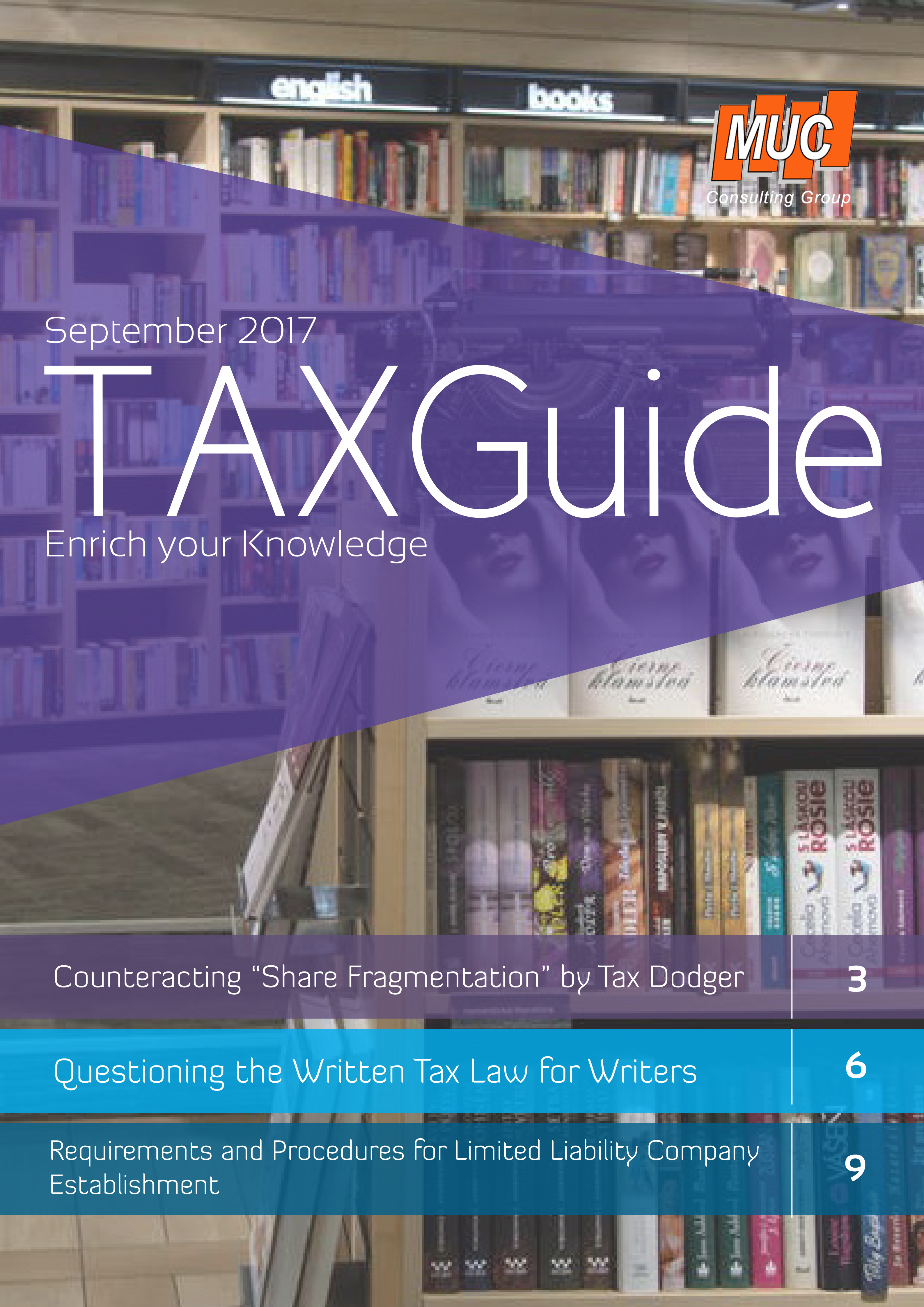

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TAXGuide

Enrich your Knowledge

EDITORIAL NOTES

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Assalamualaikum, Wr, Wb. May peace and prosperity befall upon all of us. All praise and thanks be to Allah for the issuance of Tax Guide 8th edition.

The main subject from Tax Guide September 2017 edition is still about Controlled Foreign Corporation (CFC) Rules, which is now presenting **Head of Sub Directorate of Agreement and Cooperation in Taxation, Directorate General of Taxes (DGT), Dwi Astuti** as the key source.

In addition, there are some actual analyses and opinions, among others about the polemic of tax imposition on author royalties that has once become a trending topic in social media.

From legal perspective, we also provide guidelines for business actors in relation to the procedure of Limited Liability Company (*Perseroan Terbatas*/PT) establishment. We hope that our commitment to providing taxation analysis through Tax Guide is always consistent so that it will be beneficial for the readers. Thank you and may succes always be with us.

Jakarta, September 2017

Meydawati

EXCLUSIVE INTERVIEW

Controlled Foreign Corporation (CFC) Rules

Counteracting "Share Fragmentation" by Tax Dodger

The Government emphasized the provision of stipulation of dividend acquisition time (deemed dividend) for the Resident Taxpayers having controlling share (controlling shareholders) of non-listed foreign company. This provision is under the recommendation of OECD on Base Erosion and Profit Shifting (BEPS) Action 3, namely Strengthening Controlled Foreign Corporation (CFC) Rules.

The reinforcement of the CFC Rules is stipulated by the Government in Minister of Finance (MoF) Regulation No. 107/PMK.03/2017 on the Stipulation of Dividend Acquisition Time by Resident Taxpayers for Capital Investment in Offshore Corporation (*Badan Usaha di Luar Negeri*/BULN) other than Corporation Selling Its Shares in Stock Exchange, as a replacement of MoF Regulation No.256/PMK.03/Year 2008.

To know the new CFC Rules further, Tax Guide team carried out an interview with **the Head of Sub Directorate of Agreement and Cooperation in Taxation, Directorate General of Taxes, Dwi Astuti.** The interview excerpt is as follows:

What are CFC Rules?

The CFC Rules approximately regulate the stipulation when the dividend shall be reported as income and its calculation base for Resident Taxpayers. Ideally, Resident Taxpayers having investment in Offshore Corporation is only subject to tax when its subsidiary or the corporation pays or distributes its dividend. However, notably for the controlled subsidiaries, [they] shall not wait for the dividend to be distributed to report their dividend in their Annual Tax Return since the acquisition period and the calculation base of the dividend have been regulated by this MoF Regulation.

Indonesia has implemented the CFC Rules since 1995, so what is the basis for the reinforcement?

CFC Rules have actually been implemented since 1994. In addition, as the members of inclusive framework on BEPS, we have committed ourselves to implementing the BEPS Action Plan. Even though our commitment is actually minimum, there are several other Action Plans (including Action Plan 3-Strengthening Controlled Foreign Corporation Rules) that we consider relevant to Indonesia's current condition.

And, in regards to the previous regulation, MoF Regulation Number 256 Year 2008, there are still loop holes causing the CFC Rules or the stipulation of deemed dividend not well implemented. Since the dividend distribution or the deemed dividend only required the basis that if the company has distributed the dividend, the deemed dividend will no longer be implemented. For instance, if the company distributes the dividend, although the amount is, let's say, not arm's length (e.g. for IDR1,000 profit, the distributed dividend is only IDR1), the obligation is considered fulfilled. Therefore, then we saw that regulations on CFC Rules were no *longer well implemented as there was loop hole. In this case, the Taxpayer is actually not at fault but it is our regulation that might give way to such practice.*

Does it mean that in the new CFC Rules, there will be no provision on distribution exemption?

Yes. In the previous regulation, the stipulation of the dividend acquisition time will not be applicable if before the predetermined acquisition deadline, the company distributes the dividend entitled to the shareholders. Even though, let's say, the amount is not in compliance with the number of shares, not in compliance with the number of profit, as long as the company conducts the distribution, no matter the amount is, the deemed dividend regulation does not apply [to the company].

Well, we amended that regulation. Now, the deemed dividend is obliged for every annum. Even though, let's say, the company does not distribute the dividend in the related year, we will deem [that the company] still distributes the dividend. In the actualization period, the deemed dividend that has been reported each year can be calculated with the distributed dividend. Thus, it aims more at improving previous business process.

Apart from that point, what are the other matters regulated by MoF No.107/PMK.03/2017?

About anti-fragmentation rule, it means anti-split of share regulation. So far, the previous regulation enables the shareholder to fragment its share ownership, thus it will not meet the threshold. For example, a domestic company owns 70% share in a foreign company, but to avoid CFC rules, the domestic company makes a paper company between the company and the foreign company beforehand, with 70% ownership of the paper company. Hence, its ownership upon the foreign company will be 49%, and it does not meet the threshold. The practice has been ongoing nowadays. That is what we avoid. No, we cannot say that there is no correlation, [as] it is by intention.

Now we are trying to overcome it through this anti-fragmentation rule. In other words, as long as there is direct ownership of more than 50% in every capital investment level, we stipulate that the Offshore Corporation whose shares are owned are all set for the Resident Taxpayers. Hence, the Resident Taxpayers shall report the deemed dividend from its investment in the controlled offshore corporation.

Is there any limit for the capital investment layer amount?

There is no limitation on the layer, as long as it meets the criteria of owning more than 50% share in every level of capital investment, we stipulate that the Offshore Corporation whose share is owned is all set for the Resident Taxpayers. Even though the share transaction will be in multiple layers, we can still capture it using the new CFC Rules.

In obtaining clarity, we has adopted the new provision. The provision of control or limitation of share ownership is determined by two alternatives, namely: share value issued or share value having voting rights.

It must be a great challenge for the DGT to acknowledge the control. Has DGT had the controlling tools to track direct or indirect control of foreign entity?

Yes, sure. Let's put it this way, now if we relate it to the international taxation development, there are many stages conducted by the Government, particularly the DGT, as the representative of Indonesia in the global community. For instance, we have currently had complete regulations on Exchange of Information (EoI), [and] the confidentiality of bank is no longer applicable. In the future, we can implement the Exchange of Information, with all of its requirements that we shall meet. This is the proof of Indonesia's seriousness to fulfil the information exchange, either by request, spontaneous, or automatic. The point is that we are ready.

When we have fulfilled the requirements for information exchange, all data that we request from respective countries that have agreed on the conduct of information exchange with us, we can obtain the data about ownership [from them]. [It is] because [the information exchange] by request is not only for financial statements, but we can also ask for data about ownership. Moreover, we have had regulations on Transfer Pricing Documentation, where there are local file, master file, and Country-by-Country Report (CBCR). Especially, CBCR is consolidative, thus it will declare all subsidiaries owned [by a company]. Therefore, we have all channels to support the policy since each policy correlates to each other, which means [that it is] complement each other. For the upcoming, we will have the tools, not only from the perspective of the regulation, but also from the infrastructure.

In respect to direct or indirect control, isn't it almost the same with the special relationship concept in Income Tax Law. Why the threshold of the capital investment is not similarized with Regulation of Article 18 paragraph (4) of Income Tax Law, namely 25% share ownership?

We refer to Article 18 paragraph (2) of Income Tax Law to apply 50% ownership in CFC Rules. In that case, we will be too agressive and not in compliance with the legal basis since such CFC Rules apply for Indonesian entrepreneurs having shares in foreign companies. This is the implementation of our taxation system that adopts worldwide income system. Any additional economy [income] earned by an Indonesian citizen from any country will be subject to tax in Indonesia. So, I think if we are too aggressive, it will give some impacts for that.

In regards to revenue, is the amount of dividend manipulation big enough so far?

We have conducted several researches [resulting in a fact] that there are companies declaring their foreign share ownership, but reporting that the dividend they earn is very small. The Taxpayer earning dividend from overseas shall report it in Annual Tax Return to be accumulated with the domestic income to claim tax credit. And it will show the amount of tax they have paid. So, based on the research that we have conducted, there are still companies admitting that they have big amount of foreign share but their tax payment is small, even zero. Well, this is intriguing, why for quite a long period of time, with the big amount of share ownership, didn't they earn any dividend? This is what we should address.

From the tax amnesty program, notably from the amount of declared assets overseas in the form of shares, is it possible to see the tax potential from the deemed dividend?

Yes, it may have correlation. However, we issue the policy not solely for answering that [tax amnesty]. But it is more of our commitment to the inclusive framework. That it will give impact on the declared assets is an inevitability. Even if there were no tax amnesty, the company shall report its ownership of foreign share. Meanwhile, the tax amnesty is a facility given by the Government to declare unreported assets and give amnesty on administrative sanction.

The new CFC Rules emphasize the capital investment by 'trust'? How does the DGT suspect the direct or indirect control in investment practice by 'trust'?

It goes this way, since the entity in the form of 'trust' has not been clearly regulated on our Income Tax Law, under the CFC Rules, we do not account for the 'trust'. If the company *owns share investment overseas by 'trust', we shall disregard the 'trust'. So, the 'trust' is not accounted for. However, for the Taxpayer conducting investment by 'trust', we deem as having direct relationship with the party having a controlled share. We shall pass through it, we shall not consider it.*

Then how does the DGT obtain the transaction data by 'trust'?

When we have implemented the exchange [of information], all jurisdictions applying the EoI regulation shall be open.

So far, are there many modus or conspiracies between 'trust' and investor in regards to the postponement of the dividend distribution?

It is not my capacity to state whether there is conspiracy or not, but there is this modus of ownership by trust. Whether it is utilized or whatever, I cannot tell, especially [since] I don't have any data. But it is so possible that this practice is conducted and becomes a part of tax planning. We only conduct prevention by doing such.

There are many countries limiting the scope of CFC Rules, selective to only particular countries or not all. Meanwhile, Indonesian CFC Rules are a global approach or for all countries. Isn't it worrisome, the double taxation or dispute with CFC Rule applied in other countries or jurisdictions with the same or even higher tax rate?

I think we all have sovereignty to decide the countries targeted for the CFC Rules. It is more about consideration of our sovereignty. Even when there are other selective countries, for instance, only applying its CFC Rules to countries with lower tax rate or [because of] tax treaty factor, it is under the consideration of the country's interest. We consider that a country with higher tax rate doesn't guarantee a better tax compliance. In this context, countries with higher tax rate may have financial planning [or] financial engineering. There is no guarantee that in countries with higher tax rate whether people will avoid investment or they more comply. There is no guarantee for such.

Does it mean that although CFC Rules apply globally for all countries, DGT has set particular goals or targets to be the priority?

It actually doesn't work that way. We have to convey that in conducting tax planning, the Taxpayer shall consider all conditions from all aspects. In implementing the regulations, we also consider all aspects. Hence, we see that we want this to be conducted for all countries, not only for countries with lower tax income than Indonesia.

Why is it only dividend, can't we also target other active and passive incomes?

It is true that there are countries applying CFC Rules to active income and there are countries applying CFC Rules only for particular income such as dividend. We refer to Article 18 paragraph (2) of Income Tax Law that only regulates dividend for CFC Rules. Actually, if we want to observe further, dividend is actually generated from business profit. If we track the source, dividend is actually profit. Moreover, if we talk about profit, the dividend is actually distributed from net profit. It is a result or outcome of a process, which involves many income elements, including active and passive incomes. So, dividend has substantially represented all [elements].

From the internal side of tax, are we really ready to implement the CFC Rules?

Yes, we have to be ready because it is what we have dreamed of since long ago because MoF Regulation No. 256 Year 2008 is no longer well implemented.

Isn't it denying management's rights to defer dividend for capital purchase, for example?

In my opinion, dividend is not the only source to conduct business expansion. There are many business strategies. Furthermore, a company's solvability is seen from the fact whether it is capable to distribute dividend each year or not. For parties investing shares in a company, what do they pursuit? Dividend, for sure. There are many financing source if a company has been solvent and well-run. It will be easy for such companies to borrow funds, [as] there will be many sources willing to give loan. For me, the motive to defer the dividend is not only investment, but also, among others, tax avoidance. It is more obvious if the shareholders actually have special relationship because they can ensure that their money are secure. It is purely business strategy. However, if we talk about accounting regulations that are fair and commonly used, a solvent company shall distribute its dividend every year. For every profit, dividend shall be distributed as it is what is expected by shareholders. Company's going-concern can be assessed from its ability in distributing dividend.

Just affirming the revoked distribution exemption, does it mean that Taxpayers shall remain paying their taxes even though the company distributes the dividend before it is deemed?

Yes, we deem and they shall report the dividend they earn in the Tax Return, also for the previous years. That when they declare specific amount of dividend, they shall deem the dividend [and] then pay the taxes. In the actualization, deemed dividend can be accumulated with the dividend that has been received and the paid taxes can be calculated as tax credit.

Regarding the tax credit limitation that is only for the previous five years, can you explain its consideration basis?

Actually, the five-year-tax-credit limitation refers more to the expiry of the tax stipulation. It encourages Taxpayers to comply. If it is not limited, they will keep deeming their dividend and do not actualize their dividend. However, when we limit their tax credits only for five years, whether they want it or not they shall distribute their dividend every five years so they won't lose their tax credit. This provision can drive Taxpayers' behavior, in terms that they have to comply.

What is the expectation of Minister of Finance and Director General of Taxes in regards to the CFC Rules?

Qualitatively, we fulfil the BEPS Action Plan. We do also want to implement worldwide income principle. Quantitatively, we do also hope there will be addition of revenue, in which retained earning was previously deferred, when it is deemed, whether they want it or not they shall pay their taxes.

The point is, the output expected from MoF Regulation Number 107 Year 2017 is reduce the risk or become disincentive for Taxpayers to conduct profit shifting or transfer their profit to overseas. Secondly, the MoF on CFC is also expected to be a last resort to solve abusive transfer pricing practice. And from this, we will derive tax revenue each year from the new tax base. Further, this will drive Taxpayers' behavior to comply.

What is prepared by the DGT, especially related to human resource, to make sure that CFC Rules are optimally implemented?

Under the common business process, it can be implemented. We have conducted dissemination on this regulation to our tax officer colleagues, to functional staff, and etc. And, that we further need external data is correct. This is in compliance with the implementation of the regulation on EoI.

Questioning the Written Tax Law for Writers

Writing is easy. At least, it is what is frequently heard in a writing class. Though, the reality sometimes is not as easy as it is spoken. Moreover, to make a writing popular and to monetize it should always end up with tax obligation that must follow.

It actually applies not only for writers. Whatever the profession, either doctors or tire specialists will be subject to tax when they have earned the incomes exceeding the minimum of that stipulated by the laws. It does not matter so long as the taxing procedure is correct and the Taxpayers understand and comply with the tax provision. But it will surely be a big deal if it is the other way round in reality.

As currently happening, once again tax has triggered uneasiness among writers. Started from Tere Liye's post in his social media, complaining about the unfair tax treatment for writer profession, it then spread becoming a fierce discourse in mass lines.

The famous novelist named Darwis decided to halt his cooperation with two publishers, PT Gramedia Pustaka Utama and Republika Penerbit. He also confirmed that per 31 December 2017 there would be no more of his books displayed in book stores.

The deed was taken as his protest against the high tax expense that he considered not giving the same space for writers compared with other professions. If the other professions like actors/actresses, lawyers, or entrepreneurs can easily conceal their incomes from taxes, writers like Darwis find it difficult only to calculate all the hard works as well as writing costs as taxable income deduction.

At least, the firm deed of Tere Liye was quite successful in attracting public and tax authority's attention. Even more, after Dewi Lestari–Supernova hexalogy novelist–took part in questioning the vagueness of tax imposition on royalties received by writers.

This made the Minister of Finance Sri Mulyani Indrawati also posted a counter writing in her social media account. Even in the bathroom, she said she still thought of the protest from her junior in Economy Faculty of University of Indonesia. Until she came up with this spontaneous idea to gather all writers and artists in order to socialize the tax policy. Unfortunately, the pioneer of the protest could not attend the gathering.

Constitution Mandate

About Tere Liye, the Minister of Finance admitted that she shared his concern. She understood the hard work and effort of

a writer in transforming an inspiration into a piece of literature. Including the research and the field survey costs, which are sometimes not small and spent by writers in the production process. All of these costs are supposed to be able to be deducted if the writers comprehend the tax provision and the tax authority implements it correctly.

However, Sri Mulyani emphasized that everything related to tax policy is based on the constitution. The 1945 Constitution, especially in Article 23A, mandates the government as the extension of a state to collect taxes. The implementation is regulated further in tax regulation package, which comprise Tax General Provisions and Procedure, Income Tax Law, and Value Added Tax (VAT) Law. Then, all are passed along by the Government Regulation, Minister of Finance (MoF) Regulation and/or Regulation of Directorate General of Taxes (DGT).

Based on the provisions, honoraria or royalties received by writers (Taxpayers) are imposed by Income Tax of 15% from gross income (Article 23). The tax is usually withheld directly by the publishers and may be calculated as tax deduction in Annual Income Tax Return (ITR) of the related writer. For that reason, the writers should make sure that they have received and kept the withholding tax slips from the publishers.

Related to the writing costs, the Taxpayers may calculate it as gross income deduction at the end of the year or when filling the ITR. Provided that, the writers make financial records on gross incomes earned since the related tax year in the field of literature.

Writers may also use Net Income Calculation Norm, as long as the gross income is not more than IDR4.8 billion in a year. Based on Regulation of DGT Number PER-17/PJ/2015, the amount of net income for the artists' activities is stipulated by 50% from gross income, both in the form of honoraria and royalties received from the publishers.

There are numbers of requirements that shall be met by writers to use the Net Income Calculation Norm. First, the writers shall keep record on all incomes related to their profession in accordance with PER-4/PJ/2009. Second, the writers must inform the use of Net Income Calculation Norm to DGT within 3 (three) months at the latest since the beginning of current Fiscal Year.

If the writers use Net Income Calculation Norm, it may result in tax overpayment so it may be refunded. As a consequence, the writers should be ready to be audited first by the tax authority to ensure their compliance as Taxpayers. In this case, it may not be easy for Taxpayers to ensure the tax auditors, especially if there is not enough documentation and understanding to prove the argument related to the expenses that may become gross income deduction. It is why the Taxpayers psychologically choose to avoid tax audit.

Introspection

Government, in this case DGT, needs to respond the writers' protest wisely. Because it is not the first time for the literature activists "to criticize" tax system in Indonesia.

In the Old Order (*Orde Lama*) era, there were numbers of protests from writers and artists against the tax rate that was considered too high. The accumulation of disappointment on tax system–considered possible to halt the creativity–peaked until the rise of "Petition of Writers and Artists against Tax" in the mid of 1960. Furthermore, at that moment, there had been deceitful practices conducted by the publishers, by denying the royalty payment of the books sold.

Learning from the history, surely these sparks of profession for tax system should be responded seriously by the government. It should be appreciated through a fast response from govenment in clarifying the matter by inviting writers and artists for a dialogue. But, there should be concrete action as a follow-up to the dialogue, thus the little sparks should not be getting bigger.

First, by reviewing the amount of tax withholding rate on royalty, which is currently 15%. Is the rate of Income Tax Article (ITA) 23 still relevant to be maintained? It is important because it is related to how big is the government support on literature and art, not merely about the revenue target.

It is also the same for the norm. The base of Net Income Calculation Norm stipulation of 50% for the activities conducted by artists (including writers), is still necessary to be reformulated. There are a lot of aspirations spread and they should be accomodated by conducting a dialogue with the interested parties. It cannot be decided only by DGT.

Speaking of Tere Liye's complaints, the part considering the tax expense borne by writers is twice higher than other professions. It may be because of different interpretation on the use of Net Income Calculation Norm, and it is not only between the Taxpayers and the tax authority, but also among the tax authorities.

It is a critic for tax authority in interpreting the tax regulation they make. It is reasonable if the Minister of Finance urges DGT's officers to unify their understanding related to Net Income Calculation Norm policy and review the standard operating procedure in handling this case. She also demanded the head of tax authority to be more responsive and effective in receiving complaints, thus there will be no more frustrated Taxpayer like Tere Liye. Integrity and professionalism become two words set forth by Sri Mulyani to DGT officers.

Of course, it is unfair if the critic is only for DGT. The writers as Taxpayers should also do their part for self-introspection, have they performed tax provision correctly? It also applies for the publishers as tax withholders, to never let any breach of a contract or royalty payment denial cases happen again. The partnership transparency is stressed in this matter, especially related to the publisher's sales data and financial report that should be easily monitored by the writers.

Paper and pen cannot produce anything if it is not from the author's ideas and skills in maximizing both. The writer and the publisher of a best-seller are also not a thing, or even only becoming the state's enemy, if they fail to pay tax.

Also for written law—no matter how good a regulation is made, it will only become useless if the bureaucrat and the state apparatus still deal with issues related to integrity and different interpretation on regulation they make. So, it's time to all parties to introspect!

Writers' Tax Obligations

Royalties

Direct Tax Withholding

-15%
Income Tax Article 23

Using Norm or Deemed Profit

50%
Deemed Profit

Net Income

Notes...

- Royalty tax may be credited
- Keep tax withholding slips
- Make financial record/bookkeeping
- If gross income is less than IDR4.8billion, the deemed profit or Net Income Calculation Norm (NPPN) of 50% may be applied
- Propose the norm application to the DGT at the end of March at the latest
- Process the norm application when filing Annual Income Tax Return

Tax Credit Formula...

Taxable Income = Gross Income x Norm (50%) - Non-taxable Income

Income Tax Payable = Taxable Income x progressive Income Tax (Article 17)

- Income Tax (over)payment = Income Tax Payable - Tax Credit (Income Tax Article 23)

MUC TAX RESEARCH INSTITUTE

Requirements and Procedures for Limited Liability Company Establishment

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Indonesia with its various natural and human resources has currently become one of global investment primadonna, notably amid the government's attempt in raising Foreign Direct Investment (FDI) by providing a number of incentives, as well as bureaucracy and regulation simplification.

Despite the temptation, investor candidates shall thoroughly understand the regulations and the provisions prevailing in Indonesia, particularly the obligation of legal entity in the form of Limited Liability Company (*Perseroan Terbatas*/PT). Thus, it is better to take the following PT establishment procedure into account:

1. **Request for Company's Name**

   Government Regulation (*Peraturan Pemerintah*/PP) Number 43 Year 2011 stipulates that every PT shall have a name contained in its Articles of Association. The name can be used once the company acquires an approval from Minister of Law and Human Rights. Request for a company's name can be performed directly by the company's founder or the authorized to a notary

2. **Capital**

   Previously, the amount of authorized capital required to establish a company as stipulated in Law Number 40 Year 2007 on Limited Liability Company (PT) is IDR50 million at minimum, and at least 25% of which shall be issued and paid up to the country. Nevertheless, after PP Number 29 Year 2016 became effective on 14 July 2016, the minimum amount of the authorized capital was revoked and adjusted with the financial capability of the founder as stated in the company's Articles of Association.

   However, it is important to note that for certain business fields in which the authorized capital is determined specifically in related regulations, it shall refer to the authorized capital of the specific business field. For investment in the event of foreign investment company, the minimum amount of the authorized capital is IDR10 billion, excluding the land and building value. Whilst the minimum amount of the paid up and issued capital is IDR2.5 billion.

3. **Articles of Association of the Company**

   Besides, the establishment of PT requires a Deed of Establishment made by notary in Indonesian language. For a foreign investment company in which Deed of Establishment is in foreign language, it shall be translated into Indonesian language. The consequence is that upon different interpretation, the Deed of Establishment in Indonesian shall legally prevail.

   The Deed will be required to administer all the permits related to the company's business field. The Deed of Establishment shall contain Articles of Association of the company and any other information regarding the company establishment. In a nutshell, this document is a principal document that must be possessed by a company.

4. **Validated Legal Entity**

   To legally operate in Indonesia, a PT shall obtain a legal entity status from the Minister of Law and Human Rights. The founders of the company can individually make the application for acquiring legal entity validation online or by giving authorization to a notary to obtain a Certificate from the Ministry of Law and Human Rights.

5. **Certificate of Domicile**

   Certificate of Domicile (COD) is a document confirming the location or the complete address of the company. To acquire a COD, the company shall make an application to the One-stop Service Center in the administrative village (*kelurahan*) office in which the company is domiciled, by attaching the required documents.

Completeness of documents for COD application:

a. Application form (with sufficient stamp duty);
b. Copy of the company's Deed of Establishment, including all of its amendments (if any);
c. Copy of Decision Letter of Minister of Law and Human Rights on Legal Entity Validation, including its amendments;
d. Copy of National ID Card/Passport/Temporary Stay Permit Card (KITAS) (Non-resident) of the Person In Charge/Director and copy of ID Card of the Authorizer and the Authorized person (if the submission is authorized);
e. Power of Attor ney (with letterhead, signed atop a stamp duty and stamped by the company);
f. COD from building management (for companies having location in office building/mall) or recommendation letters from neighborhood/community groups (Rukun Tetangga/Rukun Warga) for companies having location outside office building area; and
g. Photos of office's location from the front side and the inside of the office room (3 pieces).

6. Business License

There are several types of business license in Indonesia, depending on the type or field of business.

For trading company, for example, Trading Business License (Surat Izin Usaha Perdagangan/SIUP) is the legitimacy for the companies engaging in that business field. SIUP firmly determines matters allowed and not allowed to be performed by a trading company.

To acquire a SIUP, the investor candidates shall make application to the authority issuing SIUP in Department Office of Trading or One-stop Service Center for regency/city where the company has its domicile.

SIUP is divided into three levels, depending on the company's net asset value excluding the land and building. Firstly, small scale SIUP, required for trading companies having net assets between IDR50 million to IDR500 million. Secondly, medium scale SIUP, obliged for companies having net assets of more than IDR500 million to IDR10 billion. Thirdly, large scale SIUP, obliged for trading companies having net assets of more than IDR10 billion.

Previously, trading company shall renew its SIUP for every 5 (five) years. However, upon the issuance of Minister of Trade Regulation (Permendag) Number 7 Year 2017, such obligation is revoked and a company no longer needs to re-register as long as its business activities are still ongoing.

Completeness of documents for SIUP application:

a. Copy of the company's Deed of Establishment and its amendments (if any);
b. Copy of Decision Letter of Minister of Law and Human Rights on Legal Entity Validation and its amendments (if any);
c. Copy of National ID Card of the Person In Charge/Director of the Company;
d. Statement Letter from the SIUP applicant regarding the location of the company's business; and
e. Photos of the Person In Charge/Managing Director of the company of 3x4 cm (2 pieces).

7. Taxpayer Identification Number

The next requirements that shall be met by the investor candidates is Taxpayer Identification Number (*Nomor Pokok Wajib Pajak*/NPWP). It is a mandatory identity for individual and corporation in performing their rights and duties in taxation.

NPWP application requirements:

a. Filling the NPWP application form. The NPWP application is available at the tax office where the company is filing for the NPWP;
b. COD from administrative village office;
c. Copy of Articles of Association of the company;
d. Copy of NPWP of one of the company's management;
e. Copy of ID card (KTP/Passport/KITAS/KITAP) of the company's management.

8. Company Registration Certificate

The next is the obligation to acquire Company Registration Certificate (*Tanda Daftar Perusahaan*/TDP), a validation evidence of a registered company. TDP must be possessed by a company or individual or corporate business, either having legal entity or not. Company registration or business activity registration must be conducted by a company within 3 (three) months at the latest since the company runs its business activity.

However, this regulation is not applicable or not mandatory for a small company or business entity managed individually or by family members, which is solely for fulfilling their daily needs.

The owner, the management, the person in charge, or the authorized person of the company shall make an application to Trading Department or One-stop Service Center for regency/city or province and fill certain forms to obtain TDP.

Document requirements for TDP application:

a. Copy of the company's Articles of Association;
b. Copy of company's Articles of Association amendment (if any);
c. Original and copy of Decision of Minister of Law and Human Rights on Legal Entity Validation (if any);
d. Copy of National ID Card/Passport of the owner/management/person in charge of the company;
e. Copy of Business License or Certificate treated equal with it that is issued by related authority; and
f. Copy of NPWP.

However, to make it easier, Permendag Number 77 Year 2013 has accommodated the application for SIUP and TDP simultaneously for trading company. The company may apply for the issuance of SIUP and TDP simultaneously in One-stop Service Center by filling certain application forms signed by the management or person in charge of the trading company atop stamp duty.

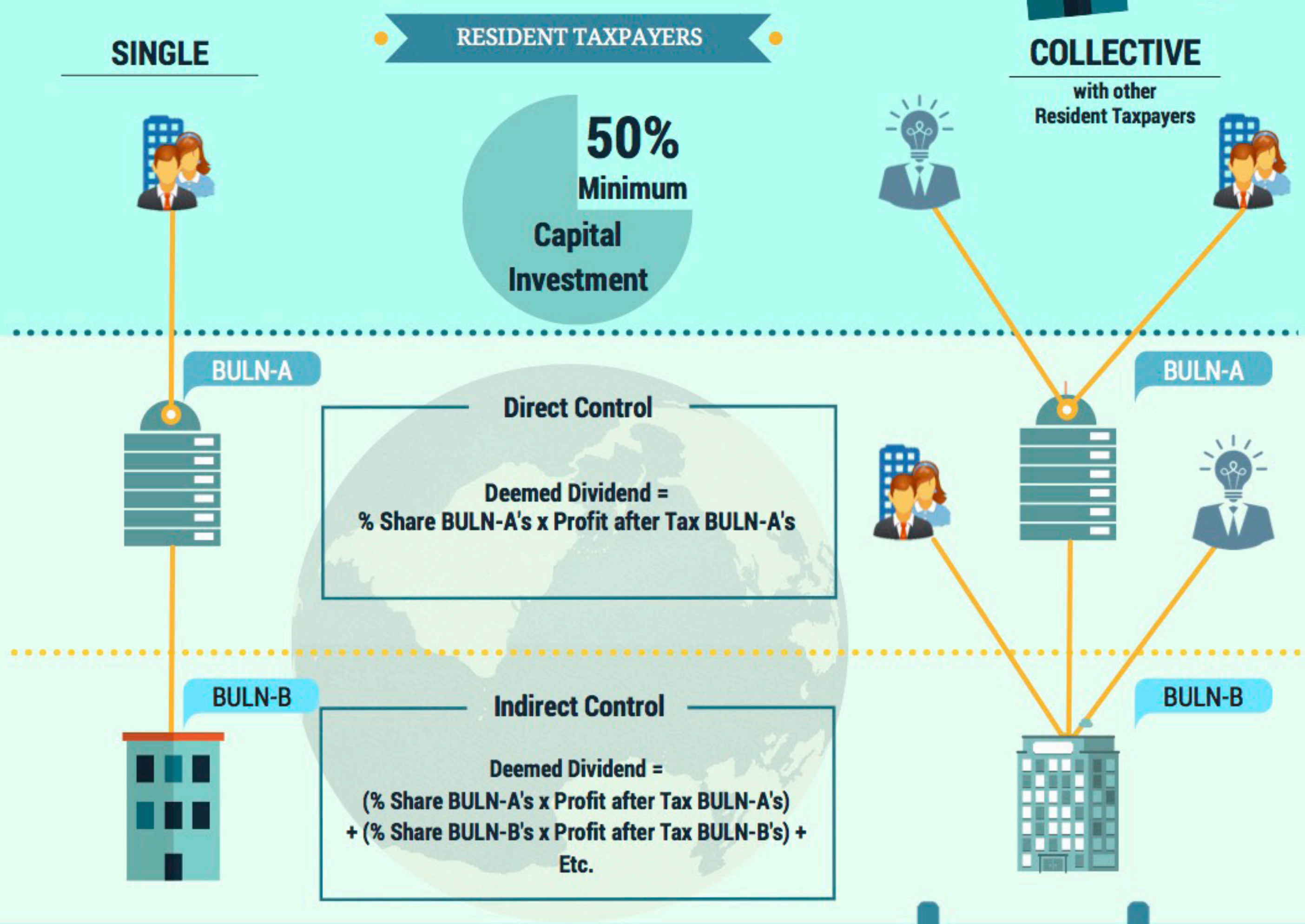
Document requirements for Simultaneous SIUP and TDP application:

a. Copy of the company's Articles of Association;
b. Copy of the company's Articles of Association amendments (if any);
c. Copy of Decision of Minister of Law and Human Rights on Legal Entity Validation (if any);
d. Copy of National ID Card/Passport/KITAS of person in charge/Director of the company;
e. Photograph of the person in charge or Director of the company (3x4 cm)
f. (2 pieces); and
g. Copy of NPWP of the person in charge of the company and copy of NPWP of the business entity.

CONTROLLED FOREIGN CORPORATION RULE

Anti-fragmentation Rule

Government emphasized the provision of deemed dividend for Resident Tax Payers having shares in non-listed foreign enterprise (BULN) through Minister of Finance (MoF) Regulation Number 107/PMK.03/2017.



Notes

- Starting from fiscal year 2017, Taxpayers having investments in non-listed BULN are automatically subject to the provisions of the deemed dividend (CFC Rules).
- The CFC Rules also apply to investments in non-listed BULN through ***trusts.***
- Tax on dividends is imposed to the direct and indirect controlling Resident Tax Payers.
- The level of equity participation considered as a controller is of 50% or more, either individual or collective with other taxpayers.
- Dividends that can be credited are up to the last 5 (five) consecutive years under more stringent requirement. Compulsory document enclosures: financial statements, Tax Return copy, deduction of income tax on dividend evidence, and details of profit after tax.
- The terms of distribution exemption are revoked so that the deemed dividend remains exercised even if the dividend has been distributed before the stipulation deadline.

Event

MUC's Discussion on Current Tax Regulations

MUC Consulting Group held a seminar at Bidakara Hotel, Jakarta, 22 August 2017, in order to dissect current taxation policy and regulation. The seminar was led by ***Tax Compliance Manager Lucky Hernandito*** and ***Tax Advisory Manager Yasmine Tiara.***

Several topics discussed were, among others, the latest Certificate of Domicile (CoD) verification policy, Automatic Exchange of Information (AEoI) implementation, policy of Deemed Dividen stipulation for Controlled Foreign Company, as well as provision of collection interest sanction application.

The seminar also talked about additional asset disclosure in relation to tax amnesty program, as well as tax audit conduct in 2017.

Clarification of Transfer Pricing Documentation Policy

Government has refined the policy of transfer pricing documentation, by applying 3 (three) types of reporting: Local File, Master File, and Country by Country Report. The policy that is effective since fiscal year 2017 has received serious attention from Taxpayers.

In terms of supporting Directorate General of Taxes (DGT)'s socialization, MUC Consulting Group held a special seminar to discuss various matters regarding the implementation of Minister of Finance Regulation Number 213 Year 2017. This seminar was held at Bidakara Hotel, South Jakarta on 5 September 2017.

Transfer Pricing Manager MUC, Galih Gumilang and **Tigor Mulia Dalimunthe** were appointed as the speakers of seminar.

GREAT Program

Bank Secrecy Transparency under MUC and STPI's Attention

In maintaining company's commitment to development of human resources in taxation, MUC Consulting Group collaborated with Student Executive Board of Indonesian Taxation Institute (*Sekolah Tinggi Perpajakan Indonesia/ STPI*) through GREAT program.

This time, GREAT Program was held recently in the form of taxation seminar under the theme "Impacts of Bank Secrecy Transparency and Taxation Implication ", at STPI's campus.

The seminar presenting speakers of MUC tax practicioners has received appreciation from Head of STPI Prof. Dr. Gunadi M.Sc., which is also Professor in Administrative Science Faculty of University of Indonesia. In his opening speech, Prof. Gunadi wished that his students could dig for taxation knowledge more deeply through that collaboration.

GREAT program is one of MUC's Corporate Social Responsibility (CSR) program in the form of seminar and workshop, which is in collaboration with state and private universities in Indonesia. This program has been held in several campuses, among others, University of Indonesia, Trisakti University, Airlangga University, Brawijaya University, State University of Malang, and State University of Yogyakarta.