

# AN UPDATE ON CbC REPORTING REGULATIONS IN INDONESIA



On 16 January 2018, the Directorate General of Tax (“DGT”) released DGT Regulation No. 29/PJ./2017 (“PER-29”), although the regulation is dated on 29 December 2017. It has been approximately a year since the release of [MoF-213](#) that the CbC Reporting implementing regulation is finally published by the DGT through PER-29. Nevertheless, PER-29 has succeeded in providing much clarity to the implementation of CbC Reporting requirement that has not been clarified sufficiently yet in MoF-213. As part of Indonesia’s commitment to the implementation of the standard, the Ministry of Finance released on 30 December 2016, Minister of Finance Regulation No. PMK-213/PMK.03/2016 (“MoF 213/2016”), the much-anticipated regulations on CbC reporting and its corresponding updates to transfer pricing documentation requirements. MoF 213/2016 brings clarity to the transfer pricing documentation legal framework. Previously, transfer pricing documentation requirements are only regulated by way of Directorate General of Tax (“DGT”) Regulations, which is not mandated directly by the Law.

In general, PER-29 has brought the Indonesia CbC Reporting requirements more in line with the international standard as issued by the OECD in BEPS Action 13. The following are salient features of PER-29.

## Clarification on the definition of “Parent Entity”

In addition to the other criteria of “parent entity” in MoF-213, PER-29 adds that a parent entity is an entity that is not owned directly or indirectly by another entity in the group or is owned directly or indirectly by another entity, however the said other entity is not required to consolidate its financial statements.

The criteria of “parent entity” is important as this will determine the obligation to prepare and file an CbC Report, namely those “parent entities” that have a consolidated revenue more than IDR 11 trillion or an equivalent to EUR 750 million. While domestic taxpayers that are member entities of a multinational group, whose “parent entity” is located offshore, are only obliged to file a CbC Report domestically in Indonesia if the said parent entity is located in a jurisdiction that does not require CbC Reporting, or does have an exchange of information agreement with Indonesia, or have a CbC Reporting requirement and an exchange of information agreement but effectively the CbC Report is unobtainable by the DGT.

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**Notification obligation**

Regardless whether a domestic taxpayer is required to submit a CbC Report or not, all taxpayers who are member entities of a group or have related party transactions, are obliged to submit a notification concerning CbC Report to the DGT.

The Notification in question contains a statement about the identity along with the jurisdiction of the particular member entity of the group that is to conduct the CbC Report. This is intended to facilitate the DGT in requesting CbC Reports through cross-border information exchange mechanism.

Having submitted the notification, the taxpayer will be given a receipt that can be used as a substitute for CbC Report to be attached to the Annual Corporate Income Tax Return. Said notification should be submitted electronically to DGTonline platform or manually should the online platform malfunction. The time limit is 16 months since the end of the tax year, for CbC Report 2016 or 12 months after the end of the tax year, for CbC Report 2017 and so forth.

**Publication of treaty partner Countries that are unqualified for information exchange**

To provide legal certainty of CbC Reporting obligations by domestic taxpayer that are not parent entities, PER-29 stipulates that at the end of each year the DGT will

release a list of treaty partner countries that have a treaty in place containing an exchange of information clause, qualifying competent authority agreements (QCAA), and have QCAA but CbC Reports are unobtainable by the DGT.

Upon the announcement of the list of such countries, domestic taxpayers delegated with the CbC Report obligation has 3 months to submit CbC Report. If within that period, the taxpayer fails to submit a CbC Report, the Directorate General of Taxes shall send a formal request letter to said taxpayer, and grant a 30-day extension since the date of the request letter.

**XML Schema Electronic Format**

PER-29 provides that the submission of CbC Reports must be conducted electronically i.e. with Extensible Markup Language (XML). In line with the international standards as prepared by the OECD, it has been agreed that CbC Reports should be submitted in the same electronic format in every country, namely XML Schema. This is to facilitate automatic exchange of information between countries. The first CbCR information exchange is expected to take place in July/September 2018.

The OECD website reports that as of 19 December 2017, there are 68 countries that have signed the Multilateral Competent Authority Agreement on the Exchange of CbC Reports (CbC MCAA).

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