

**Legislação da Lei de número 9/2017 como o compromisso da Indonésia de troca automática de informações financeiras e comparação com o compromisso da Malásia**  
**Legislation of Law Number 9/2017 as Indonesia's Commitment to Automatic Exchange of Financial Information and Comparison to Malaysia's Commitment**  
**Legislación de la Ley número 9/2017, como el compromiso de Indonesia con el intercambio automático de información financiera y la comparación con el compromiso de Malasia**

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## **Resumo**

Os dados dos contribuintes e as informações das instituições bancárias e financeiras são úteis para orientar a previsão de qualquer tipo de desenvolvimento. Um ato corretivo deve ser tomado como um esforço da aplicação da lei no setor de tributação e para aumentar a Receita Federal. A troca de informações financeiras sobre interesses fiscais pode ser feita tanto pela demanda quanto pela forma automática (Troca Automática de Informações de Contas Financeiras / AEol). Este estudo teve como objetivo conhecer a urgência das legislações da lei número 9/2017 como o aumento do subsídio de país esforço e como o compromisso da Malásia para implementar automaticamente informações de troca relativas a contas financeiras (AEoi). Usando qualitativa descritiva como a metodologia, o resultado mostrou

que a Indonésia provou o compromisso assinando o Acordo da Autoridade Competente Multilateral após a AEOI e concordou em iniciar a troca automática de informações financeiras. Aprovou na Legislação Número 1/2017 sobre acesso à informação financeira como participação fiscal, que passou a ser a Legislação Número 9/2017, um ano depois. Enquanto isso, em comparação, o compromisso da Malásia com o AEOI assinou alguns acordos e se comprometeu a trocar informações com relação a diferentes tipos de contas abertas e mantidas pelas instituições financeiras malaias.

**Palavras-chave:** Legislação, Inland Revenue, AEOI, informações financeiras, impostos.

### **Abstract**

Taxpayer data and information of banking and finance institutions are useful for guidance in giving prediction on any kind of development. A corrective act must be taken as an effort of law enforcement within taxation sector and to increase the Inland Revenue. Financial information exchange concerning on tax interests can be done by both demand and automatic way (Automatic Exchange of Financial Account Information/AEOI). This study aimed to know the urgency of Legislations of Law Number 9/2017 as the country allowance increasing effort and how Malaysia's Commitment to Implement Automatically Exchange Information Relating to Financial Accounts (*AEOI*). Using descriptive qualitative as the methodology, the result showed that Indonesia proved the commitment by signing Multilateral Competent Authority Agreement after AEOI and agreed to start the automatic financial information exchange. It has approved on the Legislation Number 1/2017 on financial information access as tax interests which then changed to Legislation Number 9/2017 a year later. Meanwhile, in comparison, Malaysia's commitment to the AEOI has signed some agreements and committed to exchange information with respect to different types of accounts opened and maintained by the Malaysian financial institutions.

**Keywords:** Legislation, Inland Revenue, AEOI, financial information, tax.

### **Resumen**

Los datos de los contribuyentes y la información de las instituciones bancarias y financieras son útiles para orientar la predicción de cualquier tipo de desarrollo. Un acto correctivo debe tomarse como un esfuerzo de aplicación de la ley dentro del sector tributario y para aumentar el Ingreso Interior. El intercambio de información financiera sobre intereses fiscales se puede realizar tanto por demanda como de forma automática (Intercambio automático de información de cuenta financiera / AEOI). Este estudio tuvo como objetivo conocer la

urgencia de las Legislaciones de la Ley N° 9/2017 como esfuerzo de aumento de la asignación por país y cómo el Compromiso de Malasia para implementar automáticamente el intercambio de información relacionada con las cuentas financieras (AEoI). Con el uso de la cualidad descriptiva como metodología, el resultado mostró que Indonesia demostró el compromiso al firmar el Acuerdo de Autoridad Competente Multilateral después de la AEoI y acordó iniciar el intercambio automático de información financiera. Ha aprobado en la Legislación Número 1/2017 sobre el acceso a la información financiera como intereses fiscales, que luego cambió a la Legislación Número 9/2017 un año después. Mientras tanto, en comparación, el compromiso de Malasia con la AEoI ha firmado algunos acuerdos y se ha comprometido a intercambiar información con respecto a los diferentes tipos de cuentas abiertas y mantenidas por las instituciones financieras de Malasia.

**Palabras clave:** Legislación, Ingresos internos, AEoI, información financiera, impuestos.

## 1. Introduction

In this modern era, financial transaction is growing rapidly. It happens in any forms, including cash or non-cash. Basically, non-cash transaction aims to minimize the risk and ease the communication or prolong business relation between each other parties. While, non-cash financial transaction aims to ease the transaction, ease the re-traced transaction and decrease the use of real money. Besides, it is also useful to limit the abused real money on criminal act, such as; money laundering, corruption, drugs abused terrorism fund and illegal business. Moreover, the financial transactions by its institutions are easing the government supervision on wealth personal taxpayer.

Tax sector have a role as the vital instrument to country's finance expenses revenue, whether routinely or national and economy development. However, the tax revenue is still having internal and external obstacles. Nowadays, government is undertaking the tax reformation on directorate general of transaction (DJP). The goal is to improve the organization, work process, data process, banking information and global trade. However, from the external factor, it is known that there is still many taxpayers' avoiding tax to the abroad. By the existence of central tax protection from tax haven and no mechanism existence rules to obligate the exchange information between each other countries and judicially, it become more difficult to collect tax based on self-assessment<sup>1</sup> system in Indonesia.

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<sup>1</sup>The general explanation of legislations replacement Number 1 year 2017 about financial information access to taxation importance

Regards to best tax collection, the tax authority needs to be equipped with several abilities on data and information collection that relates to taxation. Hence, it is quick and effective enough to identify, analyze the risks based on taxpayer disobeyed (Gill, 2003). Taxpayer data and information from banking sector through its institutions can be a guide on predicting any event or development, then can be correctively acted by taking the law enforcement.

Bank confidential is a basic need to each healthy banking system. Initially, this is obtained from the relation between each other banks and customers. Those banks are obligated to keep all customers confidential. Therefore, a customer will not entrust the fund or financial affairs on untrusted bank since its finance institution cannot guarantee the customer data. However, this system plays a foremost role on protecting banking confidential whether individual or particular entity.<sup>2</sup>

Even though there is a bank confidential toward government, including tax authority will potentially appeal the customers to hide their activity, such as to avoid the tax obligation illegally. Hence tax authority needs to have access on taxpayer financial transaction, to detect tax leak. It is also an effort to do the law enforcement (Darussalam et al, 2014)

In case to decrease the country's revenue deviation, President Instruction Number 10/2016 about prevention act and corruption eradication had focused mainly on Automatic Exchange of Information<sup>3</sup> (shortly known as AEOI). It is considered as one of the strategic to repair the financial information processing system in Indonesia.

AEOI discourse was an across countries initiative all over the world. Indonesia had committed to implement the AEOI based on Indonesia presidential commitment on Summit Conference (KTT) G20<sup>4</sup> in 2013, 2014, 2015 and 2016. Indonesia had also signed and ratified the convention about united administrative in Indonesia tax field. It was signed in 2015 as Multilateral Competent Authority Agreement<sup>5</sup> (shortly known as MCAA).

AEOI implementation had still crashed by a few existed regulation, such as; Legislations Number 7/1992 *juncto* Legislations Number 10/1998 about banking; Legislations Number 21/2008 about sharia banking; Legislations Number 8/1995 about stock trade; Legislations Number 1/2013 about micro financial institution; and Legislations Number

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<sup>2</sup>OECD, Improving Access to Bank Information for Tax Purposes, OECD Publications Service, Paris, 2000, p.19.

<sup>3</sup>AEOI is the particular information as to taxpayer certain terms, periodically, systematic and continually from the country's producer or wealth saving to taxpayer country.

<sup>4</sup>G-20 or 20 main economic group is the 19<sup>th</sup> big world's economy, added with European union

<sup>5</sup>MCAA is a multilateral instrument to facilitate the AEOI implementation, using Common Reporting Standard based on Convention on Mutual Administrative Assistance in Tax Matters that had signed by Indonesia on 3<sup>rd</sup> Nov 2011 in Cannes, France. It is also had validated by presidential issued Number 159/2014.

6/1983 *juncto* Legislations Number 28/2007 *juncto* Legislations Number 16/2009 about public regulations and tax procedures.

There will be several consequences, to the country that do not fulfill the AEol commitment soon. Indonesia was considered as a country that fails to fulfill AEol commitments if until 30<sup>th</sup> June 2017, there had been no any appliance on domestic law devices related AEol. Furthermore, Indonesia also could be included on non-cooperative jurisdiction category, included into non-cooperative jurisdiction country and threatened as particular defensive measures by G20, which was set on July 2017. This would be impacted on Indonesia's position and bargain power with other countries, mainly related on tax, investment, loan and ease business doing.

The prerequisites fulfillment as G20 countries, are by government legislations replacement rule Number 1/2017 about financial information access to taxation importance. This draft of legislations must be finished soon, before June 2017, so that Indonesia is not failed to be AEol member. Therefore, this study aimed to know the urgency of Legislations of Law Number 9/2017 as the country allowance increasing effort and how Malaysia's Commitment to Implement Automatically Exchange Information Relating to Financial Accounts (*AEoI*). The methodology used in this study was descriptive qualitative with statute approach by analyzing the law regulations related to the law issue.

## **2. Legislations of Law Number 9 of 2017 as the Country's Revenue Increasing Effort**

The national legislations rule is a legislation which regulates a country, such as Indonesia. Therefore, the national legislations rule is a rule made by authorized country's institution to be obeyed by all citizens. Pointed legislations rule is aimed to rule the national life. Hence, all citizens to be obligated as legislations rule. The society needs are based on good legislations. Thus, the rule is urgently needed as to the legislations form by certain and standard method. It related to all aspects, such as authorized institution to form legislations rules. Clause 22A 1945 stated that regulations about legislation making procedure ruled by legislations. Then, it is described on Legislations Number 12/2011 about Legislations Rules Form.

Clause 1 Legislations Number 12/2011, about Legislations Draft, explained by legislations rule form. Legislations rule form is legislation making that encircles planning, arrangement, review, validity or confirmation and invitation. This legislation rule is issued by authorized institution. Therefore, there is structural or procedural in a country. The lower rule

legislative institution issued must be based on higher legislative issued institution. All rules have their own characteristics, as follows:

- Legislation regulation based on written rule form.
- Legislations regulation formed confirmed and issued by country's institution or authorized officers, whether national or regional.
- Legislations regulation fulfilled by norms or attitude patterns rule.
- Legislations regulation tied as a whole and public.

Based on Clause 7 verse (1) Legislations Number 12/2011 about legislations rule making, it is confirmed the hierarchy and types of legislation regulations below:

- Indonesia Legislations 1945
- People's Consultative Assembly Decree
- Legislations/Government Amendment Regulation
- Government Regulation
- President Regulation
- Province Regulation
- City/Town Regulation.

Thus, based on those regulations, the amendment regulation is similar with legislations, however, the making process is different. Legislation is formed by the House of Representatives with presidential agreement altogether (legislative product). Meanwhile, the legislative amendment government regulation is decreed by president, regards to the urgent condition. Furthermore, it is the government regulation appliance that has limited terms because of the house of representative agreement, next year. If those regulations are agreed by House of Representative, then legislations is formed. Otherwise, if those regulations are disagreed, then it will be revoked. In regards to legislations amendment of government regulation issued, on clause 22 verse (1) legislations 1945, it was confirmed the forced situation. President has right to confirm the regulations or rules, as to the legislations replacement (Asshdidiqie, 2006);

- Those regulations are called government regulation as the amendment. It is meant by government regulation forms, as stated on Clause 5 verse (2) legislations 1945. Furthermore, it states "president confirmed the government regulation to run as it ought to be." If it confirmed by government regulation, then the provisions could be inputted into legislations to replace previous legislations.

- Principally, the government legislative amendment is not the official government named. It was called as *Perrpu* or Legislative Amendment Government Regulation. This named is very different from the constitution RIS 1949 and Legislations 1950 provisions. Both previous legislations are as urgent as legislative terms or as similar as *Perrpu* meaning.
- The government regulation as the legislative amendment is only decreed by president, if fulfilled the prerequisites (“urgent or forced situation”).

Based on the constitutional court Number 138/PUU-VII/2009, there are 3 prerequisites parameter (urgent or forced situation) for president to confirm the PERPU. Those are:

- (1) There are urgent conditions as the law problem to be solved quickly, based on the legislations.
- (2) The needed legislations have not been occupied or exist but not sufficiently.
- (3) The law emptiness could be overcome by usual procedural legislative making. It is because taking too much time, meanwhile the urgent condition needed to be certainly finished.

Then, the arrangement process by legislative government amendment regulation in Clause 52, legislative Number 12 2011 about the legislative regulation made are explained as follows:

- (1) The government legislation amendment regulation has to be proposed in House of Representative in the next court.
- (2) The government legislation amendment regulation proposal as stated on verse (1), by undertaken the legislative draft proposal about the confirmed regulation to be legislations.
- (3) House of Representative gives agreement or disagreement towards the legislative replacement government regulation.
- (4) Regarded to government legislative amendment rule by House of Representative agreement in a plenary session. The legislative amendment government regulation is confirmed to be legislations.
- (5) Regarded to government legislations amendment regulation, that had not been agreed by house of representative in a plenary session, then that replacement legislations must be revoked and unapplied.
- (6) Regarded to legislations amendment government regulation must be revoked and unapplied stated as on verse (5), House of Representative must proposed the legislations draft as to legislative replacement government regulation revoked.



(7) The legislations draft about replacement government regulation revoked, as stated on verse (6) that ruled all law causes, from that revoke.

(8) Legislations draft about the legislations replacement government regulation revoke, as stated on verse (7). It is confirmed to be legislations, about the revoke in the plenary session on verse (5).

Regarded to the fundamental issued, government legislative replacement regulation Number 1/2017 about the financial information access to taxation importance, then those could be considered as follow:

- The implementation national development of Indonesia, that aims to prosper all citizens, is need funding from the country's revenue. It is mainly from taxation. Hence, regarded to fulfill the tax revenue, it is needed to give wide access to tax authorities. So, they could get any financial information to taxation importance.
- There are still many access limitations to tax authority, regarded to any financial information. It was ruled in taxation, banking, *sharia* banking, stock trade field also other taxation authority. However, it also cause obstacles to taxation authority in strengthened the taxation data, fulfill the tax revenue need and maintain the effectiveness of tax amnesty policies.
- Indonesia has tied tightly on the international agreement in taxation field. Indonesia has obligation to fulfill the engage commitment in implementing automatic financial information exchange (Automatic Exchange of Financial Account Information). Indonesia has also soon formed the legislative regulations as legislations about financial information access to taxation importance before 30<sup>th</sup>, June 2017.
- If Indonesia has not fulfill the obligation until the required deadline, Indonesia will be considered as a failed country to fulfill the financial information exchange commitment automatically (fail to meet its commitment). Definitely, it would cause the significant lost to Indonesia. Such as, the decrease as G20 countries, the decrease of investor trust and national economic stability disturbance potential. Also, Indonesia could be the country's illegal fund destination.
- Based on the consideration implied on point (a) until (d) and the urgent necessary to give wide access for tax authority to receive and to obtain financial information for taxation, so the government need to determine the substitute law about financial information access for taxation



Thus, the substitute law for Law Number 1/2017 is explained in point (C) in the points below.

- (1) Reporting automatic finance information as implied in article (2) subsection (2) that point (a) is conducted for automatic information exchange between Indonesian Officers whose authorization is to give information exchange and Jurisdiction Officers whose duty is to report the information exchange
- (2) Giving information and proof based on the request implied in article (2) subsection (2) that point (b) is conducted to give information as the officers' request both Indonesian and Foreign Jurisdiction.

Additionally, other important thing of the substitute law is as mentioned in point A has been explained previously. Rinaldy stated that the Government Law Number 1/2017 determination is actually government solution to implement tax reformation. It is needed because the level of Indonesia Tax discipline is still low. It was proven by only 11 million people from 18.2 million people submit their tax report documents last year<sup>6</sup>.

After the substitute law of Number 1/2017 was legalized, on 23<sup>rd</sup>, August 2017, House of the People Representative (DPR) has legalized it as The Law Number 9/2017 about the determination of government law Number 1/2017 as the legislation. In addition, the considerations about its determination are mentioned in points below:

- The implementation of national development in Indonesia aims to create Indonesians' prosperity and welfare. Thus, there must be funding from the State to fulfill the aims. Therefore, wide authority access to get finance information is needed in that the funding may be taken from the tax.
- There are still limited access for Indonesia authority tax to receive and to get the information explained in the Law about taxation, banking, sharia banking, capital market and other laws which may cause obstacles for tax authority in strengthening basic data of taxation to fulfill the needs of tax and to keep it work effectively.
- Indonesia has agreed the international agreement about taxation and must obey the commitment in implementing Automatic Exchange of Financial Account Information. Thus, Indonesia have to form the Law about financial information access before 30<sup>th</sup>, June 2017
- President has determined the substitute law for government law Number 1/2017 on 8<sup>th</sup>, May 2017

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<sup>6</sup><http://finansial.bisnis.com/read/20170517/90/654427/> accessed on July 30<sup>th</sup>, 2018

- Based on point a, b, c and d, Indonesia need to form the substitute law for government law Number 1/2017 as the Law

Financial information access in The Law Number 9/2017 includes the access to receive and to get financial information to conduct the law of taxation and international agreement in taxation, banking, *sharia* banking, capital market and other Laws. This access is to support the taxation authority in strengthening basic data of taxation to fulfill the needs of tax and to keep it work effectively. The realization of Law Number 9/2017 is also to fill the commitment of Indonesia in implementing Automatic Exchange of Financial Account Information (AEOI) agreed in the international agreement. This is done to avoid the lowering of Indonesia credibility as G20 member and the trust of foreign investors and to keep Indonesia from illegal funding that disturb the stability of national economy.<sup>7</sup>

The Ministry of Finance, Sri Mulyani, states that the access of financial data is considered as an optimism feeling to achieve the target of tax on 2018 which is about 1.609.4 trillion rupiah with tax assumption ration of 11.5% from the Domestic Bruto (the market value of all products produced by a country in certain period). Hence, the target increases up to 9.3% from the previous years. The legalization of the legislation as Law ensured the world that Indonesia has been ready to implement Automatic Exchange of Financial Account Information (AEOI) on September, 2018. Additionally, this act also deleted the hesitation of Indonesia commitment to improve the transpiration of financial sector. Besides that, the tax shifting out could be minimized for taxpayers.

The implementation of the Law Number 9/2017 will be effective if it is supported by the human resources in the general Directorate of Tax, especially in checking and collecting either qualitatively of quantitatively. This support will stimulate others so that the coordination of other parties, banking, is also fulfilled. The implementation of data exchange, based on article 35A about tax procedures, cannot work well because there was no written agreement specifically among institution and banking leaders.

Other supporting element is integration data on taxation system so that the officers may more focus on controlling the administration. The administration is still being the prominent duty as long as the State expects quantitative result.<sup>8</sup> Thus, through the determination of new Law Number 9/2017, is expected that the Tax General Directorate has potency to increase the basic data of tax while doing the spreading system and information exchange.

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<sup>7</sup><https://www.gatra.com/> accessed on August 31<sup>st</sup>, 2018.

<sup>8</sup>Ibid.

### 3. Malaysia's Commitment on Automatic Exchange of Information related to Financial Accounts (*AEOI*).

In efforts towards global transparency, over 100 countries have agreed to automatically exchange information relating to financial accounts (*AEOI*) under the Convention on Mutual Administrative Assistance in Tax Matters (*Convention*). The OECD has also developed the Common Reporting Standards (*CRS*) which set out the common information to be collected and reported by financial institutions of participating jurisdictions, for purposes of implementing *AEOI* locally.

Malaysia's commitment to implement *AEOI*s explained in points below:<sup>9</sup>

- On 27<sup>th</sup>, January 2016, signed the Multilateral Competent Authority Agreement which details the rules on exchange of information between participating jurisdictions;
- On 25<sup>th</sup>, August 2016, signed the Convention in view of fostering all forms of administrative assistance in tax matters with the other signatories of the Convention.
- On 23<sup>rd</sup>, December 2016, the following legislations were introduced in Malaysia:<sup>10</sup>
  - the Income Tax (Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information) Order 2016;
  - the Income Tax (Convention on Mutual Administrative Assistance in Tax Matters); and
  - Income Tax (Automatic Exchange of Financial Account Information) Rules 2016 (*AEOI Rules*).

Under the new legislations, Malaysia has committed to exchange information with respect to different types of accounts opened and maintained by the Malaysian financial institutions in accordance with the following timelines:<sup>11</sup>

Type of accounts		Intended date for the exchange of information
New account (generally refers to a financial account opened on or after 1 July 2017)		September 2018
Pre-existing account	Individual high-value account	September 2018

<sup>9</sup><https://www.bakermckenzie.com> accessed on August 31<sup>st</sup>, 2018.

<sup>10</sup>Ibid

<sup>11</sup>Ibid.

Type of accounts		Intended date for the exchange of information
(Generally refers to a financial account opened as of 30 June 2017)	Individual low-value account	September 2018 or September 2019, depending on when the account is identified as reportable
	Entity account	September 2018 or September 2019, depending on when the account is identified as reportable

The Inland Revenue Board of Malaysia (*IRB*) has announced that the first list of reportable jurisdictions will be published by 15 January 2018, and will be revised by 15 January of the following years. The AEOI Rules, which came into effect on 1 January 2017, implements the CRS in Malaysia, with certain modifications. The AEOI Rules apply to every Reporting Financial Institution, which is defined as a Financial Institution that is resident in Malaysia (excluding any branch of that Financial Institution that is located outside of Malaysia) and any branch of a Financial Institution that is not resident in Malaysia if that branch is located in Malaysia. A Financial Institution is defined under Section VIII of the CRS.

Under the AEOI rules, every Reporting Financial Institution is required to comply with the following:<sup>12</sup>

### ***3.1. Due Diligence Requirements***

Each Reporting Financial Institution is required to identify the relevant reportable accounts maintained by the Reporting Financial Institution by applying the relevant due diligence procedures as prescribed under the CRS. There are different due diligence procedures depending on whether these are pre-existing accounts or new accounts, and whether such accounts are held by individuals or entities. The Reporting Financial Institutions are required to complete the due diligence review in respect of its account holders in accordance with the timeline below:

Type of accounts	Deadline for completion of review
Pre-existing high value individual account	30 June 2018

<sup>12</sup>Ibid.

Pre-existing low value individual account	30 June 2018
Pre-existing entity account	Aggregate account balance or value that exceeds USD 250.000
	30 June 2018

Type of accounts		Deadline for completion of review
	As of 30 June 2017	
	Aggregate account balance or value that does not exceed USD 250.000 as of 30 June 2017	Within the calendar year of the following year in which aggregate account balance or value exceed USD 250.000

### 3.2. Reporting Obligations

Every Reporting Financial Institution is required to furnish an information return to the Director General of Inland Revenue (DGIR) on or before 30 June of the year following the calendar year to which the return relates (Djumhana, 2005). As such, the first reporting in respect of the calendar year 2017 will be required to be made to the DGIR by 30 June 2018. The reporting will need to be made via the IT platform maintained by the IRB, the details of which are expected to be released later this year.

The information return will need to contain certain details relating to each reportable account, including the name, address, jurisdiction(s) of residence, tax identification number(s) of the account holders, and the account balance or value as of the end of the relevant calendar year (or, if the account was closed during such year, the closure of the account).

The Finance Act 2016, which was gazetted on 16<sup>th</sup>, January 2017, introduces new penalty provisions to the Malaysian Income Tax Act (*MITA*). Under the proposed new Sections 113A and 119B of the *MITA*, it is an offence for any person to make an incorrect or false return, or fail to comply with any rules made to implement or facilitate any mutual administrative assistance arrangement (including the AEOI Rules).

Any person who is convicted for an offence under these new provisions will be liable to a fine of not less than RM 20,000 and not more than RM 100,000 and / or imprisonment for a term not exceeding six months.

Most of the players in the financial industry are Financial Institutions within the meaning of the CRS, including banks, insurance companies, brokers, investment funds and trust companies. However, the classification rules under the CRS and AEOI rules are complex and it is important for the industry players to undertake a detailed assessment of their internal activities in determining how these rules apply to them.

With the introduction of the AEOI rules, it is also timely for Malaysian financial institutions to review and refine the customer due diligence procedures and internal processes to ensure that reportable accounts are identified in accordance with the AEOI rules. On-going monitoring for changes in circumstances is also crucial in ensuring that information relating to the account holder maintained by the financial institutions is accurate and up to date.

In light of the broad list of jurisdictions adopting and enforcing the AEOI, individual taxpayers should also be cognizant that the Malaysian government will receive financial information of Malaysian residents relating to bank accounts maintained outside of the country. For high-net-worth individuals in particular, AEOI and CRS would result in significantly increased transparency in relation to their financial assets and wealth management structures. In this regard, it would be prudent to undertake a review of the existing structures to consider if there are any historical non-compliance issues which need to be addressed via any applicable tax amnesty programmes or voluntary disclosure schemes. Tax and foreign exchange control rules will also need to be considered and assessed as the exchange of information will further bring in light any non-compliance in these areas.

#### **4. Conclusion**

In conclusion, the determination of substitute law Number 1/2017, the Law Number 9/2017, ensured the world that Indonesia has been ready to implement Automatic Exchange of Financial Account Information (AEOI) on September, 2018. Additionally, this act also deleted the hesitation of Indonesia commitment to improve the transpiration of financial sector. Besides, the tax shifting out could be minimized for taxpayers. In comparison, Malaysia's commitment for AEOI can be seen in some efforts such as (1) on January 27<sup>th</sup>, 2016 Malaysia signed the Multilateral Competent Authority Agreement which details the rules on exchange of information between participating jurisdictions; (2) on August 25<sup>th</sup>, 2016, the Convention in view of fostering all forms of administrative assistance in tax matters

with the other signatories of the Convention was signed; (3) on December 23<sup>rd</sup>, 2016, the following legislations were introduced in Malaysia including the Income Tax (Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information) Order 2016, the Income Tax (Convention on Mutual Administrative Assistance in Tax Matters), and Income Tax (Automatic Exchange of Financial Account Information) Rules 2016 (AEOI Rules). Additionally, under the new legislations, Malaysia has committed to exchange information with respect to different types of accounts opened and maintained by the Malaysian financial institutions

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