

# taxBlitz

Tax & Customs Update

## Financial Account Reporting Obligation Is Reaffirmed, Pay Attention to This Tax Regulation Revision

The Government reaffirms as well as expands the coverage of financial information access, both for the domestic taxation interest and for the international taxation data exchange agreement. The implementation is the obligation to report financial account by the financial service institutions to the tax authority, either automatically or by request.

This confirmation is stated in the Minister of Finance Regulation (PMK) Number 19 Year 2018 on Second Amendment of PMK Number 70 Year 2017 concerning Technical Guidance on Access to Financial Information for Tax Purposes, taking effect since promulgated on 19 February 2018. As much as 18 articles and 38 paragraphs are amended, two articles and 33 paragraphs are added, and six paragraphs are deleted.

Generally, PMK Number 19 Year 2018 is the Government's confirmation regarding the implementation of the financial accounts report submission to the Directorate General of Taxes (DGT) referring to the Common Reporting Standard (CRS). The standardization of the report covers the procedure of financial account identification, documentation, and content material of the report.

Moreover, there is addition of rules such as regarding the correction of report that can be submitted by the financial institutions, exchange rate provision—should it be not available in Bank Indonesia (BI)'s middle rate, procedure of identification of financial assets sold through agents, as well as confirmation and clarification of criminal sanction charge (from the clarification, warning, to the preliminary evidence).

Aside from that, in the context of accounts ownership, the word "owned" in the previous provision is changed to "held by". Thus, the provision of financial information access is not only focusing on the substance of accounts ownership, but in the administration formality involving nominee as well.

## International Agreement

In the international agreement framework, that is Automatic Exchange of Information (AEOI), PMK Number 19 Year 2018 asserts that the financial services institution (LJK) is obligated to report the financial accounts held by individual or overseas entity originating from target jurisdiction of the reporting or partner country on financial information exchange. The range of minimal amount or balance in the entity financial account that is obligated to be reported automatically by LJK is equal to more than USD250,000 per 31 June 2017; 31 December 2017; and 31 December of every calendar year forward.

The covering of overseas financial accounts as the tax subject that is automatically report-obligated for LJK includes undivided inheritance. Previously, the undivided inheritance is not mentioned as report-obligated financial account.

This PMK is also regulating the adjustment of provision on document storage period so that it will meet the recommendation of Global Forum and the regulation on financial institutions covering Collective Investment Contract (KIK). Party mandatory to report KIK is the investment manager as the manager of collective investment portfolio.

However, the obligation of financial account reporting automatically in the framework of international agreement excludes financial accounts managed by overseas entity under the following conditions:

- a) Companies whose shares are traded in the stock exchange;
- b) Related entity of the company in point (a);
- c) Governmental entity;
- d) International organization;
- e) Central bank; or
- f) LJK covering: custodian institution, savings institution, investment entity, or specific insurance company.

Referring to point (a) and (b), corporate financial accounts required to be reported to the tax authority are only those managed or held by non-Go Public-companies or business companies not affiliated to Go Public-companies.

As for the financial accounts report by request of DGT includes information and evidence or explanation. Nevertheless, more detailed clarification of said information and evidence or explanation is not found, as well as the criteria of accounts or specific requirement that can nullify the DGT's request.

The point is both LJK reporter (compulsory reporting) and the non-reporter may not reject DGT's special request and have to submit the data requested no later than 1 (one) month after the request is received.

### **Domestic Tax Interest**

PMK Number 19 Year 2018 is also emphasizing that LJK reporter or those who are compulsory in reporting the financial account within international agreement framework have to convey similar information to DGT to support domestic tax interest.

This is particularly for the financial accounts held by individual or entity known having more than one domicile including Indonesia. This also applies for the financial accounts held by entity having one or more controllers (shareholders) having double or more domiciles, including Indonesia.

Apart from that, several other regulations are determined by the Government in relation to the financial account reporting obligation for domestic tax interest:

- Accounts held by Indonesian citizens with the minimum balance amounting to IDR1 billion or equal to other currency;
- Accounts held by foreign citizens with the minimum balance amounting to IDR1 billion or equal, apart from those bound by international agreement provision (exchange of financial information)
- Accounts held by national or foreign entity located in Indonesia (no balance limit);
- Insurance accounts held by individual or entity having no balance limit, but limited to insurance policy with the value of coverage minimum of IDR1 billion or equal to other currency; and/or
- Individual or entity's financial accounts managed by custodian institution and investment entity (no balance or value limit).

### **Identification and Compliance Test**

Please underline that all accounts to be reported to DGT either automatically or by request are required to go through identification process by LJK of the reporter institution. The identification process is conducted to ensure that the account indeed falls into the report-obligated category. The identification process of both the old and new financial accounts is supposed to be done by the financial institution starting from 1 July 2017.

In identification process, the Government gives facility to the reporter institution, among others in converting the accounts currency to US dollar. In PMK No. 70 Year 2017, the conversion can only be done by referring to BI's middle rate. Nonetheless, in the new regulation, conversion can be done to the foreign currency by referring to the currency rate in international market.

Still related to identification stage, the Government is affirming the procedure of the opening of new account, specifically in relation to the implementation of international tax information exchange. Financial institutions are required to request for self-statement in the opening of new account request either by individual or entity.

The arm's length of the self-statement shall be tested by performing clarification. The clarification is conducted by using the procedure of anti money laundering or by the Know Your Customer principle. In this stage of identification, the reporter institution has to determine the account holder's Country domicile.

All documents related to the identification process have to be stored and have its documentations maintained by the reporter institution. This is because DGT will perform audit upon the obedience of LJK, other LJK, and other entity in implementing the financial account reporting obligation.

To sum up, the Government prohibits reporter LJK to make false statement, reduce or hide actual financial information to the tax authority. Violation of said provision may result in criminal sanction corresponding to the law provisions.

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