

taxBlitz

Tax & Customs Update



Indonesia Officially Adopts AEOI, DGT Can Access Banking Data

Indonesia officially adopts Automatic Exchange of Financial Account Information (AEOI) following the issuance of Government Regulation in Lieu of Law (*Peraturan Pemerintah Pengganti Undang-Undang/Perppu*) Number 1 Year 2017 on Financial Information Access for Taxation on May 8, 2017.

Upon the enactment of the Perppu, all of financial service institutions conducting business in banking, capital market, insurance sectors, as well as other entities and financial service institutions are obliged to submit their customers' financial information to Financial Service Authority (*Otoritas Jasa Keuangan/OJK*) to be reported to Directorate General of Taxes (DGT).

Furthermore, the financial information obliged to be reported by the financial service institution shall at least comprise:

- Identity of financial account holder;
- Financial account number;
- Identity of financial service institution;
- Balance or amount stated in the financial account; and
- Income related to the financial account.

Process of reporting conducted by financial service institution to OJK or by OJK to DGT shall be conducted electronically under the Common Reporting Standard (CRS) arranged by OECD and G20.

Therefore, the financial service institution is given 60 (sixty) days before the end of AEoI application period to report its customers' financial information to OJK. Meanwhile, OJK shall proceed the report to DGT in 30 (thirty) days at the latest before the end of AEoI application period.

The explanation of Perppu Number 1 Year 2017 renders an instance of a case when the information exchange to other countries or jurisdictions based on international agreement in taxation is due on September 30, 2018, the report submission by the financial service institution to OJK shall at least be conducted on August 1, 2018. In addition, OJK shall proceed the report to DGT on August 31, 2018 at the latest. The instance is in line with the prior statement of Minister of Finance and DGT, confirming that Indonesia will apply AEoI starting from September 2018.

As long as the electronic reporting is not yet available, the financial service institution remains obliged to report the financial information non-electronically to the DGT 4 (four) months after the end of fiscal year at the latest.

Regarding the change on the reporting system, Minister of Finance could determine other mechanism upon consideration from the Head of OJK Commissioner Board.

Additional Authority and Immunity

Besides receiving report, the DGT is also given additional authority to request information and/or statements from financial service institution and/or other financial entities in strengthening the taxation database. Therefore, financial service institution and other financial entities are obliged to fulfil the DGT's request.

Pursuant to international agreement on taxation, Minister of Finance is authorized to exchange financial information to authorities of other countries or jurisdictions.

In conducting its duty related to AEoI, Minister of Finance, related authority in Ministry of Finance and OJK, as well as Head or staff of financial service institutions obtain immunity or cannot be criminally prosecuted or charged before civil court.

Additional Duty

In line with the AEoI implementation, banks or other financial institutions bear additional duty to prepare financial information required in conducting financial account

identification procedure based on CRS. The identification is conducted by a series of verifications that shall at least comprise:

1. Verification of individual or entity's account to determine domicile country or tax jurisdiction;
2. Verification to determine financial account and account holder that must be reported;
3. Verification of financial account holder entity to determine whether the entity controller is an individual that must be reported;
4. Record of financial account identification activities and storage of documents received or utilized;
5. Prohibition to serve new account opening and financial transaction for customers, both new or existing, refusing to comply with financial account identification regulation;
6. Translation of financial documentation in foreign language into Indonesian upon request from DGT.

Penalty

Perppu Number 1 Year 2017 also stipulates penalty mechanism for parties refusing or not complying with financial information reporting regulation accurately.

Any head or staff of financial service institution not reporting financial information as well as not conducting financial account identification procedure accurately is subject to criminal penalty in the form of imprisonment for 1 (one) year at maximum or fine of IDR1,000,000,000 (one billion rupiah).

Meanwhile, any financial service institution or entity violating the AEOI regulation is subject to criminal fine of IDR1,000,000 (one billion rupiah) at maximum.

Penalty also applies to any individual proven giving fraudulent statement or hiding or reducing actual financial information in the form of imprisonment for 1 (one) year at maximum or fine of IDR1,000,000,000 (one billion rupiah) at maximum.

Regulations No Longer Applicable

Indonesia has committed to implementing AEOI in 2018 and as the requirement, Indonesia shall issue a regulation applicable as law on financial information access for taxation before June 30, 2017.

Since the enforcement of the Perppu on May 8, 2017, several regulations granting financial data confidentiality are stipulated not applicable as long as related to the conduct of financial information access for taxation, as follows:

- Article 35 paragraph (2) and Article 35A of Taxation General Provisions and Procedures;
- Article 40 and Article 41 of Banking Law;
- Article 47 of Capital Market Law;
- Article 17, Article 27, and Article 55 of Commodity Futures Trading Law;
- Article 41 and Article 42 of *Syariah* Banking Law.

TAX BLITZ is a publication of MUC Consulting Group to provide our clients, contact, and business relations with information of tax news and latest tax regulation. The materials within are limited to the purpose of providing information and should not be treated similarly as professional advice or basis in formulating strategic business decisions. For subscription of TAX BLITZ, please send your request by email to publishing@mucglobal.com. For more information about MUC Consulting Group, please click www.mucglobal.com

Contact:

For further information, please contact the following MUC Consulting Group partners:



Wahyu Nuryanto

Tax Partner

wahyu.nuryanto@mucglobal.com



Karsino

Tax Partner

karsino@mucglobal.com

MUC Consulting Group, MUC Building, Jl. TB. Simatupang No.15, Tanjung Barat,
Jakarta, Indonesia (1230)

Tel: +6221 78837111, Fax: +6221 7887666