Indonesia

Transfer Pricing Cases on Intangibles Performed by Manufacturing Industry Based on Tax Court Decisions 2015-2019 in Indonesia

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This article aims to discuss transfer pricing disputes regarding the payments made on intangible assets by the Indonesian subsidiaries of MNEs operating as contract manufacturers. The underlying premise for assessing the manufacturing industry relates to its leading role in the Indonesian economy. In reality, most multinational contract manufacturers located in Indonesia perform only a limited function, assume only limited risk and are highly dependent on their principal with regard to business decisions. Payments on intangibles were the most prolific type of cases brought to the tax court in Indonesia during the fiscal years 2015-2019. Disputes typically arose from the technical aspect in a tax assessment concerning the payment made on intangibles to the principal, along with the interpretation of tax regulation regarding the existence of the transaction and the existence of proof of the transaction. The Indonesian tax authority has created a procedure for auditing payment on intangibles; however, the current tax rule is considered inadequate. To improve the current tax audit, an assessment of the existence of value creation, which is the principal motor of business competitiveness, should be the main objective of the audit. A value creation audit might refer to the significant business function performed in Indonesia as part of an MNE’s global value chain.

1. Introduction

The substantial challenges faced by developing countries are to spend more, spend better, tax more and tax better. Selected developed countries have engaged in the establishment of an international consensus aimed at tackling cross-jurisdictional tax avoidance via the OECD that was immediately expected to become both soft law and forceful. The release of the Inclusive Framework of the OECD/G20 Base Erosion and Profit Shifting (BEPS) Initiative should have legitimated developing countries to participate in the BEPS Project by incorporating the relevant action plan into their domestic regulation. The OECD further argued that this initiative serves the interests of developing countries by providing an equal footing and represents a collective measure for dealing with global tax challenges.

Reviewing the tax avoidance problem currently faced by developing countries, four major issues can be identified: (i) managing tax incentives and tackling tax competition in order to attract capital inflow, (ii) improving transfer pricing regulation to ensure a fair amount of tax is paid to each jurisdiction, (iii) adjusting the permanent establishment provision with regard to income generated...
from mobile economy activities\[6\] and (iv) implementing global transparency through the exchange of information to minimize the potential for shifting profit and other modes of tax evasion in offshore locations.\[7\]

The context of these specific problems is quite different from that of the overall problem the OECD is focused on at a global level.

The mechanism of profit allocation between related parties in the context of transfer pricing remains an important debate among developing countries, where a majority of the business chain elements undertaken by multinational businesses in such countries concern the manufacturing and distribution of products, or a combination of both.\[8\] In fact, entering the complex globalization era, the manufacturing sector has already undergone a transformation in order to meet the demands of the market with regard to efficient operation.

Indonesia has recently been classified as an industrial country due to its intensive level of manufacturing activity. The manufacturing industry contributed 20.5% of GDP in 2012, with an annual increase of around 6.4%. Over the next several years, the sector is predicted to contribute up to 40% of GDP.\[9\] However, the Ministry of Finance has recorded that approximately 2000 foreign firms failed to fulfill their income tax obligations for a period of around 10 years.\[10\] One common tax avoidance behaviour to minimize tax payment among major firms is the performance of transfer pricing from a company located in Indonesia to a related party in another jurisdiction, meaning that profit allocation in Indonesia has not been clearly identified.\[11\]

The study of transfer pricing in the Indonesian context has yet to be comprehensively scrutinized. To date, there have merely been descriptive studies related to updated documentation guidelines, mispricing practices, the volume of disputes, the potential for dispute and the number of multinational businesses suffering from sustainable losses. This comes despite the establishment of a number of regulatory measures aimed at tackling some of the issues surrounding transfer pricing problems, such as transfer pricing documentation regulation, the thin capitalization rule and the controlled foreign corporation rule. Lately, as a member of the G20, Indonesia also committed to adopting the BEPS minimum standard with a significant domestic focus on the transfer pricing report mechanism regarding BEPS Action Plan 13 and the automatic exchange of information.\[12\]

Importantly, the majority of the multinational firms located in Indonesia have not clearly disclosed their role within the global supply chain, when in fact they operate as limited-risk manufacturers. This under-disclosure of their business activity as limited-risk manufacturers has enabled them to charge very high levels of cost; for example, charging royalty payments for the use of intangible property, paid to the principal, that allows them to register as having incurred consecutive losses.\[13\] The aim of this study is to identify the transfer pricing schemes generally performed by the manufacturing industry for at least the last five years, with a specific focus on payment for intangible property. Payment for intangibles was chosen as the focus of the study because, based on data gathered from the tax court, it was found to be the most prolific type of dispute related to the payment of intangible assets.\[14\]

The presentation of cases is structured according to the type most commonly brought to the tax court. The first part relates to cases won by the tax authority, followed by tax cases won by the taxpayer. Finally, this article aims to propose inputs that could be considered by the tax authority while assessing the fulfillment of tax obligations for transactions related to payment for intangible assets within group entities.

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2. Transfer Pricing Cases in the Manufacturing Industry in Indonesia

2.1. Overview of transfer pricing audit guidelines in Indonesia

Multinational manufacturing companies located in Indonesia generally function as contract manufacturers, which means that their general characteristics in carrying out their business activities are (i) limited functions that will not make a sale, export or conduct business in other forms either within or outside the jurisdiction of Indonesia without the approval of the parent entity; and (ii) production activities in Indonesia, including technical assistance contracts, are determined by the affiliate. The maintenance of certain quality standards over time cannot be carried out independently, except in accordance with the instructions and knowledge of the parent company. In addition, the equipment for production activities and supporting facilities is generally provided by affiliated entities that are one group company in the global supply chain, such that (iii) they bear minimum market risks; Indonesian business entities generally sell the products according to global supply chain lines that have been established by its parent entity.

Regarding the fulfillment of the transfer pricing rule, tax auditors must consider several things when conducting an assessment of the arm’s length price of affiliate transactions; these are based on the instructions provided by the Directorate General of Taxes in DGT Circular Letter S-153/PJ.04/2010 regarding the Guideline for Tax Audits on Transaction Performed by Entities with Special Relations. Based on that Circular Letter, special attention must be paid to the following:

a. Types of transactions; as well as the general transactions conducted between independent parties, an affiliate transaction is also one or a combination of the following six types of transactions: (a) sale of goods or delivery of services or intangible property, (b) purchase of goods or utilization of tangible goods, (c) recompense, (d) use of intangible goods and royalty rewards, (e) loans and interest benefits, and (f) transfer of property. Assessment of the arm’s length of affiliate transactions must be carried out separately for each type of transaction. The tax auditor is not permitted to engage in aggregate testing of all types of transactions carried out by taxpayers.

b. In general, the main problems that must be considered when examining the implementation of arm’s length in respect of the type of affiliate transactions are as follows:

1. Examination of the special relationship status because a recalculation of the amount of income or deduction can only be performed on transactions between parties that have a special relationship
2. Selection of independent transactions that become comparables
3. The selection of the tested party and the tested transaction
4. Comparability of the conditions of affiliated transactions and independent transactions
5. Selection of the profit-level indicators or transaction results to be compared
6. Selection and determination of the transfer pricing methods to apply the principle of fairness.

c. Problems specific to certain types of transactions

1. Fairness of service remuneration. In service remuneration, an assessment of the fairness of the delivery or utilization of services includes an assessment of the existence of service delivery or utilization. A service is considered to be rendered by an affiliate if it provides benefits to the taxpayer. To ensure that the utilization of services from affiliates delivers benefits, the service must also not be a duplication carried out by the taxpayer; it must not be intended for the benefit of shareholders or other parties in the taxpayer business group (shareholder activity); it delivers only incidental benefit to taxpayers and solely because the taxpayer is a member of a business group (passive association).

2. Fairness of the value of service charges.

3. Fairness of royalty payment. In transactions using intangible assets and royalty payments, the assessment of arm’s length includes research on the existence of intangible assets as indicated by proof of ownership of intangible assets, the value of intangible assets and the existence of a surrender of the right to use intangible assets. The right of use of the intangible asset is deemed to have been granted by the affiliate if the intangible asset provides a benefit for the taxpayer.

4. Fairness of interest benefits. In loan transactions and interest payments, assessment regarding its arm’s length includes an assessment on (i) The existence of a loan. A loan is deemed to exist if there is a flow of money into the taxpayer’s account and the loan provides benefits to the taxpayer; (ii) Fairness of loan value. The ratio of the

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[15] This highlight refers to DGT Circular Letter S-153/PJ.04/2010 para. D secs (1), (2) and (3).
value of loans to capital (debt-to-equity ratio) must be considered when examining the fairness of the loan value, (iii) Fairness of loan interest rates.

5. Fairness of property transfer transactions. The main difference between the transaction on the transfer of property to other types of transactions is that property transfer transactions are non-routine transactions. The transferred objects can include both financial and non-financial assets, both tangible and intangible. In property transfer transactions, research regarding their fairness includes research on (i) The existence of a transfer of property. A transfer of property is deemed to exist if it provides benefits to the taxpayer, (ii) Fairness of the value of the assets transferred. The value of assets can be determined using the cost approach, the projection of income (projection of income approach) and market prices (market price approach).

2.2. Transfer pricing cases on the manufacturing industry in the Indonesian tax court: Specific cases of intangibles

This section discusses transfer pricing cases based on disputes settled in the Indonesian tax court. The cases will be divided into those won by the tax authority and those won by the taxpayer. Further, the section will describe special cases in which the judges have had dissenting opinions during the tax case hearings. The description relates to the period 2015-2019, presenting the most common disputes first, before moving to the least common disputes.

2.2.1. Transfer pricing cases won by the tax authority

Royalty payment disputes were the most common type of transfer pricing case in Indonesia. The Tax Court made decisions on 62 transfer pricing cases for the period 2015-mid-2019,[16] 65% of which were related to the payment of intangible property. The typical historical flow of the disputes is outlined as follows, taken from Tax Court Decisions Put-84903/PP/M.XIA/15/2017 and Put-84904/PP/M.XIA/15/2017:

- the tax authority analysed the taxpayer’s manufacturing function. The tax authority found that the taxpayer had stated that in their production, they exploited intellectual property from a principal in another jurisdiction that owned more than 95% of the taxpayer’s shares. More than 95% of its products were also sold to group affiliates. The tax authority concluded that the taxpayer was a contract manufacturer;

- the tax authority undertook an assessment of the use of know-how and technical services based on a legal agreement. The tax authorities were of the opinion that the agreement entered into by the taxpayer and the affiliated party was an integrated contract, given that the terms of the contract included the provision of know-how, trademark/tradename and service delivery; and

- a dispute commenced with a different opinion wherein the tax authority did not consider that the business required the use of intellectual property and thus demanded proof of such need in addition to the basis upon which the payment amount was calculated. The taxpayer had paid a certain percentage of its sales in return for the right to use the intellectual property in question. Both parties had then tried to convince the judge based on the evidence/proof and arguments presented.

Tax Court Decisions Put-84903/PP/M.XIA/15/2017 and Put-84904/PP/M.XIA/15/2017 resulted from disputes over whether royalties should or should not be paid as part of operating expenses. The lack of substance with regard to production know-how, the lack of any substantive economic benefit derived from the use of trademarks and tradenames because almost all of the products were sold to a related party, combined with the lack of any convincing proof, led to the judges upholding the taxpayer’s appeal.[18] Slightly differently, in Tax Court Decision Put-80603/PP/M.IIIB/15/2017, the dispute arose due to a correction of the royalty payments on the trademark wherein more than 90% of the products were sold to the holding company. In the judge’s view, payment for the trademark provided no economic function despite the fact that the payment was made and was in accordance with the Trademarks Licensing Agreement. In addition, the loss of an entity could not be justified due to the payment of royalties even though, on the other hand, the payment of royalties fell within the reasonable range. Put-79846/PP/M.XII/A/15/2017 was a decision that rejected an increase in the royalty rate to the licensee from 5% to 7% (of net sales) due to a lack of proof of the logic behind the increase. In Put-79851/PP/M.XII/A/15/2017, the dispute occurred due to the payment of royalties on intellectual property (IP) in the form of patent utilization, which could not be proven due to the non-availability of data regarding the existence of IP, such that the IP was considered non-existent.

[16] This information is based on data mining conducted by the author in the Tax Court for tax decisions from the years 2014-2019. The data were gathered until May 2019.
[18] A similar pattern of dispute was also raised and settled in the tax court through Tax Court Decisions Put-089897.15/2011/PP/M.IIA/2018 and Put-82925/PP/M.XVIII/B/15/2017, regarding corrections to royalties.
2.2.2. Transfer pricing cases won by the taxpayer

The typical correction made by the tax auditor was driven by their doubt as to the existence of any transfer of intangible property obtained by Indonesian subsidiaries from their principals. The initial premise of the correction was that Indonesian manufacturers are engaged on the basis of contract manufacturing, with the assembly process accounting for the greatest proportion of their activities. Although to some extent, this leads to the tax auditor over-examining the taxpayer, in the following cases, the tax audit report was released without sufficient evidence on their statement.

In Tax Court Decision Put-086980.15/2011/PP/M.XVIA/2018, the dispute was raised due to the amounts of the royalty payment and brand fee. From the tax auditor’s perspective, the payment made to the parent company in Japan for intangible property seemed to be only a formal payment because economically the appellant and parent entity were part of one large company with different legal entities. The judges were of the view that the base of the tax auditor’s correction was not sufficient. In this case, the judges had dissenting opinions; however, following a vote, they decided to accept the appeal of the taxpayer. In a case with slight similarities, settled by Tax Court Decision Put-81509/PP/M.XVIIIA/15/2017, a dispute was also raised due to inconsistency in the correction made by the tax auditor on the royalty payment, to assess whether the royalty paid had really had an economic impact for the taxpayer, since the auditor admitted the payment of VAT on the royalty fee for the exchange of intangible property. The audit was triggered by an increase in the production cost. In the judge’s opinion, the royalty payment might not have been directly in line with the increase in net profit in the year in question. Importantly, the tax auditor failed to provide any evidence of the lack of economic benefit from the payment of the royalty.

Similarly to the previous cases, in Tax Court Decision Put-68310/PP/M.IV/15/2016, a correction was made by the tax auditor solely due to the lack of supporting documentation in the form of an “intellectual property agreement”. The tax auditor corrected the 6% royalty payment, but with no clear calculation indicating that the percentage should be considered as arm’s length. In Tax Court Decision Put-59386/PP/M.XA/15/2015, the correction on the royalty payment was due to a difference of perspective between the tax auditor and the taxpayer on the characteristics of the intangible which affected the way in which the tax auditor tested the arm’s length transaction. The tax auditor took the following perspective: (i) the royalty payment amounted to a sublicense, and (ii) the royalty payment fell under non-inclusive treatment. The judges thus rejected the method used by the tax auditor to test for arm’s length.

The dispute in Put-70118/PP/M.IA/15/2016 occurred due to a correction on the royalty fees. According to the tax auditor, the taxpayer was unable to prove that a royalty fee had to be paid in relation to the production process in Indonesia. Whereas, on the taxpayer side, payments had been made fairly for the use of trademarks in the production activities. The judges saw the payment as still valid, and the taxpayer could prove why it had to pay the royalty, whereas the correction made was not in accordance with the prevailing rule. Therefore, the judges rejected the correction. Similarly, in the cases settled in the tax court through Tax Court Decision Put-70461/PP/M.XB/15/2016, the correction was made by the tax auditors because they were not convinced of the urgent need to pay royalties in exchange for a transfer of know-how. The tax auditors also believed that the submitted documents proved the existence of know-how and that its commercial contribution to the production process was not adequate. However, the judges decided that the arguments and proof presented by the taxpayer were sufficient and accepted the appeal.

In Tax Court Decision Put-62911/PP/M.XV/15/2015, a correction was made to a royalty payment due to a lack of legal support for that transaction. The tax auditor re-calculated the payment based on production. The judges, meanwhile, were of the opinion that the royalty calculation should have been based on return. In addition, the judges saw that the use of the trademark affected the volume of sales and net profit. It is also common for an annual royalty payment to be made to the holders of a trademark.

2.2.3. A note on Indonesian transfer pricing cases on intangibles

Based on the cases settled in the tax court, as described in the previous section, the majority of cases related to the manufacturing industry in Indonesia involved forms of contract manufacturing, with significant management control exerted by the principal. The entities located in Indonesia had less of a role in terms of function and risk. Most of the activities to be performed involved the assembly process, with both the procurement and distribution functions managed by the principal. Products produced must then be distributed to other group entities according to the instruction of the principal. This structure results in a centralized business model (CBM) in which the principal is responsible for business strategy and decision-making on behalf of all group members. In this CBM, where the contract manufacturer assumes lower business risk than the principal, the principal has more taxable income than the contract manufacturer.[19]

For the purpose of taxing the profit of the manufacturer, the OECD sees value creation as the important consideration when demonstrating the real value of profit generated or, in other words, where that profit is created. Further, it should be able to show

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whether the transfer pricing policy still makes sense.\textsuperscript{21} Value creation refers to the business and management strategies employed and to the innovation that helps the company to differentiate itself and become more competitive than others. The main source of this value is the establishment of intangible property.\textsuperscript{22} Intangible property is defined by the OECD as “rights to use industrial assets such as patents, trademarks, tradenames, designs or models as well as literary and artistic property rights, and intellectual property such as know-how and trade secrets”\textsuperscript{23}.

There are two basic questions with respect to value creation: “what is going to make the company different from its competitors?” and “[w]hat, in some circumstances, will create an advantage over competitors within an industry?”.\textsuperscript{24} From these basic questions, the transfer pricing analysis then looks to the economic circumstances or transactions that set the company within the framework of establishing value creation. Shortly, transfer pricing analysis will be shown to be closely related to a company’s value creation analysis (VCA).\textsuperscript{25} Thus, in a practical sense, the fulfilment of the transfer pricing documentation process and the rationale behind business planning should be based on this VCA. When assessing the creation of the value chain, it can be divided into primary activities and supporting activities. Primary activities contribute to value-added and final products, while supporting activities take the form of indirect involvement in the creation of final added value.

Referring to the value chain figure\textsuperscript{26} that describes and distinguishes each part of the chain’s contribution to global supply chain management, it shows a match with Indonesian contract manufacturers. This confirms that such contract manufacturers, for their part in the global value creation process, perform their activities with a high level of know-how and very few or no patents. They also follow the group policy in terms of transfer pricing, business unit organization, a high level of production volume, a long-term asset cycle, a high level of manual work and the handiwork of highly qualified engineers. Most sales of the finished products will be to third parties worldwide.

Based on these characteristics, contract manufacturers in Indonesia make a relatively low contribution to value creation. This low level of contribution has been due solely to the relatively low level of innovation work they carry out. They were not intended to sustain revenue generation through significant value creation and improved competitiveness but rather formed part of the mass production process in which products were produced to then be sold in either the domestic market or worldwide through third parties.\textsuperscript{27} Thus, contract manufacturing activities, in terms of the distribution of revenue earned, would be less profitable than activities conducted for the purpose of innovation.

In terms of assessing the characteristics of manufacturers in Indonesia registered in the Large Taxpayer Office, the majority of them do not make significant contributions to the creation of new added value; instead, their activities tend to heavily involve assembly based on instructions and procedures set out by the principal. Indeed, the innovation in question, by its nature, involves non-major production products and must not be carried out with highly significant intangibles. For example, according to an interview undertaken with the tax authority that monitors the taxpayers registered in the Large Taxpayer Office, the innovation undertaken was not significant and was solely for the purpose of creating “sound new products” to be sold domestically with less substantive innovative work.\textsuperscript{28} However, on the other side, the contract manufacturers in some cases highlighted that those types of activities nevertheless required substantial production intangibles and marketing intangibles (i.e. trade names) to be exploited in order to ensure the sustainability of profit. Thus, in the exchange, they must have paid a certain amount of compensation to the principal in the form of royalties.\textsuperscript{29}

Any assessment of the transfer pricing on payment for intangibles must precisely delineate whether the intangible used is a routine intangible or a non-routine intangible, soft intangible or hard intangible, as well as delineating between other classes of intangible.\textsuperscript{30} In addition, it must clearly identify the legal and economic ownership of intangibles in order to simplify the issue of transfer pricing. In the Indonesian cases, problems occurred when the taxpayer and tax auditor could not agree on the relevant coverage of intangibles for transfer pricing purposes with respect to the economic activities undertaken in Indonesia.\textsuperscript{31} A clear
The delineation of these intangibles in relation to the principal contract manufacturer might be started by identifying whether the manufacturing is undertaken using a centralized or decentralized model. These choices would significantly affect how the intangibles are created, enhanced, and used by each entity. Centralization, in which intangibles that are owned by a central and/or principal entity are created and used in a group of entities, is the model applied more commonly by MNEs. In this type of business model, the global supply chain is centralized in one entity. The principal grants the appropriate licences to particular parts of an MNE in order for them to exploit the intangibles appropriately in their own operations. There has been an increase in the centralized management of intangibles among MNEs for this type of intangible transfer. For example, the research and development (R&D) part has been restructured to certain jurisdictions in order to optimize R&D projects by using decentralized R&D management. Also, with such restructuring, it is possible for an entity to be the holder of all relevant IP rights and grant the appropriate licences to other entities in the group in line with the group’s value-creating rule.

Given this type of business reorganization, the holder of the intangible must undertake a thorough calculation of the fair attribution of income. This centralized characteristic is the reason why the owner of all the intangibles within an MNE group is unable to “automatically” allocate intangible-related returns to the owner of the intangible. Instead, it needs to undertake a deep and accurate analysis in order to determine the extent to which the actual function has been performed, the asset used and the risk assumed while performing the development, enhancement, maintenance, protection and exploitation (DEMPE) functions for intangibles within the group.\[33\] In fact, when looking back at transfer pricing disputes in Indonesia, it can be seen that, during the assessment of cases in the tax court, there has been no precise presentation of the clear calculation of DEMPE. Further, the justification of transfer payments raises the question of whether the intangibles really existed and whether the supporting documents could explain them. This stage of the assessment is too narrow with regard to determining the amount to be transferred from the contract manufacturer in Indonesia to the principal while continuing to be within arm’s length range.\[34\]

Another option for restructuring the intangible within the group would be to implement the decentralized model. This might be relevant for specific intangibles that are managed and controlled by a separate entity within the group that uses the intangibles directly, as part of their business process. The decentralized model of intangible management is commonly employed in conjunction with a decentralized business management structure in which the supply chain or global management is spread across several entities but remains part of a globally governed MNE. These two different models should contain different assessments of the development, transfer and management of the intangibles used by the various members of the group.

In association with the WU Transfer Pricing Center, Boos (2003) conducted research into remuneration for the use intangibles and stated the following: “Having an intangible does not always mean that there is compensation with a high value and, on the other hand, a comparability factor may also lead to a high value/pricing. This does not mean that the OECD’s scope of the intangible definition would not be required and, indeed, the classification of group synergies, market specific characteristics, and the like as comparability factors is very important. Further, the existence and ownership of an intangible do not automatically imply that the intangible possesses a marketable economic value; several measures have to be developed.”\[35\] This statement is relevant to the assessment of several cases settled in the Indonesian tax court (referring to case Put-59386/PP/M. XIA/15/2015 and Tax Court Decision Put-70461/PP/M. XB/15/2016).\[36\] The payment for intangibles that passes from the subsidiary to the principal must be assessed based on its contribution to value creation. Further, there needs to be an accurate assessment of the size of the contribution made by the intangibles to the business process, along with a consideration of other factors besides the intangibles per se. The judges in the cases upheld the taxpayer’s objection solely because the payment amount transferred, as a percentage of net income, was within the common range. This was despite the fact that the judges had not clearly delineated the effect of value creation and economic benefit for the contract manufacturer on the exchange of payment for the intangibles.

3. Conclusion

The issue of the mechanism of profit allocation between related parties in the context of transfer pricing continues to be an important debate among developing countries. Most of the business chain elements undertaken by multinational businesses in developing countries concern the manufacturing and distribution of products, or a combination of both. Multinational manufacturing companies located in Indonesia generally operate as contract manufacturers with limited function and risk and are fully reliant...
on a principal located outside of Indonesian jurisdiction. The principal of an MNE forms a CBM, in which it assumes immediate responsibility for strategy and decision-making for all members of the group. Thus, for this type of production method, when assessing the fulfilment of the transfer pricing rule, value creation is an important consideration in demonstrating the real value of the profit generated and where that profit is created.

The majority of Indonesian contract manufacturer subsidiaries do not make any significant contribution in terms of the creation of new added value; instead, their activities are heavily focused on assembly, which is carried out based on instructions and procedures set by the principal. Any new product development tends to be limited to non-major products. Assessment of the transfer pricing payment for intangibles requires precise delineation of whether the intangible used is a routine intangible or a non-routine intangible, a soft or hard intangible, and also between other classes of intangible. There should be a clear delineation of the contribution of intangibles in any given transaction, carried out on an arm’s length basis and specific to their classification. Given the characteristics of Indonesian contract manufacturers, the payment amount for intangibles should correspond to the value creation (“function”) and revenue generated in Indonesia. Thus, the tax authority must carefully assess whether the transaction amount for the intangible in question has properly and appropriately followed the value creation (or function) undertaken in Indonesia.