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Recent Regulations on Tax Holiday Incentives and Super Tax Deduction for R&D Activities

Sets the Standards and Beyond

ABOUT DDTC

DDTC is a research and knowledge based taxation institution and a center of a number of taxation activities units with high standards that serve as main references in the field of taxation.

Our firm consists of consultation services (DDTC Consulting), a center for review and research (DDTC Fiscal Research), taxation journals (DDTC Working Paper), a training center (DDTC Academy), a provider of tax law documents (Perpajakan.id), a library (DDTC Library), and taxation news portal (DDTC News).

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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Changes to the Provisions on Tax Holiday

The government has revised provisions related to the granting of tax holidays. The restipulation of the provisions on tax holidays is the government's effort to provide legal certainty and assist business development in pioneer industries. In addition, the provisions have been changed to encourage ease of doing business for the pioneer industry by adjusting the mechanisms for the granting of and applying for tax holiday facilities..

The amendments to the provisions on the granting of tax holidays for pioneer industries are outlined in the Minister of Finance Regulation No. 130/PMK.010/2020 concerning the Granting of Corporate Income Tax Reduction Facilities (MoF Reg. 130/2020). Promulgated on 24 September 2020, this regulation comes into force 15 days thereafter. The enactment of this regulation simultaneously revokes the former regulation, i.e. the Minister of Finance Regulation No.150/PMK.010/2018 concerning the Granting of Corporate Income Tax Reduction Facilities (MoF Reg. 150/2018).

Similar to the former regulation, corporate taxpayers that perform new investments of at least IDR 100 billion in pioneer industries are entitled to a corporate income tax reduction on income received or earned from the main business. The provisions on the amount of corporate income tax reduction remain the same as the former regulation, as briefly summarized in Table 1.1.

There are, however, changes related to the criteria for corporate taxpayers that are entitled to tax holidays. Currently, there are six criteria for a corporate taxpayer to be entitled to tax holidays, as follows:

(i) is a pioneer industry;

(ii) has the status of an Indonesian legal entity;

(iii) making new investments for which the following has never been issued:

a. a decree on the granting or notification regarding the rejection of Corporate Income Tax reduction;

b. a decree on the granting of Income Tax facilities for investments in certain business sectors and/or in certain areas based on Article 31A of the Income Tax Law;

c. a notification regarding the granting of net income reduction for the new investments or expansion of business in certain business sectors that are labour-intensive industries based on Article 29A of the Government Regulation concerning the calculation of taxable income and payment of Income Tax in the current year; and

d. a decree on the granting of Income Tax facilities in Special Economic Zones (*Kawasan Ekonomi Khusus*/KEK) based on the Government Regulation concerning Facilities and Ease in Special Economic Zones;

Table 1.1 The Amount of Corporate Income Tax Reduction for Investments in Pioneer Industries

No	Amount of Tax Holiday	Tax Holiday Period	Value of New Investment Plan
1	100%	5 tax years	at least IDR 500 billion and less than IDR 1 triliun
		7 tax years	at least IDR 1 triliun and less than IDR 5 triliun
		10 tax years	at least IDR 5 triliun and less than IDR 15 triliun
		15 tax years	at least IDR 15 triliun and less than IDR 30 triliun
		20 tax years	at least IDR 30 triliun
After the period of the granting of the tax holiday as referred to in point 1 ends, the taxpayer is granted a corporate income tax reduction by 50% of the corporate income tax payable for the next 2 tax years.			
2	50% of the Corporate Income Tax payable	5 tax years	at least IDR 100 billion and at most less than IDR 500 billion
After the period of the granting of the tax holiday as referred to in point 2 ends, 25% of the corporate income tax payable for the next 2 tax years.			

Source: MoF Reg. 130/2020, processed by the Author.

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(iv) having a new investment plan of at least IDR 100 billion;

(v) comply with the provisions on the ratio between debt and capital as referred to in the Minister of Finance Regulation concerning the determination of the ratio between debt and company capital for the purpose of calculating Income Tax; and

(vi) is committed to starting realizing the investment plan no later than one year after the issuance of the decree on the tax holiday.

The criterion of the commitment to starting realizing the investment plan no later than one year after the tax holiday decree is issued is a new criterion that did not exist before. Furthermore, MoF Reg. 130/2020 does not change the scope of pioneer industries that are entitled to tax holidays.

As such, the coverage of pioneer industries entitled to tax holidays remain the same as under MoF Reg. 150/2018, i.e. 18 industrial sectors. Details of the business fields and types of production of each pioneer industry scope also remain based on the Indonesian Investment Coordinating Board (*Badan Koordinasi Penanaman Modal*/BKPM) Regulation.

The compliance with the criteria of taxpayers entitled to tax holidays is determined online through the Online Single Submission (OSS) system. The OSS system will notify taxpayers if the new investment meets the criteria or does not meet the criteria for obtaining a tax holiday.

Taxpayers that are notified if they meet the tax holiday requirements may continue their application online through the OSS system. This, however, is rather different from the previous provisions, application for tax holidays can now be submitted by uploading documents which include:

(i) digital copies of details of fixed assets in the investment value plan; and

(ii) digital copies or electronic documents of the shareholders' fiscal certificates.

Applications for tax holiday facilities that have been received in full are to be submitted by the OSS system to the Minister of Finance as a proposal for the granting of tax holidays, and the OSS system will send a notification to taxpayers that the tax holiday application is in process.

The most significant change in MoF Reg. 130/2020 is related to taxpayers whose business sectors are not included in pioneer industries but wish to apply for a tax holiday.

Currently, taxpayers that invest in business sectors that are not listed as pioneer industries as referred to in Article 3 paragraph (2) of MoF Reg. 130/2020 may apply for a tax holiday if they meet the following three criteria:

(i) the criteria referred to in Article 3 paragraph (1) subparagraph b to subparagraph f of MoF Reg. 130/2020;

(ii) the Pioneer Industry quantitative criteria score at least reaches 80 (eighty); and

(iii) the requirements referred to in Article 3 paragraph (4).

The pioneer industry quantitative score criterion is a new criterion that did not exist in the former regulation. In the former ministerial regulation, the granting of the tax holiday facilities to investments outside the list of pioneer industries was only possible through inter-ministerial discussions. The score for the pioneer industry quantitative criteria is calculated based on the results of an assessment on pioneer industries conducted by the taxpayer.

Details of the pioneer industry quantitative criteria scores are listed in Appendix A of MoF Reg. 130/2020. Based on the appendix, there are 4 groups of criteria, i.e. having broad linkages, having high added values/externalities, introducing new technologies, and priority on the national industrial scale.

The four criteria groups are then re-segmented into 11 criteria, each of which has a score and a score percentage. In further detail, 11 quantitative criteria for pioneer industries include filling the industrial trees, use of main domestic raw materials, the ability of products to serve as import substitutes, and the number of similar companies in a region.

In addition, there are the criteria of the ability of a business to employ a large number of workers, investment locations, use of eco-friendly technologies, use of new technologies in production equipment, support for national strategic projects, production base, and contribution in building infrastructure facilities independently.

The result of the score for each criterion is multiplied by the weight for each criterion then totaled. If the

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taxpayer obtains a score of ≥80, the taxpayer may apply for a tax holiday. The calculation format and examples of the completion of the quantitative criteria score are listed in appendix B of MoF Reg. 130/2020.

If taxpayers that are not included in the pioneer industry have met the required conditions, they may continue their tax holiday application online through the OSS system. The application shall be submitted by uploading 4 documents, including:

(i) digital copies of details of fixed assets in the investment value plan;

(ii) digital copies or electronic documents of the shareholders' fiscal certificates;

(iii) digital copies of assessments on compliance with Pioneer Industry criteria; and

(iv) a digital copy of the self-calculation of the Pioneer Industry's quantitative criteria as referred to in paragraph (2) subparagraph b according to the format contained in Appendix B of MoF Reg. 130/2020. The digital copy of the self-calculation of the pioneer industry quantitative criteria shall be treated as a statement of the Taxpayer's commitment to fulfilling the Pioneer Industry criteria.

Based on the taxpayer's application, the Head of BKPM shall assess the calculation of the score for the fulfillment of the pioneer industry quantitative criteria within a maximum period of five working days after the application is received in full.

In the event that the results of the Head of BKPM's assessments on the taxpayer's pioneer industry quantitative criteria obtain a minimum score of 80, the taxpayer's investment is declared to meet the criteria as a pioneer industry. The taxpayer's application for investments declared to meet these criteria is subsequently processed by the Head of BKPM as a proposal for the granting of tax holidays. The tax holiday application process will continue to be notified to taxpayers through the OSS system.

This regulation, however, emphasizes that the Director General of Taxes has the authority to reassess some of the pioneer industry quantitative criteria during field audits based on the taxpayer's application for the use of the tax holiday facilities.

Of the 11 pioneer industry quantitative criteria, six criteria may be reassessed by the Director General of Taxes, i.e. the use of main raw materials from within the country, the ability of products to serve as import substitutes, the ability of businesses to employ large numbers of workers, investment locations, use of eco-friendly technology, as well as the production base.

In addition, MoF Reg. 130/2020 outlines the provisions on the granting of tax holidays for taxpayers that have been assigned by the government to accelerate national strategic projects. This regulation states that taxpayers that are assigned to accelerate national strategic projects may apply for tax holidays and receive certain treatment insofar as they meet the provisions under Article 3 or Article 5 of MoF Reg. No. 130/2020.

Certain treatment given to taxpayers that implement the acceleration of national strategic projects includes, among others, *first,* being exempted from the obligation to submit a tax holiday application before the commencement of commercial production. *Second*, the application can be performed together with the registration of a Business Identification Number (*Nomor Induk Berusaha*/NIB) or no later than 1 year after the issuance of a new investment business license.

Third, the investment value that determines the period of the tax holiday is the investment value when the taxpayer has realized all of the investment plans. *Fourth,* tax holidays begin to be used by taxpayers when commercial production has commenced and the entire investment plan is realized.

Further, MoF Reg. 130/2020 emphasizes that if the implementation of government assignments is carried out with a spin-off scheme, the investment entitled to a tax holiday includes all the value of the investment resulting from the spin-off and new investment. If the value of the new investment is greater than the investment resulting from the spin-off, the period for the granting of the tax holiday is based on the entire value of the investment, both new investments and that resulting from the spin-off.

Conversely, if the investment resulting from the spin-off is greater than the new investment, the period of the granting of the tax holiday is based on the value of the new investment. Provisions on the granting of tax holidays for taxpayers implementing the acceleration of national strategic projects with a spin-off scheme were not included in the former regulation.

Through MoF Reg. 130/2020, the authority to grant tax holiday facilities is officially delegated from the Director General of Taxes for and on behalf of the Minister of Finance to the Head of BKPM. Moreover,

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MoF Reg. 130/2020 details provisions related to the use of tax holiday facilities, as well as reporting mechanisms for investment realization and production realization.

Super Tax Deduction for R&D Activities

Minister of Finance Sri Mulyani Indrawati has officially issued a regulation on the granting of super tax deduction incentives for research and development (R&D) activities. The granting of these incentives is outlined in the Minister of Finance Regulation No. 153/PMK.010/2020 concerning the Granting of Gross Income Reduction for Certain Research and Development Activities in Indonesia (MoF Reg. 153/2020).

Taking effect as of 9 October 2020, this regulation is a derivative regulation of Government Regulation No. 45 of 2019 concerning the Amendment to Government Regulation No. 94 of 2010 concerning the Calculation of Taxable Income and Payment of Income Tax in the Current Year (Gov. Reg. 45/2019).

MoF Reg. 153/2020 reiterates that taxpayers that perform certain R&D activities in Indonesia may be given a gross income reduction of up to 300% of the total costs incurred for R&D activities.

The gross income reduction of a maximum of 300% includes two things. *First*, a gross income reduction by 100% of the total costs incurred for R&D activities. *Second,* an additional gross income reduction of a maximum of 200% of the accumulated costs incurred for R&D activities within a certain period. In further detail, the amount of additional gross income reduction of a maximum of 200% includes:

(i) 50% if the R&D generates intellectual property rights in the form of patents or plant variety protection (*Perlindungan Varietas Tanaman*/ PVT) rights that are registered in a domestic patent office or PVT office;

(ii) 25% if the R&D generates intellectual property rights in the form of patents or PVT rights that are not only registered at a domestic patent office or PVT office, but are also registered at a foreign patent office or PVT office;

(iii) 100% if the R&D reaches the commercialization stage; and/or

(iv) 25% if the R&D that generates intellectual property rights in the form of patents or PVT rights (subparagraphs a, b) and/or reaches the commercialization stage (subparagraph c), is carried out in collaboration with government R&D institutions and/or higher education institutions in Indonesia.

Commercialization is a production activity in Indonesia and the sale of goods and/or services resulting from R&D. The commercialization of the results of R&D activities may be performed by taxpayers that carry out R&D activities or other taxpayers. However, taxpayers that may obtain additional gross income reduction of 100% are only taxpayers that perform R&D activities.

Based on Article 3 paragraph (3) of MoF Reg. 153/2020, commercialization may be performed by other taxpayers if the taxpayer carrying out R&D activities meets 2 conditions. *First,* said taxpayer has obtained intellectual property rights in the form of patents or plant variety protection rights. *Second*, the taxpayer obtains income in the actual value or that which should be received from the use of intellectual property rights in the form of patents or PVT rights from other taxpayers that perform commercialization.

A patent refers to an exclusive right granted by the state to an inventor for his invention in the technology sector and for a certain period of time, said inventor implements the invention himself or gives consent to other parties to implement it.

PVT rights, on the other hand, refer to special rights granted by the state to breeders and/or holders of PVT rights to use their own breeding varieties or give consent to other people or legal entities to use them for a certain period of time.

MoF Reg. 153/2020 also details the provisions on taxpayers that may obtain a gross income reduction of a maximum of 200% on R&D. Based on Article 4 paragraph (1) on MoF Reg. 153/2020, 4 conditions must be met to obtain an additional gross income reduction of a maximum of 200%.

First, R&D activities are not carried out by taxpayers that run a business based on production sharing contracts, work contracts, or mining concession cooperation agreements and whose taxable income is calculated based on separate provisions that are different from the general provisions of Income Tax. *Second,* R&D activities started to be implemented at the enactment of Gov. Reg. 45/2019, which amended Gov. Reg. 94/2010, at the latest.

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Third, R&D activities fulfill the following 5 criteria, namely aiming to render new inventions, based on original concepts or hypotheses, having uncertainty over the final results, being planned and having a budget, and aiming to create something that can be freely transferred or traded in the market.

Fourth, is a priority R&D activity with a focus and theme as listed in the Appendix of MoF Reg. 153/2020. Referring to Appendix A of MoF Reg. 153/2020, 11 focus and research themes are entitled to the facilities, including food, pharmaceuticals, cosmetics, and medical devices.

Through MoF Reg. 153/2020, Minister of Finance Sri Mulyani also outlines five types of research and development (R&D) costs that may be given an additional gross income reduction of up to 200%. *First,* costs related to assets other than land and buildings, in the form of depreciation or amortization costs and supporting costs for tangible fixed assets.

Second, costs related to goods and/or materials. *Third,* salaries, honoraria, or similar payments paid to employees, employed researchers, and/or engineers. *Fourth,* management to obtain intellectual property rights in the form of patents or PVT rights.

Fifth, remuneration paid to R&D institutions and/or higher education institutions in Indonesia that are contracted by taxpayers to perform R&D activities without having the right to the results of the R&D activities.

R&D costs are charged based on each R&D activity proposal. However, if the costs cannot be separated for each proposal, these costs are charged proportionally based on the utilization or assignment time.

This regulation also emphasizes that the additional gross income reduction over the cost of assets cannot be granted for assets used as part of investments that have received the net income reduction facilities. The net income reduction facilities are referred to in Article 31A of the Income Tax Law, Article 29A of Gov. Reg. 94/2010 as amended by Gov. Reg. 45/2019.

In addition, MoF Reg. 153/2020 outlines nine R&D activities that cannot be given an additional gross income reduction of a maximum of 200%, these activities include:

(i) the full application of engineering in production activities at an early stage of commercial production.

(ii) quality control during commercial production, including routine testing of products.

(iii) repair of defects during commercial production.

(iv) repair, addition, enrichment, or other routine quality enhancement of existing products.

(v) adjustments of existing capabilities to specific requests or customer requirements as part of continuous commercial activities.

(vi) seasonal or periodic design changes of existing products.

(vii) routine design of equipment and molds.

(viii) construction engineering, and design in connection with the construction, relocation, rearrangement, or start-up of facilities and equipment.

(ix) marketing research.

To obtain an additional gross income reduction of up to 200%, taxpayers must apply through the Online Single Submission (OSS) by attaching a proposal on the research and development activities and a Fiscal Certificate (*Surat Keterangan Fiskal*/SKF). The proposal on the R&D activities must at least contain:

(i) number and date of the research and development activity proposal;

(ii) name and Taxpayer Identification Number;

(iii) the focus, theme, and topics of R&D;

(iv) achievement targets of R&D activities;

(v) the name and Tax Identification Number of the cooperating partner, if the R&D is carried out in cooperation;

(vi) estimated time required to achieve the final results expected from the R&D activities;

(vii) estimated number of employees and/or other parties involved in R&D activities; and

(viii) estimated costs and year of expenditure.

In the event that the R&D activities are carried out in cooperation between one or more taxpayers, and each taxpayer bears part or all of the R&D costs, the taxpayers undertaking the cooperation must prepare a proposal for the R&D activities.

With respect to the application for an additional gross income reduction, the ministry that organizes

government affairs in the field of science and technology conducts research on the conformity of the proposed R&D activities with the provisions of the proposal as referred to in Article 7 paragraph (2) and the criteria in Article 4 of MoF Reg. 153/2020.

In the event that the Research and Development activity proposal is declared to conform to or not in accordance with the provisions, the taxpayer will receive a notification via OSS for applications through OSS or notification letters if the applications are not via the OSS system due to problems with the OSS system.

Next, taxpayers that have received notification that the R&D proposal has met the provisions under Article 7 paragraph (2) and Article 4 of MoF Reg. 153/2020 are required to submit a report on R&D costs every tax year to the Director General of Taxes and the ministry that organizes government affairs in the field of science and technology through OSS.

The R&D cost report must be submitted no later than the filing of the Annual Corporate Income Tax Return for the tax year concerned. The R&D cost report is submitted as per the sample Format of the R&D Cost Report Submission for each Tax Year as listed in the Appendix of MoF Reg. 153/2020.

Taxpayers that perform R&D activities prior to the promulgation of MoF Reg. 153/2020 may also obtain an additional gross income reduction of up to 200%. The additional gross income reduction may be granted if the R&D results have not been registered to obtain intellectual property rights in the form of patents or PVT rights and/or have not reached the commercialization stage.

Procedures for the Completion of Applications, Implementation, and Evaluation of APA

The Director General of Taxes has issued a regulation on the procedures for completing applications, implementing, and evaluating Advance Pricing Agreement (APA). This policy is outlined in the Director General of Taxes Regulation No. PER-17/PJ/2020 concerning the Procedures for the Completion of Applications, Implementation, and Evaluation of Advance Pricing Agreement (PER-17/2020). This policy is an implementing regulation of the Minister of Finance Regulation No. 22/PMK.03/2020 concerning Procedures for the Implementation of Advance Pricing Agreement.

This policy contains several important points in implementing APA. *First,* Article 2 of PER-17/2020 outlines the procedures for applying for APA to the Director General of Taxes. This application may take the form of a taxpayer's initiative or written notification from the Director General of Taxes in connection with the application for a bilateral APA submitted by a non-resident taxpayer. Non-resident taxpayers may submit written applications for bilateral APA before the start of the APA period at the latest.

Requirements in the proposed transfer pricing include that it meets the arm's length principle. The proposed transfer pricing should not result in a lower operating profit than the operating profit reported in the annual corporate income tax returns (*Surat Pemberitahuan*/SPT) for the past 3 years.

Regarding the APA application, the Director General of Taxes is to follow up on the application accordingly and fulfill document requirements. Next, the Director General of Taxes will also conduct APA negotiations with the taxpayer or competent authority of the tax treaty (*Perjanjian Penghindaran Pajak Berganda*/P3B) partner. If the bilateral APA application has been negotiated through the Mutual Agreement Procedure (MAP) but has not resulted in a mutual agreement, a request for MAP implementation may be renewed in the context of bilateral APA negotiations.

The Director General of Taxes also establishes a discussion committee to complete APA applications. This committee is tasked with determining the negotiating position, the scope of the agreement in the APA negotiations, approval of the renewal of the MAP request in the context of bilateral APA negotiations, and cancellation of the agreement in the APA.

As per Article 2 paragraph (8) of PER-17/2020, taxpayers also have the right to revoke APA applications. In the event that the application for bilateral APA is withdrawn, the competent authority of the tax treaty will notify in writing that the APA negotiations cannot be followed up.

Second, Article 3 outlines the research to fulfill the provisions of the proposed transfer pricing in the APA application. The Director General of Taxes delegates the research to the Director of International Taxation. The research is aimed at determining the terms of the transfer pricing that does not result in a lower operating profit.

This is confirmed by comparing the lowest profit rate in the projected financial statements for the APA period which is greater than or equal to the lowest profit rate

in the annual corporate income tax returns for three tax years prior to the APA application. The profit rate is obtained from the ratio between profit before taxes and business turnover or the ratio between profit before taxes and total costs.

Third, the process of requesting unilateral APA negotiations. Taxpayers that revoke the bilateral APA application may apply for unilateral APA negotiations. The application for unilateral APA negotiations can be submitted within 10 working days as of the date of receipt of written notification from the Director of International Taxation.

A request for unilateral APA negotiations can be made between the Director General of Taxes and the taxpayer within 6 months if bilateral APA negotiations have been conducted and 12 months if bilateral APA negotiations have not been conducted. This period commences from the date of receipt of the request for unilateral APA negotiations.

Fourth, the process of evaluating the APA agreement by the Director General of Taxes. This evaluation process includes evaluation of compliance with the implementation of the APA agreement and evaluation of the conformity of the criteria in determining the transfer pricing with the decision to implement APA.

If the taxpayer is found to have violated the agreement in the APA, the Director General of Taxes will strictly follow up as per the provisions of the applicable tax statutory provisions. Based on the results of the evaluation, the Director General of Taxes may cancel or review the agreement in APA before the APA period ends.

Fifth, the process of reviewing material changes. The Director General of Taxes may review APA if material changes are found in the facts and conditions of controlled transactions in APA based on agreed critical assumptions. This review must be preceded by written notification regarding material changes and the implementation of APA negotiations subject to review from the Director of International Taxation to the Taxpayer.

This written notification must be submitted before the APA tax year ends. In addition, the taxpayer may apply for a review by applying for an APA review. The review request will be equated with an APA application that has met the requirements.

Sixth, the data clarification process. The taxpayer will be asked to clarify if some indications are found in the evaluation results. The indications refer to information or evidence that is not in accordance with the actual conditions and the taxpayer does not convey information/evidence which is known to the taxpayer and may affect the outcome of the agreement in APA.

This request for clarification is notified in writing by the Director General of Taxes. Requests for clarification must be responded in writing to the Director of International Taxation within 15 days after it is sent by post. The Director General of Taxes may cancel the agreement in APA if the taxpayer does not submit a written response or submits a written response beyond the specified period.

The Director of International Taxation will re-conduct research on the written response submitted by the taxpayer. In this research, the Director General of Taxes may cancel the agreement in the APA by issuing a decree to cancel the agreement in the APA to the taxpayer within 15 working days. This period commences from the receipt of the taxpayer's written response and the period the written response has been exceeded.

Considering the ongoing Covid-19 pandemic that strikes Indonesia, the Director General of Taxes grants special policies for taxpayers affected by Covid-19. Taxpayers with businesses affected by Covid-19 may make adjustments to financial report projections under normal conditions.

The form for adjusting financial report projections is contained in the appendix that is attached with an elucidation of the financial report projections. Taking effect on 17 September 2020, this regulation revokes the previous regulation, i.e. PER-69/PJ/2010 concerning Advance Pricing Agreement.

Reduction of the Types of Goods Related to the Handling of Covid-19 Entitled to Import Facilities

The Ministry of Finance stipulates the second amendment to the provisions on the granting of customs and/or excise and taxation facilities on imported goods to be used for handling the 2019 Corona Virus Disease (Covid-19) pandemic.

This policy is outlined in the Minister of Finance Regulation No. 149/PMK.04/2020 concerning the Second Amendment to the Minister of Finance Regulation No. 34/PMK.04/2020 concerning the Granting of Customs and/or Excise and Taxation

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Facilities on Imported Goods for Handling the Covid-19 Pandemic (MoF Reg. 149/2020). This regulation has taken effect as of 8 October 2020.

Under this regulation, the types of goods entitled to customs and/or excise and taxation facilities are reduced. This is aimed at encouraging national economic growth in the industrial sector for certain types of personal protective equipment (PPE), medicine, and certain types of medical devices that can be produced domestically and are sufficient to meet domestic needs. Moreover, the regulation aims to provide legal certainty and accelerate services for the granting of customs and/or excise and taxation facilities on imported goods for handling the Covid-19 pandemic.

With this ministerial regulation, the government amends the details of the types of goods that may receive customs and/or excise facilities as well as tax facilities listed in the Appendix of this regulation.

The changes stipulate that the current incentives only apply to PCR tests; media transfer virus; finished drugs; medical equipment, such as thermometers, ventilators, swabs, thermal imaging/scanning equipment, in vitro diagnostic equipment including PCR tests, syringes and infusion pumps, power air purifying respirators, and baby incubator transport; and PPE in the form of a mask.

The abovementioned finished drugs include tocilizumab, intravenous immunoglobulin (IVIG), mesenchymal stem cells (MSCs), low molecular weight heparin (LMWH)/unfractionated heparin (UFH), favipiravir, insulin, and lopinavir+ritonavir. As such, rapid tests, various types of vitamins, syringes, high flow oxygen, portable bronchoscopy, CPAP-mask, pediatric CPAP machines, ECMOs, baby incubators, protective clothing, and gloves are no longer incentivized.

As this regulation comes into force, all applications that have received a number or have received a registration date before the enactment of this regulation may apply the former regulation, i.e. MoF Reg. No. 34/PMK.04/2020 as amended by MoF Reg. No. 83/PMK.04/2020.

Procedures for the Selection of Service Providers and Addition of Tax application Services

The Director General of Taxes has issued guidelines for the selection of tax application service providers (Penyedia Jasa Aplikasi Perpajakan/PJAP) and additional tax application services. The implementing guidelines are listed in the Director General of Taxes Circular No. SE-48/PJ/2020 concerning the Guidelines for the Implementation of the Selection of Tax application Service Providers and Addition of Tax application Services (SE-48/2020).

PJAP or application service provider (ASP) is the party appointed by the director general of taxes to provide tax application services for taxpayers and may provide supporting application services for taxpayers. The circular states that the Directorate General of Taxes' (DGT) electronic services continue to be developed to render effectiveness and efficiency in services for taxpayers. The DGT's electronic services are developed, among others, through the provision of several applications.

In effect as of 18 September 2020, this circular is an implementing regulation of the Director General of Taxes Regulation PER-10/PJ/2020. The scope of this circular covers three things. First, the terminology used.

Second, procedures for the pre-selection and selection. In the pre-selection process, the Director General of Taxes establishes a PJAP selection team through the Director General of Taxes decree concerning the PJAP selection team at least once in two years. In the event of a change in the composition of members due to employee mutations or other policy-related changes, the Director General of Taxes shall issue a Director General of Taxes decree concerning changes to the Director General of Taxes decree concerning the PJAP selection team. The procedures for determining the PJAP selection team are listed in Appendix A of SE-48/2020.

Third, the procedures for adding tax application services. In terms of the addition to tax application services, the ICT Director is authorized to process the application. In general, the procedures for processing applications for additional tax application services are carried out based on the selection procedures regulated under SE-48/2020.

In the business planning assessment procedures, the status of passing the business planning assessment

stage is determined based on the results of the business planning assessment of each PJAP or the applicant. As such, the ICT Director does not need to recapitulate the assessment in order to list the best score order. The written notification is to be submitted no later than ten working days as of the date of notification of the test result on the completion of the application documents.

In the technical pre-qualification procedures, the technical pre-qualification is carried out if necessary as per the ICT Director's considerations in a maximum period of twenty working days as of the date the network and infrastructure configuration documents are submitted. In the review procedures of the application development plan, PJAP or the applicant must sign a statement of a confidentiality obligation.

The application development plan is to be submitted in a maximum of 10 working days as of the date the application development instructions are submitted. Conversely, the notification of the review of the application development plan is to be submitted no later than 15 working days as of the date the application development plan is received by PJAP or the applicant.

The revised application development plan is to be submitted no later than 5 working days as of the receipt of the review results of the application development plan by PJAP or the applicant. The notification letter of the review of the revised application development plan is to be submitted no later than 7 working days as of the date of receipt of the application development plan that has been revised by PJAP or the applicant.

In the technical testing procedures, the materials pertaining to the period also differ in the selection process. The application development and written notification of the application development should not exceed 4 months as of the date the Application Development Plan is approved.

The Notification of Technical Testing Results is to be submitted no later than 15 working days as of the date of receipt of notification of completion of application development/repair by PJAP or the applicant. Furthermore, the repair of application and the notification of completion of application development/repair are to be submitted no later than 20 working days as of the date of notification of technical testing results from the ICT Director.

The Notification of Technical Testing Results is to be submitted no later than 15 working days as of the date of receipt of notification of completion of application development/repair of applications, by PJAP or the applicant.

Electronic Payment and Remittance of Customs Excise

The Minister of Finance updates the policy on electronic payment and remittance of excise. The changes in this policy are outlined in the Minister of Finance Regulation No. 148/PMK.04/2020 concerning the Amendment to the Minister of Finance Regulation No. 40/PMK.04/2016 concerning the Electronic Payment and/or Remittance of State Revenues in the Framework of Customs and Excise (MoF Reg. 148/2020).

This regulation updates and adds several provisions that did not previously exist in MoF Reg. 40/2016. At least six articles have been amended under this regulation.

First, changes in Article 1. These changes include deletion of the definitions from the Customs Law, changes to several definitions, and additional definitions. The changes in the definitions include, among others, the definition of state revenues, mandatory payers, payment, remittance, and receipt of state revenues, customs and excise officials. Further, this regulation adds several definitions included in Article 1 regarding withholders, perception institutions, and transaction numbers of other perception institutions (*Nomor Transaksi Lembaga Persepsi Lainnya*/NTL).

Second, amendments to Article 2 in paragraph (1), paragraph (2), and paragraph (3). In the previous regulation, the types of state revenues were divided into three, i.e. state revenues on imports, state revenues on exports, and state revenues on goods subject to excise. The latest regulation amends the classification of the types of state revenues into two groups as follows.

(i) State revenues on imports, exports, and/or on goods subject to excise; and

(ii) Other state revenues related to activities in the context of imports, exports, and/or goods subject to excise.

Third, the additional provisions stipulated in Article 2A. This provision stipulates parties that withhold state revenues, parties that report state revenue collection, and how to pay state revenues. Conversely, the party authorized to collect state revenues is the Directorate General of Customs and Excise (DGCE) and/or withholders. Based on Article 1 paragraph 18, a withholder refers to an individual or a body authorized to help collect state revenues.

As such, the DGCE and withholder may collaborate to maximize the collection of state revenues. However, the responsibility for reporting on state revenue collection remains with the DGCE. This reporting mechanism must be submitted electronically through the State Revenue Module (*Modul Penerimaan Negara*/MPN). This provision also regulates the method of payment of state revenues, which must be rounded off in thousands of rupiah.

Fourth, issuance of the number of bank transactions (*Nomor Transaksi Bank*/NTB) and number of post transactions (*Nomor Transaksi Pos*/NTP). NTB and NTP shall be issued for all remittance and payment transactions via banks or post. NTB and NTP will later be used in the issuance of a receipt of state revenues which is equal to the payment slip.

Fifth, payment and deposit mechanisms through other perception institutions. Unlike the former regulation, this regulation establishes a new mechanism for the payment and remittance of state revenues. Similar to payments via bank and post, other transaction numbers (*Nomor Transaksi Lainnya*/NTL) shall be issued for payments through other perception agencies. Furthermore, customs officials will provide customs and excise services after the NTPN is received electronically. The types of payment through other perception institutions also serve as proof of the payment obligation according to the payment date on BPN.

Sixth, amendments to the provisions on the corrections to state revenue transactions. The latest regulation states that corrections to state revenue transactions that have obtained NTPN and are remitted in the state treasury are allowed insofar as they do not change the total value of the payments. In addition, state revenue transactions may still be corrected even though reconciliation with the basic documents for the payment of state revenues has been made.

In the event of reconciliation, the customs and excise office will provide recommendations for corrections to the directorate concerning customs and excise information. These post-reconciliation corrections are possible insofar as they do not change the type and number of the basic documents for the payment of state revenues. This regulation shall come into force in thirty days as of the promulgation date.

Restipulation of the Provisions on Imports or Exports of Prohibited and/or Restricted Goods

The government restipulates the provisions on the supervision of imports or exports of prohibited and/or restricted (*Larangan dan/atau Pembatasan*/lartas) goods. The restipulation is intended to improve the performance of the logistics system and provide legal certainty to importers or exporters. In addition, the restipulation is aimed at adjusting the provisions regarding the supervision of imports or exports control of lartas goods with the implementation of the National Logistic Ecosystem (NLE).

The adjustment to the provisions on the supervision of *lartas* goods is contained in the Minister of Finance Regulation No. 141/PMK.04/2020 concerning the Supervision of the Imports or Exports of Prohibited and/or Restricted Goods (MoF Reg. 141/2020).

The adjustments of the provisions for *lartas* goods with the implementation of NLE enables the Service Computer System (*Sistem Komputer Pelayanan*/SKP) to exchange data with the NLE system. SKP refers to a computer system used by the customs office in the framework of customs supervision and services.

Conversely, NLE is a logistics ecosystem that synchronizes the traffic of international goods and documents. The traffic of goods is aligned from the arrival of the means of transportation until the goods arrive at the warehouse.

The implementation of NLE is oriented towards cooperation between government and private agencies. This cooperation is performed through data exchange, simplification of processes, and elimination of repetitions and duplications. The implementation of NLE is also supported by an information technology system that covers all logistics processes and connects existing logistics systems.

On another note, through the NLE system, licensing data related to imports or exports of *lartas* goods can be used for the purposes of accelerating national logistics. Customs and Excise officials and/or SKP can now use and utilize data from the NLE for services and monitoring purposes.

This regulation also emphasizes that both importers and exporters must meet the provisions related to *lartas* and statutory regulations in the export and/or import sector. The statutory provisions in the export and/or import sector are stated in the Indonesia National Single Window System (*Sistem Indonesia National Single Window*/SINSW).

SINSW refers to an electronic system that integrates systems and/or information related to the process of handling customs documents, quarantine, licensing documents, port/airport documents, and other documents related to export and/or import. SINSW guarantees data and information security and automatically integrates the flow and processing of information between internal systems.

In addition, SINSW and SKP also serve as the sites to list *lartas* goods. The information on *lartas* goods serves as a reference to the provisions on *lartas* goods for import or export purposes.

The data obtained from SINSW may also be used for research purposes on the fulfillment of provisions on *lartas* goods in imports or exports. Research on the fulfillment of the provisions on *lartas* goods can be performed through SINSW, SKP, and/or carried out by Customs and Excise Officials who handle the examination of *lartas* goods documents.

Promulgated on 2 October 2020, this regulation comes into force 30 days thereafter. The enactment of this regulation will revoke the Minister of Finance Regulation No. 224/PMK.04/2015 concerning the Supervision of the Imports or Exports of Prohibited and/or Restricted Goods. As this ministerial regulation comes into effect, the list of *lartas* goods in SINSW and/or SKP remains in force until the validity period ends.

Provisions on the Implementation of Trial Proceedings at the Tax Court

The Tax Court is to conduct trial proceedings starting Monday, 12 October 2020 as per the provisions on the health protocol during the Covid-19 pandemic. These provisions are outlined in the Chairperson of the Tax Court Circular No. SE-024/PP/2020 concerning the Implementation of Trial Proceedings during the Corona Virus Disease 2019 (Covid-19) Pandemic at the Tax Court starting on 12 October 2020 (SE-024/2020).

Trial proceedings at the Tax Court have been resumed in connection with the end of the policy of temporary suspension of trial proceedings that take into account the Covid-19 pandemic, as well as to maintain the continuity of trial proceedings at the Tax Court. As per the provisions in the regulation, trial proceedings at the Tax Court will be held again starting Monday, 12 October 2020. Trial proceedings are to be held while health protocols continue to be implemented as the Covid-19 pandemic has not yet ended.

To reduce the number of members present at the Tax Court, trial proceedings are divided into 2 shifts each trial day. The trial scheduled for the morning shift is from 08.00 to 12.00 Western Indonesian Time. Next, the midday shift is held from 12.30 to 16.30 Western Indonesian Time. Enacted on 9 October 2020, the circular also states that the panel of judges/single judge must comply with the start of trial proceedings, i.e. at 08.00 Western Indonesian Time for the morning shift and 12.30 Western Indonesian Time for the midday shift.

The number of appellants/plaintiffs whose disputes are examined in a one-day trial shall take into account efforts to prevent crowds within the Tax Court at the same time. The maximum number of people present in one courtroom at each trial proceeding is 10 people, including three judges, one alternate registrar, one alternate registrar assistant, one acting official, two people representing the appellant/plaintiff, two people representing the appellee/defendant, and another person with the approval of the panel of judges/a single judge .

Coming into force since promulgated and subject to periodical evaluations, the circular also states that the implementation of outside of domicile trial proceedings (*Sidang di Luar Tempat Kedudukan*/SDTK) is not tied to the shift system under this regulation. Judges, officials, employees, and service users at the Tax Court are required to comply with and implement all the provisions in this circular. If further provisions on the implementation of this circular are required, the head of the Tax Court will determine such provisions separately.

On a side note, the Chairperson of the Tax Court formerly extended the trial postponement and the temporary suspension of face-to-face administrative services, as stated in the Tax Court Circular No. SE-

Recent Regulations on Tax Holiday Incentives and Super Tax Deduction for R&D Activities

022/PP/2020 concerning the Postponement of Trial Proceedings and Temporary Suspension of Face-to-Face Administrative Services (Via Helpdesk/Delivered Directly) at the Tax Court Starting 5 October 2020 to 9 October 2020 (SE-022/2020).

Trial proceedings and temporary suspension of face-to-face administrative services were extended due to new Covid-19-positive cases in the Tax Court based on swab test results on 30 September 2020. Moreover, this policy was enacted with due regard to the extension of large-scale social restrictions (*Pembatasan Sosial Berskala Besar*/PSBB) in the DKI Jakarta area.

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