

Kesepakatan Harga Transfer Dipertegas, Perusahaan Terdampak Covid Dapat Perlakuan Khusus

*Transfer Price Agreement is Affirmed,
Companies Affected by Covid Get
Special Treatment*

JAKARTA. Direktorat Jenderal Pajak menyederhanakan sekaligus mempertegas tata cara pelaksanaan kesepakatan harga transfer atas transaksi afiliasi atau *Advance Pricing Agreement*, dan memberikan perlakuan khusus bagi Wajib Pajak yang terdampak pandemi Covid-19.

Kebijakan ini tertuang dalam Peraturan Direktur Jenderal Pajak Nomor PER-17/PJ/2020 yang merupakan pelaksana teknis dari Peraturan Menteri Keuangan (PMK) Nomor 22/PMK.03/2020 tentang Kesepakatan Harga Transfer.

Advance Pricing Agreement (APA) merupakan kesepakatan di awal antara perusahaan multinasional dengan otoritas pajak sehubungan dengan penetapan harga transaksi yang wajar antarpihak yang mempunyai hubungan istimewa. Tujuannya, untuk menghindari risiko pemajakan berganda, memberikan kepastian hukum terkait harga transfer, menghindari koreksi pajak berulang, dan membuat perencanaan keuangan yang lebih pasti.

APA tidak hanya bersifat unilateral, di mana relasi yang terbentuk hanya melibatkan wajib pajak dengan satu otoritas pajak. APA juga bisa bersifat bilateral/multilateral yang dalam praktiknya dapat melibatkan dua atau lebih otoritas pajak (berbeda yurisdiksi).

Wajib Pajak dapat mengajukan permohonan APA secara tertulis kepada Direktorat Jenderal Pajak (DJP) melalui Kantor Pelayanan Pajak tempat terdaftar. Berdasarkan PER-17/PJ/2020, Wajib Pajak dimungkinkan untuk mengubah permohonan APA bilateral menjadi APA unilateral dalam waktu 10 hari sejak tanggal diterimanya pemberitahuan tertulis.

Ada beberapa hal yang harus diperhatikan oleh Wajib Pajak ketika mengajukan permohonan APA. Pertama, permohonan kesepakatan harga transfer harus mengacu pada prinsip kewajaran dan kelaziman usaha atau *Arm's Length Principle*.

Kedua, APA yang dimohonkan tidak mengakibatkan laba operasi perusahaan menjadi lebih kecil dari laba usaha yang dilaporkan dalam Surat Pemberitahuan (SPT) Tahunan Pajak Penghasilan (PPh) badan tiga tahun sebelum pengajuan.

JAKARTA. Directorate General of Taxes (DGT) simplifies and strengthens procedures for the implementation of transfer price agreements on affiliated transactions or *Advance Pricing Agreements* (APAs), and also provides special treatment for Taxpayers affected by the Covid-19 pandemic.

This policy is contained in Director General of Taxes (DGT) Regulation Number PER-17/PJ/2020, which is an implementing regulation of Minister of Finance (MoF) Regulation Number 22/PMK.03/2020 on Procedures for Implementation of *Advance Pricing Agreements*.

APA is an initial agreement between multinational companies and tax authorities in connection with the determination of fair transaction prices between parties that have a special relationship. The aims are to avoid the risk of double taxation, provide legal certainty regarding transfer prices, avoid recurring tax corrections, and make financial planning more definitive.

APA is not only unilateral, where formed relationships involve only taxpayers with one tax authority. APA can also be bilateral/multilateral which in practice can involve two or more tax authorities (different jurisdictions).

Taxpayers can apply for APA in writing to the DGT through the Tax Office where it is registered. Based on PER-17/PJ/2020, Taxpayers can change the application for a bilateral APA to a unilateral APA within 10 days from the date of receipt of the written notification.

There are a few things that Taxpayers should consider when applying for APA. First, the application for a transfer price agreement should refer to the arm's length principle.

Second, APA being applied does not result in making the company's operating profit smaller than the operating profit reported in the Annual Corporate Income Tax (CIT) Return three years before the filing.

Third, APA's application is fulfilled as long as the lowest profit level in the projected financial statements during the APA period is

Ketiga, permohonan APA terpenuhi sepanjang tingkat laba yang paling rendah dalam proyeksi laporan keuangan selama Periode APA lebih besar atau sama dengan tingkat laba yang paling rendah dalam SPT Tahunan PPh badan tiga tahun pajak sebelum pengajuan. Tingkat laba tersebut merupakan rasio antara laba sebelum pajak atau penghasilan neto komersial dengan peredaran usaha atau rasio antara laba sebelum pajak atau penghasilan neto komersial dengan total biaya.

DJP akan mempertimbangkan permohonan Wajib Pajak berdasarkan kriteria-kriteria yang menjadi dasar penetapan harga transfer, antara lain: identitas pihak afiliasi, transaksi afiliasi yang termasuk dalam APA, metode penentuan harga transfer yang digunakan dan cara penerapannya, serta asumsi kritis yang mempengaruhi harga transfer.

Dalam prosesnya, DJP dapat mengawasi dan mengevaluasi kepatuhan Wajib Pajak dalam melaksanakan kesepakatan berdasarkan kesesuaian kriteria yang disepakati dalam APA. Muaranya, DJP dapat melakukan peninjauan kembali atau pembatalan APA jika terjadi ketidaksesuaian dengan kesepakatan APA.

Terganggu Pandemi

Melalui PER-17/PJ/2020, otoritas pajak juga memberikan ruang bagi Wajib Pajak yang bisnisnya terdampak COVID-19 untuk menyesuaikan tingkat laba dalam proyeksi laporan keuangan, disertai penjelasan sesuai dengan format lampiran yang telah ditentukan.

Informasi yang harus diungkap Wajib Pajak dalam formulir proyeksi laporan keuangan terdampak Covid-19 adalah: komponen peredaran usaha, harga pokok penjualan (HPP), laba kotor, biaya operasi, laba operasi, penghasilan/beban lain-lain, dan laba bersih.

Selain itu, juga terdapat rasio keuangan yang perlu dilengkapi, meliputi: rasio laba kotor terhadap peredaran usaha, rasio laba kotor terhadap HPP, rasio laba operasi terhadap peredaran usaha, serta rasio laba operasi terhadap HPP ditambah biaya operasi.

Untuk penjelasan terkait proyeksi laporan keuangan terdampak Covid-19, Wajib Pajak harus menjelaskan penyesuaian kondisi normal terkait peredaran usaha, HPP, biaya operasi dan penghasilan/beban lain-lain.

Pemberlakuan Peraturan Direktur Jenderal ini sekaligus mencabut PER-69/PJ/2010 tentang Kesepakatan Harga Transfer. Peraturan ini mulai berlaku pada tanggal ditetapkan yaitu 17 September 2020. (ASP/AGS)

*Catatan:

Ketentuan ini mengacu pada draft Undang-Undang Cipta Kerja yang naskah resminya masih dalam tahap finalisasi di Badan Legislasi DPR. Semua kebijakan baru yang tertulis di atas masih mungkin berubah mengingat Mahkamah Konstitusi membuka ruang uji materi UU Cipta Kerja

greater or equal to the lowest profit level in the Annual CIT Return for three tax years before the filing. The profit rate is the ratio between profit before tax or commercial net income and revenue or the ratio between profit before tax or commercial net income and total expenses.

DGT will consider the Taxpayer's application based on the criteria that form the basis for setting the transfer price, including: the identity of affiliated parties, affiliated transactions included in APA, the transfer pricing method used and how it is applied, as well as critical assumptions that affect the transfer price.

In the process, DGT can monitor and evaluate the compliance of the Taxpayer in implementing the agreement based on the conformity of the criteria agreed in the APA. In the end, the DGT may conduct a review or cancellation of APA if there is non-conformity with the APA.

Disrupted by Pandemic

Through PER-17/PJ/2020, the tax authorities also provide opportunities for Taxpayers whose businesses are affected by Covid-19 to adjust the profit level in the projected financial statements, accompanied by an explanation according to the predetermined attachment format.

Information that must be disclosed by Taxpayers in the projected financial report form affected by Covid-19 is: components of revenue, Cost of Goods Sold (COGS), gross profit, operating cost, operating profit, other incomes/expenses, and net income.

Also, there are financial ratios that need to be completed, including: ratio of gross profit to revenue, ratio of gross profit to COGS, ratio of operating profit to revenue, and ratio of operating profit to COGS plus operating expenses.

For an explanation of the projected financial statements affected by Covid-19, Taxpayers must explain the normal conditions adjustments related to revenue, COGS, operating expenses, and other incomes/expenses.

The enactment of the Regulation of the Director General of Taxes at the same time revokes PER-69/PJ/2010 on Transfer Price Agreements. This regulation comes into force on the date of the stipulation, which is 17 September 2020.

**Disclaimer:*

These provisions refer to the draft of the Job Creation Law the official text of which is still in the finalization process at the House of Representatives (DPR) Legislation Body. All new policies mentioned may still change considering that the Constitutional Court has opened the possibility of review for the Job Creation Law.

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Wahyu Nuryanto
Tax Partner
wahyu.nuryanto@mucglobal.com

Karsino
Tax Partner
karsino@mucglobal.com