

NEW SUPER TAX DEDUCTION FOR CORPORATE TAXPAYERS



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ABOUT DDTC Newsletter

Published every two weeks, DDTC Newsletter provides a summary of key tax law changes, both the current modifications and changes in taxation regulations, particularly those pertaining to domestic policies.

Contents

- **Super Tax Deduction for Vocational and R&D Activities**
- **The Government Revised the CFC Rules**
- **16 Types of Documents Equal to Tax Invoices**
- **Exporters' Failure to Repatriate Foreign Exchange May Result in Fines**
- **The DGT Affirms the Issuance Mechanism of SKJLN**
- **The Relaxation of Sugar Import Duty from India**

NEW SUPER TAX DEDUCTION FOR CORPORATE TAXPAYERS

Super Tax Deduction for Vocational and R&D Activities

The government has released a legal basis for the provision of tax incentives in the form of 'super tax deduction' aimed at labor-intensive industries, vocational activities, as well as certain research and development activities in Indonesia. This regulation was signed by Indonesian President, Joko Widodo, at the end of June 2019.

The provision of such fiscal facility is regulated in [Government Regulation No. 45/2019](#). The legal basis is a revision of [Government Regulation No. 94/2010](#) concerning the Calculation of Taxable Income and Repayment of Income Tax in the Current Year.

The regulation is aimed at encouraging investment in labor-intensive industries, supporting the creation of employment programs and absorption of Indonesian labor; encouraging the involvement of businesses and industries in preparing quality human resources, increasing competitiveness, and encouraging the role of businesses and industries in conducting R&D activities.

In essence, Government Regulation 45/2019 stipulates four categories of tax incentives. *First*, this regulation sets forth the tax holiday incentives or exemption or deduction of income tax (*pajak penghasilan*/PPh) for corporate taxpayers. Corporate taxpayers investing in pioneer industries and do not obtain the facilities of Article 31A of the Income Tax Law shall be given a tax holiday facility according to Article 18 paragraph (5) of the Investment Law.

Second, the tax allowance for corporate taxpayers making new investments or business expansion in labor-intensive sectors and have not received incentive facilities in Article 31A of the Income Tax Law. Such taxpayers shall be given a tax incentive in the form of a net income deduction of 60% of the total investment in the form of tangible fixed assets, including the land used for business activities.

Third, the super tax deduction incentives for businesses that carry out internship and vocational activities. Such taxpayers may be given a gross income deduction of a maximum of 200% of the total costs incurred for the internship, vocational, and/or learning activities.

Fourth, a super tax deduction incentive for resident corporate taxpayers conducting certain R&D activities in Indonesia. Business players of this criterion may be given a gross income deduction of a maximum of 300% of the total costs incurred for certain R&D activities in Indonesia within a certain period of time.

The aforementioned R&D activities are research and development activities carried out in Indonesia to produce inventions, innovations, master new technologies, and/or transfer the technology for industrial development to enhance national industrial competitiveness.

The Government Revised the CFC Rules

The government has finally revised the tax provisions related to foreign companies controlled by domestic taxpayers or Controlled Foreign Company (CFC) Rules. The latest provisions are contained in [MoF Regulation No. 93/PMK.03/2019](#) promulgated on 26 June 2019.

This regulation revises [MoF Regulation No.107 / PMK.03/2017](#) concerning the Acquisition Time of Dividends and Calculation Basis by Resident Taxpayers for Investments in Foreign Business Entities other than Publicly Listed Companies.

The revision of the CFC rules is intended to encourage transparency, provide legal certainty and fairness in the imposition of taxes on resident taxpayers for investments in foreign business entities other than publicly listed companies.

The changes to the provisions are related to deemed dividend schemes. A deemed dividend is a dividend obtained by a resident taxpayer for investments in a directly controlled non-stock exchange foreign business entity (*badan usaha luar negeri*/BULN terkendali langsung).

The previous regulation stipulated the deemed dividend calculations based on after-tax profits. Thus, income was not differentiated into active and passive income. In contrast, in the latest regulation, the calculation is based on after-tax net income derived from passive income.

After-tax net income is defined as the gross amount of certain income after deducted by two variables. *First*, the costs to obtain, collect, and maintain certain income.

Second, the portion of income tax payable, paid or deducted from certain income if there exists income tax payable, paid, or deducted from said income.

Passive income includes dividends, interest, rent obtained from the controlled non-stock exchange foreign business entity for the use of land or buildings as well as leases for property other than the property originating from transactions with related parties, royalties, and profits from sales or transfers of property.

NEW SUPER TAX DEDUCTION FOR CORPORATE TAXPAYERS

16 Types of Documents Equal to Tax Invoices

The Directorate General of Taxes (DGT) has revised the provisions relating to certain documents deemed equal to tax invoices. The latest regulation stipulates 16 documents in such category.

This new provision is regulated in the [Director General of Taxes Regulation No.PER-13/PJ/2019](#). Stipulated on 2 July 2019 and came into effect 60 days later, this regulation directly revokes the [Director General of Taxes Regulation No.PER-10/PJ/2010](#) along with its three amendments. This regulation is issued to provide legal certainty regarding certain documents equal to tax invoices.

In the previous regulation, the DGT stated 14 types of certain documents deemed equal to tax invoices. In contrast, in the new regulation, the DGT sets forth 16 types of documents equal to tax invoices.

Of the 14 documents in the previous provisions, one document has been removed in the new regulation, namely the Invoice of Note of Delivery (*Paktur Nota Bon Penyerahan/PNBP*) prepared/issued by Pertamina for the supply of fuel and/or non-fuel.

In contrast, the new regulation sets forth 3 types of documents that differ from the previous regulation. The three documents are as follows *first*, documents used to order excise band for tobacco products (CK-1 document).

Second, the Import declaration (*Pemberitahuan Impor Barang/PIB*) which lists the identity of the owner of the goods, i.e. the name, address, and taxpayer identification number (*nomor pokok wajib pajak/NPWP*), enclosed with a Tax Payment Slip (*Surat Setoran Pajak/SSP*), letter of determination of tariff and/or customs value (*surat penetapan tarif dan/atau nilai pabean/SPTNP*), letter of customs determination (*surat penetapan pabean*), or re-stipulation letter of rate and/or customs value (*surat penetapan kembali tarif dan/atau nilai pabean*).

The letter states the identity of the owner of the goods, i.e. the name, address, and taxpayer identification number, constituting an integral part of the import declaration for the imports of taxable goods (TG) in the event of an under-assessment of the amount of import value added tax (VAT) by the Directorate General of Customs and Excise (DGCE).

Third, the tax payment slip for VAT payments for the imports and/or supply of TG and/or taxable services

(TS) from the Free Trade Zone to other places within the customs area enclosed with the customs and excise declaration for TG exports or invoices or contracts (for the supply of TS and/or intangible TG).

The following are the 16 types of certain documents that are equal to tax invoices according to the latest regulation:

1. goods delivery order (*surat perintah penyerahan barang/SPPB*) prepared/issued by the Indonesian Bureau of Logistics/ Logistic Depot (BULOG/DOLOG) for the distribution of wheat flour;
2. bill/slip of payment for the supply of telecommunications services by telecommunications companies;
3. ticket, airway bill, or delivery bill, prepared/issued for the supply of domestic air transport services;
4. service sales notes (*nota penjualan jasa*) prepared/issued for the supply of port handling services;
5. bill/slip of payment for the supply of electricity by the electricity company;
6. bill/slip of payment for the supply of TG and/or TS by drinking water companies;
7. trading confirmation for the supply of TS by securities brokers;
8. invoice for the supply of TS by banks;
9. documents used to order excise band for tobacco products (CK-1 document);
10. export declaration (*pemberitahuan ekspor barang/PEB*) attached with the memorandum for export services (*nota pelayanan ekspor*), invoice, and bill of lading, or airway bill, constituting an integral part of the export declaration, for the exports of TG;
11. export declaration of intangible TS/TG enclosed with an invoice constituting an integral part of the export declaration of intangible TS/TG, for the exports of intangible TS/TG;
12. import declaration that lists the identity of the owner of the goods i.e. the name, address, and taxpayer identification number, enclosed with tax payment slip, Customs, Excise, and Tax Payment Slip (*Surat Setoran Pabean, Cukai dan Pajak/SSPCP*), and/or tax withholding slip by the DGCE which lists the identity of the owner of the goods, i.e. the name, address, and taxpayer identification number, constituting an integral part of the import declaration, for the imports of TG;
13. import declaration that lists the identity of the owner of the goods, i.e. the name, address, and taxpayer identification number, enclosed with the tax payment slip and letter of determination

NEW SUPER TAX DEDUCTION FOR CORPORATE TAXPAYERS

of tariff and/or customs value, letter of customs determination, or re-stipulation letter of rate and/or customs value stating the identity of the owner of goods i.e. name, address, and taxpayer identification number; constituting an integral part of the import declaration for the imports of TG in the event of under-assessment of the value of Import VAT by the DGCE;

14. tax payment slip for the payment of VAT on the utilization of intangible TG or TG from outside the customs area into the customs area by attaching the invoice and details of the types and value of intangible TG or TS as well as the name and address of the intangible TG or TS supplier;
15. tax payment slip for the payment of VAT on the supply of TG through an auctioneer enclosed with a quotation of Acta (*Risalah Lelang*), constituting an integral part of the tax payment slip; and
16. tax payment slip for the payment of VAT on the exports and/or supply of TG and/or TS from the Free Trade Zone to Other Places in the Customs Area enclosed with:
 - customs and excise declaration for the exports of TG; or
 - invoice or contract for the supply of intangible TS and/or TG.

Exporters' Failure to Repatriate Foreign Exchange May Result in Fines

Exporters who fail to repatriate foreign exchange from export proceeds (*devisa hasil ekspor/DHE*) from natural resources (*sumber daya alam/SDA*) to escrow accounts in Indonesia may be subject to fines. This is regulated in the [Minister of Finance Regulation \(MoF Regulation\) No. 98/PMK.04/2019](#) promulgated on 1 July 2019.

The MoF Regulation is the follow-up of the [Government Regulation Number 1 of 2019](#) concerning Foreign Exchange from Export Proceeds from Natural Resources Business, Management, and/or Processing Activities requiring exporters to repatriate foreign exchange into the country.

[MoF Regulation 98/2019](#) stipulates that all residents may freely own and use foreign exchange. However, the foreign exchange from export proceeds from natural resources (*Devisa Hasil Ekspor/DHE SDA*) must be included in the Indonesian financial system. DHE SDA originates from the exports of mining, plantation, forestry, and fisheries.

Based on this MoF Regulation, exporters are required to include DHE SDA into the Indonesian financial system

through the placement of DHE SDA into special DHE SDA escrow accounts at foreign exchange banks.

The placement of DHE SDA into the abovementioned DHE SDA escrow accounts is carried out no later than the end of the third month after the month when the export customs declaration is registered.

Should exporter fail to fulfill these obligations, there exist three types of sanctions that shall apply. *First*, exporters who do not place DHE SDA into a DHE SDA escrow account within the month of export customs registration are subject to a 0.5% fine.

Second, for the exporters who use DHE SDA in the DHE SDA escrow account for the payment of export duties and other levies in exports, the loans, imports, and profits from dividends, or other necessities from investments are subject to 0.25% fine.

Third, for exporters who do not create any escrow accounts or do not repatriate escrow accounts abroad to foreign exchange banks are subject to administrative sanctions in the form of postponing the provision of customs services in the export sector.

The MoF Regulation stipulates that the collected fines shall be deposited to the state treasury as Non-Tax State Revenue (*Penerimaan Negara Bukan Pajak/PNBP*) originating from other state rights in accordance with the laws and regulations pertaining to the Non-Tax State Revenue.

The DGT Affirms the Issuance Mechanism of SKJLN

The government regulates the mechanism for issuing certificates of the utilization of taxable services from outside the customs area within the customs area (SKJLN). This mechanism is regulated in the [Director General of Taxes Regulation No. PER-12/PJ/2019](#).

The authority explains that the underlying consideration for the issuance of the regulation is to provide legal certainty in the imposition of Value Added Tax (*Pajak Pertambahan Nilai/PPN*) on temporary imports of which the supply of goods is aimed at the utilization of taxable services (*jasa kena pajak/TS*) and ease of doing business.

The regulation which has come into force as of 2019 states that the imports of taxable goods (*barang kena pajak/TG*) of which the supply of goods is intended for the utilization of taxable services are not subject to VAT or Sales Tax on Luxury Goods (SLTGs). Prior to importing, taxpayers must possess SKJLN.

NEW SUPER TAX DEDUCTION FOR CORPORATE TAXPAYERS

To obtain SKJLN, the taxpayer is obliged to submit a written request to the DGT. The written application must contain the Taxpayer Identification Number, name and address of the transaction, type and value of the transaction, number and date of the transaction, number and date of the contract addendum, the contract expiration date, the types of imported goods. Taxpayers are responsible for the accuracy of information supplied or submitted in the application for the issuance of SKJLN.

Taxpayers may apply for SKJLN through the DGT's webpage. In the event that the webpage is not yet available or inaccessible, the taxpayer may submit an application directly to the Tax Office (*Kantor Pelayanan Pajak/KPP*) where the taxpayer is registered addressed to the Director General of Taxes c.q. Head of the Tax Office.

The application for SKJLN is signed by the individual taxpayer in question or the highest leader of a corporate taxpayer or management authorized to carry out company activities related to taxation as evidenced by photocopies of the deed of establishment or other supporting documents.

[PER-12/2019](#) states that taxpayers shall be given SKJLN if they have submitted annual income tax returns for the last two tax years and/or have submitted periodic VAT returns for the last three tax periods for taxable persons for VAT purposes.

At the request of the taxpayer, the Director General of Taxes c.q. the head of the Tax Office where the taxpayer is registered will issue the SKJLN within a maximum period of three working days provided that all provisions are met. Otherwise, a rejection letter will be issued within a maximum period of three working days or the application will not be automatically processed through the DGT's webpage upon its submission.

The Relaxation of Sugar Import Duty from India

The government has given concessions to import duty for raw crystal sugar or raw sugar from India. The relaxation is set forth in the [MoF Regulation No.96/PMK.010/2019](#) concerning the Amendments to [MoF Regulation No. 27/PMK.010/2017](#) concerning the Determination of Import Duty Rates under the agreement of ASEAN – India Free Trade Area.

The relaxation is given by the government to expand the market access for Indonesian products in India within the framework of intensive economic cooperation between the Association of Southeast Asian Nations and the Republic of India.

The attachment of [MoF Regulation 96/2019](#) states that the import duty rates on sugar cane (Tariff Post 1701.13.00) and other sugar cane (HS Code 1701.14.00) is set at 5%. This changes the previous rules, namely [MoF Regulation 27/2017](#) which set sugar import duty rates using most favored nation (MFN) scheme, in other words, applying a general rate of Rp550/kg or a minimum of 10%.

The new rate applies to the import of goods of which the import customs declaration documents have obtained the number and date of registration from the Customs Office of the import port as of the date this minister regulation comes into force.

This regulation shall come into force 14 days since its promulgation or is effective on 8 July 2019. The Government states that the rate determination is subject to periodic evaluation.

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NEW SUPER TAX DEDUCTION FOR CORPORATE TAXPAYERS

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