

WAKE UP CALL

Welcome to issue 44 of Wake Up Call—RSM Indonesia newsletter covering topics on audit, accounting, business, corporate finance, governance, internal control, management, risk, taxation.

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Implications of AEOI commencement for Indonesian investors



Nick Graham, Tax Practice

The end of September marked the implementation deadline for 49 countries that had committed to the Automatic Exchange of Information (AEOI) under the Common Reporting Standard (CRS). Although Indonesia is part of this group, there are implications for Indonesian investors with funds overseas.

The AEOI agreements allow the exchange by tax authorities of information regarding financial account balances. "Financial accounts" are not limited to cash holdings, but include share portfolios and other investment balances. Although these do not include direct investment in real estate, for example, such information can usually be exchanged between revenue authorities on a specific request basis if there is a tax treaty between those countries.

Indonesia, Hong Kong and Singapore have not committed to the September 2017 deadline, but have committed to implement AEOI by September 2018. Singapore and Hong Kong are taking the necessary regulatory actions to prepare. Indonesia has also issued regulations, including PERPPU 1/2017 and PMK-70 to allow the identification and collation of financial account information (including the removal of bank secrecy).

Investors should be aware that the delayed commitment does not mean that financial account data is only collected per 30 September 2018. The date refers to when financial account data per 31 December 2017 will be shared. Similarly those countries that committed to September 2017 are collating financial account data per 31 December 2016. Furthermore, just

because Indonesia committed to September 2018 it does not mean that a country that has implemented the AEOI per 30 September 2017 cannot share their 2016 financial account data with Indonesia's Director-General of Taxation ("DGT").

Information sharing will commence once the relevant countries execute the relevant bilateral agreement. In the case of Hong Kong and Indonesia, this was signed on 16 June 2017. Therefore sharing of 2017 financial account information should occur between Hong Kong and Indonesia by September 2018. The agreement with Singapore remains in process with Singapore indicating that exchange of information "can commence after committed jurisdictions have introduced the necessary laws to implement CRS and the required confidentiality and data protection safeguards are in place".

The USA has not committed to the CRS, however, it has created its government-to-government FATCA regime that Indonesia has signed in 2014.

Although the threshold for reporting under the CRS is USD 250,000 or its equivalent, PMK-70 allows the DGT to access financial account information for domestic tax purposes based on lower thresholds (e.g. IDR 1 billion for bank accounts held by individuals).

The information gathering process includes the identification of the beneficial owners of all reportable accounts. There is no doubt that this is a time-consuming process for the financial institutions because it requires liaison with the customer and then verification of information provided. This might explain why 53 countries have committed to September 2018 rather than 2017.

The implementation of the AEOI regime is part of the continuing global movement towards increased tax transparency. AEOI should be of no concern for tax residents that have always reported their assets or that followed the tax amnesty. Of course you should remember that reporting of assets is only the first step – you must also report the income generated by those assets.

In addition, as noted in our previous Wake Up Call, the recent issue of PMK-107 has broadened the obligations for reporting income generated by companies in which Indonesian tax residents, individually or collectively, hold at least 50% of the shares.

*This article has been published at
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GDPR compliance: You have less than a year to prepare



Angela Simatupang, Consulting Practice

Have you started your preparations for GDPR compliance? GDPR is applicable to almost every organization worldwide that collects or processes data on European Union (EU) residents, including those not based in Europe and even those without any European operations.

General Data Protection Regulation (GDPR) was ratified to strengthen and unify data protection for all EU residents, whether their data resides in the EU or not and enforcement is scheduled to start on May 2018. The GDPR not only applies to organizations located within the EU but it will also apply to organizations located outside of the EU that process and hold the personal data of data subjects residing in the EU.

Personal data is any information related to a natural person or 'Data Subject' that can be used to directly or indirectly identify the person. It can be anything from a name, a photo, an email address, bank details, posts on social networking websites, medical information, or a computer IP address.

GDPR casts a wide net. Entities that interact with EU residents are all subject to this law. Many organizations underestimate the amount of EU data they hold, and therefore may not understand the potential effect of GDPR legislation e.g. EU resident data may be stored in everything from IT systems and portable media devices to spreadsheets and email archives. Companies must examine data privacy protocols for primary (and other) sources of client data.

The new GDPR rules will significantly disrupt how organizations store, manage and process personal data.

Substantial financial penalties and reputational damage may be incurred for noncompliance, up to €20M or 4% of an organization's global revenue, whichever is higher.

There is a tiered approach to fines e.g. a company can be fined 2% for not having their records in order, not notifying the supervising authority and data subject about a breach or not conducting impact assessment. These rules apply to both controllers and processors, meaning 'clouds' will not be exempted.

Under GDPR, individuals can request that companies provide all data they maintain about them, and extensive, detailed information about how such data is protected. This includes how each customer's consent is secured and tracked on an ongoing basis; the specific purpose for holding this data; and the nature and extent of protections surrounding that data, including any third parties that might be involved. Consumers can also request that all such data be provided to them in an electronic format suitable for porting to a competitor, or that all their data be completely erased from all systems the company uses, including, again, those from any third parties.

To determine if GDPR affects your organization, you need to ask questions such as:

Do you offer goods and services to EU residents?

Do you rely on third parties that store or transmit data to or from the EU?

Do you collect, transmit or process data pertaining to EU residents?

Keep in mind, it doesn't matter if the services are free.

Organizations should begin identifying or "mapping" EU customer data immediately. It is not uncommon for EU data to reside in different divisions or subsidiaries. This data will need to be protected and segregated from other customer data, much in same way that organizations protect and segregate credit card data through network segmentation standards under the Payment Card Industry Data Security Standard.

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Personal tax residence – misconceptions & implications



Nick Graham, Tax Practice

Personal tax residence in Indonesia is not based solely on the existence of a work permit and it has broader implications than many are aware.

It is a common misconception that you are an Indonesian tax resident only if you hold a work permit and there is no personal tax if you hold a business visa. In fact, you are a tax resident if you are present in Indonesia for more than 183 days in any 12-months period or are present in Indonesia during the tax year and intend to reside. The existence of a work permit suggests that the 2nd criterion will be met; however, the time test remains relevant and using a business visa is not a legitimate strategy. Someone with their family/home here but working in Singapore each week (for example) is likely to be considered to be an Indonesian tax resident.

These results are potentially modified if you can show tax residence of a country that has a tax treaty with Indonesia. In such cases actual tax residence will be determined by the tax residence tie-breaker tests in the tax treaty (where the permanent home is; centre of personal and economic relations; location of habitual abode). The corollary to this is that it will be difficult to argue against Indonesian tax residence if you are not a tax resident of another country.

Assuming you are an Indonesian tax resident then you should:

- Apply for an Indonesian Tax ID (NPWP)

- Declare and pay tax on your worldwide income
- Lodge a Personal Tax Return that also reports your worldwide assets and liabilities

Indonesia taxes on a family basis and therefore your spouse's income must also be included. Typically this means (with the exception of employment income from a non-family company) that all non-final-taxed income earned by the spouse will be taxed at the 30% rate. A separation of assets agreement does not change this; it only results in the tax being apportioned based on the proportionate share of income.

A potential complication can occur if you pay tax in another country based on assessment rather than withholding. This is because Indonesia only allows a tax credit based on the foreign tax paid during the calendar year. Therefore there can be a timing mismatch between when the income must be reported for Indonesian tax and when the foreign tax credit is available.

In addition, the Controlled Foreign Corporation/deemed dividend regulation will apply if you/your spouse/other tax residents own at least 50% of the shares or voting rights of an overseas company.

If you are a tax resident but have no NPWP then you are subject to Article

21 tax (not Article 26) and your employer should add a 20% surcharge to the standard Article 21 tax rate (i.e. the highest marginal rate becomes 36%, not 30%). This results in a higher cost to the employer or higher tax for you depending on your employment agreement.

Therefore it pays to understand your tax residence situation. If your expected time in Indonesia is short and you remain tax resident elsewhere then it might be appropriate to assess whether you can use a tax treaty to avoid Indonesian tax residence. Of course you should then continue to comply with that country's taxing rules. If you are an Indonesian tax resident then obtain an NPWP and carefully consider the resulting obligations, remembering that tax authorities will soon be sharing financial account information.

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OUR ACTIVITY



12th

December 2017



AAJ ANNUAL PARTY
2017

Empirica Jakarta



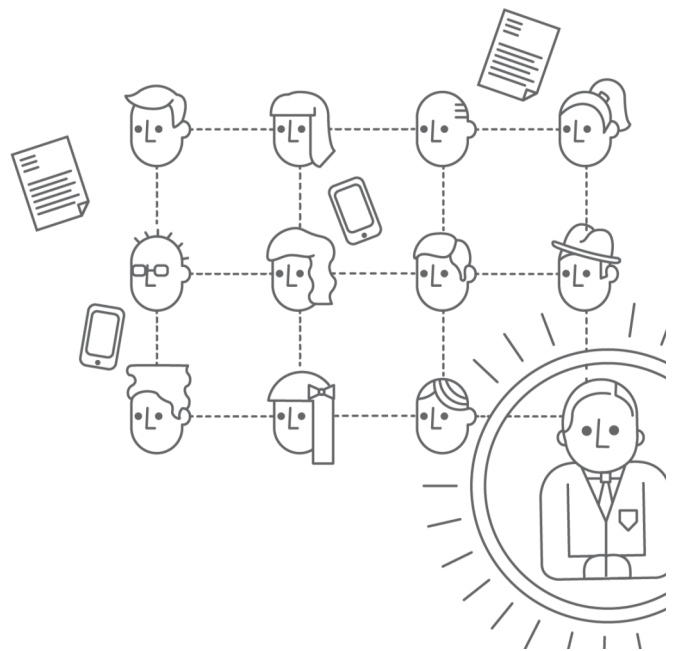
AAJ annual party this year took place at Empirica SCBD, Jakarta and the theme was Pajama costume. We were entertained by Chaplin Band performance throughout the night. There was dance performances from RSM Indonesia's personnel as well.

Newsflash

RSM's Global Leader for Quality and Risk, Bob Dohrer has been reappointed for a second three-year term to the International Auditing and Assurance Standards Board.

As a part of his role on this board, Bob is also the Chair of the Data Analytics Working Group and Co-Chair of the ISA 600 Group Audits Task Force, as well as being a member of the ISQC Task Force and the Innovation Working Group. In particular, it was noted that the chairman of IAASB, Professor Schilder, and the IAASB staff welcome the opportunity to benefit from Bob's valuable contributions on these groups.

This appointment is a testimony of Bob's leadership and influence in our profession worldwide and is an endorsement of his respect and stature amongst our peers globally.



MERRY CHRISTMAS
& HAPPY NEW YEAR

RSM Indonesia wishes you
good health and great success
in the new year!

We look forward to working with you in

2018

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Indonesia Facts



WAYANG KULIT (or shadow puppets) from central Java, are the best known of the Indonesian wayang. Kulit means skin, and refers to the leather construction of the puppets that are carefully chiselled with very fine tools, supported with carefully shaped buffalo horn handles and control rods, and painted in beautiful hues, including gold. The stories are usually drawn from the Hindu epics the Ramayana, the Mahabharata or from the Serat Menak.

The puppet figures themselves vary from place to place. In Central Java the city of Surakarta (Solo) and city of Yogyakarta have the most well-known wayang traditions, and the most commonly imitated style of puppets. Regional styles of shadow puppets can also be found in Temanggung, West Java, Banyumas, Cirebon, Semarang, and East Java. Bali wayang are more compact and naturalistic figures, and Lombok has figures representing real people. Often modern-world objects as bicycles, automobiles, airplanes and ships will be added for comic effect, but for the most part the traditional puppet designs have changed little in the last 300 years.

Source : Wikipedia

2017 RSM Manufacturing Monitor Survey

The 2017 RSM Manufacturing Monitor surveyed 660 middle market manufacturers based in the United States as well as Australia, Canada, China, Japan and Mexico. The Monitor provides in-depth analysis of areas of primary importance to the industry, including growth, technology, profitability and risk.

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