

Navigating Intragroup Services under the new Transfer Pricing regime (PMK-172)

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Ghea: Welcome to Deloitte TP Lens, your go-to source for everything related to transfer pricing. Each week, we will explore various transfer pricing fundamentals, strategies, and challenges. Whether you are a tax professional, business leader, or navigating the global tax landscape, we have got you covered, and will break it all down. My name is Ghea, and I will be your host for this episode. Today, we are going to dive deep into intragroup services with two of our key experts.

First, we have Pak Roy David Kiantiong, Deloitte Indonesia's transfer pricing leader with more than 20 years of experience, assisting numerous multinational companies navigating complex tax challenges. And of course, widely regarded as a pivotal figure in shaping the transfer pricing landscape in Indonesia. Pak Roy, welcome to the show.

Roy: Thanks, Ghea. It's great to be here and to discuss these important topics.

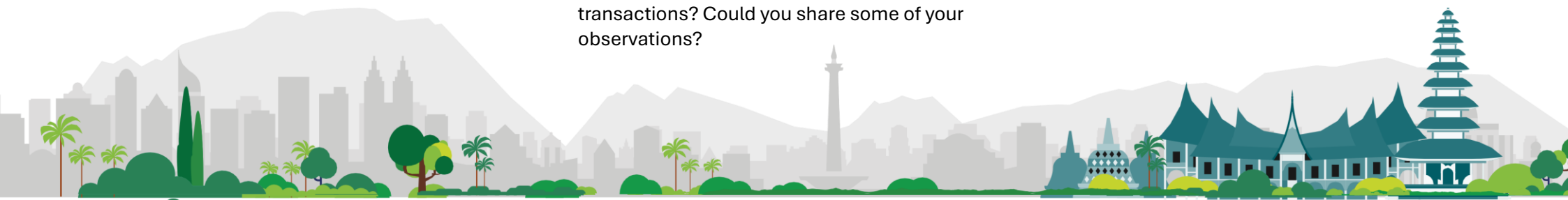
Ghea: Thank you, fantastic. And joining him is Pak Balim, with 23 years of experience at the Directorate General of Taxation in Indonesia, directly involved in the formulation of Indonesia's transfer pricing framework and regulations, and now he is a renowned transfer pricing partner in Deloitte Indonesia. Welcome, Pak Balim!

Balim: Thank you, Ghea, I am happy to join the discussion.

Ghea: Fantastic. Alright, now let's kick off our discussion with the latest trend. As businesses continue to expand globally, Pak Roy, could you tell me what is the current trend among companies in managing intragroup service transactions? Could you share some of your observations?

Roy: A major trend that we are seeing is that group companies are consolidating their resources. This is to improve efficiency and compliance. Instead of having multiple finance, HR, or R&D resources in each company or geography, what we have seen is the local and multinational groups centralising these functions into Centers of Excellence (CoEs), regional hubs, or shared service centers.

Ghea: Right, right, right. And what about you, Pak Balim? How do you see state-owned enterprises (SOEs) differ in their approach to intragroup services?



Balim: As we are aware, one of the most important KPIs for state-owned enterprises is profitability. In order to achieve such a KPI, now they try to centralise certain functions in order to utilise the economics of scale, as well as to create synergy. That's why the current trend is that SOEs also, you know, set up centralised services and then provide those services to each subsidiary.

Ghea: I see, fantastic. Okay, Pak Roy, could you please elaborate a little bit, what do you think are the primary challenges the companies face when they are dealing with intragroup services in Indonesia?

Roy: Okay, Ghea. What we have seen is that there will be more scrutiny, especially after the release of the updated Indonesian transfer pricing regulation, which is the Minister of Finance Decree (PMK) No. 172. This regulation introduces a new set of compliance requirements for the services to be aligned with the arm's length principle. What we have seen is that the DGT would put key focus towards the services, whether they have been really rendered, whether there have been any economic benefits to the recipients, and whether the remuneration aligns with the arm's length principle.

Ghea: And Pak Balim, do you have any additional insights on this, like other key areas that the DGT in Indonesia would be particularly concerned with?

Balim: Yeah, thank you, Ghea. I think talking about challenges, we observed that one of the main issues faced by Indonesian taxpayers is about documentation. How to document, Pak Roy mentioned about existence and benefits, this remains as one of the main challenges.

Roy: In addition, Ghea, from my experience, for specific services delivered to non-finance departments, such as production and extraction in the mining industry, it could be challenging to identify relevant documentation to support intragroup services.

Ghea: Okay, that brings me to my next question actually. Pak Roy, you mentioned a little bit about PMK-172, which is Indonesia's new Ministry of Finance regulation. Could you highlight the key points on how this specific regulation impacts TP analysis for intragroup services?

Roy: Okay, Ghea, the preliminary stages are being recently introduced through this PMK-172. This is an important step where the tax auditor or the tax office would like to have a better overview and supplement with more information on the substance and the benefit

of the services for the recipient. And this would be very important information that needs to be documented and put in the transfer pricing documentation.

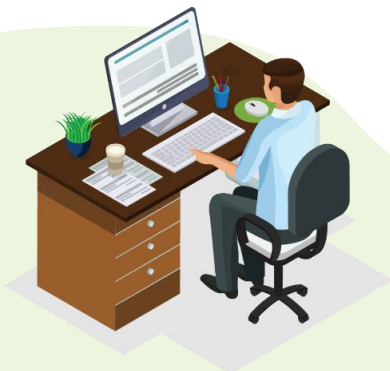
Balim: To add to Pak Roy, you know, the main issue about the intragroup services is basically the existence and benefit, right? Currently, based on PMK-172, basically the requirements about how to prove, how to document the existence and benefit are now more clear. Previously, there was no clear regulation on how the taxpayer should document and elaborate on the existence and benefit. Now this regulation, you know, provides clearer guidance, so as such when the company prepare a transfer pricing (TP) documentation, we have to pay attention to this requirement.

Ghea: So, Pak Balim, following your previous explanation, how do you think the DGT will apply this in practice?



Balim: After issuing the PMK-172, I believe the DGT is more rigid about the requirements. The first one, DGT will review in the documentation whether the taxpayer prepared the preliminary stage, so I think we have to prepare this section carefully. And I also have experience whereby one of my clients did not prepare an appropriate section, then DGT just, you know, rejected this payment, because according to DGT, this taxpayer does not comply with the requirement. And the second, once we are able to prepare this section, the DGT will also request sufficient documents to substantiate all the explanations regarding the existence and benefits.

Ghea: Okay now we are going to dive even deeper into this issue. Now, given the increasing scrutiny on transfer pricing in Indonesia, Pak Balim, I want to ask you, what do you think are some of the best practices for documenting intragroup service transactions? I mean, concern for the taxpayer, they want to minimize the risk of audits, tax authority disputes. Can you share a little bit about this?



Balim: Yeah, thank you, Ghea. I think the most important thing here is the proper planning in regard to the intragroup services scheme. Once we have an appropriate planning in terms of standard operating procedures, how to maintain the document, which parts we should keep the document, I believe it will, you know, strengthen our intragroup services payment, as well as smoothen our explanation and our submission to the tax office when they conduct the audit.

Roy: To add from Pak Balim, To have some basic documentation, such as service agreements, is very important. To maintain the cost allocation as well as the basis of the costs also would also be very important. And in addition to that, all in all, we would like to also remind Indonesian taxpayers to maintain documentation for at least five years, taking into consideration the statute of limitation for tax audits of five years in Indonesia.

Balim: Another interesting business model is when the ultimate service recipient is the third party, which is the customer of the client. In this case, the client acts as an intermediary between the service provider and service recipient. To prove that the existence and benefit differ from the typical arrangement of intragroup services, the revenue earned from

third-party customers, who are the ultimate service recipients, play a very significant role. The revenue earned from third-party basically strongly proves the existence and benefit.

Roy: To add to Pak Balim's explanation, it would be good for a company to have a very detailed explanation on the economic benefits that are being received by the service recipient, especially in regards to the dynamic service payments where the recipient pays services based on a residual profit after being remunerated based on arm's length principle on their function and risk.

Ghea: Pak Balim, you mentioned about some gaps earlier in terms of the application of the intragroup services (IGS). Can you please share some success stories, since we know that it's one of the most litigated transactions in Indonesia?

Balim: Yeah, thank you, Ghea. I think one of the most interesting experiences for me was when one of my clients got rejected on its payment regarding the intragroup services, and it was a significant payment. They came to us and asked how we could basically defend the payment. Then we start to conduct a discussion, starting from preparing a good plan about the intragroup services scheme. And then we also advised on how to

document, create a standard operating procedure, and then assign who should be responsible for maintaining the document, right? And then the last thing is we also ask our client to be equipped with the agreed-upon procedure. And then finally, once all the procedures were completed, we can defend its significant payment of the intragroup services and then, my client is able to defend at the tax audit level.

Roy: We have an experience to assist our client in preparing a comprehensive standard operating procedure, where they could have a repository of key documentation in order to substantiate the service deliverables, as well as the economic benefits from the services. By this, they would have been able to explain to the tax authorities in order to substantiate the deductibility of the services.

Ghea: Well, that wraps up our discussion on intragroup services. We have covered a lot of grounds today, from best practices to the emerging landscape of intragroup services in the future. To recap, companies need to be highly diligent in maintaining proper documentation, focusing on economic substance, transparency, and accountability. Clearly, navigating intragroup services in today's tax environment requires a well-rounded strategy and attention to detail.

Thank you so much to our experts, Pak Roy and Pak Balim, for sharing their valuable insights, and to our guests for tuning in. If you found this episode helpful, be sure to subscribe, comment and share. Stay tuned for more discussions on other transfer pricing topics. This is Ghea signing off from Deloitte TP Lens. See you on our next episode. Bye.



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