Discussion on Paper:

# Review of the Implications for Indonesia of the OECD/G20 Inclusive Framework's Two-Pillar Solution to Deal With the Tax Challenges of the Digital Economy

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# Paper pg.24-30: Major Implications of the Pillar Two Minimum Tax/UTPR for Indonesia

**From the Indonesian taxpayers (MNC) perspectives:**

1. (To comment para.75) We anticipate MOF/DGT will set new domestic regulations, probably follow the Model Rules provided by the OECD, fully or partially.
   - How complicated will the regulations be?
   - Additional compliance and administrative cost
   - Additional risk: audit and dispute
   - Taxpayers are already regulated heavily with rules of TP (ALP, TP docs and CbCR), CFC, anti treaty shopping, and DER, and other domestic.

2. (To comment para.80-82) MNCs commonly approach global market and fund, then set up intermediaries. Yet, few residents still utilize low tax jurisdictions.

   The top-up tax under minimum tax scheme paid by Indonesian MNC may be not too significant for DGT, but:
   - DGT must allocate resource to monitor and enforce,
   - All Indonesian MNCs, while struggle to survive in global competition, must bear risk and burden.
   - Discouraging local companies to become global players.

   We must believe that AEOI will create a conducive environment and improve compliance, but it needs more time to see a significant effect.

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**From the Indonesian taxpayers (MNC) perspectives:**

3. Para.87 provides suggestions to ensure Indonesia imposes tax at an effective rate of at least 15% on all Indonesian CEs of MNE groups doing business in Indonesia.

   Comments:

   a. Since 2020 Government has promoted ease of doing business by reducing corporate tax rate from 25% to 22%.
   b. Converting other non tax levies, like coal/mineral royalties may confuse allocation base for local government stakes.
   c. Somehow, MOF/DGT should think how to retain foreign MNC to present in Indonesia, otherwise, cost of business may hike up.

4. We currently perceive the Government eager to promote business and investment. Some evidences:

   - Tax rate reduction,
   - Loosen CFC rules,
   - Offshore and onshore source dividend exemption,
   - Many other fiscal incentives.

   The implementation of Pillar Two, especially Minimum Tax/UTPR can be seen by businesses as an indication of changes in government fiscal policies that are already friendly to trade and investment, so that they can disrupt the current momentum.

# Paper pg.30-34: Major Implications of the Pillar Two Subject-to-Tax Rule (STTR) for Indonesia

**From the Indonesian taxpayers (MNC) perspectives:**

Point 94: the STTR allows Indonesia to request that its tax treaties with developed countries participating in Pillar Two be modified to allow Indonesia to impose a 9% withholding tax on payment of interest, royalties and certain payment for services by residents of Indonesia to residents of the contracting state.

Comments:

- Commonly Indonesian payer bear the withholding tax on payment of interest, royalties and service fees (net of tax).
- Higher withholding tax rate may increase cost, i.e. cost of fund.
- In most cases, the withholding tax borne by Indonesian taxpayer is not tax deductible, unless such tax is grossed up.
- For interest and royalties, the effect of STTR may be neutral, amid reduced withholding tax rate of 10% on bond interest paid to non resident.
- For services, including rental income which applies article of business profit that currently is not taxed based on certain tax treaty (France and Switzerland), the effect of STTR implementation may create additional burden only if the Indonesian payer borne such tax.

# Final comments

**From the Indonesian taxpayers (MNC) perspectives:**

Effect of Pillar Two implementation for Indonesian MNCs:

- Risk: interpretation, audit and more tax dispute
- Additional tax and administrative efforts
- Less competitive
- Swing the business perception to government (disrupt the momentum)
- Balance of tax revenue and resources allocation

To tackle profit shifting conducted by Indonesian MNC:

- MOF/DGT will issue general anti avoidance rules (under way)
- Effective monitoring on TP, CFC, anti-treaty shopping, thin cap/DER
- Utilize abundance AEOI and domestic financial data

**Suggestion:**

Pillar Two implementation should only cover MNCs that produce heavily digitalized products/services?

Thank you