TAX & CUSTOMS

Important Changes to Financial Information Access for Tax Purposes

Recent changes to Indonesia's financial information access rules have significant implications for taxpayers and financial institutions. The Minister of Finance Regulation No. 47 of 2024 (“**Regulation**”) introduces new anti-avoidance measures and expands reporting requirements, reflecting a global shift towards greater transparency and cooperation in tax matters.

The Regulation was issued on 18 July 2024, and came into force on 6 August 2024. It is the third amendment to Minister of Finance Regulation No. 70/PMK.03/2017, which regulates access to financial information for tax purposes, including general tax compliance monitoring by the Directorate General of Tax and the exchange of information under the Exchange of Information agreements with tax authorities in other jurisdictions.

We take a closer look at the main updates in the Regulation below.

Anti-Avoidance Rules

The Regulation introduces a new chapter VA, titled "Anti-Avoidance". This chapter replaces the previous anti-avoidance provisions, although some of the old provisions have been moved to different sections within the Regulation.

Chapter VA includes a new Article 30A, which stipulates as follows:

- **Prohibition on avoidance**: Under Article 30A paragraph (1), all parties, including financial institutions and their employees, are strictly prohibited from entering into agreements or taking actions designed to circumvent their obligations under the financial information reporting regulations. Any such agreements or actions will be deemed null and void, and the parties involved will be required to fulfil their original obligations.

- **Authority of the Director General of Tax**: Under Article 30A paragraph (2), the Director General of Tax has the power to identify agreements or actions aimed at avoiding reporting obligations. The Director General of Tax is also authorised to obtain any financial or other relevant information related to suspected avoidance activities.

- **Prohibition on false statements**: Under Article 30A paragraph (4), all parties are prohibited from making false statements or concealing information that is required to be reported under the Regulation. A statement is considered false if it is inaccurate or not based on facts.

Oversight by the Director General of Tax

The Director General of Tax has the authority to investigate potential non-compliance with the Regulation, including violations of the new anti-avoidance rules in Article 30A.

If the Director General of Tax suspects a violation, it may request clarification from the relevant party. In this case, the relevant party must provide clarification within 14 days after receipt of the request. After receipt of the clarification, if the Director General of Tax determines a violation has occurred, or if no clarification is provided, a written warning will be issued. The Director General of Tax may follow up the written warning with a tax audit if the party:

- Fails to fulfil its obligations after the warning; or

- Continues the violating activities.

If the Director General of Tax identifies a potential tax crime, it may conduct a pre-investigation (*pemeriksaan bukti permulaan*), potentially leading to a full tax crime investigation.

Key Takeaways

This regulatory update brings Indonesia's financial information access rules in line with international standards, promoting greater transparency and cooperation in tax matters. As discussed above, failure to adhere to the Regulation can trigger a tax audit, potentially resulting in additional tax assessments and lengthy proceedings. Therefore, proactive approach is essential, and taxpayers and financial institutions subject to the Regulation must ensure they fully understand and comply with their obligations.

Contacts

Tax & Customs

Nazly Parlindungan Siregar

PARTNER

D +62 21 2555 9944
nazly.siregar@ahp.id

Marvin Octavdio also contributed to this alert.

Please feel free to also contact Knowledge Management at RTApublications@rajahtann.com.

Regional Contacts

Cambodia

Rajah & Tann Sok & Heng Law Office

T +855 23 963 112 / 113
kh.rajahtannasia.com

China

Rajah & Tann Singapore LLP
Shanghai & Shenzhen Representative Offices

T +86 21 6120 8818
F +86 21 6120 8820
cn.rajahtannasia.com

Indonesia

Assegaf Hamzah & Partners

Jakarta Office
T +62 21 2555 7800
F +62 21 2555 7899

Surabaya Office
T +62 31 5116 4550
F +62 31 5116 4560
www.ahp.co.id

Lao PDR

Rajah & Tann (Laos) Co., Ltd.

T +856 21 454 239
F +856 21 285 261
la.rajahtannasia.com

Malaysia

Christopher & Lee Ong

T +603 2273 1919
F +603 2273 8310
www.christopherleeong.com

Myanmar

Rajah & Tann Myanmar Company Limited

T +951 9253750
mm.rajahtannasia.com

Philippines

Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)

T +632 8894 0377 to 79 / +632 8894 4931 to 32
F +632 8552 1977 to 78
www.cagatlaw.com

Singapore

Rajah & Tann Singapore LLP

T +65 6535 3600
sg.rajahtannasia.com

Thailand

Rajah & Tann (Thailand) Limited

T +66 2656 1991
F +66 2656 0833
th.rajahtannasia.com

Vietnam

Rajah & Tann LCT Lawyers

Ho Chi Minh City Office
T +84 28 3821 2382
F +84 28 3520 8206

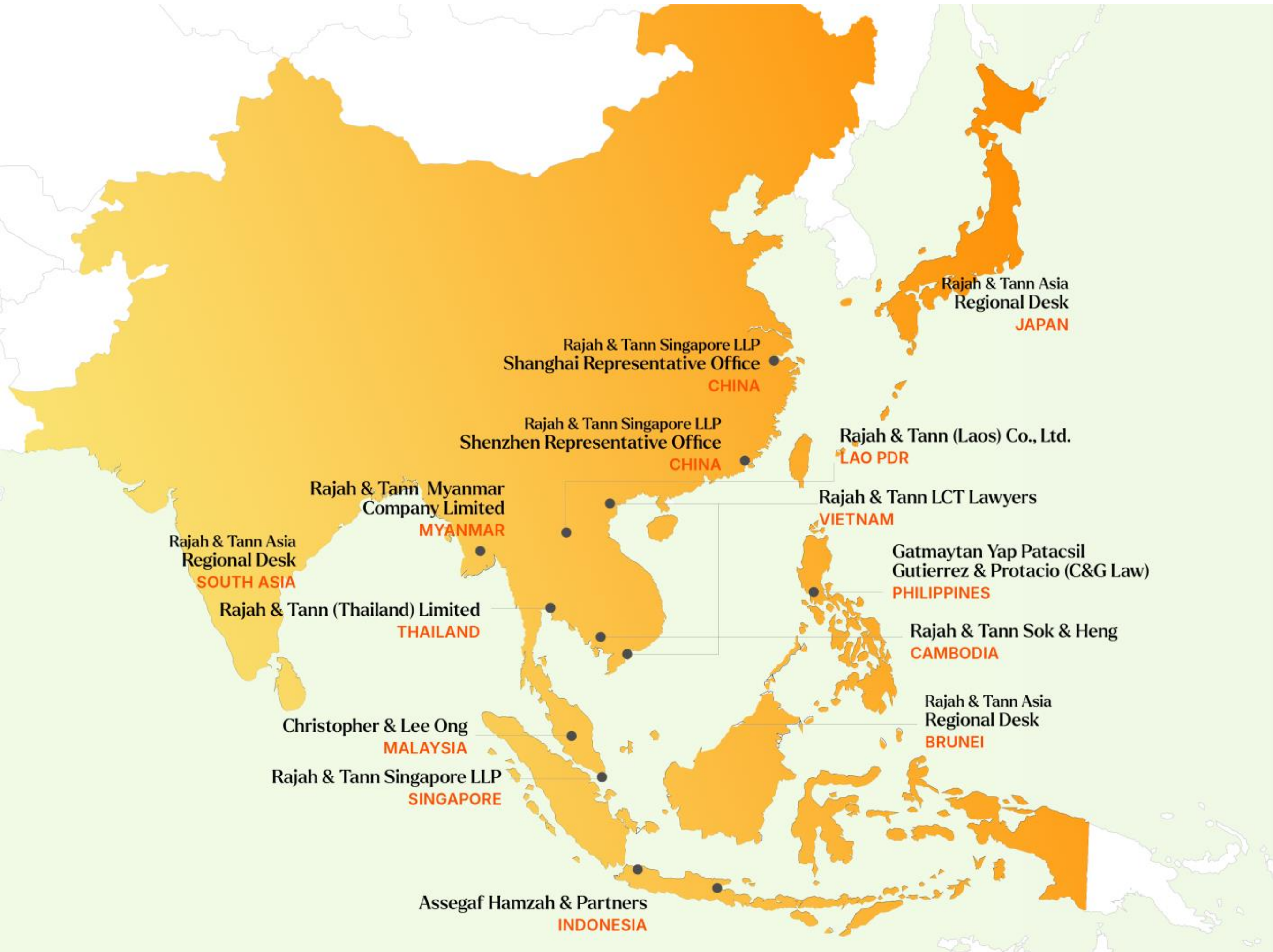
Hanoi Office
T +84 24 3267 6127
F +84 24 3267 6128
vn.rajahtannasia.com

Rajah & Tann Asia is a network of legal practices based in Asia.

Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this update.

Our Regional Presence



Based in Indonesia, and consistently gaining recognition from independent observers, Assegaf Hamzah & Partners has established itself as a major force locally and regionally, and is ranked as a top-tier firm in many practice areas. Founded in 2001, it has a reputation for providing advice of the highest quality to a wide variety of blue-chip corporate clients, high net worth individuals, and government institutions.

Assegaf Hamzah & Partners is part of Rajah & Tann Asia, a network of local law firms in Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Our Asian network also includes regional desks focused on Japan and South Asia.