



## Case study

TelcoFix Inc., which is headquartered in the USA, is in the business of providing on-demand streaming services (e.g. movies, TV shows, documentaries etc.) over the internet to users globally for personal use, with annual global revenues of more than USD15 million. TelcoFix Inc provides unlimited access to video content to users in Malaysia, accessible through its website, for a monthly subscription fee.

TelcoFix Inc owns the core technological intellectual property, including a proprietary streaming technology, content delivery network and user interfaces. The streaming content and user interfaces (website and mobile apps) are stored on servers physically located in the Netherlands.

The TelcoFix group does not have any entity / office in Malaysia for the supply or delivery of streamed content to Malaysian subscribers. Further, TelcoFix Inc. does not:

- ▶ have or operate a server in Malaysia;
- ▶ use, operate, own or lease any equipment located in Malaysia;
- ▶ employ any personnel in Malaysia;
- ▶ have an office in Malaysia;
- ▶ have any agents in Malaysia for the sales or delivery of content to Malaysian subscribers.

TelcoFix Sdn Bhd, a Malaysian subsidiary of the group, provides local support services to TelcoFix Inc, including local marketing and acting as a collection agent for the monthly subscription fees received from Malaysian subscribers on behalf of TelcoFix Inc. TelcoFix Sdn Bhd earns a fee from TelcoFix Inc for such support services on a cost-plus mark-up basis.

TelcoFix Inc has been adopting a position that it is not liable to pay any taxes on subscription income in Malaysia in the absence of any core operations in Malaysia, or physical presence of an office, server or agency in Malaysia. The TelcoFix group has been on the radar of the Malaysian Inland Revenue Board (MIRB) as well as the media and is expecting a detailed scrutiny of its tax structure, filings, reporting and disclosures. At the same time, a risk review has been initiated by the tax authorities in several European Union (EU) countries.

Further, as revenue authorities in more and more countries are using technology to review businesses' financial records directly, including using data analytics throughout the process, the board of TelcoFix group is concerned that the group may be ill-



prepared to manage ever increasing global tax compliance and reporting obligations due to the current lack of central management and organization of the compliance function globally.

**Requirement:**

The board of the TelcoFix group is re-evaluating its tax affairs, particularly in view of the ongoing developments around the OECD BEPS Action Plan, taxation of digital and e-commerce business, transfer pricing and the local country tax law reforms in different countries, and has asked EY to assist with the risk analysis and transformation. As the representative of EY, you are required to make a presentation to the Board to address their concerns, focusing on the key risk areas from a direct and indirect tax perspective given their current business model and tax positions adopted, as well recommendations to mitigate the identified risk areas. The key strengths and challenges in implementing the said recommendations should also be highlighted. The Board are also interested in understanding how the group can rely on technology to better manage its tax affairs, and how EY can assist in this aspect.