

DESIGN OF INDONESIA'S TRANSFER PRICING POLICY TO ANTICIPATE TAX DISPUTES: A STUDY BASED ON INTERNATIONAL BEST PRACTICES

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Abstract

Transfer pricing disputes are a crucial issue in Indonesia, creating legal uncertainty and high costs for both taxpayers and tax authorities. This study aims to analyze Indonesia's transfer pricing policy design in anticipating disputes by conducting a comparative review based on international best practices. Using a qualitative approach with a comparative document analysis method, this research compares Indonesia's policy framework with that of Malaysia, Singapore, India, and Australia, with primary data sourced from OECD country profiles. The analysis reveals that although Indonesia's regulatory foundation is aligned with international standards, there are significant weaknesses in its dispute prevention aspects. These weaknesses include the absence of a comprehensive safe harbour mechanism, a purely punitive sanction philosophy without incentive elements, and a lack of efficient alternative domestic dispute resolution channels. This study concludes that a paradigm shift is needed from a reactive approach towards a proactive and preventive policy design. Key recommendations include the development of practical safe harbours, the introduction of an incentive-based sanction system, and the establishment of a more efficient domestic dispute resolution mechanism to enhance legal certainty and reduce the frequency of disputes.

Keywords: *Transfer Pricing, Policy Design, International Best Practice, Arm's Length Principle*

INTRODUCTION

In the era of economic globalization, the role of multinational enterprises (MNEs) has become increasingly dominant, with operations integrated across jurisdictional borders. An inevitable consequence of this integration is the emergence of transactions between affiliated entities. The pricing of these transactions involving goods, services, intangible assets, and financial dealings between related parties is known as transfer pricing [1]. Conceptually, transfer pricing is a legitimate and necessary business policy for achieving efficiency and synergy within a corporate group [2] [3]. However, in the context of international taxation, the practice often carries a negative connotation due to its potential for use as a tool for aggressive tax planning through profit shifting schemes [4] [5]. MNEs can manipulate transfer prices to shift profits from high-tax jurisdictions to lower-tax jurisdictions, a practice known as abusive transfer pricing, which significantly erodes the tax base of nations [2] [6]. This phenomenon makes transfer pricing one of the most complex and critical areas of oversight for tax authorities worldwide, including Indonesia's Directorate General of Taxes (DGT) [7].

The Indonesian government's awareness of this tax avoidance risk is reflected in the evolution of its regulations over several decades. The initial provision on transfer pricing was introduced in Article 18(3) of Income Tax Law No. 7 of 1983, which granted the DGT the authority to redetermine the income and deductions of taxpayers with special relationships, although this regulation was very general in nature [8] [9]. The first technical guidance emerged in 1993 through a series of circulars and decrees from the Director General of Taxes [9]. A significant leap towards

modernization occurred between 2010 and 2013 with the issuance of Director General of Taxes Regulation No. PER-43/PJ/2010, later refined by PER-32/PJ/2011. This regulation explicitly adopted the Arm's Length Principle (ALP) and introduced the concept of "the most appropriate method," a crucial shift towards international best practices [7] [10]. Subsequently, in response to the global OECD/G20 initiative on the Base Erosion and Profit Shifting (BEPS) project, Indonesia adopted Action 13 through Minister of Finance Regulation No. 213/PMK.03/2016, which officially mandated three-tiered documentation (OECD, 2015). The culmination of this evolution is the consolidation and refinement of regulations through Minister of Finance Regulation No. 172/PMK.03/2023 (PMK-172), which not only reinforces the application of the ALP but also provides more detailed rules on the Mutual Agreement Procedure (MAP) and Advance Pricing Agreements (APAs) [4] [11] [12] [13].

Despite the continuous refinement of the regulatory framework, transfer pricing disputes remain a dominant issue in the Indonesian tax landscape. Disputes generally originate from the tax audit process, where the DGT makes adjustments to the transfer prices reported by taxpayers for not complying with the ALP, which then triggers lengthy and costly objection and appeal processes [1] [3] [14]. The scale of these disputes is concerning, with estimated tax losses for Indonesia related to this practice reaching IDR 68.7 trillion in 2020 [15]. Globally, the number of MAP cases, dominated by transfer pricing disputes, nearly doubled between 2010 and 2020, with an average resolution time of 35 months [15]. Domestic data from the Tax Court also show a high volume of disputes, with 737 rulings related to related-party transactions between 2019 and 2023 [9] [10]. Interestingly, the outcomes of these disputes indicate a high degree of uncertainty, with 61% of taxpayer appeals being granted (in whole or in part) [9]. This high success rate for taxpayers suggests potential weaknesses in the tax authority's audit process and argumentation, ultimately creating legal uncertainty for both parties and highlighting the inefficiency of a reactive policy approach [8] [9] [14].

This situation highlights a gap in the literature and policy practice. Most discussions on transfer pricing in Indonesia tend to focus on compliance and technical audit aspects, while comparative analysis specifically examining policy design elements that serve as dispute prevention instruments remains limited. There is an inadequate understanding of how other countries that are major economic partners and competitors of Indonesia—such as Malaysia, Singapore, India, and Australia—design their frameworks to create legal certainty and reduce friction. These countries exhibit a spectrum of approaches; Australia, for example, explicitly mandates consistency with the OECD Transfer Pricing Guidelines in its legislation, while Malaysia recently made its guidelines legally binding [16] [17]. On the other hand, Singapore and India offer various practical safe harbour provisions for low-risk transactions, an area still under consideration in Indonesia [18] [19] [20]. These fundamental differences in policy design could potentially explain the variations in the frequency and intensity of transfer pricing disputes.

Therefore, this research aims to analyze the key elements in Indonesia's transfer pricing policy framework relevant to dispute prevention, conduct a comparative analysis of these elements with the policies in Malaysia, Singapore, India, and Australia, identify best practices and innovative policy designs from the comparator countries, and formulate concrete policy recommendations for Indonesia. Ultimately, this study seeks to answer the main research question: How is the design of Indonesia's transfer pricing policy based on international best practice to anticipate tax disputes?

METHOD

This research employs a qualitative approach with a comparative literature study design focusing on document analysis. According to Creswell (2014), qualitative research is "an approach for exploring and understanding the meaning individuals or groups ascribe to a social or human problem" [21]. This approach was chosen because it is highly suitable for the research objective, which is to gain a deep and rich understanding of how transfer pricing policy designs in various countries function to anticipate disputes, a goal that cannot be optimally achieved through a quantitative approach focused on measuring frequency or correlation. The document analysis design allows the researcher to systematically examine and evaluate documents to interpret a phenomenon (Bowen, 2009), where in this context, the phenomenon under investigation is the design of dispute mitigation policies [22].

Data collection in this study follows the framework outlined by Silverman (2016) regarding document analysis, which emphasizes the importance of assessing the authenticity, credibility, and representativeness of documents [23]. The primary and main data source for this research is the Transfer Pricing Country Profiles documents published by the OECD for the five countries under study: Indonesia, Malaysia, Singapore, India, and Australia. These documents were selected because they meet high criteria for credibility and representativeness, given that they are compiled by the OECD based on information provided directly by the tax authorities of each jurisdiction and are presented in a standardized format that allows for direct comparison. To provide a broader theoretical and empirical context, this study also utilizes secondary data collected through a systematic literature review of reference books, internationally indexed journal articles, and statistical reports from relevant institutions. The data collection process from primary sources was conducted purposively and structurally, where data was extracted from each Country Profile based on a series of predetermined categories aligned with the research objectives, such as the legal status of the OECD TPG, availability of APAs, existence of safe harbours, sanction philosophies, and dispute resolution mechanisms.

Data analysis uses a comparative qualitative content analysis method, following the stages outlined by Creswell (2014), which include organizing the data, thorough reading, coding, developing themes, and interpretation. The data extracted from the five Country Profiles were organized into a comparative matrix to reduce the data into a concise format [21]. Subsequently, a horizontal comparison across countries was conducted to identify patterns, differences, and similarities, which were then used to develop broader analytical themes such as "Spectrum of Legal Certainty" and "Compliance Philosophy: Punitive vs. Incentive." In the final stage, these themes were interpreted through the lens of the established theoretical framework to answer the main research question.

This method has several significant advantages for the purpose of identifying international best practices. A qualitative approach allows the researcher to "delve deeper, beyond the surface to uncover the nuances and complexities" of policy texts (Bowen, 2009), which is crucial for a topic laden with legal and technical details [22]. Furthermore, the use of standardized OECD documents as a primary data source provides a high degree of reliability and comparability, which is a strong foundation for a comparative study. This method is ideal for identifying best practices because the richness of the textual data in the Country Profiles allows for the efficient and in-depth identification of practices that have proven successful in other jurisdictions [23].

RESULTS AND DISCUSSION

3.1. Analysis of the Causes and Types of Transfer Pricing Disputes

Before comparing policy designs across countries, it is essential to understand the root causes and typology of common transfer pricing disputes, particularly within the context of tax audits in Indonesia. These disputes are not merely technical issues but are the result of a complex interplay of economic motivations, information asymmetry, and regulatory ambiguity. A transfer pricing dispute fundamentally arises from a conflict of interest between the taxpayer and the tax authority. The taxpayer, in this case, a multinational enterprise, rationally aims to maximize global profits, often realized through tax planning to minimize the overall tax burden, while the tax authority is mandated to protect the state's tax base and ensure that profits generated from economic activities within its jurisdiction are taxed fairly [1] [2] [24].

This inherent conflict is exacerbated by several key factors. A crucial factor is the subjectivity and complexity of the ALP itself, which is not an exact science, thus opening a wide scope for differing interpretations between the taxpayer and the tax auditor regarding what is considered "arm's length" [1] [14] [24]. Another factor is information asymmetry, where the taxpayer has a much deeper understanding of its business, while the tax auditor is often skeptical of the information presented. Furthermore, regulatory ambiguity, where "grey areas" or a lack of specific guidance for complex transactions exist, also triggers disputes, as stated by Firmansyah (2020) that transfer pricing regulations still lack a strong foundation [2] [24]. The limited availability of reliable comparable data and the behavior of tax auditors themselves, such as revenue targets or aggressive approaches, can also lead to adjustments without in-depth analysis, which are then easily overturned on appeal [8] [14].

An analysis of Tax Court rulings in Indonesia reveals recurring patterns of disputes. Based on a study by Sari & Adhari (2023) of 737 rulings from the 2019-2023 period, the most dominant area of dispute is the selection of the transfer pricing method, accounting for 25% of all cases, where tax auditors often reject the method used by the taxpayer and apply another deemed more appropriate. Following this, disputes over comparability analysis are the second largest area (20% of cases), covering debates on the selection of comparable companies, the use of multi-year versus single-year data, and differing views on the taxpayer's business characterization [1] [9] [11] [13].

Intra-group service transactions are also highly prone to disputes (15% of cases), where auditors often challenge the existence and economic benefit of the services provided, as well as the reasonableness of the fees charged [2][9][14][24]. Similar to services, royalty disputes (14% of cases) center on proving the existence and economic benefit of the licensed intangible property, with a common argument from auditors being that royalty costs should not be charged separately as they are already included in the purchase price of goods [9]. Lastly, the application of secondary adjustments, where the adjustment difference is treated as a deemed dividend, often becomes an additional point of contention raised by taxpayers. Understanding these dominant causes and types of disputes is a crucial foundation for analyzing how policy designs in other countries can offer more effective preventive solutions.

3.2. Comparative Analysis of Frameworks for Dispute Mitigation

This section presents an in-depth comparative analysis of the transfer pricing policy frameworks in Indonesia and four comparator countries: Malaysia, Singapore, India, and Australia. The analysis focuses on policy elements that directly or indirectly serve to anticipate and mitigate potential tax disputes. To provide a general overview, Table 1 presents a matrix comparing the key policy features in the five countries.

Tabel 1: Matriks Komparatif Kebijakan Mitigasi Sengketa Transfer Pricing

Policy Feature	Indonesia	Malaysia	Singapura	India	Australia
Status of OECD TPG	Interpretative tool, domestic regulations prevail.	Guidelines based on TPG are legally binding since 2024.	Domestic guidance largely follows TPG but is not legally binding.	Useful reference, domestic regulations prevail.	Required by law to be applied consistently with TPG.
Availability of APA (U/B/M)	Yes (Unilateral, Bilateral, Multilateral).	Yes (Unilateral, Bilateral, Multilateral).	Yes (Unilateral, Bilateral, Multilateral).	Yes (Unilateral, Bilateral, Multilateral).	Yes (Unilateral, Bilateral, Multilateral).
Availability of Safe Harbour/Simplification	None; under consideration.	Only for Low Value-Adding Services (LVAS).	Yes, for LVAS (5% mark-up) & loans (indicative margin).	Yes, for LVAS ($\leq 5\%$ mark-up) & other transactions.	Yes, 7 record-keeping simplification options (not a literal safe harbour).
Documentation Sanction Philosophy	Punitive: 50% penalty on adjustment in case of audit.	Highly Punitive: potential for large fines or imprisonment.	Punitive: fine up to SGD 10,000 & 5% surcharge on adjustment.	Punitive: 2% penalty on transaction value.	Incentive-based: quality documentation for Reasonably Arguable Position (RAP) to mitigate penalties.
Alternative Domestic Dispute Resolution Mechanism	None specific beyond standard appeal channels.	Informal dispute resolution process to avoid court.	None specific.	Yes, Dispute Resolution Panel (DRP) as a domestic	None specific.

Policy Feature	Indonesia	Malaysia	Singapura	India	Australia
				fast-track.	
Secondary Adjustment Rule	Yes, treated as a dividend.	No.	No.	Yes, treated as a dividend or loan.	No.
Corresponding Adjustment Rule	Only through Mutual Agreement Procedure (MAP).	Can be done unilaterally by tax authority post-audit.	Not specifically regulated.	Through MAP.	Through MAP.

3.3. Regulatory Foundation and the Role of International Guidelines: A Spectrum of Legal Certainty

The foundation of any effective transfer pricing regime is the level of legal certainty it offers. A key determinant of this certainty is the legal status afforded to international guidelines, particularly the OECD Transfer Pricing Guidelines (TPG). The comparative analysis reveals a clear spectrum in the adoption of the TPG, which directly correlates with the potential for interpretative disputes. Indonesia positions the TPG as an "interpretative tool to supplement domestic rules". The Minister of Finance Regulation No. 172/PMK.03/2023 (PMK-172) and its derivative regulations hold legal supremacy [20]. This stance, while common in many countries, creates potential ambiguity. Disputes can arise when the tax authority's interpretation of domestic regulations differs from the approach outlined in the TPG, which is often the reference point for multinational taxpayers.

In contrast, the comparator countries have taken steps to grant the TPG a stronger status, thereby reducing the room for differing interpretations. Australia provides the highest level of certainty by explicitly stating in its legislation (Division 815 of the Income Tax Assessment Act 1997) that the application of the arm's length principle must be done in a way that "best achieves consistency with the OECD Transfer Pricing Guidelines" [16]. This elevates the TPG from a mere guide to a legal benchmark.

Malaysia recently took a similar significant step. As of January 1, 2024, guidelines issued by the Director General of Inland Revenue, which are "largely based on the OECD Transfer Pricing Guidelines," are now "legally binding on both the taxpayers and the Inland Revenue Board of Malaysia (IRBM) officers" [17]. This move drastically increases tax certainty by ensuring both parties are bound by the same interpretative framework. Singapore and India occupy a middle ground. Singapore's transfer pricing guidelines "largely follow the key principles" of the TPG, but the guidelines themselves are outside the domestic legislation and are not legally binding [19]. Similarly, India considers the TPG a "useful reference," but its domestic rules, although "broadly in line" with the TPG, remain paramount [18].

This difference in approach is fundamental. Transfer pricing disputes often stem from

disagreements over how the arm's length principle should be applied to complex transactions. By granting strong legal status to the TPG, Australia and Malaysia effectively narrow the interpretative grey area. Conversely, Indonesia's policy design, which places domestic regulations absolutely above the TPG, grants greater discretion to the tax authority, which in turn becomes a source of uncertainty for taxpayers and a seed for potential disputes.

3.4. Proactive Mechanisms for Dispute Prevention: APAs and Safe Harbours

Proactive mechanisms are designed to provide upfront certainty and reduce compliance friction, thereby preventing disputes before they begin. The two main instruments in this category are Advance Pricing Agreements (APAs) and safe harbour provisions.

3.4.1. Advance Pricing Agreements (APA) as an Instrument of Proactive Certainty

There is a global consensus on the value of APAs as an effective dispute prevention tool. All countries analyzed, including Indonesia, offer comprehensive APA programs, covering Unilateral, Bilateral, and Multilateral options. This indicates that the institutional foundation for APAs in Indonesia is on par with international practice.

However, the true effectiveness of an APA program lies not just in its availability, but also in its accessibility, efficiency, and the scope of certainty it offers. In this regard, some countries exhibit superior features. India's APA program, initiated in the 2012-13 fiscal year, allows for a "rollback" of up to four years prior to the APA period, which can effectively provide tax certainty to taxpayers for up to nine years [18]. Singapore, on the other hand, implicitly encourages cross-jurisdictional cooperation by only allowing rollbacks for Bilateral and Multilateral APAs, but not for Unilateral APAs [19].

Indonesia's policy shows a noteworthy best practice. Within the framework of PMK-172, it is explicitly stated that an APA is "also very suitable for handling Hard-to-Value Intangibles (HTVI) transactions" [20]. Given that transactions involving hard-to-value intangibles are one of the most complex and frequent sources of disputes, this explicit recognition demonstrates a proactive stance by the Indonesian tax authority to provide certainty in the riskiest areas.

3.4.2. The Role of Safe Harbours and Simplification in Reducing Compliance Burdens

Herein lies the most significant difference between Indonesia and countries with best practices. Safe harbour provisions and other simplifications act as a system's safety valve, allowing tax authorities and taxpayers to focus their resources on high-risk transactions while providing clear and simple rules for low-risk ones.

Indonesia's framework in this area is still very limited. A simplified approach for basic marketing and distribution activities is still "under consideration and being evaluated," and no other safe harbour provisions are mentioned in the current regulations [20]. This absence forces a wide range of common and low-risk transactions to bear the full burden of transfer pricing compliance, which is inefficient and can trigger unnecessary disputes.

In contrast, other countries have implemented mature regimes. Singapore offers highly specific and practical safe harbours. Examples include the application of a "5% cost mark-up for routine support services" and an "indicative margin" for related-party loans not exceeding SGD 15 million [19]. These clear rules eliminate ambiguity for very common transactions. India provides a safe harbour for the "receipt of low value-adding intra-group services" with a mark-up not exceeding 5% of the cost, provided the transaction value does not exceed INR 100 million [18].

Australia implements a sophisticated system of "simplified transfer pricing record-keeping options" covering seven categories of low-risk transactions or taxpayers, such as small taxpayers, distributors, and low value-adding services (LVAS). Although not technically a "literal safe

harbour" as it does not negate the application of the law, this mechanism serves to "minimize the record-keeping burden for eligible taxpayers" [16], effectively reducing the likelihood of documentation disputes in these cases. Malaysia is more limited, with simplification measures currently only available for "low value-adding intra-group services" [17].

The absence of a comprehensive safe harbour framework in Indonesia is a significant design flaw. It not only burdens taxpayers with routine transactions with disproportionate compliance costs but also encumbers the entire tax system by creating thousands of potential friction points that can trigger audits and disputes in areas that should be avoidable.

3.5. Certainty Through Documentation and Specific Transaction Guidance

3.5.1. Documentation Regime: Balancing Compliance and Dispute Prevention

Transfer pricing documentation requirements and the associated penalty regime can be designed to either foster an adversarial relationship or encourage good-faith compliance. This analysis reveals two fundamentally different philosophies.

Indonesia, in line with BEPS Action 13, requires three-tiered transfer pricing documentation (Master File, Local File, and Country-by-Country Report/CbCR). However, its penalty philosophy is purely punitive. If a tax audit results in a transfer pricing adjustment, an Underpaid Tax Assessment Letter will be issued "with a penalty in the form of an increase of 50%" of the underpaid tax [20]. This approach positions the documentation primarily as a tool for the tax authority during an audit, with the threat of severe penalties as the main driver of compliance. Malaysia takes an even stricter approach, where failure to provide documentation can be considered a "criminal offence" punishable by large fines or even imprisonment [17]. Singapore and India also apply punitive penalty regimes [19] [18].

Australia presents a contrasting and innovative philosophy. Although documentation is also required, the primary incentive is penalty mitigation. Taxpayers are encouraged to prepare high-quality documentation to establish a "Reasonably Arguable Position (RAP)." By having a RAP, taxpayers can avoid administrative penalties even if the tax authority ultimately makes a transfer pricing adjustment [16].

This approach fundamentally changes the dynamic. The ultimate goal of documentation is to encourage taxpayers to conduct a thorough self-assessment. A punitive approach like Indonesia's may ensure that taxpayers prepare some document for fear of the consequences, but it does not guarantee the quality or sincerity of the analysis within. In contrast, Australia's incentive-based approach motivates taxpayers to prepare high-quality and defensible documentation, as it serves as "insurance" against penalties. This promotes substantive compliance, not just formal compliance, and inherently creates a less confrontational environment. Adopting an incentive element like the RAP system could shift taxpayer behavior in Indonesia towards more proactive compliance and ultimately reduce the number and severity of disputes.

3.5.2. Addressing Grey Areas: Guidance for Services, Intangibles, and Financial Transactions

The absence of clear guidance for specific, particularly complex, transaction types is a major driver of disputes. Indonesia, through PMK-172, has established specific evidentiary requirements for intra-group service transactions, intangible assets, and financial transactions. This is a good foundation. However, there is a significant guidance gap for critical areas such as Low Value-Adding Services (LVAS) and Hard-to-Value Intangibles (HTVI). Regarding HTVI, Indonesia's framework explicitly states that it "does not have any provisions concerning HTVI at

this moment" [20].

This contrasts with practices in other countries. Singapore excels in this area by issuing highly detailed "Transfer Pricing Guidelines (Special Topic)" for areas such as "Commodity Marketing and Trading Activities" and "Centralised Activities in Multinational Enterprise Groups" [19]. This demonstrates a commitment to providing clarity in complex industry scenarios. Malaysia also has specific guidance for services (including LVAS) and intangible assets, and is developing guidance for financial transactions based on Chapter X of the TPG [17]. Conversely, India also lacks specific guidance for intangible assets and financial transactions, which could create significant uncertainty [18].

Disputes related to intangible asset transactions are often the most difficult and expensive to resolve. With no HTVI guidance, Indonesia is exposing itself to future disputes that could be avoided with clearer rules, which will ultimately burden both taxpayers and the tax court system.

3.6. Dispute Resolution Framework and Post-Audit Adjustments

This section examines the mechanisms available after a potential dispute has been identified, and how their design can either facilitate or hinder an efficient resolution.

3.6.1. Formal Resolution Mechanisms: MAP and Domestic Alternatives

Like other countries, Indonesia provides formal dispute resolution channels through the domestic appeals process (to the Tax Court) and the Mutual Agreement Procedure (MAP) for cross-jurisdictional disputes [20]. However, these processes are often slow and resource-intensive.

In this regard, India offers a unique and exemplary institutional innovation: the Dispute Resolution Panel (DRP). A taxpayer facing a draft transfer pricing adjustment has the option to take their case to the DRP—a "panel consisting of 3 senior tax officials"—before a final tax assessment is issued. The DRP's decision is binding on the tax authority, although the taxpayer still has the right to appeal further [18].

The value of this mechanism is immense. The DRP places the resolution in the hands of technical experts at an early stage of the process, before the positions of both parties have hardened. This creates an opportunity for a pragmatic and swift settlement, which can drastically reduce the number of cases that need to enter the already congested court or MAP systems. It is an explicitly designed dispute de-escalation path. Indonesia currently has no similar mechanism, and the establishment of a domestic expert panel like the DRP could be a transformative step for dispute resolution efficiency.

3.6.2. Secondary and Corresponding Adjustments: Implications for Dispute Finality

Two types of post-audit adjustments—secondary and corresponding—have significant implications for the complexity and finality of dispute resolution. Secondary Adjustments: These are adjustments that arise as a consequence of a primary adjustment. Indonesia and India both apply this rule, where the adjustment difference is treated as a deemed dividend (or loan) subject to additional tax [20] [18]. In contrast, Australia, Malaysia, and Singapore do not apply secondary adjustments. The absence of secondary adjustments simplifies dispute resolution; once the primary adjustment is agreed upon, the case is closed. The presence of this rule in Indonesia adds another layer of potential negotiation and dispute, complicating the path to finality.

Corresponding Adjustments: This is a downward adjustment on a domestic taxpayer to eliminate double taxation arising from an upward adjustment on its related party abroad. Indonesia's policy in this regard is very rigid: a corresponding adjustment is "only performed through the Mutual Agreement Procedure" [20]. This places the entire burden on the taxpayer and the lengthy MAP process to resolve the double taxation issue.

Malaysia demonstrates a very pragmatic and flexible approach. They "allow downward corresponding adjustments that arise from audits of transfer pricing cases," meaning the Malaysian tax authority can do so unilaterally without waiting for the MAP process, albeit still through an audit verification process [17]. This policy is highly dispute-prevention oriented. By proactively eliminating potential double taxation at the domestic level, Malaysia reduces the main trigger for taxpayers to initiate MAP requests.

CONCLUSION AND RECOMMENDATION

Conclusion

Based on the analysis conducted, it can be concluded that Indonesia's transfer pricing framework, particularly after the enactment of PMK-172, has comprehensively adopted the fundamental pillars of international standards. The adoption of the Arm's Length Principle (ALP), OECD-recognized methods, and three-tiered documentation requirements places Indonesia's regulatory foundation on par with the comparator countries. However, this research identifies that the main weakness lies not in this foundation, but in a policy design philosophy that tends to be reactive and punitive, rather than proactive and preventive. The comparative analysis of international best practices highlights several critical areas where Indonesia's policy design could be enhanced. These areas include the absence of proactive mechanisms like clear safe harbours for low-risk transactions, a reliance on a purely punitive sanction regime without incentive elements, and a lack of efficient and flexible alternative domestic dispute resolution channels.

Recommendation

Based on these findings, this study formulates several policy suggestions aimed at shifting the paradigm of Indonesia's transfer pricing policy towards one that is more oriented towards dispute prevention. The government is advised to design and implement a practical and clear safe harbour regime, especially for low value-adding services and intra-group loans of a certain value, to reduce compliance burdens and focus audit resources on high-risk areas. Furthermore, it is necessary to consider reforming the compliance philosophy by introducing incentive elements, such as a mechanism inspired by Australia's Reasonably Arguable Position scheme, where high-quality documentation can protect taxpayers from administrative penalties. To improve dispute resolution efficiency, it is also recommended to establish a domestic expert panel that serves as a dispute de-escalation channel before the formal objection process, similar to the Dispute Resolution Panel in India. Lastly, the possibility of providing greater flexibility in the application of corresponding adjustments at the domestic level should be explored to reduce the burden on the MAP process. The holistic implementation of these suggestions is expected to create a more certain, efficient, and less confrontational transfer pricing ecosystem, which will ultimately reduce the frequency and intensity of tax disputes in Indonesia.

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