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BEPS ACTION PLAN 13: DEFINITION, BENEFIT, CHALLENGE, AND CHANGE

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ABSTRACT
This paper describes the implementation of BEPS Action Plan 13: Definition, Benefit, Challenge, and Change. The research was conducted using qualitative. It used secondary data from OECD. Lyotard was used to analyzing the data. The research showed that BEPS Action Plan 13 significantly increased transfer pricing taxpayer compliance worldwide. However, amendments regarding materiality, competent authority agreement, time, and manner of information exchange are required. As a result, the policy can enhance the information that is made available, good, and consistent to the tax administration. The policy maker and tax consultant can use this research to create sufficient BEPS Action Plan 13 for taxpayers based on tax jurisdiction. Each jurisdiction has unique and different tax administrations to respond to the BEPS Action Plan 13. Especially in Indonesia, those concerned about BEPS Action Plan 13 must publish meta-narratives to speak up about the suitable policy for Indonesia’s taxpayers toward BEPS Action Plan 13. Publishing meta-narrative is available by using the Lyotard perspective. This paper presents descriptive guidance in managing transfer pricing documents, especially Country-by-Country Reporting (CbCR). The result served the idea from OECD as the guidance indicator and taxpayers or other stakeholders (who are interested in the Transfer Pricing Document). So, changes are needed to balance the requirement between OECD and stakeholders whenever the regulation could be implemented in each jurisdiction.

KEY WORDS
Transfer pricing, CbCR, tax jurisdiction.

In order to assist jurisdictions in eradicating BEPS, Action 13 of the OECD Project (G-20 Base Erosion and Profit Shifting - BEPS) includes Country-by-Country Reporting (CbCR). Action 13 demands Multinational Enterprises (MNEs) with revenues above EUR 750 million to submit an annual CbCR. The CbCR contains aggregate data for each jurisdiction in which MNEs operate their businesses. These data cover the distribution of global revenues, taxes paid, and specific indicators of the locations of MNEs' economic activities. The CbCR also provides information on which entities operate in which jurisdictions and the types of businesses conducted by each entity.

In order to assist tax administration in identifying and evaluating transfer pricing and other BEPS problems, CbCR was created. Additionally, the information gathered from CbCR is essential for economic and statistical analyses of the behavior of MNE and BEPS in general. The lack of information on corporate taxes makes it difficult to assess the financial and economic repercussions of tax evasion, which is why CbCR was created. The CbCR provides data on income distribution, taxes paid, business operations carried out by group members of MNEs in each country or jurisdiction, profits or losses, capital, and total retained earnings.

The OECD research findings consider the exclusions and data constraints outlined in the interpretation. The data first reveals a discrepancy between where business is conducted and where profit is made. Second, where statutory Corporate Income Tax (CIT) rates are zero and in investment hubs, incomes per employee tend to be higher. Third, MNEs in investment centers have a higher proportion of related party revenue (intercompany transactions controlled by the same MNE) in their overall revenue. Fourth, "holding of shares and other equity instruments" is the investment center's main line of work. Manufacturing, sales, and services are the most prevalent MNE activities in high, middle, and low-income jurisdictions. The CbC Multilateral Competent Authority Agreement (CbC MCAA) and Bilateral Competent Authority Agreements reflect restrictions on utilizing CbCR (CbC CAA).

According to Setiawan (2014), transfer pricing is a type of tax fraud that involves allocating profits and entities from businesses in one nation to entities in other nations. Transfer pricing is the practice of setting prices in transactions that are influenced by the presence of special relationships, as defined in Article 1 Number 17 of the Regulation of the Minister of Finance Number 22/PMK.03/2020 regarding the Advance Pricing Agreement method.

The CbCR demands jurisdiction-wide aggregate tax data on income allocation globally, taxes paid, and specific indicators of where MNEs' economic operations are located. The report requires all listing details of the Constituent Entity's finances, including the establishment of tax jurisdiction and the primary types of business operations in which the Constituent Entity engages (OECD, 2022) "information quality" refers to the precise and timely information requirement (Jogiyanto, 2005). The caliber of the produced information may impact user satisfaction with the system. According to Romney and Steinbart (2016), the accuracy of the data in financial reports, particularly in accounting, lessens the uncertainty surrounding a decision's backing. These components include procedures, databases, communication networks, and others, ranging from the simplest to the most complex (Azhar Susanto, 2013). Information quality needs several markers, according to Marcus Heidmann (2018): integration, flexibility, accessibility, and formalization. The purpose of this study is to define CbCR and discuss the advantages, difficulties, and changes that result from the use of CbCR to transfer pricing.

LITERATURE REVIEW

A firm's policy of determining a transfer price for a transaction involving commodities, services, intangible assets, or transactions that the company can use is known as transfer pricing (Setiawan, 2014). In order to reduce tax fraud, transfer pricing also refers to shifting profits and entities from one nation to entities in other countries for a single group of businesses (Suandy, 2006). It refers to Article 21 Point 17 of the Finance Minister's Regulation Number 22/PMK.03/2020 on Advance Pricing Agreement, which states that transactions involving a special connection are those in which transfer pricing is set. The Organization for Economic Co-operation and Development (OECD) asserts that transfer pricing is included in the price established by group members' transactions with multinational businesses. If the transfer price is decided following the group regulation, it may differ from fair market values. According to the OECD analysis, tax considerations can lead to transfer pricing, particularly when goals center on total profit after taxes. OECD (1979). The following are the general rules of the OECD (1997):

- Using the arm's length principle: Conventional transaction-based approaches are preferred;
- Using compatibility levels to block functions and protect used asset risks;
- Presenting the profit-based method, commonly known as the transactional net margin method (TNMM);
- Realizing the significance of transfer pricing documentation and the existence of sanctions to encourage compliance.

The CbCR demands jurisdiction-wide aggregate tax data on the global allocation of income, taxes paid, and specific indicators of the location of economic activity where the MNE group conducts business. The report must also include a list of all constituent entities for which financial information is provided, their establishment tax jurisdictions (if they differ from their residential tax jurisdictions), and a description of their primary business activities (OECD, 2022). CbCR will aid high-level transfer pricing risk evaluation. It can also be used, as necessary, for OECD economic and statistical analyses and by tax administrations to assess additional BEPS-related concerns (2022). However, a comprehensive transfer pricing analysis of individual transactions and prices based on a thorough functional analysis and a full comparative analysis should always be employed instead of relying solely on the information in CbCR. Information from CbCR alone does not prove whether transfer prices are reasonable. Tax administrations should not suggest transfer price adjustments based on the OECD global formulary's revenue sharing (2022). According to Overecsh and Wolff (2021), after CbCR became necessary, European multinational banks' tax burden increased compared to other affected institutions. It is owing to the unambiguous response from banks, which are especially vulnerable to greater transparency due to the widespread use of tax havens.

Information quality is required; information must be timely and precise about location (Jogiyanto, 2005). Information quality has an impact on system user satisfaction. Quality information in financial reports, particularly accounting, Romney and Steinbart (2016) note, suggests a lessened uncertainty of decision-making support—it will lead to improved plans and actions. Considered factors will undoubtedly result in better decisions, lowering the possibility of making poor choices. Integrated concepts derived from connected elements impact quality information; this will undoubtedly create a system and result in quality information. These components can also be procedures, databases, communication networks, and other smaller or more intricate parts. According to Heidmann (2008), Susanto (2013) lists integration, adaptability, accessibility, and formalization as indicators of good information. According to Romeny and Steinbart (2012), useful data offered to consumers depends on the quality of the information. According to Zhang et al (2022), increased tax enforcement following the tax administration reform boosts business investment efficiency by cutting back on wasteful spending. Since external corporate governance, the information environment, and the motivation for tax evasion are all worse, and the effect is more pronounced when local government fiscal pressures are greater.

Tax administration is a process that comprises taxpayer registration, tax determination, tax report, and tax collection, according to Summers (2010). Tax administration is essential in the contemporary environment and in emerging nations; a tax policy is deemed adequate if it incorporates fairness and efficiency, but shortcomings can also occur when aims are not realized. Tax compliance and service are impacted by tax administration as well. These guidelines must be followed in tax administration:

- Ensure state income;
- grounded in-laws;
- Establish fair and legal taxes systems;
- Make sure systems are effective and efficient.

Tax issues include unregistered taxpayers, taxpayers who fail to submit their tax liabilities, tax evaders, and overdue taxpayers must be resolved by the good tax administration. The government's endeavor to increase public welfare through improved tax administration and make it easier for taxpayers to pay their taxes is known as tax policy in the field of tax administration.

Multinational corporations contribute technology and capital to emerging nations, especially those that can ensure political and economic stability. Cost orientation in MNEs can be divided into two categories: (1) operations-focused efforts to find raw materials at reduced prices regularly and (2) marketing-oriented activities and international operations. MNE wants to safeguard a result from its local manufacturers.

METHODS OF RESEARCH

This research was both descriptive and qualitative. Data were compiled using the triangulation method, inductive and qualitative data analysis was used, and outcomes placed more emphasis on meanings than generalization (Sugiyono, 2017).

Our research sites included information on the public consultation document review from February to March 2020 for 38 nations classified as OECD members. Data were derived from secondary sources, which are materials supplied by others and include books, documents, images, and data. Secondary data sources may be used to supplement primary

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data sources or to provide data for the study. The study's data sources were textbooks, journals, bulletins, magazines, books, circulars, leaflets, annual reviews, and pertinent rules and regulations. The purpose of this study is to:

- What is the BEPS Action 13 CbCR's purview? It clarifies every aspect of BEPS Action 13's regulations;
- What were the outcomes of BEPS Action 13's public consultation? The definition, advantages, changes, and challenges are presented here.

Data analysis can solve problems (Basrowi & Kelvin, 2008). According to Sugiyono (2017), data analysis is the process of compiling information from interviews, notes, field reports, and documentation into a conclusion. We used the interactive approach recommended by Miles and Huberman (Sugiyono, 2017; Basrowi & Suwandi, 2008).

Interactive activities are mentioned as a way to foster creativity in qualitative data analysis by Miles and Huberman (1984); the activities in their three-part data analysis model are as follows:

- Data reduction is the process of choosing or concentrating on the abstraction and basic transformation of field data;
- Data display: a compilation of data to draw a conclusion; and
- Drawing or verifying findings: Initial conclusions will be provisional and subject to revision in the event that additional data gathering is supported by evidence.

RESULTS AND DISCUSSION

The guidance for CbCR documentation to be reported and comply with the applicable laws and regulations is elaborated as follows:

- Contemporary documentation:

Taxpayers doing transfer pricing must use transfer prices following the principle of fairness. Tax officials must balance requests for documentation with administrative costs and burdens on taxpayers.

- Time:

Preparations for documenting transfer pricing vary from country to country. Some countries ask that the documentation be completed when the tax return is filed, while others ask for documentation when the audit begins and before the due date of the tax return submission.

- Materiality:

Transactions occur between companies with a special relationship, and the requirements for transfer price documentation follow the applicable laws in each country.

- Document Storage:

At either the parent firm level or the local organization level, taxpayers are not forced to keep records for a lengthier time than is reasonable in order to comply with national legal requirements. The appraisal stores the documentation for five to ten years.

- Update Frequency:

Master files, local files, and CbCR are reviewed and updated annually. Therefore, documentation files are reviewed periodically to determine if functional and economic analyzes are accurate and relevant in confirming transfer prices. In addition, the business description, functional analysis, and comparison do not change significantly. Financial data is updated, and the application of the principle of fairness is 18 months at the beginning and 15 months thereafter.

- Language:

Transfer pricing documentation is done in the local language or according to the country. However, when the transfer price documentation must be submitted to the destination country, it must comply with the local destination country law. It is advised for nations to accept the submission of transfer pricing documents in common or international languages.

- Penalties:

Financial civil (or administrative) sanctions are frequently used as paperwork-related penalties for failing to comply with the transfer pricing documentation requirements or failing to produce the necessary information on time. The tax office should be cautious not to penalize taxpayers for failing to submit data that the company does not have access to due to documentation-related requirements.

- Confidentiality:

The tax administration office is required to take all practical measures to prevent the public disclosure of any secret information contained in the documentation and to guarantee the confidentiality of the transfer price documentation.

General instructions and template for Country-by-Country Reports:

- Constituent entity:

Each separate business unit of the MNE group that is (i) included in the Consolidated Financial Statements of the MNE group for financial reporting purposes and the presence of equity inclusion, (ii) excluded from the Consolidated Financial Statements of the MNE group solely based on size or materiality, and (iii) any permanent establishment of any such separate business unit included in (i) or (ii) above are the Constituent Entities of the MNE group.

- Treatment of branches and permanent establishment:

The permanent establishment's data must be reported with regard to the tax jurisdiction in which it is situated, not with regard to the business unit's tax jurisdiction of domicile.

- Consolidated Financial Statements:

The financial statements of the MNE group that reflect the ultimate parent business and the Constituent Entities' assets, liabilities, revenues, expenses, and cash flows as a unified economic unit are known as consolidated financial statements.

- The period covered by the annual template:

The template must include the fiscal year of the Reporting MNE. Depending on the Reporting MNE's discretion, the template for a Constituent Entity must consistently include (i) information for the relevant Constituent Entity's fiscal year, which must end on or before the Reporting MNE's fiscal year, or (ii) information for all related Constituent Entities reported for the Reporting MNE's fiscal year.

- Data source:

In completing the template, MNE must consistently use the same data source from year to year.

This finding confirms Summer (2010) that tax administration is a procedure that includes taxpayer registration, tax determination, tax collection, and tax reporting. CbCR has a reporting mechanism outlined as an implementation guideline. Thus, transfer pricing information becomes more comprehensive; the quality of information greatly affects data arranged and positioned to provide meanings to users or information receivers.

The CbCR must be exchanged as soon as possible and by 18 months after the last day of the MNE group's fiscal year to which the CbCR relates. The time and information exchange of the MNE group's fiscal year beginning on or after the date specified by the Competent Authority in the notification following paragraph 1a of Article 8 must occur as soon as possible and by 15 months after the last day.

General Topics on the Implementation and Operation of BEPS 13 Actions

Subsection 1: Implementation of BEPS Standard Minimum Action 13 Definition. BEP Report Action 13 recommends that CbCR be carried out for fiscal years commencing on or after January 1, 2016. Ultimately, 58 jurisdictions require or disclose CbCR submissions by the lead entity of the MNE group commencing after January 1, 2016.

Subsection 2: Topic on the Scope of CbCR. Should organizations with common control that collectively have consolidated group revenue over the CbCR pool prepares separate CbCRs? According to the specifications in Paragraph 51 of the BEP Action 13 report, all MNE groups must submit a yearly CbCR report with a lockout below the level for consolidated group revenue (this exemption is granted in paragraph 52). The Inclusive Framework takes into account feedback from stakeholders on the introduction of mandatory CbCR requirements that apply to people who directly or indirectly belong to two or more groups (based on the definition of a group in the BEP Action 13 report); groups subject to tax

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on the gains of a permanent establishment in other jurisdictions; groups that raise at least EUR 750 million in a fiscal year; and groups that have consolidated group income in the previous fiscal year. Each group is required to create and submit a CbCR report if these requirements are satisfied.

This strategy strikes a better balance between corporate forms, which benefit businesses, and investment entities, which benefit individuals. This strategy has two major drawbacks, however. To decide whether it is essential to produce and file a CbCR report, the UPE of a group must first have information about another group under the common control of an individual or individuals acting jointly. Second, in some strictly defined situations, the UPE of a group with income below the general threshold of consolidated group income will be required to create and submit CbCR reports.

General Topics Section on the Implementation and Operation of BEPS Action 13

According to the definition of BEPS Action Report 13, the jurisdiction will employ CbCR to evaluate the risks associated with transfer pricing and other BEPS-related issues and, if necessary, examine economics and statistics. Utilizing the data in CbCR as a replacement for transfer price analysis of specific transactions is not recommended. Furthermore, based on CbCR data, jurisdictions cannot suggest adjustments to taxpayer income. Materiality Not all transactions involving connected businesses are significant enough to call for thorough documentation. As a result, each country's transfer price paperwork requirements must be based on local transfer price documentation, including files with specific materiality standards that consider the size and makeup of the local economy.

Our findings are consistent with Zhang et al.'s (2022) theory that, after a systemic taxation reform, efficient tax enforcement increases investment efficiency by reducing firm investment costs. As a result of increased financial pressure from local governments, a worsening external information environment, poorer external governance, and higher tax evasion motivations, the effect has grown increasingly serious. CbCR has indicated the period of the Transfer Pricing reporting (Setiawan, 2014). It also enhances the quality of the data reported on transfer pricing (Susanto, 2012). To decide the scope of reporting, we must consider the unique expertise of each group member. Because there is a potential for an increase in tax burden, coordination between persons needs to be closely monitored. For example, Overecsh and Wolff (2021) note that when CbCR becomes mandatory, multinational European banks' tax burdens increase relative to other unaffected banks. As a result of increased financial pressure from local governments, a worsening external information environment, poorer external governance, and higher tax evasion motivations, the effect has grown increasingly serious. CbCR has indicated the period of the Transfer Pricing reporting (Setiawan, 2014). It also enhances the quality of the data reported on transfer pricing (Susanto, 2012). To decide the scope of reporting, we must consider the unique expertise of each group member. Because there is a potential for an increase in tax burden, coordination between persons needs to be closely monitored. For example, Overecsh and Wolff (2021) note that when CbCR becomes mandatory, multinational European banks' tax burdens increase relative to other unaffected banks.

CONCLUSION

According to our research, great narratives concerning the application of BEPS Action Plan 13 boosted taxpayer compliance in transfer pricing globally. However, the competent authority agreement, materiality, and the timing and structure of information exchange need to be modified. As a result, the policy can enhance the available information, good and consistent to the tax administration. Given that each jurisdiction has different and various tax administrations to respond to the BEPS Action Plan 13, the policy maker and tax consultant can utilize this information to construct the BEPS Action Plan 13 for taxpayers based on tax jurisdiction. Indonesians worried about BEPS Action Plan 13 must write meta-narratives on the best action for Indonesia's taxpayers concerning BEPS Action Plan 13.

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