 29/PJ/2017
	CBC REPORT
Parent entity with revenue \geq IDR11 trillion in the related fiscal year	<input checked="" type="checkbox"/>
Member of a business group whose parent entity is located in a country that does not apply CbC Report	<input checked="" type="checkbox"/>
Member of a business group whose parent entity is located in a country that does not enter into the tax information exchange agreement with Indonesia	<input checked="" type="checkbox"/>
Member of a business group whose parent entity is located in a country that enters into the tax information exchange agreement with Indonesia, but the CbC Report could not be obtained	<input checked="" type="checkbox"/>

Master File and Local File

As information, CbC Report is one of three transfer pricing documentations, other than Master File and Local File, which must be presented in Bahasa Indonesia format.

For the Master File and Local File, the Corporate Taxpayers obliged to report the two documents to DGT are the companies engaging in affiliated transaction, with the criteria as follows:

- The gross income or revenue of more than IDR50 billion; or
- The affiliated transaction of more than IDR20 billion in tangible assets; or
- The affiliated transaction of more than IDR5 billion for each service provider, payment of interest, usage of intangible assets, or other affiliated transactions; or
- Taxpayers engaging in transactions with affiliated companies (parent or subsidiary) in a country with lower income tax rate; or
- Parent entities or holding companies based in Indonesia with revenue of more than IDR11 trillion per year.

MoF Regulation Number 213/PMK.03/2016 sets forth that the Master File shall contain information regarding the business group, which at least includes:

- a) Structure and chart of ownership, as well as the country or jurisdiction of each member;
- b) Business activities conducted;
- c) Intangible assets owned;
- d) Financial and financing activities; and
- e) Parent entity's consolidated financial report and tax information related to affiliated transaction.

Meanwhile, in the Local File, information that must be stated and reported at least includes:

- a) Business identities and activities;
- b) Information on affiliated and independent transactions;
- c) Application of arm's length principle;
- d) Financial information;
- e) Non-financial events or facts affecting the determination of price or profit.

Should a Taxpayer have more than one business activity with different business characteristics, the Local File must be presented in segments based on the business characteristics.

Notification of CbC Report

Not only focusing on CbC reporting, *Perdirjen* Number 29/PJ/2017 also requires all companies and constituent entities conducting affiliated transaction to make and submit a notification to DGT even though the company is not included in the criteria compulsory to make CbC Report or has gross income below a determined threshold.

This obligation for the submission of affiliated transaction notification is a new thing, which has not been regulated in MoF Regulation Number 213 Year 2017. Some of the information or statements that must be affirmed by a Taxpayer in the notification form are as follows:

- a) Identification of Resident Taxpayers that are parent entities;
- b) Identification of Resident Taxpayers that are not parent entities; and
- c) A statement of the obligation to present a CbC Report.

Affiliated transaction notifications must be given by the parent or members of a business group to DGT within 16 months after fiscal year 2016 ends or 12 months since the end of fiscal year 2017.

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COUNTRY BY COUNTRY NOTIFICATION

FISCAL YEAR

BOOKKEEPING PERIOD to

Name of Taxpayer :

Tax ID Number :

submits the Notification as follows:

PART I IDENTIFICATION OF RESIDENT TAXPAYER THAT IS PARENT ENTITY

A. Taxpayer is Resident Taxpayer that is Parent Entity of a Business Group that:

- A-1 controls one or more other Business Group members directly or indirectly.
- A-2 is obliged to make consolidated financial report based on the prevailing financial accounting standard in Indonesia and/or based on the provision binding the issuer of stock exchange in Indonesia.
- A-3 does not belong to other Constituent Entity in Business Group directly or indirectly, or is owned by other entity directly and indirectly, but the other entity is not obliged to consolidate Taxpayer's financial report.
- A-4 has consolidated gross income of more or equivalent to IDR11,000,000,000,000.00 in related Fiscal Year.

B. Taxpayer's consolidated gross income amounts to IDR (1)

PART II IDENTIFICATION OF RESIDENT TAXPAYER THAT IS NOT PARENT ENTITY

C. Taxpayer is Resident Taxpayer that is member of Business Group whose Parent Entity:

C-1 has consolidated gross income*:

- a. more than or equivalent to IDR11,000,000,000,000.00 or EUR750,000,000.00;
- b. less than IDR11,000,000,000,000.00 or EUR750,000,000.00;

C-2 is tax subject*:

- a. resident;
- b. non-resident, whose country or jurisdiction of Parent Entity*:
 - i. requires to make, keep, and submit Country by Country Report.
 - ii. does not require to make, keep, and submit Country by Country Report.

D. Data of Parent Entity are as follows:

Name of Parent Entity : (2)

Tax ID Number : (3)

Parent Entity Country/Jurisdiction : (4)

Value of Consolidated Gross Income : (5)

or equivalent to

E U R (6)

E. Parent Entity appoints Constituent Entity in the same Business Group to submit Country by Country Report in Indonesia or becomes the only substitution of the Parent Entity in submitting Country by Country Report in the country or jurisdiction where the Parent Entity substitution domiciles, as follows:

Name of Constituent Entity : (7)

Tax ID Number : (8)

Constituent Entity's Country/Jurisdiction : (9)

PART III STATEMENT OF COUNTRY BY COUNTRY REPORT SUBMISSION OBLIGATION

F. Hereby states that the Taxpayer*:

F-1 is Parent Entity, and **obliged** to make, keep, and submit Country by Country Report

F-2 is Parent Entity, but **not obliged** to make, keep, and submit Country by Country Report, with rationales as follows:

..... (10)

F-3 is not Parent Entity, but **obliged** to submit Country by Country Report

F-4 is not Parent Entity, and **not obliged** to submit Country by Country Report, with rationales as follows:

..... (11)

I declare that all information and/or statement stated in this Notification is true, complete, and clear.

Taxpayer/Authorizer

_____ (12)

*Choose one