

TAX FACILITIES FOR CERTAIN INVESTMENTS AND NEW PROVISIONS RELATED TO TAXATION DATA, EXCISE AND E-TRADE



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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.

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Income Tax Facilities for Capital Investment in Certain Business Fields or Regions

The Indonesian government has updated the regulation pertaining to the income tax facilities for capital investment in certain business fields or regions. The updates to the regulation are contained in [Government Regulation of the Republic of Indonesia No. 78 of 2019](#) (Gov. Reg. No. 78/2019) concerning Income Tax Facilities for Capital Investment in Certain Business Fields and/or Certain Regions.

The updates to this regulation are intended to further encourage and improve direct capital investment activities in terms of economic growth and business sector development. Moreover, these updates are aimed at providing legal certainty to engender a more conducive business climate for direct capital investment activities in certain fields or regions with high priority of national scale.

The regulation was promulgated on 13 November 2019 and will come into force 30 days since the promulgation date. The enactment of this regulation simultaneously revokes [Government Regulation No. 18 of 2015](#) (Gov. Reg. No. 18/2015) concerning Income Tax Facilities for Capital Investment in Certain Business Fields and/or in Certain Regions, as amended by [Government Regulation No. 9 of 2016](#) (Gov. Reg. No. 9/2016) concerning Amendments to Gov. Reg. No. 18/2015.

Through this regulation, the government adds the number of business fields or regions entitled to income tax facilities. The previous regulation stipulated 145 business fields eligible for such facilities that were categorized into 71 specific business fields and 74 certain business fields located in certain regions. In contrast, Gov. Reg. No. 78/2019 sets forth 183 business fields that are entitled to income tax facilities. Such business fields comprise 166 certain business fields and 17 certain business fields located in certain regions.

Furthermore, there are two new provisions for capital investment provided with an additional period of compensation. *First*, one year extra for capital investment carried out by taxpayers in certain business fields or regions. *Second*, one year extra for capital investment in new and renewable energy.

In addition, there are three provisions regarding the additional period of compensation different from the previous regulation. *First*, one year extra if the taxpayer uses a minimum of 70% of domestically produced raw materials and/or components no later than the second taxable year. The previous regulation stipulated the fourth taxable year.

Second, one year extra for additional employment of a minimum of 300 Indonesian workers for four consecutive years. Formerly, an additional period of compensation for losses of one year was provided in the event that a minimum of 500 Indonesian workers were employed for five consecutive years.

Third, two years extra for additional employment of a minimum of 600 Indonesian workers for four consecutive years. The previous regulation provided an additional period of compensation for losses of two years in the event that a minimum of 1,000 Indonesian workers were employed for five consecutive years.

The additional period of compensation for losses of two years for capital investment by taxpayers or investors in industrial/bonded zones applies for losses in the first, second, and/or third taxable year as of the commencement commercial production. On the other hand, for other business fields, the additional period of compensation is provided for losses until the expiration of the provision of such tax facilities.

Furthermore, a net income deduction facility amounting to 30% of the total capital investment may be utilized as of the commencement of commercial production. On the contrary, other tax facilities are valid as of the issuance of the decision concerning the provision of tax facilities.

In further detail, the net income deduction facility of 30% for fixed assets in the form of land must include the principal license, investment, and capital investment registration. Additionally, the land must be owned and utilized for business main activities. The land must also be acquired in new condition unless it is an overall relocation as a capital investment package from another country.

In contrast, to obtain a net income deduction of 30% for fixed assets other than land, two requirements must be met. *First*, the assets must be acquired after obtaining a business license from the Online Single Submission Management and Organizer Agency (OSS Agency). *Second*, the assets have obtained a principal license, investment, capital investment registration, or business license from the OSS Agency.

Further, to obtain the facilities, a taxpayer must apply prior to the commencement of commercial production. The application may be submitted online through the OSS system. Such an application can be conducted simultaneously with the registration of Single Business Number (*Nomor Induk Berusaha/NIB*) for new taxpayers. In contrast, the application for capital investment or expansion must be submitted no later than one year after the issuance of a business license by the OSS agency.

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Organization and Working Procedure of the Center for Taxation Data and Document Processing

The government has revised the regulation concerning the organization and the working procedure of the center for taxation data and document processing (*pusat pengolahan data dan dokumen perpajakan/PPDDP*). Changes in the organizational structure and working procedure in several Echelon II units within the Directorate General of Taxes (DGT) have resulted in such revisions.

The revisions are contained in [Minister of Finance of the Republic of Indonesia Regulation No. 176/PMK.01/2019](#) concerning the Organization and Working Procedures of the Center for Taxation Data and Document Processing (PMK No. 176/2019). The government has made two changes in this regulation.

First, PPDDP serves as the technical implementing unit in taxation data and document processing that reports to the Director General of Taxes. The technical-functional and administrative development of PPDDP is carried out by the Directorate of Taxation Data and Information (*Direktorat Data dan Informasi Perpajakan/DDIP*).

This differs from the previous regulation, in which PPDDP reported to and was under the control of the Directorate of Tax Information Technology (*Direktorat Teknologi Informasi Perpajakan/DTIP*).

Second, the Head of PPDDP submits a report to the Director General of Taxes with a copy to the Director of DIP. In contrast, the previous regulation required the Head of PPDDP to submit a report to the Director General of Taxes with a copy to the Director of TIP.

Procedures for Excise Exemption

The Government has revised the [Minister of Finance Regulation No. 172/PMK.04/2019](#) (MoF Reg. No. 172/2019) concerning the Second Amendment to the [Minister of Finance Regulation No. 109/PMK.04/2010](#) (MoF Reg. No. 109/2010) concerning the Procedures for Excise Exemption. The regulation is revised to support businesses in the field of biofuels, which is a national program established by the government. In addition, the revisions are required to accommodate the needs of dutiable goods for worship purposes.

The government has made four changes in the regulation promulgated on 25 November 2019. *First*, changing the diction of finished goods exempted from excise into finished goods that are not dutiable goods. Subsequently, the government has added a provision on the exemption of ethyl alcohol storage obligation in a separate place

within the location of the company thereof for some entrepreneurs of the finished goods.

The exemption applies to the entrepreneurs of the finished goods who have stored ethyl alcohol and produced the finished goods that are not dutiable goods in the same location. The finished goods, nonetheless, must be in the form of biofuel and the storage must have obtained a permit/recommendation from agencies in charge of energy and mineral resources.

Moreover, entrepreneurs entitled to the exemption must record the receipt and use of ethyl alcohol with the excise exemption facilities. The entrepreneurs must also implement a computer-based inventory information system that can be monitored and accessed by Customs and Excise Officers in real-time and online.

Second, the government has abolished the provision of minimum levels of ethyl alcohol or beverages containing ethyl alcohol used for social purposes and entitled to excise exemptions. The excise exemptions could be provided for the lowest content of 85% of ethyl alcohol for social purposes and such a provision did not apply to beverages.

In addition, the government has added a social purpose for excise exemptions, i.e. beverages containing ethyl alcohol for general worship purposes (the previous regulation only provided excise exemptions for hospital and natural disasters). To obtain these exemptions, however, the entrepreneur must submit a request to the Minister of Finance with a copy to the Director General of Customs and Excise through the Head of Customs and Excise Office using the PMCK-3 document, a letter of application for ethyl alcohol excise exemptions for social/scientific research and development purposes.

Furthermore, the application for excise exemptions filed by hospitals or institutions dealing with natural disasters must include a breakdown of the amount and intended use of ethyl alcohol for which excise exemptions are requested. In addition, institutions dealing with natural disasters must enclose recommendations from agencies dealing with natural disasters.

On the other hand, the application for excise exemptions filed by religious institutions must include a breakdown of the number of beverages containing ethyl alcohol for which the exemptions are requested and the intended use. The application must be attached thereof with a list of places of worship requiring the exemptions and recommendations from agencies that manage religious affairs.

Third, based on the previous regulation, the head or management of the hospital was to submit a monthly report on the receipt and use of ethyl alcohol exempted from the excise to the Director General of Customs

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and Excise. Based on the new regulation, however, the reporting obligation is borne by the hospital.

Fourth, the CK-5 document – a notification of mutation of dutiable goods – was to be prepared pursuant to MoF Reg. 109/2010 concerning the Procedures for Excise Exemptions. The document must now be prepared based on the provisions in the minister of finance regulation concerning the storage, entry, issue and transport of dutiable goods.

Trade Through Electronic Systems

The government has issued a new regulation concerning trade through electronic systems. The provisions are contained in [Government Regulation No. 80 of 2019](#) concerning trade through electronic systems (Gov. Reg. No. 80/2019). The regulation is promulgated to materialize the provisions in Article 66 of Law Number 7 of 2014 concerning Trade (Law No. 7/2014).

The new regulation has come into force as of its promulgation date, 20 November 2019. This regulation defines Trade Through Electronic Systems (*Perdagangan Melalui Sistem Elektronik/PMSE*) as trade in which the transactions are carried out through a series of electronic devices and procedures. On the other hand, the Organizer of Trade through Electronic Systems (*Penyelenggara Perdagangan Melalui Sistem Elektronik/PPMSE*) is defined as business actors providing electronic communication facilities used for trade transactions.

The regulation contains 14 scopes of PMSE arrangements. The 14 scopes include parties conducting PMSE; requirements in PMSE; implementation of PMSE; business actors' obligations; proof of PMSE transaction; electronic advertising; and electronic offers, electronic receipts, and electronic confirmations. Further, there exist electronic contracts; protection of personal data; payment in PMSE; delivery of goods and services in PMSE; exchange goods or services and cancellation of purchases in PMSE, dispute resolution in PMSE; and guidance and supervision.

Furthermore, in implementing PMSE, the parties involved must take into account seven principles. In further detail, the seven principles are good faith, prudence, transparency, trustworthiness, accountability, balance, fairness, and soundness. The parties that may conduct PMSE are business actors, consumers, individuals, and state administrative agencies.

This regulation defines business actors as every individual or business entity in the form of a legal entity or non-legal entity. Such business actors comprise domestic business actors and foreign business actors conducting business activities in PMSE.

A domestic business actor is an Indonesian citizen or business entity incorporated and domiciled in the territory of the Republic of Indonesia conducting business activities in PMSE. In contrast, a foreign business actor is a foreign citizen or business entity incorporated and domiciled outside the territory of the Republic of Indonesia conducting business activities in PMSE in the territory of the Republic of Indonesia.

Moreover, foreign business actors who actively offer and/or conduct PMSEs to consumers in Indonesia and meet certain criteria shall be considered to have a physical presence and a permanent establishment in Indonesia.

The specified criteria may take the form of four aspects, namely the number of transactions, the value of transactions, the number of shipping packages, and/or the amount of traffic or access. Subsequently, foreign PPMSE that meets certain criteria must appoint a representative domiciled in the territory of the Republic of Indonesia. Such a representative may act as and on behalf of the business actor in question.

Additionally, statutory taxation provisions and mechanisms apply to PMSE business activities. Further, all business actors conducting PMSE are required to fulfill general requirements under statutory provisions, among others, having a Taxpayer Identification Number (*Nomor Pokok Wajib Pajak/NPWP*).

The regulation also emphasizes that any domestic and/or foreign PPMSE is required to store PMSE data and information related to financial transactions for a minimum of ten years after being obtained. The data and information referred to in the regulation are notebooks, and documents that form the basis, including the results of data processing from electronic bookkeeping as outlined in [Law No. 16 of 2009](#) concerning General Provisions and Tax Procedures (Law No. 16/2009). In contrast, data and information that are not related to financial transactions must be stored for a minimum of five years.

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