



Exchange of Information: Indonesian Experience in Automatic Exchange of Financial Account Information in Tax Matters, and EOI Development in ASEAN

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Exchange of Information Legal Basis



Domestic legal basis:

- Income Tax Law;
- Government Regulation in Lieu of Law number 1 year 2017 (Information Access for Tax Purposes)
- Government Regulation number 74 year 2011;
- Ministry of Finance Regulation number 39/PMK.03/2017 (EOI provisions and procedures); and
- Ministry of Finance Regulation number 70/PMK.03/2017 as amended by Ministry of Finance Regulation number 73/PMK.03/2017 (AEOI in Financial Account provisions and procedures)



Exchange of Information Legal Basis



International legal basis

Double Tax Treaties

(65 of 67 DTT have EOI provisions)

Tax Information Exchange Agreement

(Jersey, Guernsey, Isle of Man, and Bermuda)

Convention on Mutual Administrative Assistance in Tax Matters (MAC)

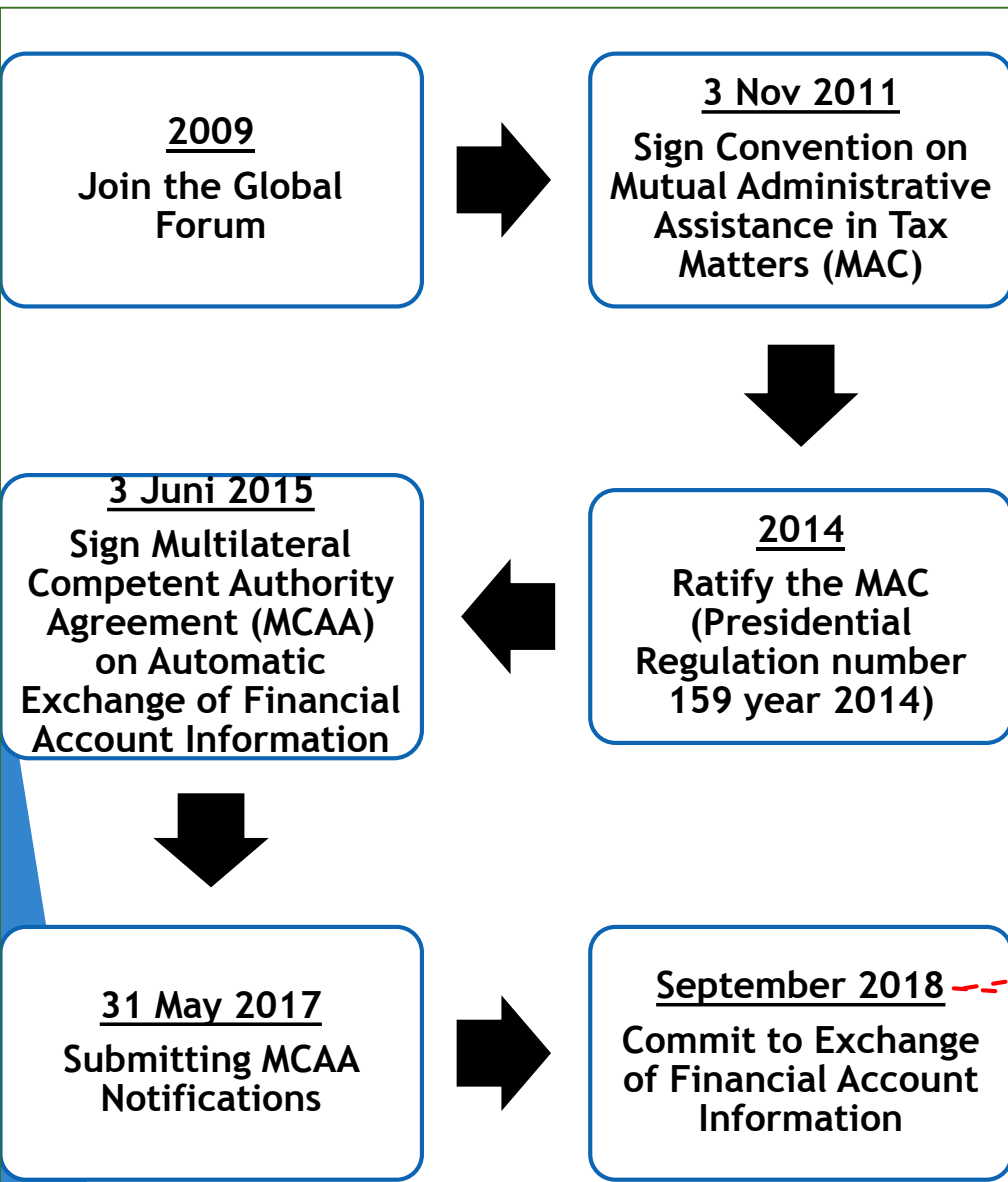
(111 countries/jurisdictions have signed as of 12 June 2017)

Legal basis on implementation of **Automatic Exchange of Information**

- **Multilateral Competent Authority Agreement (MCAA) on Automatic Exchange of Financial Account Information**
- **Multilateral Competent Authority Agreement (MCAA) Country-by-Country Reporting**
- **Bilateral Competent Authority Agreement (BCAA) on Automatic Exchange of Financial Account Information with Hong Kong**



AEOI of Financial Account Commitment



Global Forum on Transparency and Exchange of Information for Tax Purposes
As at June 2017

AEOI: STATUS OF COMMITMENTS
(101 jurisdictions have committed)

The table below summarises the intended implementation timelines of the new standard.¹

JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2017 (50)
Anguilla, Argentina, Belgium, Bermuda, British Virgin Islands, Bulgaria, Cayman Islands, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Faroe Islands, Finland, France, Germany, Gibraltar, Greece, Greenland, Guernsey, Hungary, Iceland, India, Ireland, Isle of Man, Italy, Jersey, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Montserrat, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sweden, Turks and Caicos Islands, United Kingdom
JURISDICTIONS UNDERTAKING FIRST EXCHANGES BY 2018 (51)
Andorra, Antigua and Barbuda, Aruba, Australia, Austria, The Bahamas, Bahrain, Barbados, Belize, Brazil, Brunei Darussalam, Canada, Chile, China, Cook Islands, Costa Rica, Curaçao, Dominica, Ghana, Grenada, Hong Kong (China), Indonesia, Israel, Japan, Kuwait, Lebanon, Marshall Islands, Macao (China), Malaysia, Mauritius, Monaco, Nauru, New Zealand, Niue, Pakistan, Panama, Qatar, Russia, Saint Kitts and Nevis, Samoa, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sint Maarten, Switzerland, Trinidad and Tobago, Turkey, United Arab Emirates, Uruguay, Vanuatu



4 Core Requirements to Implement the AEOI Standard



Requirement 1: International Legal Basis for AEOI

Tax treaties

Convention on Mutual Administrative Assistance in Tax Matters (MAC)

Multilateral Competent Authority Agreement

- Signed in 2015
- Notifications of Activation have been sent to the Coordinating Body on 31 May 2017

Bilateral Competent Authority Agreement with Hong Kong

Requirement 2: Domestic Legal Basis for AEOI

Primary Legislation: Government Regulation in Lieu of Law number 1 year 2017:

- Granting access of information to Indonesian tax authority;
- Requiring/obliging financial institutions to perform reporting and due diligence procedures

Secondary legislation: Ministry of Finance Regulation number 70/PMK.03/2017 → MoFR number 73/PMK.03/2017

- Reporting and due diligence rules according to Common Reporting Standard

Requirement 3: IT and Administrative infrastructure

Common Transmission System

Requirement 4: Confidentiality and data safeguard

Has been assessed in 2016. Currently, Indonesia is still working on the Action Plan of Common Active Directory Implementation

The Action Plan shall be accomplished by September 2017.



Indonesian Challenges and Priorities in Implementing AEOI



Challenges:

Making primary legislation to meet international standard

Solution:

Enact of Government Regulation in Lieu of Law number 1 year 2017 about Access to Financial Information for Tax Purposes

Meeting the IT infrastructures and confidentiality and data safeguard requirements

Solution:

Accomplish Action Plan of Common Active Directory Implementation by September 2017

Maintaining conducive economic, investment, and banking industries

Solution:

Convince our residents, the Parliament, banking industries, and other stakeholders that AEOI is only for tax purposes.

Priorities:

Immediate (short-term):

Meeting all the four core requirements by September 2017

Long-term:

Improving EOI implementation by adopting any updated international standards



The Importance of AEOI for Indonesia



Executing post-tax amnesty program.

Preventing and detecting tax avoidance or evasion through Offshore Financial Center all around the world will create equality for every Indonesian residents.

Increasing Indonesian tax ratio to 14%.

Supporting Indonesian tax reform.



AEOI Benefits for Indonesia



To actively participate in global transparency and exchange of information for tax purposes

To prevent and detect tax avoidance or evasion through Offshore Financial Center

To enlarge tax authority database in order to increase Indonesian tax ratio

To strengthen Indonesian EOI network to more than 140 countries/jurisdictions all over the world

To encourage Indonesian residents to repatriate their assets hidden abroad



Exchange of Information Strategic Action Plan 2016-2025 for ASEAN Tax Cooperation

(as of 1 July 2016)



Strategy:

Improve the implementation of EOI in accordance with international standards

Policy action:

Improve implementation of EOI for tax purpose among ASEAN member states

End goals:

Improve collaboration in EOI cooperation among ASEAN member states

Quantifiable Targets

2016-2017	2018-2019	2020-2021	2022-2025
<ol style="list-style-type: none"> Enhance the understanding and establish level playing field among ASEAN member states on the implementation EOI; Update on any international development on EOI; Encourage all ASEAN member states to join the Global Forum. 	<ol style="list-style-type: none"> Continuously update on any international development on EOI; Improve the EOI implementation by adopting current international standards, for example AEOI under Common Reporting Standard. 	<ol style="list-style-type: none"> Formulate action plan to identify EOI issues; Continuously update on any international development on EOI. 	<ol style="list-style-type: none"> Implement agreed action plan to address all issues related to the EOI cooperation; Continuously update on any international development on EOI.



Challenges in the Development of EOI Cooperation in ASEAN



Minimum EOI cooperation among ASEAN member states provided that not all ASEAN member states connected by Double Tax Treaty.

Difficulty in creating a level playing field due to the fact that minimum international cooperation participations in EOI matters:

- 1. Member of the Global Forum: Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore, Thailand;**
- 2. Signatories of Convention on Mutual Administrative Assistance in Tax Matters (MAC): Indonesia, Malaysia, Philippines, Singapore;**
- 3. Signatories of Multilateral Competent Authority Agreement (MCAA): Indonesia, Malaysia, Singapore;**
- 4. Signatories of Country-by-Country Reports MCAA: Indonesia, Malaysia, Singapore;**
- 5. Commitment to Automatic Exchange of Financial Account Information in tax matters: Brunei Darussalam, Indonesia, Malaysia, Singapore.**

Difficulty in creating a level playing field in terms of legislations, human resources capability, and IT infrastructures for EOI in tax matters among ASEAN member states.



THANK YOU