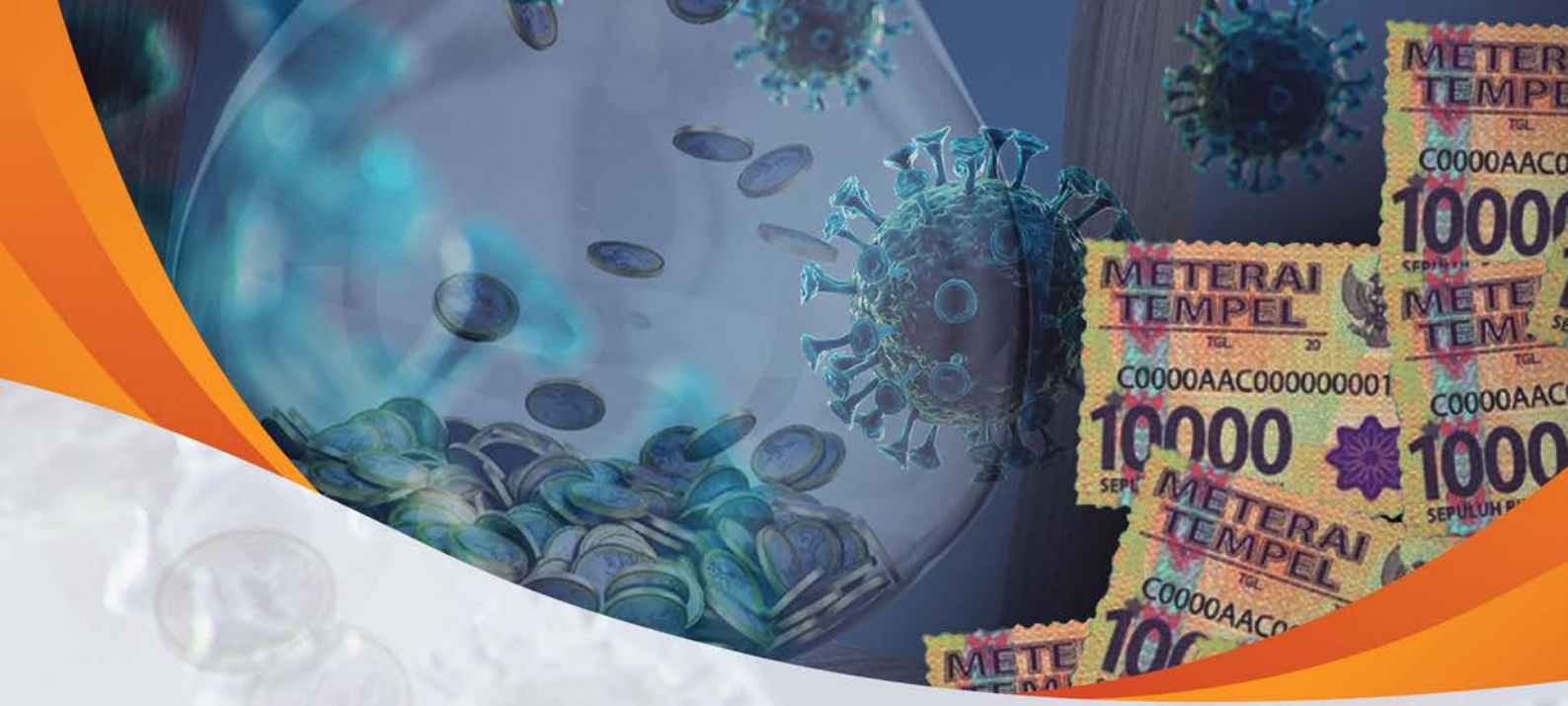


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# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

DDTC
Sets the Standards and Beyond

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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


- **Extension of Tax Incentives Related to the Handling of Covid-19**
- **New Procedures for the Settlement of Stamp Duty Underpayment on Cheques and Giro Fund Transfer Forms**
- **Implementing Regulation on the Affixture of the Acquittance Stamp of Underpayment**
- **Implementation of the Obligation to Withhold Income Tax on Dividends**
- **Permit to Perform Bookkeeping in English**
- **Other Recent Taxation Regulations**

# Table of Contents


| | |
|---|---|
| Extension of Tax Incentives Related to the Handling of Covid-19 | 3 |
| New Procedures for the Settlement of Stamp Duty Underpayment on Cheques and Giro Fund Transfer Forms | 6 |
| Implementing Regulation on the Affixture of the Acquittance Stamp of Underpayment | 7 |
| Implementation of the Obligation to Withhold Income Tax on Dividends | 8 |
| Permit to Perform Bookkeeping in English | 8 |
| Unification Withholding Tax Receipt and Unification Periodic Income Tax Returns | 9 |
| New Regulation on the Notification of the Use of NPPN | 11 |
| Guidelines for the Submission of Voluntary Declaration and Voluntary Payment | 11 |
| Procedures for the Calculation and Withholding of VAT on Supplies of Certain LPG | 12 |
| New Regulation on the Requirements for International Organizations to Be Excluded as Income Tax Subjects | 13 |
| Changes in Provisions on Income Tax Treatment in Accordance with International Treaties | 14 |
| Revocation of Regulations and Decrees by the Directorate General of Taxes | 15 |
| Restrictions on Face-to-Face Trial Proceedings and Tax Court Services | 16 |
| Interest Penalties and Compensation Interest Rates for the January 2021 Period | 16 |
| Electronic State Revenue System | 18 |
| Allocation of 2021 Revenue Sharing Fund of Tobacco Products Excise | 19 |
| Tax, Customs and Excise Treatment in Special Economic Zones | 20 |
| New Regulation on INSW Management and SINSW Implementation | 22 |
| Enumeration and Relief for Ethyl Alcohol and Beverages Containing Ethyl Alcohol | 23 |
| CoO Electronic Data Exchange for Economic Cooperation between ASEAN and China | 24 |
| Composition of Panels of Judges and Single Judges for Tax Dispute Resolution | 25 |
| VAT and Income Tax Withholding in Connection with the Sales of Phone Credit, Starter Packs for Prepaid SIM Cards, Tokens, and Vouchers | 26 |
| Derivative Regulation on Stamp Duty Law Released | 28 |

# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

## Extension of Tax Incentives Related to the Handling of Covid-19

### Meet Our Experts

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The Ministry of Finance has re-extended the validity period of income tax and Value Added Tax (VAT) facilities regulated under Government Regulation No. 29/2020 concerning Income Tax Facilities to Address Corona Virus Disease 2019 (Gov. Reg. 29/2020).

The extension of these tax incentives is stipulated by Minister of Finance Regulation No. 239/PMK.03/2020 concerning the Granting of Tax Facilities for Goods and Services in the Context of Addressing the Corona Virus Disease 2019 Pandemic and the Extension of the Implementation of Income Tax Facilities Based on Gov. Reg. 29/2020 (MoF Reg. 239/2020).

PMK 239/2020 came into effect on 1 January 2021. Upon the enactment of MoF Reg. 239/2020, the Minister of Finance Regulation No. 143/PMK.03/2020 concerning the Granting of Tax Facilities for Goods and Services Required to Address the Corona Virus Disease Pandemic 2019 and the Extension of the Implementation of Income Tax Facilities Based on Gov. Reg. 29/2020 (MoF Reg. 143/2020), has been revoked and declared invalid.

These incentives have been extended to support the availability of equipment for the implementation of the Covid-19 vaccination. On another note, the incentives have also been extended inasmuch as the stipulated emergency status due to the national non-natural Covid-19 pandemic disaster has not ended. Broadly speaking, the incentives extended under MoF Reg. 239/2020 can be segmented into three parts as follows:

**1. Extension of Income Tax Incentives under Gov. Reg. 29/2020**

Having formerly been extended until 31 December 2020, the Ministry of Finance has again extended the period of the granting of income tax facilities under Gov. Reg. 29/2020 until the end of June 2021. The validity period of four income tax facilities in MoF Reg. 239/2020 has been extended.

*First,* additional net income reduction for resident taxpayers that produce medical devices and/or household health supplies. As per the provisions under Gov. Reg. 29/2020, resident taxpayers that produce medical devices, antiseptic hand sanitizers, and disinfectants are entitled to an additional net income reduction of 30% of the production costs incurred.

The medical devices include surgical masks and N95 respirators, personal protective clothing, surgical gloves, examination gloves, ventilators, and diagnostic test reagents for Covid-19.

*Second*, donations that can be deducted from gross income. Taxpayers that make donations or aids in the context of addressing the Covid-19 outbreak may apply the donations or aids as a deduction from gross income.

Donations that may be included in the calculation are donations in the form of money, goods, services, or the use of assets without compensation, which are donated to the National Disaster Management Agency (*Badan Nasional Penanggulangan Bencana*/BNPB), the Regional Disaster Management Agency (*Badan Penanggulangan Bencana Daerah*/BPBD), Ministry of Health, Ministry of Social Affairs, or other institutions that have obtained a permit to collect donations.

*Third,* the imposition of a final income tax rate of 0% for additional income received by human resources in the health sector. As per the provisions under Gov. Reg. 29/2020, health workers and health support personnel who are tasked with providing health

services to address Covid-19 and receiving honoraria or other compensation from the government, are entitled to the full additional income as it is subject to 0% income tax.

Said health workers include doctors and nurses. Health support personnel, on the other hand, include health worker assistants, cleaning staff, ambulance drivers, administrative staff, undertakers, and university students in the health sector who are seconded to health service facilities.

*Fourth*, the imposition of a final income tax rate of 0% on income in the form of compensation or replacement for the use of assets. Taxpayers that lease land, buildings, or other assets to the government in the context of handling Covid-19 shall obtain rental income from the government. These taxpayers are entitled to the full income as it is subject to a 0% income tax.

**2. Extension of VAT Incentives on Goods and Services Required to Address Covid-19**

In addition to the income tax incentives under Gov. Reg. 29/2020, the Ministry of Finance has also extended the granting of VAT incentives on the import or acquisition of taxable goods (*Barang Kena Pajak*/BKP), taxable services (*Jasa Kena Pajak*/JKP), and/or JKP utilization from outside the customs area inside the customs area to address the Covid-19 pandemic.

The VAT incentives are given to certain parties, i.e. government bodies/agencies, hospitals, or other parties. Other parties refer to parties other than government bodies/agencies or hospitals appointed by government bodies/agencies or hospitals to assist in addressing the Covid-19 pandemic.

VAT incentives are also granted to the pharmaceutical industry for the production of vaccines and/or medicine on the acquisition of raw materials of vaccines and/or medicine to address Covid-19. Moreover, the VAT incentives may also be utilized by taxpayers that procure vaccines and/or medicine to address Covid-19 from the pharmaceutical industry that produces vaccines and/or medicine.

BKP entitled to VAT incentives include medicine, vaccines and vaccination equipment, laboratory equipment, detection equipment, personal protective equipment, equipment for patient care, and/or other supporting equipment declared for the purpose of addressing the Covid-19 pandemic by certain parties.

The vaccination equipment includes at least syringes; alcohol swabs; personal protective equipment (face shields, hazmat suits, gloves, and surgical masks); cold chains; gensets; waste bins for hazardous and toxic waste (safety boxeses); and alcohol-based antiseptic solutions.

Next, JKP entitled to these facilities include construction services; consulting, engineering and management services; rental services; and/or other supporting services. Other supporting services are services that are declared for the purpose of addressing the Covid-19 pandemic by certain parties, including the implementation of vaccinations. In further detail, five forms of VAT incentives are granted, including:

(i) imports of BKP required to address Covid-19 by certain parties shall not be imposed with VAT as per statutory provisions;

(ii) supplies of BKP and JKP required Covid-19 by Taxable Persons for VAT Purposes (*Pengusaha Kena Pajak*/PKP) to certain parties, are borne by the government;

(iii) the use of JKP required to address Covid-19 from outside the customs area inside the customs area by certain parties, including gifts, shall be borne by the government;

(iv) supplies of raw materials for the production of vaccines and/or medicine to address Covid-19 by PKP to the pharmaceutical industry for the production of vaccines and/or medicine shall be borne by the government; and

(v) supplies of vaccines and/or medicine to address Covid-19 by the pharmaceutical industry for the production of vaccines and/or medicine shall be borne by the government.

However, for certain parties that import BKP for JKP utilization activities that are required to address Covid-19 from outside the customs area within the customs area, the imports of BKP are not subject to VAT insofar as these certain parties have a Taxable Service Utilization Certificate (*Surat Keterangan Pemanfaatan Jasa Kena Pajak*/SKJLN) prior to performing imports.

Conversely, the second and third points of VAT Borne by the Government (*Pajak Pertambahan Nilai Ditanggung Pemerintah*/PPN DTP) incentives for other parties shall be granted if BKP is acquired, JKP is acquired, and/or JKP is utilized from outside the customs area within the customs area. Next, it will be supplied to government bodies/agencies and/or hospitals to address the Covid-19 pandemic without receiving reward or compensation.

The second and third points of PPN DTP incentives for other parties shall also be given if the BKP acquisition, JKP acquisition, and/or JKP utilization from outside the customs area within the customs area is not for own use.

Next, the fourth point PPN DTP incentive shall be granted after the pharmaceutical industry producing vaccines and/or medicine obtains a recommendation letter from the Ministry of Health. The recommendation letter must at least contain four statements, among others: the identity of the pharmaceutical industry producing vaccines and/or medicine; the identity of the PKP performing the supply; name and quantity of goods; and a statement that the raw materials to be acquired constitute raw materials for the production of vaccines and/or medicine to address Covid-19.

As per the provisions under Article 4 of MoF Reg. 239/2020, the implementation and accountability of PPN DTP subsidy spending are carried out as per the minister of finance regulation that stipulates the implementation and accountability mechanisms for DTP taxes.

Moreover, when this ministerial regulation comes into force, tax invoices or certain documents equivalent to the tax invoice filed in the Periodic VAT Return for April 2020 to September 2020 tax periods are treated as a report on the realization of PPN DTP. The granting of VAT incentives is valid from the January 2021 Tax Period to the December 2021 Tax Period.

### 3. Extension of Income Tax Incentives on Goods and Services Required to Address Covid-19

Other than VAT incentives, the government has also extended income tax facilities related to goods and services required to address the Covid-19 pandemic. The income tax incentives consist of three types.

*First,* exemptions from Article 22 Imports Income Tax and Article 22 Income Tax withholding on imports and/or purchases of goods required to address the Covid-19 pandemic. Article 22 Import Income Tax and Article 22 Income Tax facilities are granted to certain parties.

Article 22 Income Tax incentives are also granted to third parties that sell goods required to address Covid-19 to certain parties. Moreover, the pharmaceutical industry producing vaccines and/or medicine that purchase raw materials to produce vaccines and/or medicine to address Covid-19 are also exempt from Article 22 Income Tax.

In further detail, items entitled to these facilities include medicine, vaccines and vaccination equipment, laboratory equipment, detection equipment, personal protective equipment, equipment for patient care, and/or other supporting equipment declared for the purpose of handling the Covid-19 pandemic by certain parties.

The vaccination equipment includes at least syringes; alcohol swabs; personal protective equipment (face shields, hazmat suits, gloves, and surgical masks); cold chain; genset; waste bins for hazardous and toxic waste (safety boxes); and alcohol-based antiseptic solutions.

*Second,* exemptions from Article 21 Income Tax withholding. These incentives are given for any form of compensation from certain parties in connection with the services required to address Covid-19 from individual resident taxpayers, other than services on which Article 4 paragraph (2) Income Tax has been withheld.

*Third*, exemptions from Article 23 Income Tax withholding. These incentives are given for compensation from certain parties in connection with technical services, management services, consulting services, and other services required to address the Covid-19 pandemic, in addition to services on which Article 21 Income Tax has been withheld, which are carried out by an entity or permanent establishment (PE).

Certain parties referred to in the Article 22 Import Income Tax, Article 22 Income Tax, Article 21 and Article 23 Income Tax incentives include government bodies/agencies, hospitals, or other parties. Other parties refer to parties other than government bodies/agencies or hospitals appointed by government bodies/agencies or hospitals to assist in handling the Covid-19 pandemic.

The exemptions from Article 22 Import Income Tax withholding and/or exemptions from Article 22 Tax withholding, exemptions from Article 21 Income Tax withholding, and exemptions from Article 23 Income Tax withholding are valid from the January 2021 tax period to the December 2021 tax period.

# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

## New Procedures for the Settlement of Stamp Duty Underpayment on Cheques and Giro Fund Transfer Forms

### Meet Our Expert

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The Directorate General of Taxes (DGT) has issued a regulation concerning procedures for the settlement of the underpayment of stamp duty payable on documents in the form of cheques and giro fund transfer forms. The policy is outlined in the Director General of Taxes Regulation No. PER-01/PJ/2021 concerning Procedures for the Settlement of Underpayment of Stamp Duty Payable on Documents in the Form of Cheques and Giro Fund Transfer Forms (PER-01/2021).

The DGT states that the new regulation has been stipulated to facilitate the administration of the settlement of the underpayment of stamp duty payable on documents in the form of cheques and giro fund transfer forms as an implementation of Law No. 10 of 2020 concerning Stamp Duty. Stipulated on 8 January 2021, the director general regulation has come into force thereafter.

This regulation sets forth that documents in the form of cheques or giro fund transfer forms are subject to stamp duty of IDR10,000. The stamp duty becomes payable when a cheque or giro fund transfer form is completed. The liable party is the party that issues the cheque and/or giro fund transfer form. However, the liable party does not prevent the provider bank, or the bearer of the cheque and/or giro fund transfer form from paying the stamp duty payable.

As per Article 3 paragraph (1) of PER-01/2021, in the event that the cheque or giro fund transfer form has not been completed but has been affixed with a paid stamp duty of a smaller tariff than otherwise should have been payable, the stamp duty underpayment must be settled by the liable party, the provider bank, or the bearer of cheques and giro fund transfer forms. The stamp duty underpayment can be settled through a digital stamp printing machine or a tax payment slip (*Surat Setoran Pajak*/SSP).

When the stamp duty underpayment is settled with a digital stamp printing machine, the printed paid stamp duty can be affixed by the issuer of the cheque or giro fund transfer form as the liable party, the provider bank, or the bearer of the cheque or giro fund transfer form, or by another party. These provisions apply insofar as the permission to affix the paid stamp duty using a digital stamp printing machine has been obtained.

If the underpayment of stamp duty is settled in full by SSP, the underpayment shall be settled using an SSP form or billing code 411611 and deposit type code 100. The stamp duty underpayment may also be settled using SSP by the liable party, the provider bank, or the bearer of the cheque or giro fund transfer form by requesting an acquittance stamp at the tax office (*Kantor Pelayanan Pajak*/KPP).

In conjunction with the issuance of the Directorate General of Taxes Regulation No. PER-01/PJ/2021, the DGT has also issued Circular No. SE-1/PJ/2021 concerning the Guidelines for the Affixture of the Acquittance Stamp of the Stamp Duty Underpayment.

Stipulated on 8 January 2021, this circular states that the acquittance stamp of the stamp duty underpayment shall be affixed to the face of the cheque or giro fund transfer form. Further, the acquittance stamp of the stamp duty underpayment is to be affixed in such a manner that it does not cover or overwrite the main elements or information listed in the cheque or giro fund transfer form, specifically, the Magnetic Ink Character Recognition (MICR) element.

# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

## Implementing Regulation on the Affixture of the Acquittance Stamp of Underpayment

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The DGT has issued an implementing regulation on the affixture of the acquittance stamp of stamp duty underpayment. The policy is outlined in Circular No. SE-01/PJ/2021 concerning the Guidelines for the Affixture of the Acquittance Stamp of Stamp Duty Underpayment (SE-01/2021). This circular constitutes an implementing regulation of the Directorate General of Taxes Regulation No. PER-01/PJ/2021.

This regulation has been issued to provide clarity and uniformity in the affixture of the acquittance stamp of the stamp duty underpayment on cheques and/or giro fund transfer forms. The scope of this circular covers three aspects.

*First,* research on requests to affix the acquittance stamp of stamp duty underpayment. Requests for the affixture of the acquittance stamp of stamp duty underpayment shall be made in the event that the underpayment of stamp duty payable is settled using a tax payment slip (*Surat Setoran Pajak*/SSP).

Next, requests for the affixture are submitted directly to the tax office (*Kantor Pelayanan Pajak*/KPP) where the party requesting the affixture of the acquittance stamp of stamp duty underpayment is administered or the nearest KPP.

Three parties may submit a request to affix the acquittance stamp of stamp duty underpayment. Said three parties include bank clients issuing cheques and/or giro fund transfer forms, banks providing cheques and/or giro fund transfer forms, or bearers of cheques and/or giro fund transfer forms.

Subsequently, for the request, the Integrated Service Unit (*Tempat Pelayanan Terpadu*/TPT) officers will provide a request form to be filled in by the applicant as listed in Appendix A.

Said form is attached with the cheque and/or giro fund transfer form which will be affixed with the acquittance stamp of stamp duty underpayment and the SSP that has obtained a State Revenue Transaction Number (*Nomor Transaksi Penerimaan Negara*/NTPN). In the event that the attachment requirement is not met, the request shall be returned to the applicant.

If all requirements are met, however, the Section of Tax Service Implementer (*Pelaksana Seksi Pelayanan*) performs a checking to ensure correctness and conformity. In the event that the requirements have been proven to be correct and in conformity, the Section of Tax Service Implementer will affix the stamp and return it to the applicant.

Second, the affixture of the acquittance stamp of stamp duty underpayment. The acquittance stamp of stamp duty underpayment shall be affixed on the face of the cheque or giro fund transfer form. The acquittance stamp is affixed without covering or overwriting the main elements or information listed in the cheque or giro fund transfer form, particularly the Magnetic Ink Character Recognition (MICR) element.

*Third*, the form of acquittance stamp of stamp duty underpayment. The acquittance stamp of stamp duty underpayment shall at least have the elements of the inscription "STAMP DUTY PAID" and the written value of the stamp duty underpayment. The size of the acquittance stamp of stamp duty underpayment is adjusted to the size of the cheque and/or giro fund transfer form. The format of the acquittance stamp of stamp duty underpayment must be of a maximum width of 1 cm and a maximum length of 3 cm.

# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

## Implementation of the Obligation to Withhold Income Tax on Dividends

### Meet Our Experts

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The DGT has provided an elucidation regarding the implementation of the obligation to withhold income tax on dividends after the enactment of Law No. 11 of 2020 concerning Job Creation (Job Creation Law). The elucidation is outlined in the Official Memo No. ND-93/PJ/PJ.03/2020 (ND 93/2020). Several points are conveyed by the DGT through the official memo.

*First,* the implementing regulations for Job Creation Law regarding exemption procedures, investment criteria, and investment periods for dividends that are exempted from the imposition of income tax are still in the finalization stage.

*Second,* dividends that are exempted from tax objects are domestic-sourced dividends that are received or earned by taxpayers and foreign-sourced dividends insofar as they are invested or used to support other businesses in Indonesia.

*Third,* dividends exempted from income tax objects as referred to in the second point, apply to dividends received, earned, or deemed to be earned by resident taxpayers since the enactment of the Job Creation Law and are distributed based on the general meeting of shareholders.

*Fourth,* during the transition period beginning from the enactment of Job Creation Law until the issuance of implementing regulations in the form of future ministerial regulations, for exempted dividends, the obligation to withhold income tax will continue to apply. On another note, tax withholders shall not withhold income tax on the dividends without the need for an exemption certificate (*Surat Keterangan Bebas*/SKB).

*Fifth,* if the dividend that is received or earned by a resident taxpayer and exempted from tax objects has been deducted, an application for a refund of the tax overpayment that should not otherwise be payable may be submitted.

## Permit to Perform Bookkeeping in English

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# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

The Director General of Taxes has issued a new regulation relating to the permit for bookkeeping in English and United States (US) dollar. The policy is outlined in the Director General of Taxes Regulation No. PER-24/PJ/2020 concerning Procedures for the Application, Notification, Granting, Cancellation and Application and Re-Issuance of Permits to Perform Bookkeeping or Recording in English or Bookkeeping in English and United States Dollars (PER-24/2020). This regulation has taken effect as of 28 December 2020.

Through this regulation, the authorities aim for convenience in the issuance of permits or submission of the notification of bookkeeping or recording in English or bookkeeping in English and in US dollars, as well as corporate taxpayers' obligation to file Annual Income Tax Returns.

Article 1 emphasizes that taxpayers must perform bookkeping or recording in Indonesia using Roman alphabet, Arabic numerals, rupiah currency, and compiled in Indonesian. However, the bookkeeping or recording can be performed by certain taxpayers or corporate taxpayers in English in rupiah currency or in English in US dollars. In this case, the taxpayer or corporate taxpayer must submit a notification or apply for a written permit from the Minister of Finance.

The notification is submitted electronically to the head of the tax office where the taxpayer is registered or to the unit stipulated by the Director General of Taxes through the DGT's website or other channels integrated with the DGT's system. In this regard, the DGT has recently added a notification service for bookkeeping in English and dollar currency to the Information on the Tax Subject Status Confirmation (*Konfirmasi Status Wajib Pajak*/KSWP) menu at DGT Online.

Certain corporate taxpayers includes, *first*, taxpayers in the framework of a work contract operating based on a contract with the Government of the Republic of Indonesia as referred to in the statutory provisions in the mineral and coal mining sector. These corporate taxpayers include taxpayers in the framework of coal mining exploitation working arrangements or taxpayers that hold special mining business license for production operation whose contract or agreement stipulates the obligation to maintain bookkeeping in English and US dollars.

*Second*, cooperation contract contractor taxpayers that operate based on statutory provisions in the oil and gas mining sector. *Third,* taxpayers that carry out a joint operation (*Kerja Sama Operasi*/KSO) insofar as required in the cooperation agreement/deed of establishment of the KSO and all KSO members have obtained permission from the minister of finance to perform bookkeeping in English and US dollars.

For taxpayers intending keep books or records in English and rupiah currency, the notification is to be submitted no later than 3 months after the commencement of the current financial year. For certain corporate taxpayers that have performed bookkeeping in English and US dollars since their establishment, the notification is to be submitted no later than 3 months as of the date of establishment.

Conversely, for certain corporate taxpayers intending to keep books in English and US dollars, the notification is to be submitted no later than 3 months before the start of the financial year in which bookkeeping is performed in English and US dollar currency.

## Unification Withholding Tax Receipt and Unification Periodic Income Tax Returns

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The DGT has issued the Director General of Taxes Regulation No. PER-23/PJ/2020 concerning the Form and Procedures for the Preparation of Unification Withholding Tax Receipt and the Form, Content, Procedures for Completing and Filing Unification Periodic Income Tax Returns (PER-23/2020).

# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

Stipulated on 28 December 2020, the regulation has taken effect thereafter. The enactment of this regulation simultaneously revokes the Director General of Taxes Regulation No. PER-20/PJ/2019 concerning the Form, Content, Procedures for Completing and Filing Unification Periodic Income Tax Returns and the Format of Unification Withholding Tax Receipt (PER-20/2019).

The authority states that PER-20/2019 needs to be replaced to provide more convenience, legal certainty, and improve services to taxpayers in the preparation of income tax withholding receipt and filing of Unification Periodic Income Tax Returns.

Unification withholding tax receipt refers to a document in standard format or other equivalent documents, which is prepared by an income tax withholder as evidence of income tax withholding and shows the amount of income tax that has been withheld.

Unification Periodic Income Tax Returns, on the other hand, refers to the periodic tax returns used by the income tax withholder to report the obligation to withhold and/or collect income tax, the remittance of income tax withholding and/or collection, and/or self-remittance of several types of income taxes in one tax period, as per statutory provisions in the field of taxation.

Article 2 of the regulation states that an income tax withholder is required to produce unification withholding tax receipt. The tax receipt is subsequently submitted to the party that has been withheld. Next, the income tax withholder is obliged to report the taxes that have been withheld/collected to the DGT using Unification Periodic Income Tax Returns.

Unification Periodic Income Tax Return refers to a periodic tax return used by an income tax withholder to report the obligation to withhold and/or collect income tax, remit the income tax withholding and/or collection, and/or self-remit several types of income taxes in one tax period.

In further detail, Unification Periodic Income Tax Return consists of five types of Income Taxes, i.e. Article 4 paragraph (2) Income Tax, Article 15 Income Tax, Article 22 Income Tax, Article 23 Income Tax, and Article 26 Income Tax. Moreover, unification withholding tax receipt and Unification Periodic Income Tax Returns may take the form of paper forms or electronic documents that are prepared and filed through the unification e-Bupot application.

The unification withholding tax receipt and Unification Periodic Income Tax Returns in the form of paper forms are used by income tax withholders that meet two criteria. *First*, preparing no more than 20 unification withholding tax receipts in one tax period. *Second,* preparing unification withholding tax receipt with an income tax base of not more than IDR100 million for each unification withholding tax receipt within one tax period.

Conversely, unification withholding tax receipt and unification periodic tax returns in the form of electronic documents are used by income tax withholders that meet the following five criteria:

(i) producing more than 20 unification withholding tax receipts in one tax period;

(ii) there is a unification withholding tax receipt with an income tax base of more than IDR100 million in one tax period;

(iii) preparing unification withholding tax receipts for Article 4 paragraph (2) Income Tax objects on deposit/savings interest, Bank Indonesia Certificate (*Sertifikat Bank Indonesia*/SBI) discount, current accounts, and share sale transactions;

(iv) having submitted Electronic Periodic Tax Returns; or

(v) registered with a Tax Office within the Regional Large Tax Office, a Tax Office within the Jakarta Special Regional Tax Office, or a Medium Tax Office.

Income tax withholders required to prepare unification withholding tax receipt and Unification Periodic Income Tax Returns are income tax withholders that meet the criteria referred to in paragraph (1) or paragraph (2) of PER-23/PJ/2020 and have been stipulated by a Director General of Taxes decree.

# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

## New Regulation on the Notification of the Use of NPPN

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The Director General of Taxes has issued a new circular relating to the guidelines for the submission of the notification of the use of net income calculation norms (*Norma Penghitungan Penghasilan Neto*/ NPPN). Said circular refers to Circular No. SE-50/ PJ/2020 concerning Guidelines for the Submission of Notification of the Use of Net Income Calculation Norms (SE-50/2020).

The provisions have been issued to improve services through the convenience of submitting notification of the use of NPPN via electronic channels and to provide uniformity in the submission of notification of NPPN use. Stipulated on 28 December 2020, this regulation has been valid thereafter. Formerly, the use of NPPN to determine net income was regulated under the Director General of Taxes Regulation No. PER-17/ PJ/2015 concerning Net Income Calculation Norms.

SE-50/2020 reaffirms that the NPPN is used by individual taxpayers who carry out businesses or independent personal services whose gross turnover is less than IDR4.8 billion in a year. The taxpayer records and receives or earns income that is not subject to final income tax. Individual taxpayers using NPPN are required to submit notification of the use of NPPN to the Director General of Taxes no later than 3 months as of the beginning of the tax year concerned.

Several channels may be used to submit the notification. *First,* electronically, online through www.pajak.go.id, the contact center, and certain other channels. *Second,* directly to the Tax Office/KP2KP where the taxpayer is registered. *Third*, by post with proof of postage. *Fourth*, through a forwarding company or courier service with proof of postage.

Moreover, this circular outlines the procedures for completing the notification of the use of NPPN through each of the above channels. If a taxpayer whose net income is calculated using the NPPN has submitted an Annual Income Tax Return, the account representative (AR) shall review the submission of the notification of the use of NPPN by the taxpayer. In the event that the taxpayer has not submitted notification of the use of net income calculation norms, the taxpayer shall be followed up as per prevailing regulations.

## Guidelines for the Submission of Voluntary Declaration and Voluntary Payment

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## Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

The Minister of Finance has established guidelines for the submission of voluntary declaration (*deklarasi inisiatif*) and voluntary payment (*pembayaran inisiatif*). These guidelines are stipulated under the Minister of Finance Regulation No. 201/PMK.04/2020 concerning Voluntary Declaration and Voluntary Payment (MoF Reg. 201/2020). This regulation has been issued to provide legal certainty, increase state revenues and the compliance of importers, entrepreneurs in free trade zones and free ports.

As per Article 3 of MoF Reg. 201/2020, importers, entrepreneurs in free trade zones and free ports, or entrepreneurs in bonded storage areas may conduct a voluntary declaration. The voluntary declaration can be carried out in the event that the price that should be paid and/or the cost and/or value that should be added cannot yet be determined when the import customs declaration is filed. The voluntary declaration may be performed on the substance which includes futures prices, royalties, proceeds, transportation costs (freight), insurance costs, and/or assists.

Voluntary declaration may be carried out in the import customs declaration which may be in the form of three documents. *First,* import declaration (*Pemberitahuan Impor Barang*/PIB). *Second,* import customs declaration for the entry of goods from outside the customs area into the free trade zone and free port or the release of goods from outside the customs area from the free trade zone and free port to other places in the customs area. *Third,* customs declaration on the release of goods from bonded storage areas that are imported for use.

On the other hand, the recalculation of import duties, excise, and/or tax on import (*Pajak Dalam Rangka Impor*/PDRI) is carried out on the settlement date of the futures price, payment of royalties, proceeds, and/or assists, or payment of transportation costs (freight) and/or insurance costs. The calculation is carried out based on evidence or documents obtained on the settlement date as per the classification, imposition, and base value for the calculation of import duties (*Nilai Dasar Penghitungan Bea Masuk*/NDPBM).

Further, in the event of an underpayment of import duty, excise, and/or PDRI, a voluntary payment on the customs value may be performed no later than seven working days. On another note, this regulation stipulates that voluntary declaration and voluntary payment may be subject to a repeated audit or customs audit as per statutory regulations on repeated audits or customs audits.

Importers, entrepreneurs in free trade zones and free ports, or entrepreneurs in bonded storage areas, may perform voluntary payment for underpayments or obligation to settle import duties, excise, and/or PDRI. Voluntary payments on these rates are made prior to a repeated audit or customs audit.

Moreover, this regulation stipulates the reporting, administration, monitoring, and evaluation of voluntary declaration and voluntary payment on customs values. When this regulation comes into effect, MoF Reg. 67/PMK.04/2016 shall be declared revoked and invalid. Promulgated on 17 December 2020, this regulation is to take effect 60 days thereafter.

## Procedures for the Calculation and Withholding of VAT on Supplies of Certain LPG

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The Ministry of Finance has issued a new policy on procedures for the calculation and withholding of VAT on supplies of certain liquefied petroleum gas (LPG).

# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

This policy is outlined in the Minister of Finance Regulation No. 220/PMK.03/2020 concerning Procedures for the Calculation and Withholding of Value Added Tax on Supplies of Certain Liquefied Petroleum Gas (MoF Reg. 220/2020).

This regulation is to be implemented as certain LPG is an essential item required by society. As such, efforts to ensure the availability and smoothness of distribution are a must. This regulation has taken effect as of 28 December 2020.

LPG refers to fuel with specificities due to certain conditions, such as its user/use, packaging, volume, and/or price, which have to be subsidized. As regulated under Article 2 of MoF Reg. 220/2020, supplies of certain LPG by Taxable Persons for VAT Purposes (*Pengusaha Kena Pajak*/PKP) are subject to VAT.

VAT imposed on supplies of certain LPG of which part of the price is subsidized is paid by the government. Said subsidies may include the price and VAT. On the other hand, VAT on supplies of certain LPG of which part of the price is not subsidized is paid by the buyer.

Next, the VAT base on supplies of certain unsubsidized LPG applies another value. The other value is a money-equivalent value which can be calculated using the following three formulas.

(i) Supplies at the business entity's supply point, amounting to 100/110 of the retail sales price;

(ii) Supplies at the agent's supply point, amounting to 10/101 of the excess between the agent's sales price and the retail sales price; or

(iii) Supplies at the depot's supply point, amounting to 10/101 of the excess between the sales price of the depot and the sales price of the agent.

VAT payable amounts to 10% of the tax base. The VAT payable is also included in the excess between the agent's sales price and the retail sales price, as well as the excess between the sales price of the base and the agent. Moreover, the method for the calculation of the VAT payable on supplies of certain LPG of which a part of the price is not subsidized is listed in the Appendix of this regulation.

A tax invoice is prepared for VAT payable when the business entity applies for payment of subsidies and at the time of payment of supplies of certain LPG in the event that the payment is made prior to the supplies. Input VAT on the acquisition of taxable goods and/or taxable services in connection with supplies of certain LPG by a business entity may be credited. Input VAT on supplies of certain LPG by the agent, however, cannot be credited.

## New Regulation on the Requirements for International Organizations to Be Excluded as Income Tax Subjects

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The Ministry of Finance has enacted a new regulation aimed at providing legal certainty in terms of tax treatment for certain international organizations. This policy is outlined in the Minister of Finance Regulation No. 235/PMK.010/2020 concerning International Organizations and Official Representatives of International Organizations that are Not Included as Income Tax Subjects (MoF Reg. 235/2020).

# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

This regulation has been issued to provide legal certainty regarding tax treatment for certain international organizations. This provision came into force on 30 December 2020. As per Article 2 paragraph (1), international organizations shall not constitute income tax subjects if they meet two conditions.

*First,* Indonesia is a member of said organization. *Second,* not running a business or other activities to earn income from Indonesia other than providing loans to the government, for which funds originate from contributions from members. Next, official representatives of international organizations are not income tax subjects if they meet two conditions. *First,* not Indonesian citizens (*Warga Negara Indonesia*/ WNI). *Second,* not running businesses, activities, or other occupations to earn income from Indonesia.

If an international organization excluded as an income tax subject no longer meets the requirements, the minister of finance may revoke the stipulation. The same provision also applies if the official representative of an organization excluded as an income tax subject is no longer eligible. Conversely, if the official representative of an international organization excluded as an income tax subject no longer meets the requirements, the official representative of international organizations shall constitute a tax subject as per prevailing tax regulations.

When MoF Reg. 235/2020 comes into effect, the tax treatment of international organizations as stipulated under the Appendix of MoF Reg. 156/2015 concerning the Fourth Amendment to MoF Reg. 215/2008 remains in effect until the stipulation of the ministerial decree referred to in MoF Reg. 235/2020. With the enactment of this ministerial regulation, several ministerial regulations have been revoked and declared invalid, i.e. MoF Reg. 15/2010, MoF Reg. 142/2010, MoF Reg. 166/2012, and MoF Reg. 156/PMK.010/2015. All of these ministerial regulations constitute amendments to MoF Reg. 215/2008.

## Changes in Provisions on Income Tax Treatment in Accordance with International Treaties

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The Ministry of Finance has revised the regulation on the implementation of income tax treatment based on provisions under international treaties. The revisions are outlined in the Minister of Finance Regulation No. 236/PMK.010/2020 concerning Amendments to the Minister of Finance Regulation No. 202/ PMK.010/2017 concerning Implementation of Income Tax Treatment Based on Provisions in International Treaties (MoF Reg. 236/2020).

This regulation stipulates that if provisions on income tax under an international treaty differ from the provisions in the Income Tax Law, the income tax treatment shall be based on the provisions in the treaty until the end of said international treaty. The tax treatment will be implemented after approval from the Minister of Finance is obtained.

International treaties refer to agreements in certain forms and names which are regulated in international law. A treaty is prepared in writing and renders rights

and obligations in the field of public law between the Indonesian Government and international organizations or other international legal subjects.

MoF Reg. 236/2020 stipulates a new, additional paragraph, i.e. Article 2 paragraph (3a). This paragraph states that international treaties that receive tax treatment in accordance with this ministerial regulation shall be stipulated by minister of finance decrees. As per Article 2 paragraph (5), international organizations refer to tax subjects as per statutory provisions pertaining to income tax, unless otherwise stipulated in the international treaty as referred to in Article 2 paragraph (1) of this regulation.

Next, there is also an additional article, i.e. Article 3A. This article states that when MoF Reg. 236/2020 comes into effect, income tax that is based on the provisions under international treaties listed in the appendix of MoF Reg. 202/2017 continues to apply. Promulgated on 30 December 2020, this ministerial has come into force thereafter.

## Revocation of Regulations and Decrees by the Directorate General of Taxes

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The Directorate General of Taxes has revoked seven regulations and two decrees as part of regulatory simplification. The revocation is outlined in the Director General of Taxes Regulation No. PER-22/PJ/2020 concerning the Revocation of the Director General of Taxes Regulations and the Director General of Taxes Decrees in the Context of Regulatory Simplification (PER-22/2020). Stipulated on 27 November 2020, this regulation has taken effect thereafter.

The authority states that some provisions on the implementation of the Value Added Tax Law on Goods and Services and Sales Tax on Luxury Goods (VAT Law) and the Land and Building Tax (*Pajak Bumi dan Bangunan*/PBB) Law are no longer relevant, incompatible with current conditions, and have expired. This policy aims to provide legal certainty and convenience in the implementation of various regulations.

The 7 Director General of Taxes regulations that have been revoked and declared invalid include, *first*, PER-45/PJ/2013 concerning the Procedures for the Imposition of the Land and Building Tax in the Mining Sector of Petroleum, Natural Gas, and Geothermal Mining. *Second*, PER-27/PJ/2014 concerning Procedures for the Stipulation of Sales Value of Taxable Objects as the Land and Building Tax Base. *Third,* PER-31/PJ/2014 concerning Procedures for the Imposition of Land and Building Tax in the Plantation Sector.

*Fourth,* PER-02/PJ/2015 concerning Procedures for the Issuance of Notice of Land and Building Tax Payable for the Plantation Sector, Forestry Sector, Mining Sector, and Other Sectors. *Fifth,* PER-20/PJ/2015 concerning Procedures for the Imposition of Land and Building Tax in Other Sectors. *Sixth*, PER-42/PJ/2015 concerning Procedures for the Imposition of Land and Building Tax in the Forestry Sector. *Seventh*, PER-47/PJ/2015 concerning Procedures for the Imposition of Land and Building Tax in the Mining Sector of Mineral and Coal Mining.

The 2 Director General of Taxes decrees that have been revoked and declared invalid include *first*, KEP-382/PJ./2002 concerning Guidelines for the Implementation of Withholding, Remittance, and Reporting of Value Added Tax and Sales Tax on Luxury Goods for Value Added Tax Withholders and VAT Counterpart Withholders. *Second*, KEP-148/PJ/2003 concerning Instructions for the Completion of Taxpayer Identification Numbers in Customs, Excise, and Tax on Import Payment Slip Forms.

# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

## Restrictions on Face-to-Face Trial Proceedings and Tax Court Services

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The Chairperson of the Tax Court has issued a circular concerning restrictions on face-to-face trial proceedings and administrative services. These restrictions are stipulated under Circular No. 1/PP/2021 concerning Restrictions on the Implementation of Face-to-Face Trial Proceedings and Administrative Services (Through Helpdesk/Delivered Directly) at the Tax Court Starting 11 January 2021 to 25 January 2021 (SE-1/2021).

Circular No. SE-01/PP/2021 aims to follow up on the central government's instruction through the minister of home affairs related to the implementation of activity restrictions to control the spread of Covid-19 and the imposition of restrictions on outdoor activities in DKI Jakarta.

As per the provisions under the Circular, trial proceedings at the Tax Court, including electronic trial proceedings, originally scheduled from 11–25 January 2021, shall be carried out under several conditions. *First,* the trial proceedings are to be held in shifts for each trial day by referring to the provisions under SE-024/PP/2020.

*Second,* the panel of judges or single judge and alternate registrar are encouraged to carry out trial proceedings more effectively by taking into account the substance of disputes, the number of files examined, and the available time in each trial shift. *Third*, to reduce the risk of Covid-19 transmission, the panel of judges or single judge, alternate registrar and staff, as well as parties present at trial proceedings must always apply health protocols and check their health before attending the trial, among others, by undertaking a PCR swab/Covid-19 antigen swab regularly.

All face-to-face administrative services (via helpdesk/delivered directly), under the circular, are implemented with a restriction on the number of people as per the Governor of DKI Jakarta Decree No.19/2021. The regulation and restrictions on the number of service users between 11 January to 25 January 2021 are stipulated through a queue list. To reduce the number of people present at the Tax Court, it is advisable that appeals/lawsuits and trial documents and other documents, except requests for case reviews, be submitted by post.

## Interest Penalties and Compensation Interest Rates for the January 2021 Period

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The Minister of Finance has released monthly interest rates as the basis for calculating administrative penalties in the form of interest and the granting of interest compensation for the period between 1 January 2021 to 31 January 2020.

# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

Details of the interest rates are stipulated under the Minister of Finance of the Republic of Indonesia Decree No. 57/KMK.10/2020 concerning Interest Rates as the Basis for Calculating Administrative Penalties in the Form of Interest and Interest Compensation for the Period between 1 January 2021 to 31 January 2021 (MoF Decree 57/2020). This regulation was signed on 29 December 2020.

Four monthly interest rates apply for administrative penalties, ranging from 0.51% to 1.76%. The four monthly interest rates are lower than the monthly interest rates for the December 2020 period, which ranged from 0.53% to 1.78%. Details of monthly interest rates for tax interest penalties for the period between 1 January 2021 to 31 January 2021 can be seen in Table 1.1.

The amount of monthly interest rates in the MoF Decree varies as it is the result of the calculation of the monthly interest rate. The calculation is based on the reference interest rate formula set by the minister of finance plus the uplift factor of each article and divided by 12.

On the other hand, the interest rate as the basis for the granting of interest compensation is set at 0.51%. The monthly interest rates are lower than the previous period. Details of the monthly rates for tax interest compensation for the period between 1 January 2021 and 31 January 2021 can be seen in Table 1.2.

**Table 1.1 Details of Monthly Interest Rates of Interest Penalties**

| Articles in General Tax Provisions and Procedures | The Imposition of Administrative Penalties | Monthly Interest Rate |
|---|---|---|
| Article 19 paragraph (1) | Notice of Tax Underpayment Assessment (*Surat Ketetapan Pajak Kurang Bayar*/SKPKB) or Additional SKPKB, and Correction Decree, Objection Decision Letter, Decision on Appeal, or Decision on Case Review, which causes the amount of tax payable to increase, but at the time of maturity, it is not paid or underpaid.<br>(Collection Interest) | 0.51% |
| Article 19 paragraph (2) | Taxpayers are allowed to pay in installments or postpone tax payments<br>(Installments/postponement of tax payments) | |
| Article 19 paragraph (3) | Taxpayers are allowed to postpone the filing of Annual Tax Returns and the temporary calculation of the tax payable as referred to in Article 3 paragraph (5) is actually less than the actual amount of tax payable.<br>(Underpayment of postponement of the filing of Annual Tax Returns) | |
| Article 8 paragraph (2) | Underpayment of Correction of Annual or Periodic Tax Returns. | 0.93% |
| Article 8 paragraph (2a) | The taxpayer corrects Periodic Tax Returns on his own (before audits) which results in higher tax liability. | |
| Article 9 paragraph (2a) | Late remittance of periodic income tax. | |
| Article 9 paragraph (2b) | Late remittance of Annual Income Tax/Article 29 Income Tax. | |
| Article 14 paragraph (3) | The issuance of Notice of Tax Collection (*Surat Tagihan Pajak*/STP) by the DGT due to:<br>(i). Unpaid/underpaid income tax<br>(ii). Based on the research results, there are taxes that are underpaid due to writing errors and/or miscalculations.<br>(Income tax in the current year is not paid/underpaid or from the results of the research, there is tax underpayment due to writing errors and/or miscalculations) | |
| Article 8 paragraph (5) | Disclosure of inaccuracy of Tax Returns after audits, but the Notice of Tax Assessment (*Surat Ketetapan Pajak*/SKP) has not been issued.<br>(Underpaid tax that arises due to the disclosure of incorrect Tax Return filling) | 1.34% |
| Article 13 paragraph (2) | SKPKB is issued because the tax payable is not paid/underpaid due to matters regulated under Article 13 paragraph 1 subparagraph (a) to (e) of the General Tax Procedures and Provisions Law.<br>(SKPKB Penalties) | 1.76% |
| Article 13 paragraph (2a) | SKPKB is issued as the taxable person for VAT purposes has not performed any supplies, but has received refunds/has credited the input VAT as referred to in Article 9 paragraph (6a) of the VAT Law.<br>(Refund of input VAT from taxable persons for VAT purposes that are not producing) | |

Source: Job Creation Law and MoF Decree 57/2020.

**Table 1.2 Details of Monthly Interest Rates of Interest Compensation**

| Articles in General Tax Provisions and Procedures | The Granting of Interest Compensation for | Monthly interest rate |
|---|---|---|
| Article 11 paragraph (3) | The refund of tax overpayment is performed in 1 (one) month after the application. | 0.51% |
| Article 17B paragraph (3) | Notice of Overpayment Assessment (*Surat Ketetapan Pajak Lebih Bayar*/SKPLB) is issued late after the 1 month period expires. | |
| Article 17B paragraph (4) | SKPLB is issued because the preliminary investigation of tax crime:<br>a. does not proceed with the investigation,<br>b. proceeds with the investigation but there is no prosecution of tax crime, or<br>c. proceeds with the investigation and prosecution of the tax crime but it is acquitted. | |
| Article 27B paragraph (4) | The refund of tax overpaument on the filing of objections, requests for appeal, or requests for case review that are granted partially or in full. | |

Source: Job Creation Law and MoF Decree 57/2020.

## Electronic State Revenue System

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The Ministry of Finance has established an electronic state revenue system. The system is regulated under the Minister of Finance Regulation No. 225/PMK.05/2020 concerning Electronic State Revenue System (MoF Reg. 225/2020). This regulation has been issued to improve the electronic state revenue system by adjusting the development of the current state revenue system and to simplify the regulation of the state revenue system.

State revenues stipulated under this ministerial regulation cover tax revenues, non-tax state revenues (*Penerimaan Negara Bukan Pajak*/PNBP), financing revenues, grant revenues, and other state revenues. Other state revenues include revenues of Third-Party Funding (*Perhitungan Fihak Ketiga/PFK*), revenues of refunds of expenditure, deposits of remaining inventory money, and revenues other than the aforementioned three points. The revenues are obtained domestically and/or from abroad.

State revenues are deposited through payment services or systems provided by collecting agents. These collecting agents include tax payment banks, tax payment banks of foreign exchange, collecting agent post offices, other collecting agents, and other foreign exchange collecting agents. State revenues are deposited using billing codes.

Payment services or channels may be provided by collecting agents through payment services or channels at counters or tellers and/or payment services or channels using electronic systems. Payment services or channels using electronic systems are also available in the state revenue portal system, biller-managed systems, and/or other approved systems.

To determine the general policies for the administration of state revenues by collecting agents, the Proxy of State General Treasurer (*Kuasa Bendaraha Umum Negara Pusat*) prepares an operational technical review covering aspects of the adequacy of the amount, service coverage, and other considerations based on the policies of the State General Treasurer. Commercial banks, post offices, or institutions may serve as tax payment banks, tax payment post offices, or other collecting agents after undergoing four cumulative processes.

*First,* submitting an application by including the specified requirements. *Second,* obtaining a principle permit from the Proxy of State General Treasurer. *Third,* passing the System Integration Testing (SIT) and User Acceptance Testing (UAT) tested by the Proxy of State General Treasurer. *Fourth,* obtaining an appointment from the Proxy of State General Treasurer. Commercial banks, post offices, or institutions that may be designated as tax payment banks, tax payment post offices, or other collecting agents must meet the following requirements.

(i) established/operating in Indonesia as per statutory provisions;

(ii) having a minimum composite rating of three for the past year, specifically for commercial banks;

(iii) having a decent performance, particularly for post offices or institutions, as evidenced by financial statements;

(iv) able to comply with statutory provisions;

(v) willing to be audited by the State General Treasurer/Proxy of General State Treasurer in terms of the management of received state revenue deposits;

(vi) having an adequate information and technology system that can be connected online with the state revenue system at the Ministry of Finance;

(vii) having a service coverage map;

(viii) having competence and credibility/reputation supported by the consideration of competent authorities/agencies/institutions;

(ix) compiling projections/potential state revenues that may be collected; and

(x) willing to sign a cooperation agreement as a tax payment bank, tax payment post office, or other collecting agents.

With respect to approved applications of commercial banks, post offices, or institutions, the Proxy of State General Treasurer shall issue principle permits. Principle permits include, among others, the obligations of commercial banks, post offices, or institutions to develop systems that comply with collecting agent requirements and order of business.

Concerning rejected applications of commercial banks, post offices, or institutions, the Proxy of State General Treasurer shall submit a written rejection no later than 30 working days after all attachments of the application letters are received in full. Further, commercial banks, post offices, or institutions that have finished developing the system shall submit an SIT request to the Proxy of State General Treasurer.

When this ministerial regulation comes into force, MoF Decree 5/KMK.01/1993, PMK 99/PMK.06/2006, MoF Reg. 249/PMK.05/2010, MoF Reg 32/PMK.05/2014 shall be declared revoked and invalid. This ministerial regulation has come into force as of 1 January 2021.

## Allocation of 2021 Revenue Sharing Fund of Tobacco Products Excise

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The Ministry of Finance has officially stipulated the breakdown of revenue sharing fund (*Dana Bagi Hasil*/DBH) of tobacco products excise (*Cukai Hasil Tembakau*/CHT) that will be distributed to local governments, both provinces and regencies/cities for the 2021 fiscal year.

Details of the CHT DBH distributed to each regional

government are outlined in the Minister of Finance Regulation No. 230/PMK.07/2020 concerning Details of Revenue Sharing Fund of Tobacco Products Excise by Provinces/Regencies/Cities for the 2021 Fiscal Year (MoF Reg. 230/2020).

The regulation, signed on 30 December 2020, states that the total DBH CHT distributed to local governments in 2021 will amount to IDR3.47 trillion. This figure tends to be stagnant compared to the stipulation of the DBH CHT in 2020 of IDR3.46 trillion.

In further detail, the majority of the DBH CHT will be granted to the provincial and district/city governments in East Java, totalling IDR1.93 trillion or 55.6% of the total national DBH CHT. Out of the total CHT DBH of IDR1.93 trillion, the East Java Provincial Government is to receive an allocation of IDR581.36 billion.

The remaining CHT DBH of IDR1.35 trillion, on the other hand, will be distributed to city and district governments as per their respective allocations. Further, Pasuruan Regency constitutes the regency/city to receive the largest CHT DBH in 2021, i.e. an allocation of DBH CHT of IDR200.44 billion.

Promulgated on 30 December 2020, this Ministerial Regulation has come into force thereafter. The enactment of PMK 230/2020 simultaneously revokes 16 minister of finance regulations related to the breakdown of revenue sharing funds of tobacco products excise by province/regency/city in the previous fiscal year.

## Tax, Customs and Excise Treatment in Special Economic Zones

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The Ministry of Finance has released a new regulation concerning income tax facilities provided in special economic zones (*Kawasan Ekonomi Khusus*/KEK). This policy is outlined in the Minister of Finance Regulation No. 237/2020 concerning Tax, Customs, and Excise Treatment in Special Economic Zones (MoF Reg. 237/2020).

Business sectors entitled to facilities at KEK include two sectors, i.e. business sectors which constitute the main activities of KEK, and business sectors that constitute other activities apart from the main activities of KEK. Through MoF Reg. 237/2020, business entities and business players in KEK are given four facilities.

*First,* income tax. Income tax facilities in KEK include corporate income tax reduction facilities or income tax facilities for investment in certain business sectors and/or certain regions. The corporate income tax reduction facility is given at 100% of the total corporate income tax payable. The reduction facility is provided for an investment of at least IDR100 billion.

This facility is given to business entities on the income received by business entities from the transfer of land and buildings in KEK, lease of land and buildings in KEK, as well as income from the main business in KEK apart from transfer and lease of land and buildings. This facility is granted for a period of 10 tax years.

The 100% corporate income tax reduction or discount facilities are also granted to business players that invest in main activities in KEK and have an investment plan of at least IDR100 billion. The discount facility is given for 10 years for investment plans from IDR100 billion to IDR500 billion. If a business player's investment plan

reaches IDR500 billion to IDR 1 trillion, the Corporate Income Tax reduction facility shall be granted for 15 years.

If a business player has an investment plan of IDR1 trillion or more, the Corporate Income Tax discount facility will be given for up to 20 tax years. After the period of the granting of Corporate Income Tax discount for business entities and business players expires, both business entities and business players will continue to be given a 50% reduction in Corporate Income Tax payable for the next 2 tax years.

In addition to the corporate income tax discount facility, business players are also given space to obtain income tax facilities for investment in certain business sectors and/or certain regions that are similar to a tax allowance. Not only are these tax facilities granted to business players investing in main activities, but also to business players investing in other activities in KEK.

Income tax facilities for investment in certain business sectors and/or certain regions include, among others, a reduction of net income from total investment by 30% for 6 years, accelerated depreciation and amortization, imposition of income tax on dividends paid to non-resident taxpayers of 10%, and set-off of losses for 10 years.

Business players that have obtained Corporate Income Tax reduction facilities are not allowed to obtain income tax facilities for investments in certain business sectors and/or certain regions. Likewise, business players that have received income tax facilities for investments in certain business sectors and/or certain regions, will not be given corporate income tax reduction facilities either.

*Second,* value added tax (VAT) or sales tax on luxury goods (SLTGs). VAT or SLTGs shall not be withheld on the following six things.

(i) Imports of certain taxable goods (*Barang Kena Pajak*/BKP) to KEK by business entities or business players;

(ii) Utilization of intangible BKP and/or taxable services (*Jasa Kena Pajak*/JKP) from outside the customs area in KEK by business entities or business players;

(iii) Supplies of certain BKP to KEK by entrepreneurs from Other Places Within the Customs Area (*Tempat Lain Dalam Daerah Pabean*/TLDDP), free zones, or bonded storage areas (*Tempat Penimbunan Berikat*/TPB) to business entities or business players;

(iv) Supplies of intangible BKP and/or certain JKP to KEK by entrepreneurs from TLDDP, free zone, or TPB to business entities or business players;

(v) Supplies certain BKP between business entities, between business players, or between business entities and business players in the same KEK or other KEK; and

(vi) Supplies of intangible BKP and/or JKP, between business entities, between business players, or between business entities and business players in the same KEK or other KEK, excluding land and/or building lease services for a period of five years in KEK.

Certain BKP include, among others: capital goods; raw materials, additional materials, and other goods assembled and/or installed on other goods; and/or goods intended for storage, assembly, sorting, packing, distribution, repair, and conditioning of machinery. In the event that KEK originates from part or all of the free zone, two provisions shall apply.

*First,* supplies of JKP from and to free zones are not subject to VAT. *Second,* supplies of domestic transportation services and telecommunications services other than those using fixed networks to and from free zones are imposed with VAT.

*Third,* import duties and tax on import (*Pajak Dalam Rangka Import*/PDRI), and/or excise. Locations designated as KEK must have clear boundaries according to their stages, which may be natural or artificial boundaries. For the purpose of monitoring, part or all of KEK can be designated as a customs area. At the customs area boundaries, the entrance or exit gate for goods must be stipulated to monitor goods that still contain tax and customs obligations.

Further, tax and customs facilities are provided for the entry of capital goods for the construction or development of SEZ by a business entity. Upon entry of capital goods originating from outside the customs area, import duty exemption and non-collection of PDRI facilities are granted. These facilities are also applied to the entry of goods from business players in other KEK whose goods originate from outside the customs area. On the other hand, companies in TLDDP, business entities are given VAT or SLTGs facilities.

During the production period, business players in KEK are given tax facilities, deferral of import duties, and/or exemption from excise on the entry of goods based on the category of business players. KEK administrators group the categories of KEK business players, including processing businesses, logistics center businesses, and/or service businesses.

Facilities are also provided for the movement of goods between business players within one KEK. Said facilities include the deferral of import duties and non-collection of PDRI and excise exemption insofar as the goods are raw materials or additional materials in the manufacture of final products that do not constitute goods subject to excise. Additionally, the movement of goods is also granted with VAT or SLTGs facilities.

*Fourth,* additional tax, customs, and/or excise facilities in tourism KEK. Various additional tax, customs, and/or excise facilities are stipulated under this regulation, among others, the purchase of a residence that constitutes a main activity in the tourism KEK shall be given income tax exemption on the sale of goods classified as luxurious. The income tax is exempted by the issuance of an exemption certificate.

To obtain these facilities, four requirements must be met by business players. *First,* being resident corporate taxpayers, both central and branch, that carry out KEK businesses. *Second,* stipulated as business entities to build and/or manage KEK by the provincial government, regency/city governments, or ministries/non-ministerial government agencies in accordance with their authority, or the Free Trade Zone and Free Port Council (*Dewan Kawasan Perdagangan Bebas dan Pelabuhan Bebas*/DKPBB), or the KEK Administrator based on the delegation of authority.

*Third,* having clear boundaries according to the stages of KEK development. *Fourth,* having a business permit. On the other hand, business players wishing to take advantage of this facility must meet two requirements, i.e. being resident corporate taxpayers that carry out businesses in KEK and having a business permit.

Business entities or business players in KEK in the activities of importing and releasing goods are required to acess the Indonesia National Single Window (SINSW) system which is connected to the DGCE's system to obtain the taxation facilities. To obtain said facilities, business entities or business players are required to utilize an information technology-based inventory system.

SINSW in KEK is conducted on single document principles, through electronic systems, integration with computer-based inventory information systems, standardization and data exchange, and integration with tax systems. Business entities or business players in KEK that have completed construction or development must meet the requirements when they start commercial production.

## New Regulation on INSW Management and SINSW Implementation

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The government has stipulated a new regulation regarding the implementation and management of the Indonesia National Single Window (INSW) and the Indonesian National Single Window System (*Sistem Indonesia National Single Window*/SINSW). This new regulation is expected to meet data element standards, the granting of access rights, and credible management of electronic data and information. Said regulation refers to the Minister of Finance Regulation No. 199/PMK.012/2020 concerning the Management of the Indonesia National Single Window and the Implementation of the Indonesia National Single Window System (MoF Reg. 199/2020).

Through the regulation, taking effect as 16 January 2021, the government stipulates that the management of INSW shall be carried out as per the policies on the development, implementation, and improvement of INSW. The policy includes the determination of the direction of INSW policies and the development of generation 2 SINSW as listed in the Appendix of this regulation.

The management of INSW is carried out through simplification and standardization of policies related

to exports, imports, and/or national logistics. On the other hand, the implementation of SINSW is carried out by applying the objectives of electronic data and information management, delivery and realization of electronic data and information, data reliability and security. On another note, the implementation may be through audit tracking, regulatory information management services, as well as the use of electronic data and information.

SINSW uses the www.insw.go.id domain, under which is a subdomain that contains data and information. The data and information consist of three functions. *First,* the information function which provides general information and specific information. *Second,* the transaction function which provides special information and transaction services. *Third,* the reporting function that provides the information required for reporting needs.

Moreover, to render convenience for users, SINSW provides the portal www.insw.go.id. This portal may be accessed through the user interface, system to system (host-to-host), or other electronic systems by parties that have been designated as recipients of access rights.

These SINSW users consist of the National Single Window Institution (*Lembaga National Single Window*/LNSW), ministries/agencies, users of SINSW services, and parties specifically granted access rights to SINSW. To obtain SINSW access rights, ministries/agencies may submit requests to the head of LNSW via letters signed by the unit leader in the ministry/agency concerned. Further, service users wishing to obtain access rights may also submit an application to the head of LNSW through SINSW and the letter must at least be attached with a power of attorney from the head of the company.

Access rights may be granted to eligible parties under three requirements. *First,* submitting an application that has been signed by an official in the agency ranking a middle-high leader at the lowest, if the recipient of access rights is a ministry/agency. *Second,* having a cooperation agreement with LNSW (if the recipient of access rights is a non-governmental organization). *Third,* parties in international treaties with LNSW, in the event that the access rights are granted to other countries.

Recipients of access rights are required to maintain security and confidentiality in the use of access rights and are responsible for the accuracy of the submitted electronic data and information. Access rights that have been granted may be revoked in the event of abuse, use of access rights does not meet the requirements, the usage period ends, and/or there is a need to revoke access rights in the context of implementing regulations.

## Enumeration and Relief for Ethyl Alcohol and Beverages Containing Ethyl Alcohol

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The government has set forth a new regulation on the enumeration and relief for ethyl alcohol and beverages containing ethyl alcohol. This policy is outlined in the Minister of Finance Regulation No. 205/PMK.04/2020 concerning the Enumeration and Relief of Ethyl Alcohol and Beverages Containing Ethyl Alcohol (MoF Reg. 205/2020). The stipulation of this regulation aims to further improve services and control of goods subject to excise to establish a more orderly state financial administration. This regulation has taken effect as of 18 December 2020.

# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

Enumeration refers to an activity to determine the number, type, quality, and condition of goods subject to excise. Enumeration is carried out on ethyl alcohol in factories or domestically-produced beverages containing group A ethyl alcohol in factories that are already packed in retail sales packaging and are still subject to excise. Enumeration is conducted no later than the 10th on a quarterly basis, i.e. in January, April, July, and October for the previous three months.

Enumeration is carried out at any time as per the manufacturer's request in the event of a strong suspicion of a violation, or before and after loading onto a ship for export. Customs and excise officials carry out enumeration based on a letter of assignment from the head of the office supervising the factory or warehouse witnessed by the manufacturer or warehouse proprietor.

Further, in the event that the result of the enumeration is equal to or greater than the figure stated in the book of accounts of goods subject to excise, the manufacturer or warehouse proprietor will not be given relief. The excess of ethyl alcohol and beverages containing ethyl alcohol is not included as finished goods subject to excise which are not notified and finished as per the enumeration provisions.

Custom and excise officials shall calculate the relief for the excess amount of ethyl alcohol or beverages containing ethyl alcohol. The granted relief does not exceed 1% of the number of goods subject to excise that should exist according to the book of accounts of goods subject to excise. In the event that the excess amount containing ethyl alcohol exceeds the relief, the excess amount will be subject to administrative penalties.

If the result of the enumeration is lower than the figure stated in the book of accounts of the goods subject to excise, the manufacturer or warehouse proprietor is given relief from the number of excisable goods produced or entered since the enumeration. Ethyl alcohol manufacturers shall be given relief of 0.5% of the amount of ethyl alcohol available and that prepared and entered since the last enumeration.

Conversely, warehouse proprietors are given a relief of 0.5% of the total available ethyl alcohol that has been entered since the last enumeration. Additionally, a 1% relief may also be given based on the difference in the amount of ethyl alcohol from the enumeration before and after the loading onto the ship.

For enumeration that has been carried out by customs and excise officials, an official report of the enumeration results must be prepared based on the format listed in the Appendix of this regulation. The official report is prepared in duplicate and signed by the customs and excise officials and the manufacturer or warehouse proprietor in question.

The enumeration results listed in the official report will subsequently be used as the basis for customs and excise officials to close the book of accounts of excisable goods. If the manufacturer or warehouse proprietor is not willing to sign the official report that has been drawn up, the customs and excise officials may still close the book of accounts of the excisable goods.

The manufacturer or warehouse proprietor can file an objection to the invoice no later than 30 days after the invoice is received. If this period has passed, the right to file an objection will be void and the closing of the book of accounts of excisable goods shall be deemed accepted. When this Ministerial Regulation comes into force, MoF Reg. 115/PMK.04/2008 will be declared revoked and invalid.

## CoO Electronic Data Exchange for Economic Cooperation between ASEAN and China

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# Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

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The Director General of Customs and Excise (DGCE) has issued a policy related to research procedures on the electronic data exchange of certificates of origin (*Surat Keterangan Asal*/SKA) for economic cooperation between the Association of Southeast Asian Nations (ASEAN) and the People's Republic of China (PRC). This policy is outlined in Circular No. SE-21/BC/2020 concerning the Enforcement and Procedures for the Research of Electronic Data Exchange of Certificates of Origin to Facilitate the Implementation of the Trade in Goods Agreement in the Framework Agreement on Economic Cooperation and Certain Agreements between the Association of Southeast Asian Nations and the People's Republic of China (CoO e-Form E) (SE-21/2021).

This circular stipulates that the CoO for trade in goods agreement in the framework agreement on economic cooperation and certain agreements between the ASEAN and the PRC may be submitted electronically. The CoO is submitted by the CoO issuing agency to the import customs office through the Indonesia National Single Window system. The CoO electronic data exchange has taken effect as of 15 October 2020.

To obtain preferential tariffs, imported goods must comply with rules of origin. Regarding the use of CoO e-Form E, several parties are exempted from fulfilling the obligation to submit the original CoO Form E. Said parties include importers, bonded storage area operators/entrepreneurs, bonded logistic center operators/entrepreneurs, entrepreneurs in free zones that have met the requirements as entrepreneurs that may use preferential tariffs, or Special Economic Zone Business Entities/Business Players.

Research on the use of CoO e-Form E is carried out in accordance with the procedures for the research on the use of SKA e-Form D as stipulated in the Minister of Finance Regulation concerning the procedures for the imposition of import duty tariffs based on the ASEAN Trade in Goods Agreement. Research on SKA e-Form E by customs and excise officials covers six aspects.

*First,* research on the inclusion of the facility code as per the trade in goods agreement in the framework agreement on economic cooperation and certain agreements between ASEAN and the PRC. *Second,* research on the Rules of Origin, including origin criteria, consignment criteria, and procedural provisions.

*Third,* research on the submission of printed or scanned CoO e-Form E in the event that the Service Computer System is not yet available, there is a problem, or a system failure. *Fourth,* research on compliance with the provisions on the issuance of CoO e-Form E. *Fifth*, research on CoO e-Form E movement certificates issued by CoO Form E issuing agencies in the PRC. *Sixth*, research on CoO e-Form E using third party invoicing.

Provisions on the use of the unit of measurement, port code, and issuing location code for CoO e-Form E issued by the PRC, refer to the appendix of this circular. Other provisions related to the implementation of CoO electronic data exchange are stipulated by the Minister of Finance regulation concerning the procedures for the imposition of import duty tariffs on imported goods.

In the event of an error or mistake in the stipulation of the CoO e-Form E research which results in the preferential tariff not given, the resolution shall refer to MoF Reg. No. 51/PMK.04/2017 or MoF Reg. No. 143/PMK.04/2007. When this circular comes into effect, SE-16/BC/2020 shall be declared invalid.

## Composition of Panels of Judges and Single Judges for Tax Dispute Resolution

### Meet Our Expert

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## Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

The Tax Court has issued a regulation regarding the composition of panels of judges and single judges for tax dispute resolution. This provision is outlined in the Chairperson of the Tax Court Decree No. KEP-03/PP/2021 concerning the Composition of Panels of Judges and Single Judges to Examine and Decide Tax Disputes at the Tax Court (KEP-03/2021).

Several matters are stipulated by the Tax Court under this regulation. *First*, the composition of the panels of judges at the Tax Court. Each panel of judges consists of one person as the Presiding Judge of the Panel of Judges and two persons as Member Judges tasked with examining and deciding tax disputes and days fixed for trial at their domicile. The composition of the panels of judges and days fixed for trials are listed in Appendix I of KEP-03/2021.

*Second*, this regulation also stipulates the composition of single judges at the Tax Court to examine and decide tax disputes with speedy procedures and days fixed for domicile trial proceedings. The composition of single judges and days fixed for trial is outlined in Appendix II of KEP-03/2021.

*Third*, the stipulation of the list of judges at the Tax Court who are appointed as the presiding judges of the panels of judges and single judges as listed in Appendix III of KEP-03/20121. *Fourth*, the stipulation of the list of judges at the Tax Court who are given additional permanent tasks as per Appendix IV of KEP-03/2021.

Further, this regulation stipulates that the presiding judges of the panels of judges and single judges are given allowances as the presiding judges of the panel of judges except for those who have received allowances as the chairperson and vice chairperson of the Tax Court. In contrast, additional allowances are granted to judges who are given additional permanent tasks in handling cases or disputes as of the enactment of this Tax Court decree.

Upon the enactment of KEP-03/2021, the Tax Court Decree No. KEP-022/PP/020 shall be declared revoked and not valid. This decree has taken effect as of 18 January 2021.

## VAT and Income Tax Withholding in Connection with the Sales of Phone Credit, Starter Packs for Prepaid SIM Cards, Tokens, and Vouchers

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The Ministry of Finance has issued a new regulation on the calculation and withholding of VAT and Income Tax on sales of phone credit, starter packs for prepaid SIM cards, tokens, and vouchers. The policy is outlined in the Minister of Finance Regulation No. 6/PMK.03/2021 concerning the Calculation and Withholding of Value Added Tax and Income Tax on Supplies/Income in Connection with the Sales of Phone Credit, Starter Packs for Prepaid SIM Cards, Tokens, and Vouchers (MoF Reg. 6/2021).

This regulation has been issued to provide legal certainty and simplify the provisions on the

withholding of VAT and Income Tax on phone credit, starter packs for prepaid SIM cards, tokens, and vouchers. According to Article 2 of MoF Reg. 6/2021, supplies of taxable goods (*Barang Kena Pajak*/BKP) by telecommunications service providers and distributors are subject to VAT. Said BKP are in the form of phone credit and starter packs for prepaid SIM cards. Phone credit and starter packs for prepaid SIM cards may take the form of physical or electronic vouchers.

Supplies of BKP in the form of tokens by electricity providers are also subject to VAT. In this regard, tokens refer to electricity, which is included in certain strategic BKPs as per statutory regulations in the field of taxation. VAT payable on supplies of tokens by electric providers, however, is exempt based on prevailing regulations. These tokens are supplied to electricity customers directly or through distributors.

In addition, according to Article 3 of the regulation, four supplies of taxable services (*Jasa Kena Pajak*/JKP) are also subject to VAT. *First*, services of token-distribution-related payment transactions by distributors. VAT payable on supplies of services of token-distribution-related payment transactions is withheld by the distributor.

*Second,* marketing services using voucher media by voucher organizers. VAT payable on supplies of marketing services using voucher media is withheld by voucher providers. Marketing services using voucher media refer to promotional services or marketing of goods and/or services by voucher providers to merchants or service providers. However, supplies of vouchers by voucher providers to buyers and/or service recipients and/or by buyers and/or service recipients to merchants or service providers are not subject to VAT.

*Third*, services of the implementation of voucher-distribution-related payment transactions by voucher providers and distributors. VAT payable on supplies of services of the implementation of voucher-distribution-related payment transactions is withheld by voucher providers and/or distributors. Services of the implementation of voucher-distribution-related payment transactions refer to activities by two parties, as follows:

(i) voucher providers to merchants or service providers, and/or Trade Through Electronic Systems Providers (*Penyelenggara Perdagangan Melalui Sistem Elektronik*/PPMSE); or

(ii) distributors to voucher providers, other distributors, buyers, and/or service recipients. Services of the implementation of voucher-distribution-related payment transactions must at least include the issuance and management of vouchers and/or supplies of vouchers to distributors, buyers, and/or service recipients.

*Fourth,* services of the implementation of customer loyalty and reward programs by voucher providers. VAT payable on supplies of this type of service is withheld by voucher providers.

Services of the implementation of customer loyalty and reward programs refer to services by the voucher provider to the principal to maintain, increase loyalty, or grant reward to customers. Specifically, supplies of reward in the form of points by the principal to the buyer and the buyer and/or service recipient as the customer to the voucher provider are not subject to VAT.

The aforementioned VAT payable on supplies BKP or JKP is calculated by multiplying the VAT rate of 10% by the tax base (*Dasar Pengenaan Pajak*/DPP). Provisions on DPP are stipulated in detail under Article 13 of MoF Reg. 6/2021.

Further, Article 22 Income Tax is withheld on sales of prepaid phone credit and starter packs by second-tier distributors that constitute Article 22 Income Tax withholders. The withholder shall directly withhold Article 22 Income Tax of 0.5% on the value billed by the second-tier distributor to the next tier distributor or the selling price on sales to telecommunications subscribers. In the event that the taxpayer on whom Article 22 Income Tax is withheld does not have a Tax Identification Number (*Nomor Pokok Wajib Pajak*/NPWP), the withholding rate shall be 100% higher than the normal rate.

The withholding of Article 22 Income Tax is final and can be calculated as income tax payments in the current year for the withheld taxpayer. Article 22 Income Tax becomes payable upon receipt of payment, including the receipt of the deposit by the second-tier distributor. Article 22 Income Tax, however, cannot be withheld on payments by the next tier distributor or telecommunication customer under the following criteria:

(i) performing a transaction with a maximum amount of IDR2,000,000, excluding VAT and does not constitute a split payment of a transaction with an actual value exceeding IDR2,000,000;

(ii) constituting a bank taxpayer; or

(iii) owning and having submitted a photocopy of income tax certificate based on Government Regulation No. 23 of 2018 of which the accuracy has been confirmed in the DGT's information system.

Exemptions from Article 22 Income Tax withholding are granted without exemption certificates.

Moreover, income in the form of compensation in connection with services and/or rewards in the form of vouchers, points, cash, or other forms constitutes income tax objects. Several rewards received or earned constitute objects of Article 23 Income Tax withholding.

*First,* services of the implementation of token-distribution-related payment transactions by distributors. *Second,* marketing services using voucher media by voucher providers. *Third*, services of the implementation of voucher-distribution-related payment transactions by voucher providers and distributors. *Fourth*, services of the implementation of customer loyalty and reward programs by voucher providers.

Next, the compensation for services received or earned by distributors and/or voucher providers is subject to Article 23 Income Tax by 2% of the gross amount and does not include VAT. Gross amount refers to all compensation in the form of commissions or similar payments paid in connection with the services rendered or the difference between the value billed and the value paid for the sale of vouchers in the event that the services provided are not based on the granting of compensation in the form of commissions.

Article 23 Income Tax is withheld by the party obliged to pay the compensation that constitutes an income tax withholder. In the event that the recipient of the compensation does not have an NPWP, the withholding rate shall be 100% higher than the normal rate. Article 23 Income Tax is not withheld if the income paid or owed to the bank and/or compensation in connection with the service has been subject to final Income Tax based on tax regulations.

The remittance and reporting of Article 22 Income Tax and Article 23 Income Tax shall be carried out according to the timeframe determined under the minister of finance regulation on the stipulation of the due date for payment, remittance, and reporting of tax collection.

Article 22 Income Tax and Article 23 Income Tax withholding slips are prepared as per the provisions stipulated in the minister of finance regulation on Income Tax withholding slips. This ministerial regulation comes into force on 1 February 2021.

## Derivative Regulation on Stamp Duty Law Released

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The government has issued the Minister of Finance Regulation No. 4/PMK.03/2021 concerning the Payment of Stamp Duty, General Features, and Special Features of Stamp Duties, Duty Stamps in Other Forms, and Determination of the Legality of Duty Stamps, and Postdated Duty Stamps (MoF Reg. 4/2021). The law, promulgated on 20 January 2021, constitutes a derivative regulation of Law No. 10 of 2020 concerning Stamp Duty (Stamp Duty Law).

Through the regulation, the government reiterates that documents on which stamp duty is payable are subject to a fixed rate of IDR 10,000, the repayment of which can be performed using a duty stamp or tax payment slip (*Surat Setoran Pajak*/SSP). Duty stamps that may be used to pay stamp duty may take the form of stamp duties or duty stamps in other forms.

In the event that stamp duty is settled by means of stamp duty, the settlement shall be carried out by

affixing a legal and valid stamp duty that has never been used by affixing the stamp to the document on which stamp duty is payable.

In further detail, the stamp duty shall be affixed by completely affixing the undamaged stamp duty where the signature will be placed. In addition, the signature must be applied partly on paper and partly on the stamp duty, along with the date, month, and year of the signing.

This regulation also outlines the general and special features of stamp duties. These details are listed in Appendix A of MoF Reg. 4/2021. In addition to the special features listed in Appendix A, special features of stamp duties which are stipulated by a Ministerial Decree may also be added.

In contrast, duty stamps in other forms include electronic stamps, computerized stamps, and printed stamps. Electronic stamps and computerized stamps are only used for payment of stamp duty by liable parties that have obtained written permission from the Director General of Taxes. On the contrary, duty stamps produced using printing technology are only affixed on documents in the form of cheques and giro fund transfer forms.

Next, the settlement of stamp duty using SSP is performed in the event of one of the following two conditions. *First,* payment of stamp duty on documents to be used as evidence in court, with a total of more than 50 documents. *Second,* stamp duty payment using a stamp duty is not possible as the stamp duty is not available or cannot be used.

If payment with stamp duty is not possible as the stamp duty is not available or cannot be used, the stamp duty is paid using an SSP by the liable party no later than 30 days from the due date. Further, MoF Reg. 4/2021 elucidates that the payment of stamp duty using SSP is performed in the following three stages:

(i) deposit the stamp duty payable to the state treasury using the SSP form or the billing code with the tax account code 411611 and the deposit type code 100;

(ii) prepare a list of documents in the event that the stamp duty is paid using SSP on two or more documents on which stamp duty is payable; and

(iii) attaching the SSP that has obtained a State Revenue Transaction Number (*Nomor Transaksi Penerimaan Negara*/NTPN) with the documents on which stamp duty is payable or on the document list if there are more than one document.

In addition to outlining how to pay stamp duty, MoF Reg. 4/2021 also describes the provisions on the validity of stamps. Payment of stamp duty using stamp duties is considered valid if two conditions are met. *First,* using a legal and valid stamp duty that has never been used for the payment of stamp duty on any document. *Second,* complying with the provisions on the affixture of stamp duties.

In contrast, payment of stamp duty using duty stamps in other forms is valid when two conditions are met. *First*, duty stamps in other forms are produced with the Director General of Taxes' written permission. *Second,* duty stamps in other forms are used as per the provisions under Article 8 paragraph (3), Article 10 paragraph (3), or Article 12 paragraph (2) of MoF Reg. 4/2021.

Under MoF Reg. 4/2021, the government also outlines postdated duty stamps. Postdated duty stamps are performed in two cases. *First*, for documents on which stamp duty is payable, the stamp duty is not or underpaid. *Second,* documents used as evidence in court as referred to under Article 3 paragraph (1) subparagraph b of the Stamp Duty Law. The amount of stamp duty that must be paid through postdated duty stamps is as follows:

(i) the stamp duty payable in accordance with the applicable statutory provisions at the time the stamp duty becomes payable plus an administrative penalty of 100% of the stamp duty payable, in the event that the documents referred to under Article 19 subparagraph a of MoF Reg. 4/2021 has been liable to stamp duty since 1 January 2021;

(ii) the stamp duty payable in accordance with the applicable statutory provisions at the time the stamp duty becomes payable plus an administrative penalty of 200% of the stamp duty payable, in the event that the documents referred to under Article 19 subparagraph a of MoF Reg. 4/2021 became liable to stamp duty before 1 January 2021; and

(iii) the stamp duty in accordance with the applicable statutory provisions at the postdated duty stamps becomes payable on the documents referred to in Article 19 subparagraph b of MoF Reg. 4/2021.

Next, stamp duty payable in the postdated duty stamps is paid using a stamp duty or SSP. Subsequently, the administrative penalty is paid using the SSP form or billing code with tax account code 411611 and deposit type code 512. As stipulated in the Stamp Duty Law, postdated duty stamps will be approved by the post office or another official appointed by the Director General of Taxes.

Moreover, MoF Reg. 4/2021 asserts that stamp duties that have been printed based on the Minister of

## Extension of Tax Incentives to Address Covid-19 and the Regulation on the Settlement of Stamp Duty Underpayment

Finance Regulation No. 65/PMK.03/2014 concerning the Shape, Size, and Color of Stamp Duty Objects (MoF Reg. 65/2014) remain valid and may still be used until 31 December 2021 and cannot be exchanged for money or in any form. If stamp duties that are legal and valid as per MoF Reg. 65/2014 are used, the total value of the stamp duties used shall be at least IDR9,000.

In contrast, the permit for the affixture of the paid stamp duty using a digital stamp printing machine and printing technology, as well as the permit as the implementer of the paid stamp duty issued based on the Minister of Finance Decree No. 133b/KMK.04/2000 on the Payment of Stamp Duty Using Other Methods (MoF Decree 133b/2000) remain valid until the expiration or revocation of said permits.

On the other hand, the permit for the affixture of paid stamp duty using the computerized system issued based on MoF Decree 133b/2000 remains valid in the event that the party has permission to pay the stamp duty in advance as per stamp-duty-related needs and reports the affixture of paid stamp duty to the Tax Office (*Kantor Pelayanan Pajak*/KPP) where the party with the permit is administered and the permit has not been revoked.

In the event of a difference between the stamp duty that should be payable and the stamp duty tariff listed on the paid stamp duty using other methods based on MoF Decree 133b/2000, the difference must be paid using a digital stamp printing machine or SSP, no later than before the document is used.

MoF Reg. 4/2021 has taken effect as of 20 January 2021. Upon the enactment of MoF Reg. 4/2021, MoF Decree 133b/2000, the Minister of Finance Regulation No. 65/PMK.03/2014 concerning the Shape, Size, and Color of Stamp Duty Objects (MoF Reg. 65/2014), and the Minister of Finance Regulation No. 70/PMK.03/2014 concerning Postdated Duty Stamps (MoF Reg. 70/2014) shall be revoked and declared invalid.



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