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DDTC INDONESIAN TAX MANUAL 2024:

Navigating the Dynamics of Tax Regulations

August 2024 Edition

Darussalam, Danny Septriadi, David Hamzah Damian, Romi Irawan, B. Bawono Kristiaji and Atika Ritmelina M.

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FOREWORD

The authors offer God Almighty praise and gratitude for His enduring grace and favour, the *DDTC Indonesian Tax Manual 2024* book is now published. In the spirit of the Asia-Pacific Pro Bono Firm of the Year Award conferred to DDTC from the International Tax Review (ITR), London, in 2022 and 2024, the *DDTC Indonesian Tax Manual 2024* book epitomises DDTC's steadfast commitment to providing practical tax guidelines for all stakeholders in the field of taxation.

The *DDTC Indonesian Tax Manual 2024* book encompasses a diverse range of tax aspects, ranging from local and national to international levels. The contents comprise general provisions and tax procedures, income tax, value added tax, sales tax on luxury goods, international tax, transfer pricing, customs and excise, fiscal incentives, stamp duty, local taxes as well as the latest developments in the taxation sector. The *DDTC Indonesian Tax Manual* book is penned with the most recent updates of Indonesia's statutory tax provisions **as of August 2024.**

We as the editorial team as well as the authors wish to thank everyone in support of the publication of this book. Our wholehearted thanks go to our beloved family members for their prayers and moral support in the process of compiling this book.

In closing, with the publication of the *DDTC Indonesian Tax Manual 2024* book, the authors seek that this book may serve as a guideline for those aspiring to delve into Indonesia's intricate statutory tax provisions for a more concise and comprehensible understanding. We assuredly look forward to constructive suggestions and criticism from readers.

Jakarta, 20 September 2024

Darussalam, Danny Septriadi, David Hamzah Damian, Romi Irawan,
B. Bawono Kristiaji and Atika Ritmelina Marhani

E-BOOK VERSION

DDTC Indonesian Tax Manual 2024 book is also available in the form of an e-book on the most comprehensive tax database platform in Indonesia, i.e., **Perpajakan DDTC**. The *DDTC Indonesian Tax Manual 2024* e-book is updated biweekly and incorporated with links referring to reliable and all-inclusive information sources. The e-book can be accessed through this QR code.

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CHAPTER 1
SURVEY OF RECENT DEVELOPMENTS

The year 2024 marks a political year for Indonesia. The results of the general election (*Pemilihan Umum*/Pemilu in Indonesian) on 24 April 2024 have positioned Prabowo-Gibran as the President and Vice President of the Republic of Indonesia-elect for the 2025-2029 period. In their vision, mission and work programmes, the president and vice president-elect include economic issues, including tax policies.

Among those policies are establishing the State Revenue Agency (*Badan Penerimaan Negara/*BPN in Indonesian) and increasing the ratio of state revenues to Gross Domestic Product (GDP). The target in increasing this ratio is supported by the realisation of tax revenues in the past few years. During the last three years (2021-2023), the realisation of tax revenues has achieved the target above 100% in line with the economic recovery after the Covid-19 pandemic.

Tax revenue realisation in 2023 in *APBN Kita* stood at IDR1,869.2 trillion, equivalent to 108.8% of the initial target of IDR1,718 trillion or 102.8% of the target in Presidential Regulation No. 75/2023 of IDR1,818.2 trillion. Tax revenues saw a surge of 8.9% (year on year/yoy). With the increase in tax revenue realisation, the performance of the tax ratio to the GDP of 10.32% in 2023 is also expected to increase to 11.2%-12% or even 18%-22% in 2045.

The target of an increased tax ratio is closely related to the ongoing tax reform agenda in Indonesia. *First,* the regulatory reform since the enactment of Law No. 7 of 2021 concerning the Harmonisation of Tax Regulations (HPP Law) and the financial consolidation of central and local governments through Law No. 1 of 2022 concerning Financial

Relations between the Central Government and Local Governance (HKPD Law).

The HPP Law encompasses a diverse range of significant efforts to boost Indonesia's tax ratio, among others, by expanding the tax basis. The tax basis is broadened through the synchronisation of the national identification number (*Nomor Induk Kependudukan*/NIK in Indonesian) into the Taxpayer Identification Number (TIN or *Nomor Pokok Wajib Pajak*/NPWP in Indonesian) and the transition of a number of goods and services formerly excluded from Value Added Tax (VAT) objects into taxable goods (*Barang Kena Pajak*/BKP in Indonesian) and taxable services (*Jasa Kena Pajak*/JKP in Indonesian) subject to VAT but not collected or VAT exempt.

Through the Director General of Taxes Reg. No. PER-6/PJ/2024, the deadline for activating the national identification numbers as the TIN, TIN in the 16-digit format as well as place of business identification number (*Nomor Identitas Tempat Kegiatan Usaha*/NITKU in Indonesian) was extended to 30 June 2024 from 31 December 2023. Therefore, on 1 July 2024, the government officially enacted that the use of the national identification number and the 16-digit TIN may be used simultaneously with the 15-digit TIN.

Up to the writing of this book in August 2024, no penalty was imposed if taxpayers had not synchronised their national identification number into TIN. Taxpayers, however, may experience difficulties in accessing various public services provided by the Directorate General of Taxes (DGT) or other agencies. This is because the national identification number is mandatory for administrative services from other parties that have so far required the use of TINs.

Pursuant to Director General of Taxes Reg. No. PER-6/PJ/2024, seven services may be accessed using the national identification number. The seven services include e-Registration, profile account of taxpayers on DJP online, information on taxpayers' status confirmation, *e-Bupot* 21/26, *e-Bupot Unifikasi*, *e-Bupot Instansi Pemerintah* and e-Objection.

Second, tax administration reform. The Minister of Finance ensures that the Core Tax Administration System (CTAS or *Pembaruan Sistem Inti Administrasi Pajak*/PSIAP in Indonesian) update will be deployed by the end of 2024.

CTAS has been included in Indonesia's tax administration reform agenda since 2018 with the enactment of Presidential Regulation No. 40/2018. The purpose of this tax administration system reform is to develop a trustworthy and reliable information system for processing accurate tax data.

On the one hand, with the implementation of the CTAS, the DGT has improved its capability in the automation and digitalisation of services. This is expected to reduce taxpayers' compliance costs. On the other hand, data credibility and simplification of business processes will in turn reduce administrative costs for the tax authorities.

Out of the 21 business processes to be improved through the CTAS, six are directly associated with taxpayers. These six business processes include registration, payment, filing (tax return management), taxpayer services, Taxpayer Account Management (TAM) as well as knowledge management system.

In regards with the improvement of this system, the national identification number is to be fully integrated as the TIN in stages and the full integration is expected to be completed when the CTAS is deployed. When the CTAS is ready for deployment, the use of the 15-digit TINs will be terminated.

Improvements in organisation, administration and technology and information systems are expected to contribute 1.5% of the GDP. Whereas, improvements in policies and regulations are expected to contribute 3.5% of the GDP. Thus, with the implementation of the CTAS and the improvements in tax regulations, a potential hike in the tax ratio of up to 5% of the GDP is expected.

The Indonesian government, however, remains cautious about all challenges arising from the global economy uncertainties, moreover, in

due observance of the state revenue realisation which recorded a deficit of IDR77.3 trillion or 0.34% of the GDP in June 2024. The deficit occurred after the surplus in the 2024 state budget in the first four months.

In the first semester of 2024, the government recorded tax revenue realisation of IDR893.8 trillion or equivalent to 44.9% of the target of IDR1,989 trillion. Tax revenues in the first semester of 2024 contracted by 7.9% (yoy). This contraction was mainly due to the decline in global commodity prices which affected the remittance of corporate income tax and led to an increase in the application for tax refunds.

In addition, for the first time, the customs and excise revenue realisation failed to reach the target in 2023. Unlike several previous years, in 2023, customs and excise revenues plunged by 9.9%. The drop (specifically) in the excise revenue realisation in 2023 was mainly due to the policy of increasing cigarette excise tariffs by 10% which aims to control cigarette consumption.

Further, in the first semester of 2024, customs and excise revenues also contracted. As a result, the revenues amounted to IDR134.2 trillion. The contraction in the customs and excise revenue realisation was due to the performance of tobacco excise (*Cukai Hasil Tembakau*/CHT in Indonesian) revenues attributable to the relaxation of excise payment policy pursuant to the Director General of Customs and Excise Reg. No. PER-2/BC/2024 and the downtrading from class I cigarettes to class II.

In addressing the wide array of challenges in 2024, the government's efforts in its agenda include maintaining the increased tax revenue trend by maintaining the effectiveness of the HPP Law, providing more measurable fiscal incentives, exploring potentials and enforcing the law. In accord with this, the government has positioned the state budget and fiscal policies as shock absorbers in supporting countercyclical policies amidst global uncertainty.

In sustaining the effectiveness of the HPP Law, the government has released various minister of finance regulations constituting derivative

regulations of the government regulations of the HPP Law, namely Gov. Reg. No. 44/2022, Gov. Reg. No. 49/2022, Gov. Reg. No. 50/2022 and Gov. Reg. No. 55/2022. The four government regulations stipulate the application of provisions on VAT, Sales Tax on Luxury Goods (STLGs), income tax and general provisions in the field of taxation after the enactment of the HPP Law.

In the VAT aspect, since 1 April 2022, a VAT rate of 11% has been in effect. The VAT Law as last amended by the HPP Law also stipulates an increase in the VAT rate to 12%. The 12% rate is planned to be in effect no later than 1 January 2025 and constitutes one of the aspects considered by the government in designing the 2025 draft state budget posture. In the state budget implementation report for the first semester of 2024, VAT will support the prognosis for tax revenues in the second semester in 2024. Transactional taxes (non-corporate income tax) are believed to develop positively in keeping the resilience of the national economy.

Further, the HPP Law has also shifted various goods and services formerly excluded from VAT objects to taxable goods and services that may be exempt from VAT or subject to VAT payable but not collected. These goods and services include basic necessities, oil and gas mining products, gold bullion other than for state foreign exchange reserves, social services, financial services and medical healthcare services purposes.

Please note that the government has, to date, endeavoured to protect small-scale entrepreneurs or Micro, Small and Medium Enterprises (MSMEs or *Usaha Mikro, Kecil, dan Menengah*/UMKM in Indonesian) by implementing a threshold for taxable persons (*Pengusaha Kena Pajak*/PKP in Indonesian) of IDR4.8 billion. However, the World Bank encourages Indonesia to lower the threshold value.

This is because such a threshold is substantially higher than the average threshold of taxable persons in neighbouring countries and Organisation for Economic Co-operation and Development (OECD) member states. The high taxable person threshold ultimately

suppresses the number of business entities participating in the collection and remittance of VAT and economic transactions tend to be unmonitored in the VAT mechanism. The government, thus, is required to further evaluate the revenue forgone from the implementation of the IDR4.8 billion threshold for taxable persons in the foreseeable future.

In the individual income tax aspect, one of the challenges faced by the government in increasing tax revenues is the effort to boost a higher contribution by individual income tax compared to corporate income tax –as in developed countries–. In this case, based on the World Bank's report, since the 35% income tax rate had been effectively imposed on individual taxpayers with income above IDR5 billion, the contribution of individual income tax from this group of taxpayers climbed from 15.7% in 2020 to 18.7% in 2022. The share of income tax revenues from the highest tax bracket has peaked within the last five years.

Moreover, taxation of the well-off has theretofore been deemed suboptimal in relation to the regulation of in-kind and/or fringe benefits. Before the HPP Law, various in-kind facilities and/or fringe benefits enjoyed by the recipients did not constitute taxable objects. Since the enactment of MoF Reg. 66/2023, the provision of in-kind and/or fringe benefits has been deemed income for the recipients and an expense for the employers. Therefore, in-kind and/or fringe benefits are subject to income tax.

Also noteworthy is that the obligation to withhold income tax on in-kind and/or fringe benefits by employers only applies to income received or accrued since 1 January 2023. Income in the form of in-kind and/or fringe benefits that was received or accrued in the 2022 tax year and has not been subject to withholding tax (WHT) is excluded from income tax for the recipient.

Further, to improve taxpayer compliance, the government provides convenience for taxpayers in Art. 21 WHT, i.e, by using the average effective tax rate (*Tarif Efektif Rata-rata*/TER in Indonesian) scheme. The average effective tax rate calculation formula under Gov. Reg. No. 58/2023 takes into account the amount of income, personal tax relief

(*Penghasilan Tidak Kena Pajak*/PTKP in Indonesian), the period income is received as well as piece rate or lump sum payment scheme. As quoted in *APBN Kita*, Art. 21 Income Tax was one of the main pillars of tax revenues in the first semester of 2024 with excellent performance.

In terms of the strengthening of the tax basis, another pivotal strategy in optimising tax revenues is broadening the tax basis. The tax basis may be broadened by strengthening tax extensification as well as targeted and regional-based supervision. This effort is undertaken by applying the supervision priority list (*Daftar Prioritas Pengawasan*/DPP in Indonesian), including for High-Wealth Individual (HWI) taxpayers, business group taxpayers and digital economy taxpayers. In these efforts, the DGT has established a task force to supervise these several groups of taxpayers.

To target HWI taxpayers, less than four months before the end of President Jokowi's second term of office, a discourse related to the family office emerged. The government is reviewing various regulations to stimulate the incorporation of the family office in Indonesia. This is because a proportion of roughly USD11 trillion managed by the family office globally may be repatriated. The government has, hence, also established a task force to review and prepare all required aspects, including the tax aspect.

In respect of the exploration of potential tax revenues from the digital economic business, crypto assets are currently one of the most prominent investment instruments. The DGT recorded tax revenues from crypto asset transactions (Art. 22 Final Income Tax and VAT) collected in 2022 and 2023 of IDR246.45 billion and IDR220.83 billion respectively. The tax on crypto asset transactions collected from January to March 2024 stood at IDR112.93 billion. There was a spike in the value of crypto asset transactions by approximately 400% or IDR158.84 trillion if compared to the same period in the previous year.

In view of the development of the domestic crypto ecosystem, the government is currently formulating seven development focuses, including product development, improvement and evaluation of tax

regulations. Moreover, the focus also include the importance for crypto asset physical trader candidates (*Calon Pedagang Fisik Aset Kripto*/CPFAK in Indonesian) to immediately complete the process of becoming crypto asset physical traders (*Pedagang Fisik Aset Kripto*/PFAK in Indonesian) pursuant to prevailing provisions and strengthening the collaboration with the Commodities Futures Trading Regulatory Agency (*Badan Pengawas Perdagangan Berjangka Komoditi*/Bappeti in Indonesian).

In addition to crypto asset transactions, the DGT is also exploring potential tax revenues from digital economic activities, such as financial technology (fintech) and electronic commerce (e-commerce or *Perdagangan Melalui Sistem Elektronik*/PMSE in Indonesian). To expand the tax basis, the government has implemented a WHT mechanism on income arising from crypto asset transactions, Peer-to-Peer (P2P) lending and other technology-enabled financial applications.

In this regard, the government has also issued implementing regulations concerning the appointment of parties constituting withholding agents (third parties), such as P2P lending companies as stipulated in MoF Reg. 69/PMK.03/2022. This is in line with the government's authority to appoint withholding agents – both domestically and overseas – to ensure optimal tax collection.

In addition to withholding tax on income, digital economic activity entrepreneurs are also required to collect VAT, for example, the appointment of VAT collecting agents for e-commerce merchants. The obligation to collect VAT for e-commerce merchants is implemented by the government to render a level playing field for conventional and digital entrepreneurs.

As of June 2024, as many as 172 e-commerce merchants had been appointed as e-commerce VAT collecting agents. The VAT revenue realisation in the first semester of 2024 from e-commerce merchants stood at IDR3.89 trillion. Accumulated with the 2020 revenues, the VAT on e-commerce collected by the government from e-commerce VAT collecting agents amounted IDR20.8 trillion.

Moreover, considering the numerous challenges in the digitalisation era, the government is endevaouring to develop an effective monitoring mechanism, i.e., through the Compliance Risk Management (CRM) system as stated in the Director General of Taxes Circular Letter No. SE-39/PJ/2021. On the account of the CRM, the government focuses on groups of taxpayers posing a high risk of tax avoidance.

Pursuant to the Director General of Taxes Circular Letter No. SE-05/PJ/2022, the supervision of taxpayers' compliance is based on compliance risk. In the future, through the CRM system, the tax authorities may provide services to taxpayers based on risk profiles.

Based on the DGT's *2023 Performance Report*, to improve the effectiveness of audits in 2024, the DGT disseminated the CRM for business group taxpayers. In fact, business group taxpayers will soon be centralised in one Tax Office (*Kantor Pelayanan Pajak*/KPP in Indonesian) to improve services and supervision of this group of taxpayers.

Further, beyond the diverse conveniences, digitalisation frequently poses challenges. In closing the loopholes in tax avoidance practices mainly conducted by digital companies which may erode the tax basis, Indonesia is preparing to embark on a new chapter with the enactment of a global consensus on the Two-Pillar Solution. The Two-Pillar Solution was initiated to address the taxation challenges of digital companies. However, in the developments, the Two-Pillar Solution provisions have been expanded and will target all multinational companies.

The Two-Pillar Solution is divided into two main parts, i.e., Pillar 1 which will enable a source country to derive 25% of the residual profit from multinational companies. In contrast, Pillar 2 aims to ensure that multinational companies pay income tax at a global minimum rate of 15%. The global minimum tax will also affect developing countries that frequently provide tax incentives to attract real economic activities through investments, such as Indonesia.

The provisions concerning the Two-Pillar Solution are stipulated under Gov. Reg. No. 55/2022. The technical aspects of its implementation will be further stipulated in the form of a minister of finance regulation. Nonetheless, the government will not rush to undertake massive measures, including amending the current transfer pricing and tax incentive regimes or applying a domestic minimum tax pursuant to the Qualified Domestic Minimum Top-up Tax (QDMTT) provisions. Indonesia will, on the contrary, continue to monitor the development of this consensus and participate in global tax coordination to avoid uncertainty.

Further, to strengthen the domestic anti-tax avoidance provisions through the transfer pricing scheme, the government has integrated the regulations concerning transfer pricing documentation (MoF Reg. 213/PMK.03/2016), advance pricing agreement (MoF Reg. 22/PMK.03/2020) and mutual agreement procedure (MoF Reg. 49/PMK.03/2019). These three regulations are combined into one minister of finance regulation, i.e., MoF Reg. 172/2023 concerning the Application of the Arm's Length Principle (ALP or *Prinsip Kewajaran dan Kelaziman Usaha*/PKKU in Indonesian) to Transactions Influenced by Special Relationships.

In addition to integrating the three regulations, the government also emphasises several specific provisions, such as corresponding adjustment, secondary adjustment, VAT provisions in the context of transfer pricing, preliminary stages and so forth. MoF Reg. 172/2023 also provides clearer guidance in conducting comprehensive transfer pricing analyses.

Indonesia may be deemed progressive in implementing anti-tax avoidance provisions in domestic regulations. However, several new anti-tax avoidance schemes do not yet include technical provisions for the implementation. These provisions include (i) limiting the amount of borrowing costs that may be expensed for tax calculation purposes by determining a certain percentage of the borrowing costs compared to business income before being deducted by the borrowing costs (earning

stripping rule) and (ii) recalculating the tax that should be payable based on a benchmarking of financial performance with other taxpayers in similar business activities for taxpayers that have conducted commercial sales for five years and filed fiscal losses for three consecutive years.

In addition to strengthening domestic anti-tax avoidance provisions, Indonesia also participates in joint global efforts to prevent practices by taxpayers and business entities to perform Base Erosion and Profit Shifting (BEPS). These efforts are undertaken through the Multilateral Instrument (MLI).

MLI refers to a modification of the regulation of the tax treaty (*Persetujuan Penghindaran Pajak Berganda*/P3B in Indonesian) simultaneously without undergoing an individual bilateral negotiation process with a tax treaty partner to minimise potential double taxation and prevent tax avoidance. In June 2024, the government issued Presidential Regulation No. 63/2024 to add tax treaties covered by the MLI.

Through Presidential Regulation No. 63/2024, thirteen tax treaties are proposed to constitute Covered Tax Agreements (CTAs). Further, up to August 2024, the DGT had released circular letters concerning the renewal of the application of the MLI to tax treaties with seven tax treaty partners, i.e., Mexico, Bulgaria, Romania, South Africa, Hong Kong, Finland and Vietnam.

In terms of international cooperation, the government has also revised the presidential regulation concerning the ratification of the *Convention on Mutual Administrative Assistance in Tax Matters* (hereinafter referred to as MAAC) through Presidential Regulation No. 56/2024. The issuance of this regulation stipulates that Indonesia may request assistance in the collection of taxes based on the MAAC from 72 countries or jurisdictions, formerly thirteen countries or jurisdictions. Overall, Indonesia may request assistance in the collection of taxes from 81 countries or jurisdictions.

Through Presidential Regulation No. 56/2024, the Indonesian government may provide or request reciprocal assistance in the collection of taxes based on the MAAC for or from countries or jurisdictions partners. The technical aspects of the provision of assistance in the collection of taxes, whether based on the MAAC, tax treaty or other bilateral or multilateral agreements, are stipulated under MoF Reg. 61/2023.

Moreover, the driving factor for the optimisation of tax revenues is the sustainability of tax reforms by continuing to provide selective, more targeted and measurable tax incentives to support the economy and the business. Indonesia is currently venturing into a phase between economic recovery and stabilisation.

In the economic recovery phase, incentive targets are to be shifted to stimulate demand and productivity. One policy that has been implemented is the property sector VAT and the automotive sector STLGs incentives. In the property sector, the government again provides VAT incentives for supplies of landed houses and flat units for the 2024 fiscal year through MoF Reg. 7/2024.

The government formerly provided similar incentives through MoF Reg. 120/2023 for the 2023 fiscal year. The government-borne (*Ditanggung Pemerintah*/DTP in Indonesian) VAT incentive for houses is again provided to stimulate society's purchasing power in the property sector.

Next, car sales performance throughout the first semester of 2024 was reported to have dropped significantly. Two factors led to the decline in car sales, including the government-borne STLGs incentive which ended in 2022 and the regulation on leasing for motor vehicles which was considered too strict. Therefore, the government was recommended to re-enact the government-borne STLGs incentive for car purchases similar to that applicable in 2022 as stipulated under MoF Reg. 5/PMK.010/2022.

While continuing to evaluate these incentives, the government also needs to contemplate incentive schemes in the economic stabilisation

phase. In this phase, the goal of sustainable development should be the policy focus. The government is required to strengthen a competitive tax system to encourage investments, such as by granting tax holiday, tax allowance and super tax deduction incentives. The number of applications for the utilisation of the three incentives tends to remain fluctuating.

On the other hand, these three forms of incentives are feared to be significantly impacted by the implementation of the global minimum tax arising from the Two-Pillar Solution. To mitigate this problem, the Indonesian government will redesign the provision of incentives. Pillar Two is expected to enable Indonesia to provide non-tax incentives.

The draft tax incentive policies will also be aligned with the direction of fiscal policies to stimulate increased productivity and sustainable economic transformation. In keeping with this, the government has set several tax incentives to accelerate the relocation of the Indonesian capital city to the Nusantara Capital (*Ibu Kota Nusantara*/IKN in Indonesian). The tax incentives are provided for the construction of the Nusantara Capital and Nusantara Capital partner regions.

The applications for tax facilities in the Nusantara Capital may be submitted more conveniently and simply compared to other tax facilities. By prioritising the principle of simplicity and certainty, tax incentives in the Nusantara Capital will require fewer required documents compared to the granting of tax incentives in general. Provisions concerning tax incentives in the Nusantara Capital are outlined in Gov. Reg. No. 12/2023 as amended by Gov. Reg. No. 29/2024 and MoF Reg. 28/2024.

In respect of fiscal incentives, if not specifically stipulated under Gov. Reg. No. 12/2023 as amended by Gov. Reg. No. 29/2024, the regulation related to fiscal incentives applies *mutatis mutandis* in the Nusantara Capital. However, in the event of tax facilities pursuant to Gov. Reg. No. 12/2023 as amended by Gov. Reg. No. 29/2024 with the same scope as incentives outside the Nusantara Capital but with different benefits, the provisions concerning the more beneficial tax facilities shall apply.

In addition to tax facilities, the government also grants customs facilities that may boost Indonesia's international trade competitiveness in 2024. In the customs and excise sector, various technical customs and excise policies are also crucial to increase tax revenues. These technical policies include the need for supervision and law enforcement activities that are not only intended to protect the public from the circulation of illegal excisable goods but are also necessary to optimise customs and excise revenues.

In the excise sector, considering that the tobacco excise tariff is multi-year (imposed for several years) with a moderate tariff increase, the government will announce an increase in the tobacco excise for the 2025-2026 period. However, substantial policy breakthroughs remain required, including both excise on existing products and excise extensification.

In an effort to expand the excise basis, in addition to the tobacco excise, the government remains optimistic of collecting excise revenues by targeting the revenues from several other types of excise, including the excise on plastic products and packaged sugar-sweetened beverages (*Minuman Berpemanis Dalam Kemasan*/MBDK in Indonesian). The government has, in fact, allowed the imposition of excise on certain processed food containing sugar, salt and fat, including processed fast food. This aims to control risk factors for non-transmitted diseases caused by the sugar, salt and fat content of processed fast foods.

In the local taxes and user charges (*Pajak Daerah dan Retribusi Daerah*/PDRD in Indonesian) context, there was a positive growth in local tax and user charge revenues over the past three years (2021-2023), with an average increase of 12.18%. The Directorate General of Fiscal Balance recorded that the ratio of local taxes and user charges revenues to Gross Regional Domestic Product (GRDP or *Produk Domestik Regional Bruto*/PDRB in Indonesian) in 2022 indicated an improvement, i.e., amounting to 1.30%.

However, it is considered necessary to increase the local tax ratio of 1.30% to 3%. The presence of the HKPD Law as part of fiscal reforms is

expected to address the challenges of fiscal decentralisation, among others, efforts to increase the local tax ratio.

As the implementing provisions of the HKPD Law, the Indonesian government has enacted Gov. Reg. No. 35/2023 concerning General Provisions on Local Taxes and User Charges (hereinafter referred to as *Ketentuan Umum Pajak Daerah dan Retribusi Daerah*/KUPDRD in Indonesian). The KUPDRD is intended to align local tax provisions with the central government's tax provisions as stipulated in the General Provisions and Tax Procedures Law (GPTP Law).

In the KUPDRD, several matters are further stipulated, including the time taxes become payable, the tax bases, administrative penalties, the filing obligation of local tax returns (*Surat Pemberitahuan Pajak Daerah*/SPTPD in Indonesian) and local taxes that may be paid by the government. Next, in expanding the local tax basis, the HKPD Law applies a surtax (*opsen* in Indonesian) scheme. For example, the motor vehicle surtax (*Opsen Pajak Kendaraan Bermotor*/*Opsen* PKB in Indonesian) and motor vehicle duty surtax (*Opsen Bea Balik Nama Kendaraan Bermotor*/*Opsen* BBNKB in Indonesian) which will come into effect starting in 2025.

On the account of the surtax, the right of regencies/municipalities to motor vehicle tax and motor vehicle duty will be directly received by the regencies/municipalities concerned instead of being received beforehand and subsequently shared by the provincial governments as is currently the case. In the future, the motor vehicle surtax and motor vehicle duty surtax will be directly received by the regencies/municipalities in their respective local general treasury account (*Rekening Kas Umum Daerah*/RKUD in Indonesian) through a split payment mechanism.

However, the implementation of the HKPD Law is not loophole-free. The Constitutional Court (*Mahkamah Konstitusi*/MK in Indonesian) conducted a trial related to the material assessment of the certain goods and services tax (*Pajak Barang dan Jasa Tertentu*/PBJT in Indonesian) rate of 40% to 75% specifically for entertainment services in

discotheques, karaokes, nightclubs, bars and spas. Based on the ongoing trial, spas cannot be categorised as an entertainment business. Thus, they cannot be taxed at a rate of 40% to 75%.

Stakeholders have also prepared to implement the carbon tax as mandated in the HPP Law. According to the law, purchases of carbon-containing products or any activity that produces a certain amount of carbon emissions are subject to a carbon tax. The carbon tax rate stipulated under the HPP Law is set only at a minimum of IDR30,00 per kilogram of CO_2 equivalent (CO_2e).

Although expected to come into effect in April 2022, the carbon tax has been postponed without a specific target for implementation time. In fact, the carbon tax is essential to increase demand for carbon credit transactions traded on the exchange. In other words, the existence of a carbon tax will contribute in expediting the reduction in carbon emissions.

The delayed implementation of the carbon tax policy has resulted in carbon trading in Indonesia being not considered too exciting. From the launch of the carbon exchange in September 2023 to April 2024, the transaction value on the carbon exchange only amounted to IDR35.3 billion with a volume of 572,064 transactions. While it has yet to be implemented, the World Bank assesses that the clause in the HPP Law signals Indonesia's commitment to achieving the Nationally Determined Contribution (NDC) by 2030 and net zero emissions by 2060.

Despite the tax reform agenda, taxpayers are entitled to legal certainty. This is a crucial agenda integral to the business process of tax policy updates. Legal certainty should constitute the ultimate goal in the tax reforms to eliminate prolonged disputes due to legal interpretation issues.

Based on statistical data from the Tax Court Secretariat 2019-2023, out of the 16,278 decisions in 2023, the majority fully granted appeals or lawsuits. There decisions added up to 7,300 or accounted for approximately 45.5% of the total decisions in 2023.

As aforementioned, one of the major agendas of the vision and mission of the president and vice president-elect is the institutional transformation of tax administration with the establishment of the State Revenue Agency. The establishment of the State Revenue Agency should necessarily be accommodated with improvements in the taxpayers' right to seek justice through the judicial system.

Measures to seek justice through tax judicial bodies in the tax dispute resolution reform agenda in Indonesia are also in line with the momentum of the one-stop transfer of the Tax Court from the Ministry of Finance to the Supreme Court according to the Constitutional Court Decision No. 26/PUU-XXI/2023. The Tax Court, in essence, must be present for taxpayers instead of the tax authorities or as a tool to ensure the protection of state revenues.

Various agendas in the vision and mission of the president and vice president-elect are subsequently the highlights of the general tax policy planning in 2025. In the 2025 initial draft government work plan (*Rencana Kerja Pemerintah*/RKP in Indonesian) document, the 2025 state budget deficit will account for 2.45% to 2.8% of the GDP. This figure is greater than the estimated 2024 state budget deficit of 2.29% of the GDP.

In regards with the projection, the government stated that macroeconomic stability in 2025 will encounter intricate challenges. The world will have to withstand a number of challenges, including rising interest rates, commodity price volatility and exchange rate decline if the economy is not managed carefully. In the domestic aspect, on the other hand, macroeconomic stability related to fiscal sustainability is also exposed to several challenges.

The imminent three fiscal-sustainability-related challenges in 2025 include the downward trend in tax revenues that limits the fiscal flexibility to finance the development agenda, insignificant spending and its less productive structure, for both central government spending and transfer spending to regions as well as the increasing burden of

government debt due to high interest rates that affect bond yields (the high cost of funds).

However, Indonesia has always been dubbed a country able to maintain its fiscal discipline. Therefore, onwards, Indonesia's fiscal discipline should be sustained. Ultimately, we are to take into account how the government manages the economy appropriately and maintains controlled macro stability in the foreseeable future. Regardless, a series of tax reform agendas also serve as a shield to strengthen fiscal resilience.

CHAPTER 2
GENERAL PROVISIONS AND TAX PROCEDURES

A. Overview

Indonesian taxation system is based on the self-assessment system wherein taxpayers are required to self-calculate, offset, remit and file tax payable without relying on the issuance of tax assessments. The tax payable stated in the tax returns is filed by taxpayers pursuant to statutory provisions in the field of taxation.

The obligation to fulfil statutory provisions in the field of taxation commences since the requirements for constituting a taxpayer (or a taxable person or *Pengusaha Kena Pajak*/PKP in Indonesian) are fulfilled, even if the individual or entity has not performed Taxpayer Identification Number (TIN or *Nomor Pokok Wajib Pajak*/NPWP in Indonesian) or Value Added Tax (VAT) registration. The aforementioned is affirmed by the Directorate General of Taxes (DGT) through the Director General of Taxes Letter No. S–393/PJ.02/2016.

Further, if the DGT obtains evidence that the amount of tax payable in the filed tax return is incorrect, the DGT is authorised to determine the amount of tax payable. The preceding sentence is articulated in Art. 12 paragraph (3) of the General Provisions and Tax Procedures Law (GPTP Law). This provision also sets the principle that the burden of proof lies with the DGT provided that the taxpayer abides by statutory provisions in the field of taxation.

In respect of the statute of limitation for the issuance of tax assessments, the DGT may issue a notice of tax assessment (*Surat Ketetapan*

Pajak/SKP in Indonesian) within a period of five years after the time the tax becomes payable or the end of a taxable period, a fraction of a tax year or the tax year after the audit is conducted. However, in the context of tax crimes, prosecution cannot be conducted after a period of ten years has elapsed since the time the tax becomes payable, the end of a taxable period, a fraction of a tax year or the tax year concerned.

DDTC has published a book on selected details concerning guidelines of tax procedures that may be accessed on Perpajakan DDTC. DDTC has also consolidated the GPTP Law up to the amendment by Law No. 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into a Law (Job Creation Law).

Further, DDTC has also translated the GPTP Law into English up to the amendment by Law Number 7 of 2021 concerning the Harmonisation of Tax Regulations (HPP Law) which may be found on Perpajakan DDTC. The amendment to the GPTP Law is implemented through its derivative technical regulation, Gov. Reg. No. 50/2022.

B. Tax Subjects and Tax Registration

Tax subjects consist of individuals, undivided inheritance represented by the heir(s) or heiress(es), entities incorporated or domiciled in Indonesia and Permanent Establishments (PEs or *Bentuk Usaha Tetap*/BUT in Indonesian). Any individual and entity that has fulfilled subjective and objective requirements stipulated in the Income Tax Law (ITL) is obliged to self-register to the Tax Office (*Kantor Pelayanan Pajak*/KPP in Indonesian) to be registered as a taxpayer and obtain a TIN.

See Chapter 3 Corporate Income Tax for more detailed description of the subjective and objective requirements in determining corporate tax residency. See Chapter 4 Individual Income Tax for more detailed description of the subjective and objective requirements in determining individual tax residency.

As of 14 July 2022, resident individual taxpayers shall use national identification numbers (*Nomor Induk Kependudukan*/NIK in Indonesian) as a TIN. The national identification number needs to be validated beforehand to become a TIN, either by activation based on the taxpayer's request or automatically by the DGT.

In the event that taxpayers no longer fulfil the subjective and objective requirements as taxpayers, the Tax Office may also deregister TINs. Provisions on the deregistration of TINs are stipulated under the Director General of Taxes Reg. No. PER-04/PJ/2020. For resident individual taxpayers, see the illustration in the case of taxpayers who have reached retirement age or pensioners in the DDTCNews article.

In another case, if an individual who passes away leaves an inheritance, his or her TIN is changed to TIN of undivided inheritance. Further, the TIN will be deregistered if the inheritance has been divided. However, if an individual has passed away and left no inheritance, his or her TIN can be immediately deregistered.

B.1 VAT Registration

Entrepreneurs conducting supplies of taxable goods and/or services with a gross turnover and/or gross revenue exceeding IDR4.8 billion in the following year are obliged to report their businesses at the Tax Office whose working area covers the entrepreneurs' residence or domicile and place of business for VAT registration. Businesses may be reported through notification to the DGT no later than the end of the accounting year when their gross turnover and/or gross revenues exceed the threshold.

To be registered as taxable persons, entrepreneurs must apply for VAT registration to the Tax Office or the Tax Services, Dissemination and Consultation Service Office (*Kantor Pelayanan, Penyuluhan, dan Konsultasi Perpajakan*/KP2KP in Indonesian). Based on the application, the head of the Tax Office or the head of the Tax Services, Dissemination and Consultation Service Office registers the entrepreneurs as taxable persons.

Once registered as taxable persons, the entrepreneurs must fulfil the obligation to collect, remit and file VAT or VAT and Sales Tax on Luxury Goods (STLGs) payable starting from the first taxable period of the following accounting year. This taxable period refers to the taxable period in which the taxpayer is subject to VAT registration.

In different circumstances, taxable persons reporting their business may also choose to start collecting, remitting and filing VAT or VAT and STLGs before the first taxable period of the following accounting year. This condition illustrates that tax authorities provide flexibility for taxpayers to choose when to initiate their obligations to collect, remit and file VAT or VAT and STLGs.

If the entrepreneurs do not report their business, the head of the Tax Office or the head of the Tax Services, Dissemination and Consultation Service Office may perform the registration *ex officio*. If taxable persons are registered after the deadline or registered *ex officio*, both categories of taxpayers are obliged to collect, remit and file VAT payable starting from the taxable period of the VAT registration. Please note that tax obligations for taxpayers subject to *ex officio* VAT registration commence from the time the taxpayer fulfils the subjective and objective requirements, no later than five years before the VAT registration.

Small-scale entrepreneurs with a gross turnover and/or gross revenue of less than IDR4.8 billion may choose to register as taxable persons. However, some requirements must be fulfilled for small-scale entrepreneurs to apply for registration. The requirements require the small-scale entrepreneurs to conduct the following.

(i) Report their business to the Tax Office or the Tax Services, Dissemination and Consultation Service Office for VAT registration by applying for VAT registration; and

(ii) Notify the taxable period to start collecting, remitting and filing VAT or VAT and STLGs payable in the application for the VAT registration.

The application for VAT registration is submitted pursuant to the provisions stipulated under MoF Reg. 164/2023. Based on the application, the head of the Tax Office or the head of the Tax Services, Dissemination and Consultation Service Office registers the small-scale entrepreneurs concerned as taxable persons.

Further, taxable persons typically conduct business in Indonesia through various business units. Due to their dispersed locations, they are required to electronically notify each of their business units to the head of the DGT Regional Office (*Kantor Wilayah*/Kanwil in Indonesian) of the centralisation with a copy to the head of the local Tax Office of registration (decentralisation approach). This is because every location where a transaction is conducted will be the place of supply (centralisation).

In certain cases, the DGT may determine a place other than the place of residence or domicile and place of business as the place of supply. Moreover, (i) holding companies that only hold shares and do not conduct any other activities or (ii) places of activities that solely purchase or collect raw materials do not need to be registered as taxable persons.

Further, in line with the activation process of the national identification number to TIN, the national identification number activation is also intended to obtain a place of business identification number (*Nomor Identitas Tempat Kegiatan Usaha*/NITKU in Indonesian). The place of business identification number is granted *ex officio* (automatically) by the tax authorities to head office and branch corporate taxpayers after the corporate taxpayer of head office status updates the data.

If a branch has not received a place of business identification number, the head office taxpayer needs to update the data. If the head office taxpayer has updated the data, but the place of business identification number does not appear on DJP Online, the party concerned is advised to confirm with the Tax Office where the head office taxpayer is registered.

The place of business identification number functions as a tax identity attached to TIN, i.e., as the identity of the location or place where the taxpayer is located. The place of business identification number is granted by the DGT for each branch for which a branch TIN has been issued before MoF Reg. 112/PMK.03/2022 as amended by MoF Reg. 136/2023 came into force. In other words, the place of business identification number replaces the branch TIN. Unlike TINs in the 16-digit format, the place of business identification number is in a 22-digit format.

C. Taxpayers' Representatives and Attorneys

In exercising their rights and fulfilling their obligations, taxpayers may represent themselves, be represented by their representatives or appoint attorneys to act on the taxpayers' behalf in exercising their rights and obligations. Further, if taxpayers fail to fulfil their obligations, particularly in respect of the payment of tax payable, their representatives may be held liable and accountable unless they can prove and assure the DGT that in their position, they, in fact, cannot be held accountable for the tax payable.

An individual taxpayer's representatives include the individual taxpayer himself or herself, spouse (wife if tax administratively consolidated) and the individual's heir or heiress. Further details of these individual taxpayer's representatives can be seen in the DDTCNews article. An undivided inheritance may be represented by the heir(s) or heiress(es), the executor of the will or the trustee.

In contrast, corporate taxpayer's representatives include the director, commissioner, C-suite and the person authorised to make decisions for the entity. Further details concerning corporate taxpayers' representatives based on different types of business entities can be accessed in the DDTCNews article.

Further, a taxpayer's attorney includes a tax consultant, other parties or family. In general, an attorney appointed by the taxpayer is required to

have certain competencies in the field of taxation, except for family which consists of a spouse or family by blood or marriage in a lineage of two degrees. The certain competencies include a certain level of education, certification and/or training by associations or the Ministry of Finance. Therefore, the power of attorney may be exercised by tax consultants or other parties insofar as they fulfil the requirements pursuant to statutory provisions in the field of taxation.

In contrast, in the context of a tax consultant as a taxpayer's attorney, a tax consultant licence is required. There are three levels of tax consultant licenses that determine the type of taxpayers the tax consultants may represent as attorneys. *First,* level A licensed tax consultants may represent individual taxpayers, except for those domiciled in a tax treaty (*Persetujuan Penghindaran Pajak Berganda*/P3B in Indonesian) partner.

Second, level B tax consultants may represent resident individual and corporate taxpayers, except for foreign investment companies, PEs and those domiciled in a tax treaty partner. *Third,* level C tax consultants may represent all types of taxpayers.

The Center of Financial Professions Supervisory (*Pusat Pembinaan Profesi Keuangan*/PPPK in Indonesian) under the Ministry of Finance has also published a list of licensed tax consultants on its website. Taxpayers may confirm tax consultants' license level as stipulated in MoF Reg. 175/PMK.01/2022.

On another note, the Constitutional Court Decision No. 63/PUU-XV/2017 with implications on the criteria of taxpayers' attorneys has been issued. In general, the Constitutional Court decision guarantees a taxpayer's right to grant power of attorney to other parties that comprehend tax issues and may not be limited by MoF Reg. 229/PMK.03/2014.

D. Bookkeeping and Recording

Individual taxpayers conducting business activities or independent personal services and corporate taxpayers in Indonesia are obliged to maintain bookkeeping. Excluded from the bookkeeping obligation but obliged to maintain recording are individual taxpayers conducting business or independent personal services allowed to calculate net income using deemed profit (*Norma Penghitungan Penghasilan Neto*/NPPN in Indonesian), individuals not conducting business or independent personal services (i.e., employees) and individual taxpayers who fulfil certain criteria. The individual taxpayers that fulfil certain criteria are individual taxpayers who:

(i) conduct business and/or independent personal services; and
(ii) the gross turnover from the activities as a whole is subject to final income tax and/or constitutes a taxable object and does not exceed IDR4.8 billion in one tax year.

MoF Reg. 54/PMK.03/2021 shows the difference between the obligation of maintaining bookkeeping and recording. The recording guidelines for individual taxpayers can be seen in the Director General of Taxes Reg. No. PER-4/PJ/2009.

The obligation to maintain recording consists of data on turnover or gross revenues and/or gross income, including income constituting a non-taxable object and/or that subject to final income tax. Bookkeeping must be appropriately maintained with supporting documentation, including transfer pricing documentation and information (if required). For further details regarding transfer pricing documentation, see Chapter 6 International Tax and Transfer Pricing.

Recording and bookkeeping must be prepared in Indonesian and denominated in Rupiah based on the Indonesian financial accounting standards (*Standar Akuntansi Keuangan*/SAK in Indonesian), unless statutory provisions in the field of taxation stipulate otherwise. Bookkeeping using a foreign language (English) and United States Dollar (USD) as the functional currency may apply to foreign investment

companies, PEs, listed companies and certain corporate taxpayers, with prior approval from the DGT.

Provisions on procedures for bookkeeping using foreign languages and currencies other than rupiah and the obligation to file annual corporate income tax returns are stipulated under a number of regulations, including MoF Reg. 196/PMK.03/2007 as last amended by MoF Reg. 123/PMK.03/2019, Director General of Taxes Reg. No. PER-24/PJ/2020 and MoF Decree No. 543/KMK.04/2000.

Certain corporate taxpayers may be obliged to prepare audited financial statements as required by certain laws or regulations (i.e., Law concerning Limited Liability Companies). Books of accounts, records and documents constituting the basis for recording or bookkeeping must be retained in Indonesia for ten years, including data processing results using electronic bookkeeping or online application programs.

E. Tax Payment and Tax Returns

Tax returns serve as a means for filing and validating the computation of (i) income tax payable for taxpayers subject to income tax, (ii) VAT or STLGs for taxable persons or (iii) taxes withheld or collected by withholding or collecting agents. Tax returns must be filed correctly, completely and clearly to the DGT.

Generally, tax returns use electronic applications to be completed and filed within the statutory deadline. However, the DGT may allow the manual filing of tax returns under certain conditions.

Nevertheless, if the tax return is filed manually, the DGT may deem the filed tax return as not filed. The DGT must notify the taxpayer of this issue. Further, please note that there are specific guidelines on how to complete each type of tax return.

Tax payable computed in tax returns must be paid to the state treasury through certain tax payment banks. The deadlines are specified in statutory provisions in the field of taxation. Procedures for the payment and remittance of taxes as well as procedures for the instalment or

deferral of the tax payment are stipulated in a minister of finance regulation.

If the payment deadline falls on a holiday (Saturday, Sunday, national holidays, days off to organise general elections or national collective leave), taxes can be paid or remitted no later than the next business day. Generally, taxes are paid electronically using the DGT's e-billing system, except for taxes on imports (for which the customs and excise e-billing system administers the payment) and taxes for which the payment procedures are specifically regulated.

Each type of tax payment requires a tax account code and remittance type code to identify the payment type for tax purposes. Taxpayers may be unable to file tax returns or may be subject to the risk of being audited by the DGT due to incorrect use of the tax account code and/or remittance type code. However, an application for tax refund or overbooking may be submitted for any incorrect payment by following certain procedures.

The following is the summary of the tax payment and tax return obligations.

Table 2.1 Monthly Tax Obligations

Type of Tax	Payment Deadline	Tax Return Filing Deadline
Art. 25 Income Tax	15th of the following month	N/A
Art. 15 Withholding Tax (WHT)	10th of the following month	20th of the following month
Self-remitted Art. 15 Income Tax	15th of the following month	20th of the following month
Art. 21/26 WHT	10th of the following month	20th of the following month
Art. 23/26 WHT	10th of the following month	20th of the following month
Art. 4 para. (2) Final Income Tax	10th of the following month	20th of the following month
Self-remitted Art. 4 para. (2) Final Income Tax	15th of the following month	20th of the following month

Type of Tax	Payment Deadline	Tax Return Filing Deadline
Taxable Person-VAT and STLGs	Before the periodic VAT return is filed	The end of the following month
Self-remitted VAT	15th of the following month	The end of the following month
Collecting Agent-government/expenditure treasurer-VAT and STLGs	No later than seven days after the date of payment to a government partner taxable person through the state treasury office	The end of the following month
Collecting Agent-non-government/non-expenditure treasurer-VAT and STLGs	15th of the following month	The end of the following month

Source: processed by the Author.

Table 2.2 Annual Tax Obligations

Type of Tax	Payment Deadline	Tax Return Filing Deadline
Corporate Income Tax	No later than the end of the fourth month after the accounting year ends before the tax return is filed	End of the fourth month after the tax year ends
Individual Income Tax	No later than the end of the third month after the accounting year ends before the tax return is filed	End of the third month after the tax year ends

Source: processed by the Author.

Since January 2022, for several types of income taxes, namely Art. 4 paragraph (2), Art. 15, Art. 22, Art. 23 and Art. 26 Income Taxes, the obligation to prepare unified withholding receipts and file unified periodic income tax returns has been in force. Unified withholding receipts and unified periodic income tax returns in the form of electronic documents are prepared and filed through the *e-bupot unifikasi* application.

Penalties for late filing of tax returns amount to IDR500,000 for periodic VAT returns, IDR100,000 for other periodic tax returns, IDR100,000 for

annual individual income tax returns and IDR1 million for annual corporate income tax returns. See Section G.9 Administrative and Criminal Penalties for a summary of tax administrative and criminal penalties.

Individual or corporate taxpayers may submit the notification to extend the filing of the annual income tax return for a maximum of two months after the statutory deadline. Taxpayers may apply to the DGT for instalments or deferral of tax payable based on the annual income tax return no later than the tax return filing due date. Taxpayers that are allowed to install or defer tax payments are subject to administrative penalties in the form of interest amounting to the monthly rates determined by the Minister of Finance.

Taxpayers may voluntarily amend filed tax returns by submitting a written statement in the amended tax return. Such could be done if the DGT has not carried out a tax audit or a preliminary audit.

Further, the taxpayers may also amend their annual tax return if the taxpayers receive (i) an administrative assessment or decision (including one as a result of mutual agreement procedure) or (ii) court decision for the prior tax year(s) that states a tax loss that is different from the tax loss that has been in the annual tax return. Such could be done no later than three months after receiving the administrative assessment or decision or court decision and does not exceed the deadline for amending the tax return stating the loss or tax overpayment.

F. Tax Refunds

When taxpayers submit their annual tax return and it is found that the amount of tax payable is overpaid, the taxpayers may opt for two procedures, namely requesting tax refunds or carrying forward the tax overpayment to the next tax year. Regardless of the procedures the taxpayers opt for, if the taxpayers' tax return is of overpaid status, the

DGT will prioritise the audit process for the tax return with overpaid status.

If the taxpayers choose to apply for a refund, after the DGT has audited the taxpayers' application for a refund of the taxpayer's tax overpayment, the DGT will issue a notice of tax overpayment assessment (*Surat Ketetapan Pajak Lebih Bayar*/SKPLB in Indonesian) no later than twelve months from the time the application letter is completely received (Art. 17B paragraph (1) of the GPTP Law). Please note that the application letter referred is the tax returns with overpayment status.

In regards to the above-mentioned, based on the GPTP Law, the refund mechanism can be divided into two, i.e., the general mechanism (Art. 17B of the GPTP Law) and the special mechanism (also known as a preliminary tax refund).

The special mechanism is a refund mechanism that applies to low-risk taxable persons (Art. 9 paragraph (4c) of the VAT Law), taxpayers with certain criteria (Art. 17C of the GPTP Law) and taxpayers that fulfil certain requirements (Art. 17D of the GPTP Law). The DGT issues a preliminary tax refund decision letter (*Surat Keputusan Pengembalian Pendahuluan Kelebihan Pajak*/SKPPKP in Indonesian) after examining the application for preliminary tax refunds by these three types of taxpayers.

In the general mechanism, as aforementioned, after a taxpayer applies for tax refunds, the DGT will audit the taxpayer's application. The DGT must subsequently issue a notice of tax assessment no later than twelve months from the time the application letter is completely received.

If after the twelve-month period has elapsed, the DGT does not decide, the application for tax refunds is deemed granted. In this case, the notice of tax overpayment assessment must be issued no later than one month after the period ends.

In contrast to the general mechanism, in the special mechanism, the refund for certain taxpayers is carried out through an examination

process and taxpayers may obtain tax refunds in a shorter period. The preliminary tax refund decision letter is issued no later than three months for income tax and one month for VAT from the time the application is completely received, provided that several conditions are fulfilled.

Procedures for preliminary tax refunds are further regulated under MoF Reg. 39/PMK.03/2018 as last amended by MoF Reg. 209/PMK.03/2021 in conjunction with the Director General of Taxes Reg. No. PER-5/PJ/2023 concerning Accelerated Tax Refunds.

Referring to PER-5/PJ/2023, individual taxpayers who fulfil certain requirements pursuant to the provisions of Art. 17D of the GPTP Law, including individual taxpayers filing annual income tax returns with a maximum overpayment of IDR100 million accompanied by the application for tax refunds by (i) Art. 17B or (ii) Art. 17D of the GPTP Law, are granted preliminary tax refunds.

A preliminary tax refund may be given to a taxpayer that fulfils certain requirements. However, the DGT remains allowed to audit the taxpayer and assess after the preliminary refund is given.

Please see Chapter 7 Value Added Tax for a discussion about VAT refund. Further, please also see MoF Reg. 187/PMK.03/2015 concerning Procedures for Refunds of Tax Overpayment That Should Not Be Otherwise Payable.

G. Tax Disputes and Litigation

G.1 Tax Compliance Supervision

The DGT routinely supervises taxpayers' compliance. The DGT has emphasised supervising taxpayers' compliance based on geography. The DGT may send a letter of inquiry (hereinafter referred to as *Surat Permintaan Penjelasan atas Data dan/atau Keterangan*/SP2DK in Indonesian) to taxpayers to obtain an explanation, data and information about the alleged non-compliance based on the DGT's initial analysis.

Responses to an SP2DK are crucial, specifically, when data and information included in the SP2DK need clarification. The absence of any response implies that the DGT will assume that the data contained in the SP2DK is the actual data.

If the presumption of non-compliance by the DGT is not justifiable, either fully or partially, the taxpayers may respond to such a request and substantiate that the presumption is arbitrary and the taxpayers may prove otherwise. However, if such presumption of non-compliance is justifiable, the taxpayers may amend the tax refunds, pay any remaining tax payable discrepancies (if any) and file the tax returns. Please be aware that an interest penalty is associated with the payment of such remaining tax payable discrepancy.

If the DGT, after reviewing the taxpayer's response to SP2DK, is not satisfied or the taxpayer does not file any response, the DGT may raise the level of enforcement into a tax audit or, even worse, a preliminary audit.

G.2 Tax Audits

The DGT, in order to supervise tax compliance, is authorised to conduct audits for:

(i) assessing taxpayers' tax compliance; and/or

(ii) other purposes to implement statutory tax provisions.

An audit may be conducted at the Tax Office/Tax Services, Dissemination and Consultation Service Office/DGT Regional Office/Head Office (office audits) or at the taxpayer's premises (field audits) where the scope of the audit may include a single tax, several taxes or all taxes, both for previous years and the current year.

A taxpayer's request for a tax refund automatically triggers a tax audit. The audit period for the tax refund is twelve months from the date the tax return requesting the tax refund is filed. If the DGT fails to send a notice of tax assessment within a period of twelve months, the taxpayer's application for the tax refund is deemed approved.

In the event that the taxpayer is given a preliminary tax refund, the tax audit is conducted after the tax overpayment is refunded. However, if the audit findings reveal that the taxpayer has a tax underpayment, the DGT issues a notice of tax underpayment assessment (*Surat Ketetapan Pajak Kurang Bayar*/SKPKB in Indonesian).

In the notice of tax underpayment assessment, the tax underpayment is added with an administrative penalty in the form of a 100% surcharge of the amount of tax underpayment. Please note that despite the twelve-month deadline for conducting an audit, in the case of a preliminary tax refund, an audit exceeding the deadline cannot be terminated. This implies that the audit remain feasible until the statute of limitation for the issuance of the tax assessment elapses.

Taxpayers are advised to choose either the general mechanism or preliminary tax refunds carefully. The procedures for preliminary tax refunds can be found in MoF Reg. 39/PMK.03/2018 as last amended by MoF Reg. 209/PMK.03/2021.

Moreover, audits to assess tax compliance are generally conducted according to audit standards. Audit standards have three stages, ranging from planning, implementation to reporting. Audit implementation standards include preparing an audit plan and audit program.

In general, the tax audit plan will be determined by the DGT based on initial risk assessment or initial data on non-compliance. On the other hand, the audit program prepares a plan for audit methods and techniques to be conducted, such as equalisation and reconciliation techniques. The overall tax audit business process within the DGT has been digitalised using *Desktop Pemeriksaan* (the DGT's internally developed application), which will then be integrated into the Core Tax Administration System (CTAS) or *Pembaruan Sistem Inti Administrasi Perpajakan* (PSIAP) in Indonesian.

A tax audit officer will conduct direct and indirect assessments during an audit according to the DGT's audit guidelines. A tax audit officer may occasionally carry out indirect assessment, such as cash and bank

transactions, ratio calculation and/or additional net worth. However, a tax audit officer may use audit techniques, such as reconciling tax accounts against financial accounts.

During a tax audit, taxpayers may voluntarily disclose the incorrectness in the completion of the tax returns they filed by applying Art. 8 paragraph (4) of the GPTP Law. Tax underpayments caused by voluntary disclosure submission are liable to interest amounting to the monthly interest rate determined by the Minister of Finance of the tax underpayment for a maximum of 24 months. Only before the DGT issues a notice of tax audit findings (*Surat Pemberitahuan Hasil Pemeriksaan*/SPHP in Indonesian), taxpayers may voluntarily disclose the incorrectness in the completion of tax returns.

At the final stage of a tax audit, the DGT will issue the notice of tax audit findings. If the taxpayer finds that the tax audit findings are arbitrary, the taxpayer must file a rebuttal letter within seven business days since receiving the notice of tax audit findings, which may be extended for three additional business days by submitting a letter to the DGT.

Before concluding the final findings of a tax audit, taxpayers may request a quality assurance review with the quality assurance team of DGT. The grounds for requesting a quality assurance review are any possible violation of the law or its application by the tax audit officer. If a taxpayer requests a quality assurance review for any other reason, such a request will not be considered. The quality assurance team will issue a legally binding decision as a basis for the final findings of a tax audit and its notice of tax assessment.

At the end of a tax audit process, the DGT will issue a notice of tax assessment which may be nil, overpayment or underpayment. In the event of an underpayment tax assessment, the underpaid tax is subject to an administrative penalty in the form of interest. See Section G.9 Administrative and Criminal Penalties for a summary of tax administrative penalties.

Through MoF Reg. 80/2023, the government re-stipulates the provisions on the procedures for the issuance of notices of tax assessment and notices of tax collection (*Surat Tagihan Pajak*/STP in Indonesian). Under this minister of finance regulation, the government simplifies the issuance of notices of tax assessment and notices of tax collection into one minister of finance regulation, including notices of tax assessment and notices of tax collection for Land and Building Tax (L&B Tax).

In addition to integrating notices of tax assessment and notices of tax collection regulations, MoF Reg. 80/2023 also stipulate notices of tax assessment and notices of tax collection for stamp duty and carbon tax which were not stipulated under the former regulations. Information on the underlying reasons for the issuance of notices of tax collection can be seen in the DDTCNews article. The basis for the issuance of notices of tax collection can also be seen in the DDTCNews article.

For taxpayers that maintain bookkeeping in English and USD, the DGT may issue notices of tax assessment in English and USD. In addition to notices of tax assessment, notices of tax collection are also issued using USD. However, notices of tax collections for administrative penalties stipulated under Art. 7 of the GPTP Law remain issued in Indonesian Rupiah.

G.3 Interest Compensation

Interest compensation is granted to a taxpayer in the following several conditions. *First,* if the DGT is late in issuing a tax refund decision letter. *Second,* if the DGT is late in refunding the tax overpayment. *Third,* if a taxpayer's objection, application for an appeal or application for a civil review is partially or entirely granted, thereby, resulting in tax overpayment.

Interest compensation in the third condition is granted for the tax overpayment at a maximum amount of the overpayment agreed upon by the taxpayer in the closing conference. *Fourth*, the taxpayer is granted interest compensation in the event of an application for the

amendment, application for the relief or cancellation of the notice of tax assessment or application for the relief or cancellation of the notice of tax collection partially or entirely granted, thereby, resulting in tax overpayment.

G.4 Administrative Remedies

Administrative remedies are non-judicial remedies allowed by the law to be filed with the DGT. The following are administrative remedies that may be filed by taxpayers pursuant to Art. 36 of the GPTP Law based on the notice of tax collection or notice of tax assessment from the DGT.

(i) Relief or nullification of administrative penalties in the form of interest, fines and surcharges payable pursuant to statutory tax provisions if the penalties are imposed due to the taxpayer's negligence or not due to wilful misconduct (Art. 36 paragraph (1) subparagraph (a) of the GPTP Law);

(ii) A relief or cancellation of an incorrect notice of tax assessment (Art. 36 paragraph (1) subparagraph (b) of the GPTP Law);

(iii) A relief or cancellation of an incorrect notice of tax collection (Art. 36 paragraph (1) subparagraph (c) of the GPTP Law); or

(iv) Cancellation of the tax audit findings or notice of tax assessment resulting from a tax audit completed without the submission of the notice of tax audit findings or a closing conference with the taxpayer (Art. 36 paragraph (1) subparagraph (d) of the GPTP Law).

Procedurally, in a period of three months from the date of the withholding tax or collection or the date the notice of tax assessment is sent, a taxpayer may file an objection to the DGT in order to pursue administrative remedies under Art. 25 of the GPTP Law. Taxpayers may only file objections against the materials or contents of the notice of tax assessment, which include the amount of loss, the amount of tax or against the materials or contents of the withholding tax or tax collection. When the taxpayer is able to show a case of force majeure, the three-month deadline does not apply.

The DGT must decide on the objection filed by the taxpayer in a period of twelve months from the date the objection letter is received. The DGT's objection decision may be in the form of entirely or partially granting, rejecting or increasing the amount of tax payable outlined in the objection decision letter.

Against the objection decision letter from the DGT, the taxpayer may file an appeal to the Tax Court. Please note that if the twelve-month period has elapsed, the DGT has not decided on the objection filed by the taxpayer, the objection is deemed granted.

Active tax collection efforts, including those resulting in a notice of confiscation, are undertaken in response to any unpaid taxes or penalties included in a notice of tax assessment, except those connected to a dispute against which a tax objection is filed. In the event that a taxpayer files an objection against a notice of tax assessment, the taxpayer is required to settle the outstanding tax at a minimum of the amount agreed upon by the taxpayer in the closing conference before the objection letter is submitted.

The amount of tax that has not been paid when the objection is filed is deferred for up to one month from the date of issuance of the objection decision letter. In the event that the DGT issues a decision that rejects or partially grants the taxpayer's objection, the taxpayer will be subject to an administrative penalty in the form of a fine of 30% of the amount of tax based on the objection decision subtracted by the tax that has been paid before the objection is filed.

This implies that if a taxpayer pays tax payable before filing the objection, the amount that has been paid is not subject to a penalty of 30%. The 30% fine will not be imposed either when the taxpayer files a tax appeal to the Tax Court against the DGT's decision on the objection.

Please see the section regarding the tax appeal below. Please note that if a taxpayer files a tax appeal to the DGT, the interest on the overdue notice of tax assessment will not be assessed.

G.5 Tax Appeal (*Banding* in Indonesian)

A taxpayer may file an appeal to the Tax Court following the tax objection decision letter from the DGT. The appeal may be filed by a taxpayer, his or her heir or heiress, management or an attorney. The application letter for an appeal must be filed within a period of three months after receiving the tax objection decision letter (this is defined by the Tax Court Law as the date the DGT sends the tax objection decision letter). When the taxpayer is able to show a case of force majeure, the three-month deadline does not apply.

Please note that unpaid taxes when an objection is filed do not have to be paid before an appeal is filed. The amount of unpaid taxes is deferred for up to one month from the date the appeal decision is issued (Art. 27 paragraph (5a) of the GPTP Law).

The amount of unpaid taxes when the objection is filed is not included as tax liabilities. A taxpayer is only liable to pay the amount of unpaid taxes agreed upon during the tax audit and should have been paid by the taxpayer before filing an objection to the DGT.

In the event that the Tax Court rules rejects or partially grants the taxpayer's application for the appeal, the taxpayer is liable for a 60% fine of the amount of taxes based on the appeal decision subtracted by the amount of paid taxes before the objection is filed. Payments made following the filing of an objection to the DGT will not be taken into account when calculating the penalty.

If the Tax Court decides to partially or entirely grants a taxpayer's application for an appeal, thereby, resulting in a tax overpayment, the taxpayer is given interest compensation. Please also note that even if the taxpayer has paid tax payable based on the notice of tax underpayment assessment as the matter in dispute before filing the tax objection, the taxpayer cannot request interest compensation for the Tax Court decision which partially or entirely grants the taxpayer's objection or appeal. Therefore, the DGT will refund the paid taxes without interest compensation.

G.6 Lawsuits (*Gugatan* in Indonesian)

A lawsuit is a legal remedy that may be filed by a taxpayer or tax bearer against the implementation of tax collection or against a decision that may be subject to a lawsuit pursuant to applicable statutory tax provisions. Taxpayers may file a lawsuit to the Tax Court against a decision letter from the DGT, i.e., a decision on a taxpayer's application pursuant to Art. 36 paragraph (1) of the GPTP Law.

A lawsuit may be filed by the plaintiff, his or her heir or heiress, management or an attorney accompanied by clear reasons, stating the date of receipt, the implementation of collection or the decision subject to the lawsuit and attached with copies of the documents subject to the lawsuit. Against an implementation of collection or one decision, one lawsuit letter may be filed.

Taxpayers or tax bearers may also file lawsuits against other DGT's assessments or decisions as referred to in Art. 23 paragraph (2) of the GPTP Law. The following are other DGT's assessments or decisions.

(i) Implementation of a distress warrant, confiscation order or auction notice;
(ii) Decision on travel ban in the framework of tax collection;
(iii) Decisions that relate to the implementation of tax decisions, other than those stipulated in Art. 25 paragraph (1) and Art. 26 of the GPTP Law; or
(iv) The issuance of a notice of tax assessment or objection decision letter that is not in accordance with the procedures stipulated under statutory tax provisions.

In other words, other DGT's decisions that give rise to certain tax consequences for taxpayers may be subject to a lawsuit and constitute a lawsuit object.

If the existence of certain tax consequences can be evidenced, the Tax Court will evaluate the case and decide whether the other DGT's decisions may be subject through lawsuit resolution at the Tax Court.

The lawsuit must be filed against the DGT's decision within a period of thirty days from the date the decision subject to the lawsuit is received.

In another situation, taxpayers receiving a confiscation order due to tax collection are compelled to give up money or other assets to pay back the taxes they owe. In the following circumstances, the taxpayer may file a lawsuit on the confiscation order within fourteen days from the date of the implementation of collection.

(i) If the taxpayer has filed for dispute resolution for tax payable and is in financial distress and requests that all tax collection efforts, including a confiscation, be suspended until the pertinent dispute resolution has been issued; or

(ii) If the confiscation process was procedurally flawed, which could lead to the confiscation being reprocessed.

Please note that since the issuance of the Chief Justice of the Tax Court Reg. No. PER-1/PP/2023, the dispute trial process at the appeal or lawsuit level is conducted electronically through the use of e-Tax Court. Before filing an appeal and lawsuit through e-Tax Court, taxpayers, tax bearers or representatives of taxpayers or tax attorneys must first register on etaxcourt.kemenkeu.go.id to become registered applicants.

G.7 Civil Review (*Peninjauan Kembali* in Indonesian)

Taxpayers or the DGT may file a civil review application to the Supreme Court only once if they believe that the Tax Court's decision is unfavourable to either party. The reasons for such applications are listed in Art. 91 of the Tax Court Law (TCL) as follows.

(i) The Tax Court decision is based on perjury or deception of the opponent discovered after the case has been decided or is based on evidence that is later declared false by the judge of the criminal case;

(ii) There is new vital and decisive written evidence, which if discovered at the trial proceeding at the Tax Court resulting in a different decision;

(iii) An *ultra petita* decision (the granting of one or more matter not being sued for the plaintiff, except for the decided matter);

(iv) Part of the prosecution has not been decided without considering the reasons; or

(v) Tax Court's decision clearly violates the applicable statutory provisions.

A civil review application is required to be filed within three months since the following events.

(i) The discovery of the perjury or deception or since the decision of the judge of the criminal court obtains permanent legal force for the reason referred to in number (i) above (Art. 92 paragraph (1) of the TCL);

(ii) The discovery of the documents of evidence of which the date of discovery must be declared under oath and ratified by the competent authority for the reason referred to in number (ii) above (Art. 92 paragraph (2) of the TCL); or

(iii) The Tax Court decision being sent for the reasons referred to in numbers (iii), (iv) and (v) above (Art. 92 paragraph (3) of the TCL).

The application for civil review must be filed with the Supreme Court via the secretariat of the Tax Court. Once receiving a civil review memorial, the secretariat of the Tax Court will forward the petitioner's civil review memorial and request the respondent to file a counter-civil review memorial to the Tax Court.

The secretariat of the Tax Court, after compiling all civil review memorials and all documents required by the Supreme Court, will then forward the full dossier to the Supreme Court. Once received by the Supreme Court, the secretariat will register the case in the system which is accessible to the public on the Supreme Court website. The public could monitor the civil review case progress on the Supreme Court website.

In the event that a taxpayer or the DGT applies for a civil review, the implementation of the Tax Court Decision cannot be deferred or terminated. Further, if a civil review decision increases the amount of outstanding tax, the taxpayer is subject to an administrative penalty in the form of a fine of 60% from the amount of tax based on the civil review decision subtracted by the tax that has been paid before an objection is filed. The notice of tax collection for this administrative penalty is issued no later than two years from the date the civil review decision is received by the DGT.

G.8 Tax Crimes

A tax audit can be used to gather preliminary evidence when a tax crime is suspected. Such a tax audit is known as a preliminary audit (*pemeriksaan bukti permulaan/*bukper in Indonesian). The regulation of the procedures for preliminary audits of tax crimes is stipulated under MoF Reg. 177/PMK.03/2022. The technical guidelines can be found in the Director General of Taxes Circular Letter No. SE-1/PJ/2024.

During a preliminary audit, the taxpayer may voluntarily disclose a committed tax crime and have criminal exposure due to the taxpayer's wilful violation of the tax law. In addition to this voluntary disclosure practice, the taxpayer is required to pay any tax underpayment as well as the administrative penalty in the form of a fine of 100% of the amount of the underpaid tax.

Such disclosure may only be done provided that a tax crime investigation has not yet begun. Further, if the DGT accepts this voluntary disclosure, no tax crime investigation will commence.

Tax crimes typically include conducting fictitious transactions, issuing or utilising fictitious tax invoices or retaining withholding receipts or tax payment slips (*Surat Setoran Pajak*/SSP in Indonesian), failing to file a tax return, filing a tax return that is erroneous or incomplete or using false information in the tax return all of which resulting in losses to states revenues.

During a tax crime investigation, if the taxpayer pays the underpaid tax plus a fine, the tax crime investigation may be terminated. *First*, the taxpayer must pay the underpaid tax as well as a fine in an amount equal to the underpaid tax if the tax offence was the result of negligence.

Second, if it is discovered that the tax crime was committed on purpose, the taxpayer must pay the unpaid tax as well as a fine equal to three times the unpaid tax. *Third*, the taxpayer must pay the tax underpayment as well as a fine equal to four times the tax underpayment if the tax offence involves the creation of fraudulent tax invoices or withholding slips.

G.9 Administrative and Criminal Penalties

Tax law enforcement is classified into administrative and criminal law enforcement. Administrative violations will be subject to administrative penalties in the form of fines, interest or surcharges. On the other hand, criminal offenses will be subject to criminal penalties in the form of imprisonment, detention and/or fine sentences.

G.9.1 Administrative Penalties

The following is a summary of administrative penalties in the form of fines, interest and surcharges. The DGT may relieve or nullify administrative penalties in the form of fines, interest and surcharge payable *ex officio* or based on the taxpayer's application pursuant to statutory provisions in the field of taxation, i.e., in the event of the taxpayer's negligence and not due to willful misconduct.

Within six months from the date the application is received, the DGT must decide on the application submitted by the taxpayer. If there is no decision after the deadline, the taxpayer's application is deemed granted.

Table 2.3 Fines

Group	Sub Group	Article	Reasons for the Penalties	Amount of Penalties
Administrative Penalties	Monetary Fines	Art. 7	Tax return is not filed within the time limit or the extension.	Fines: (i) periodic VAT returns IDR500,000; (ii) other periodic tax returns and the annual individual income tax return IDR100,000; (iii) annual corporate income tax return IDR1 million.
	Fines of a Certain Amount	Art. 8 para. (3)	Disclosure of incorrect completion of tax returns after a preliminary audit has been conducted	A 100% fine of the amount of tax underpayment
		Art. 14 para. (4)	Issuance of the notice of tax collection for: (i) taxable persons that do not or are late in preparing tax invoices; (ii) taxable persons that do not fill out tax invoices completely.	A 1% fine of the tax base
		Art. 25 para. (9)	The filed objection is rejected or partially granted.	A 30% fine of the amount of taxes as specified by the objection decision subtracted by the amount of taxes paid prior to the objection is filed

Group	Sub Group	Article	Reasons for the Penalties	Amount of Penalties
		Art. 27 para. (5d)	The application for appeal is rejected or partially granted.	A 60% fine of the amount of taxes stated in the appeal decision subtracted by the amount of paid taxes before the objection is filed
		Art. 27 para. (5f)	A civil review decision increases the amount of outstanding tax liability.	A 60% fine of the total taxes based on the civil review decision subtracted by the taxes paid before the objection is filed
		Art. 44B	Tax investigation is terminated if the taxpayer settles taxes that are not paid or underpaid or those that should not be otherwise refunded.	(i) A fine of one time the underpaid tax for a tax crime due to negligence under Art. 38 of the GPTP Law; (ii) A fine of three times the underpaid tax for a tax crime due to wilful misconduct under Art. 39 of the GPTP Law; (iii) A fine of four times the underpaid tax for a tax crime due to fictitious tax invoices or withholding receipts.

Source: processed by the Author.

Table 2.4 Interest

Group	Article	Reasons for the Penalties	Amount of Penalties
Administrative Penalties	Art. 8 para. (2)	Self-amendment of the annual tax return increases the amount of tax liability	Monthly interest amounting to the reference interest rate + uplift factor of 5% and divided by 12 (a maximum for 24 months) of the tax underpayment
	Art. 8 para. (2a)	Self-amendment of periodic tax returns increases the amount of tax liability	Monthly interest amounting to the reference interest rate + uplift factor of 5% and divided by 12 (a maximum for 24 months) of the tax underpayment
	Art. 8 para. (5)	Disclosure of incorrect completion of tax returns after an audit is conducted but the notice of tax audit findings has not been submitted	Monthly interest amounting to the reference interest rate + uplift factor of 10% and divided by 12 (a maximum for 24 months) of the tax underpayment
	Art. 9 para. (2a)	Taxes are paid and remitted for a taxable period after the specified deadline.	Monthly interest amounting to the reference interest rate + uplift factor of 5% and divided by 12 (a maximum for 24 months)
	Art. 9 para. (2b)	Taxes are paid or remitted after the filing deadline of the annual tax return.	Monthly interest amounting to the reference interest rate + uplift factor of 5% and divided by 12 (a maximum for 24 months) of the tax underpayment
	Art. 13 para. (2)	The notice of tax underpayment assessment	Monthly interest amounting to the reference interest rate

Group	Article	Reasons for the Penalties	Amount of Penalties
		is issued if after an audit: (i) there are unpaid or underpaid taxes; (ii) *ex officio* issuance of TINs and/or VAT registration.	+ uplift factor of 15% and divided by 12 (a maximum for 24 months) of the tax underpayment
	Art. 13 para. (2a)	The notice of tax underpayment assessment is issued after an audit has been conducted if a taxable person does not supply taxable goods and/or taxable services and/or export taxable goods and/or taxable services and has been given refunds of input VAT or has credited input VAT.	Monthly interest amounting to the reference interest rate + uplift factor of 15% and divided by 12 (a maximum for 24 months) of the tax underpayment
	Art. 13 para. (3)*	The notice of tax underpayment assessment is issued after an audit of: (i) failure to file tax returns within the specified period and after receiving a reprimand letter; (ii) there are VAT and STLGs that should not have otherwise been set off against the tax overpayment or should not have been subject to a 0% rate; (iii) there are unfulfilled obligations under Art. 28 or Art. 29 of the GPTP Law, thereby, the	Monthly interest amounting to the reference interest rate + uplift factor of 20% and divided by 12 (a maximum for 24 months) of the unpaid or underpaid, unwithheld or under-withheld or uncollected or under-collected income tax

Group	Article	Reasons for the Penalties	Amount of Penalties
		amount of tax payable cannot be ascertained.	
	Art. 14 para. (3)	The notice of tax collection is issued for: (i) unpaid or underpaid income tax; (ii) based on examination results, there is tax underpayment due to misspelling and/or miscalculation in the tax return.	Monthly interest amounting to the reference interest rate + uplift factor of 5% and divided by 12 (a maximum for 24 months) of the tax underpayment
	Art. 19 para. (1)	Tax payable according to the notice of tax underpayment assessment, notice of additional tax underpayment assessment (*Surat Ketetapan Pajak Kurang Bayar Tambahan*/SKPKBT in Indonesian), amendment decision letter, objection decision letter, appeal decision or civil review decision resulting in an increased tax payable, is not paid or underpaid on the due date.	Monthly interest amounting to the reference interest rate and divided by 12 (a maximum for 24 months) of the tax underpayment
	Art. 19 para. (2)	The taxpayer pays the tax in instalment or defers tax payments.	Monthly interest amounting to the reference interest rate and divided by 12 (a maximum for 24 months) of the tax underpayment

Group	Article	Reasons for the Penalties	Amount of Penalties
	Art. 19 para. (3)	The taxpayer defers the filing of the annual tax return and the temporary estimation of the tax payable is below the actual amount of tax payable.	Monthly interest amounting to the reference interest rate and divided by 12 (a maximum for 24 months) of the tax underpayment

Source: processed by the Author.

Table 2.5 Surcharges

Group	Article	Reason for the Penalties	Amount of Penalties
Administrative Penalties	Art. 13 para. (3)*	Notice of tax underpayment assessment is issued after an audit of: (i) failure to file tax returns within the specified period and after receiving a reprimand letter; (ii) there are VAT and STLGs that should not have otherwise been set off against the tax overpayment or should not have been subject to a 0% rate; (iii) the obligations of Art. 28 and Art. 29 of the GPTP Law have not been fulfilled.	A surcharge of 75% for VAT and STLGs that are unpaid or underpaid or withheld/collected income tax that is unremitted or under-remitted
	Art. 15 para. (2)	The issuance of the notice of additional tax underpayment assessment after new data is found and results in an increase in the amount of tax payable after an audit is conducted	A surcharge of 100% of the tax underpayment
	Art. 17C para. (5)	The notice of tax underpayment assessment is issued after preliminary	A surcharge of 100% of the tax underpayment

Group	Article	Reason for the Penalties	Amount of Penalties
		tax refunds for taxpayers that fulfil certain criteria.	
	Art. 17D para. (5)	The notice of tax underpayment assessment is issued after preliminary tax refunds for taxpayers that fulfil certain requirements.	A surcharge of 100% of the tax underpayment

Source: processed by the Author.

* *Art. 13 paragraph (3a): In the event that administrative penalties in the form of interest and surcharges are imposed based on audit findings on VAT and STLGs, only one type of administrative penalty, the one with the higher amount, shall be applied.*

G.9.2 Criminal Penalties

Under certain articles, a taxation issue may be subject to administrative and/or criminal penalties.

Table 2.6 Administrative and/or Criminal Penalties

Group	Article	Reason for the Penalties	Amount of Penalties
Administrative **or** Criminal Penalties	Art. 38	Any individual that due to negligence: (i) fails to file tax returns; (ii) files incorrect or incomplete tax returns or attach incorrect information.	A minimum fine of one time the amount of unpaid or underpaid tax payable and a maximum fine of two times the amount of unpaid or underpaid tax payable or detention for a minimum of three months or a maximum of one year
	Art. 41C para. (1)	Deliberately failing to provide taxation data and information to the DGT	Detention for a maximum of one year or a maximum fine of IDR1 billion
	Art. 41C para. (2)	Deliberately causing the unfulfilment of the obligations of officials or other parties not to	Detention for a maximum of ten months or a maximum fine of IDR800 million

Group	Article	Reason for the Penalties	Amount of Penalties
		provide taxation data and information to the DGT	
	Art. 41C para. (3)	Deliberately failing to provide data and information requested by the DGT	Detention for a maximum of ten months or a maximum fine of IDR800 million
	Art. 41C para. (4)	Deliberately abusing tax data and information	Detention for a maximum of one year or a maximum fine of IDR500 million
Administrative **and** Criminal Penalties	Art. 39 para. (1)	Deliberately: (i) failing to perform TIN or VAT registration for their business; (ii) abusing or using without rights thereof, TINs or VAT registration; (iii) failing to file tax returns; (iv) filing incorrect or incomplete tax returns and/or information; (v) refusing to be audited; (vi) showing bookkeeping, recording or other documents that are false or forged or do not reflect the actual circumstances; (vii) failing to maintain bookkeeping or recording in Indonesia, failing to show or lend books of accounts, records or other documents; (viii) failing to retain books of accounts, records or	Imprisonment for a minimum of six months or a maximum of six years and a minimum fine of two times the amount of unpaid or underpaid taxes and a maximum fine of four times the amount of unpaid or underpaid taxes

Group	Article	Reason for the Penalties	Amount of Penalties
		documents constituting the basis of bookkeeping or recording and other documents; or (ix) failing to remit withheld or collected taxes.	
	Art. 39 para. (3)	Attempting to commit tax crime of: (i) abusing or using without rights thereof TINs or VAT registration; or (ii) filing incorrect or incomplete tax returns and/or attaching incorrect or incomplete information in the context of applying for tax refunds or carry-over of taxes or tax crediting.	Imprisonment for a minimum of six months and a maximum of two years and a minimum fine of two times the amount of the applied tax refunds and/or carry-over of taxes and/or tax crediting and a maximum fine of four times the amount of the applied tax refunds and/or carry-over or crediting
	Art. 39A	Deliberately: (i) issuing and/or using tax invoices, collection receipts, withholding tax receipts and/or tax payment slips that are not based on actual transactions; or (ii) issuing tax invoices before performing VAT registration.	Imprisonment for a minimum of two years and a maximum of six years and a minimum fine of two times the amount of taxes stated in the tax invoices, collection receipts, withholding tax receipts and/or tax payment slips and a maximum fine of six times the amount of taxes stated in the tax invoices, collection receipts, withholding tax receipts and/or tax payment slips
	Art. 41 para. (1)	Officials' negligence in maintaining confidentiality in the	Detention for a maximum of one year

Group	Article	Reason for the Penalties	Amount of Penalties
		context of their position or duties	and a maximum fine of IDR25 million
	Art. 41 para. (2)	Officials who do not fulfil their obligations deliberately or any persons who cause the officials to fail to fulfil officials' obligations	Imprisonment for a maximum of two years and a maximum fine of IDR50 million
	Art. 41A	Deliberately failing to provide information or evidence or providing false information or evidence	Detention for a maximum of one year and a maximum fine of IDR25 million
	Art. 41B	Deliberately obstructing or hindering a tax crime investigation	Imprisonment for a maximum of three years and a maximum fine of IDR75 million
Criminal Penalties	Art. 39 para. (2)	In addition to the Art. 39 para. (1) of the GPTP Law, if a person committing another tax crime before one year elapses	Criminal penalties shall be extended by one time to two times
Collateral Penalties (other than administrative and criminal penalties)	Art. 32A para. (4)	Violations by other parties that provide electronic systems appointed by the Minister of Finance to withhold, collect, remit and/or file taxes	Access termination

Source: processed by the Author.

H. Valuation for Tax Purposes

Valuation for tax purposes, hereinafter referred to as valuation, is a series of activities to determine the value of a valuation object at a certain time which is performed objectively and professionally based on a valuation standard to implement statutory provisions in the field of taxation. Pursuant to MoF Reg. 79/2023, the DGT may conduct valuation to determine:

(i) the value of taxable objects of Land and Building Tax (*Pajak Bumi dan Bangunan*/PBB in Indonesian) to assess the sales value of the taxable objects (*Nilai Jual Objek Pajak*/NJOP in Indonesian); and
(ii) the value of tangible assets, intangible assets and businesses.

Moreover, MoF Reg. 79/2023 also includes the implementation of valuation using distress warrants.

MoF Reg. 79/2023 does not constitute guidelines for taxpayers to conduct valuation. Taxpayers may appoint an appraisal firm (*Kantor Jasa Penilai Publik*/KJPP in Indonesian) to conduct a valuation, the results thereto will later be reviewed or assessed by the DGT. Through MoF Reg. 79/2023, the tax authorities conduct a valuation of an object using only one approach. The approach is selected by taking into account the valuation objects and data availability.

Pursuant to Art. 13 paragraph (4) of MoF Reg. 79/2023, the valuation approach to determine the value of tangible and intangible assets includes the market approach, income approach and cost approach. The valuation approach to determine the value of a business includes the market approach, income approach and asset approach.

Please note that the application of the valuation approach to determine the value of L&B tax objects to assess the sales value of taxable objects remains required to comply with the provisions under MoF Reg. 234/PMK.03/2022. Further, the valuation to assess the value of L&B tax objects to assess the sales value of taxable objects, tangible assets, intangible assets and businesses may be conducted by the DGT using office or field valuation.

Before conducting the valuation, the DGT establishes an appraiser team. The appraiser team conducts the valuation based on a valuation order from the DGT. When the appraiser team collects object data and supporting data, the taxpayers or their attorneys are entitled to ask the appraiser team to present the valuation order.

MoF Reg. 79/2023 also stipulates taxpayers' rights and obligations if appraisers conduct valuation and collect object data and supporting

data from taxpayers. Thus, with MoF Reg. 79/2023, business flows and processes are available for the tax authorities to conduct valuation for supervision, audit, preliminary audit, investigation and collection purposes.

CHAPTER 3
CORPORATE INCOME TAX

Since the issuance of Law No. 11 of 2020 concerning Job Creation, Indonesia has welcomed a new tax regime, the dividend tax-free era. Through this new regime, Indonesia has automatically transitioned from a classical system to a one-tier system.

Under the one-tier regime, corporate income is subject to tax only once at the corporate level. As a result, when a company's after-tax income is distributed to individual shareholders as dividends, the income is no longer subject to individual income tax.

Foreign-sourced dividends, on the other hand, are hybrid territorial. More information on dividend income taxation can be found in Chapter 10 Fiscal Incentives.

A. Tax Residency

Any entity that has fulfilled subjective and objective requirements stipulated in the Income Tax Law (ITL) must be registered as taxpayers. Subjective requirements determine the tax residency of entities, whether the entities constitute tax-residents or non-tax residents.

Entities incorporated or domiciled in Indonesia, except for certain units of government agencies that fulfil the criteria outlined in Art. 2 paragraph (3) subparagraph (b) of the ITL, constitute tax residents. Entities that are neither incorporated nor domiciled in Indonesia that conduct business or conduct activities through Permanent Establishments (PEs or *Bentuk Usaha Tetap*/BUT in Indonesian) in Indonesia or that may receive or accrue income from Indonesia not from

conducting business or conducting activities through PEs in Indonesia constitute non-tax residents.

A PE is a business entity used by the above-mentioned individual or corporate non-tax resident to conduct business or conduct activities in Indonesia that may be in the form of:

(i) a place of effective management;
(ii) a branch;
(iii) a representative office;
(iv) an office;
(v) a factory;
(vi) a workshop;
(vii) a warehouse;
(viii) a room for promotion and selling;
(ix) mining and extraction of natural resources;
(x) oil and gas mining working area;
(xi) fishery, animal husbandry, agriculture, plantation or forestry;
(xii) a construction, installation or assembly project;
(xiii) any kind of services provided by employees or any other persons, provided that the services are conducted in more than sixty days within any twelve months period;
(xiv) an individual or entity acting as a dependent agent;
(xv) an agent or employee of an insurance company which is incorporated outside Indonesia and is not domiciled in Indonesia, receiving insurance premium or assuming risk in Indonesia; and
(xvi) computers, electronic agents or automated equipment owned, leased or used by any electronic transaction providers to conduct business through the internet.

Further, objective requirements are fulfilled if tax residents and non-tax residents receive income or are required to withhold income tax pursuant to the ITL. Corporate tax residents that have fulfilled

subjective and objective requirements constitute resident corporate taxpayers (*Wajib Pajak Badan Dalam Negeri*/WPDN *badan* in Indonesian) and are subject to corporate income tax.

Corporate income tax applies to resident corporate taxpayers, including limited liability companies, limited partnerships, firms, joint ventures, foundations or other forms of entities that are incorporated or domiciled in Indonesia. An entity's domicile is determined by the DGT according to the actual circumstances.

PEs are not Indonesian corporate tax residents. However, the income tax treatment is equivalent to resident corporate taxpayers. Thus, PEs are subject to income tax pursuant to the same provisions as resident corporate taxpayers in Indonesia.

B. Income Classification

Income tax is imposed on income received or accrued by a taxpayer in a tax year. Income is broadly defined as any increase in economic capacity received by or accrued by a taxpayer, either from Indonesia or overseas, which may be utilised for consumption or increasing the taxpayer's wealth, in whatever name and form.

In other words, resident taxpayers are taxed on income received or accrued from Indonesia or overseas (worldwide income). As for non-resident taxpayers (*Wajib Pajak Luar Negeri*/WPLN in Indonesian) and PEs, taxes are only imposed on income sourced from Indonesia.

Income may be generally classified as income subject to non-final tax, income subject to final tax and income not subject to tax. Please note that income subject to final income tax should be withheld by third parties (Art. 4 paragraph (2) of the ITL). The details can be found in Chapter 5 Withholding Tax.

Further, the following is income not subject to tax.

(i) Aid or donations, including zakat, *infaq* and *sadaqah* received by amil zakat board or other amil zakat institutions incorporated or

approved by the government and received by eligible zakat recipients or compulsory religious donation for the followers of religions acknowledged by the government, received by religious institutions incorporated or approved by the government and received by eligible donees, the provisions thereto are stipulated by or based on a government regulation provided that there is no business, employment, ownership or control relationship between the parties concerned;

(ii) Grants received by relatives within one degree of direct lineage and to religious bodies, educational bodies, other social entities including foundations, cooperatives or any individual conducting micro and small business provided that there is no business, employment, ownership or control relationship between the parties concerned;

(iii) Inheritance;

(iv) Assets, including cash received by an entity in exchange for shares or capital participation;

(v) Reimbursements or remunerations in connection with work or services received or accrued in kind and/or fringe benefits, including:

a. food, foodstuff, beverage ingredients and/or beverages provided for all employees;
b. in kind and/or fringe benefits provided in certain areas;
c. in kind and/or fringe benefits to be provided by the employer in the implementation of work;
d. in kind and/or fringe benefits sourced from or financed by the state budget (*Anggaran Pendapatan dan Belanja Negara*/APBN in Indonesian), the local government budget (*Anggaran Pendapatan dan Belanja Daerah*/APBD in Indonesian) and/or the village budget; or
e. in kind and/or fringe benefits of certain types and/or thresholds;

(vi) Payments by an insurance company due to accident, illness or death of the insured person and payment of scholarship insurance;

(vii) Dividends or other income provided that:

a. domestically-sourced dividends received or accrued by a resident corporate taxpayer;

b. foreign-sourced dividends and income after tax from an overseas PEs received or accrued by a resident corporate taxpayer, insofar as they are invested or used to support other businesses in the territory of the Unitary State of the Republic of Indonesia within a certain period;

(viii) Contributions received or accrued by a pension fund whose incorporation is approved by the Financial Services Authority (*Otoritas Jasa Keuangan*/OJK in Indonesian), either paid by an employer or an employee;

(ix) Income from an investment of the pension fund referred to in number (viii), in certain sectors;

(x) The surplus or net surplus received or accrued by members of a cooperative, limited partnership without share capital, partnerships, firms and joint ventures, including participating units of Collective Investment Contract (CIC or *Kontrak Investasi Kolektif*/KIK in Indonesian);

(xi) Income received or accrued by a venture capital company in the form of surplus of an investee company incorporated and conducting business or engaged in activities in Indonesia provided that the investee company:

a. is a Micro, Small, Medium Enterprise (MSME) or engaged in activities in business sectors stipulated by or based on a minister of finance regulation; and

b. whose shares are not traded in the stock exchange in Indonesia;

(xii) Scholarships that fulfil certain requirements;

(xiii) Surplus received by a non-profit body or institution engaged in education and/or Research and Development (R&D), listed in

corresponding agencies, which is reinvested in the forms of means and infrastructure of education and/or R&D, within no more than four years since it is received or accrued;

(xiv) Aid or donations paid by the Social Security Administrative Body (*Badan Penyelenggara Jaminan Sosial*/BPJS in Indonesian) to certain taxpayers;

(xv) Deposit funds for Hajj Fees (*Biaya Penyelenggaraan Ibadah Haji*/BPIH in Indonesian) and/or special Hajj Fees and income from the development of hajj finances in certain financial fields or instruments received by the Hajj Financial Management Agency (*Badan Pengelola Keuangan Haji*/BPKH in Indonesian); and

(xvi) The surplus received/accrued by social and/or religious bodies or institutions listed in corresponding agencies, which is reinvested in the form of social and religious means and infrastructure within no more than four years since the surplus is received or pooled as endowment funds.

More detailed description of income not subject to tax can be found in Gov. Reg. No. 55/2022. Moreover, a PE is taxed only on income sourced from Indonesia. The following are taxable objects of a PE.

(i) Income from businesses or activities of the PE and held or controlled property;

(ii) Income of the head office from businesses or activities, sales of goods or provision of services in Indonesia that are similar to those conducted by the PE in Indonesia; and

(iii) Income referred to in Art. 26 of the ITL that is received or accrued by the head office provided that there is an effective relationship between the PE and the property or activities giving rise to the above-mentioned income.

C. How to Compute Corporate Income Tax

Corporate income tax computation (excluding income subject to final income tax and not subject to tax) is based on taxable income in a tax

year, wherein income is deducted with deductible expenses. Deemed profit (*Norma Penghitungan Penghasilan Neto*/NPPN in Indonesian) applies to certain corporate taxpayers (see Subchapter M. Taxation of Certain Businesses or Transactions in this chapter).

The following is an illustration of how to compute corporate income tax under the regular method.

Table 3.1 The Computation of Corporate Income Tax

1.	Income Subject to Tax (excluding income subject to final income tax and income not subject to tax)
2.	Less: Deductible Expenses
3.	Net Commercial Income
4.	Plus: Non-deductible Expenses
5.	Net Fiscal Income*
6.	Less: Loss Carry-Forward
7.	Taxable Income**
8.	Corporate Income Tax (Taxable Income X Tax Rate (Art. 17 of the ITL, i.e., 22%))
9.	Less: Tax Credit and Tax Instalment
10.	Corporate Income Tax Underpayment/(Overpayment)

Source: processed by the Author.

* *Fiscal adjustments may result in a temporary or permanent difference in taxable income.*

** *The amount of taxable income shall be rounded down to full thousands of rupiah.*

Certain Micro, Small and Medium Enterprises (MSMEs or *Usaha Mikro, Kecil, dan Menengah*/UMKM in Indonesian) with a gross turnover of less than IDR4.8 billion may opt to apply a final income tax of 0.5% of the gross turnover for a period of three years for limited liability companies. For cooperatives, limited partnerships without share capital or firms, the option extends to four years.

D. Deductible and Non-Deductible Expenses

Related expenses to generate business income subject to income tax are deductible, except for those categorised as expenses with more than one year of useful life. Expenses to derive, collect and maintain income with

a useful life of more than one year may not be expensed at once, but rather expensed through depreciation or amortisation.

Moreover, the expenses to derive, collect and maintain income, which do not constitute a taxable object may not be expensed. However, these are several certain conditions that have to be fulfilled to allow the costs to derive, collect and maintain income to be deductible.

(i) Expenses for entertainment, representation, banquets and the like to derive, collect and maintain income are basically deductible expenses. To be deductible, the taxpayer must be able to prove that these expenses have actually been incurred (formal) and are related to company activities to derive, collect and maintain company income (material). Thus, a nominative list of entertainment expenses in a set format is required to be filed together with the annual tax return;

(ii) Promotion expenses constituting deductible expenses are the accumulation of the expenses for advertising, expenses for product exhibitions, expenses for introducing new products and/or expenses for sponsorship in connection with product promotion. The following are to be taken into account in respect of promotion and sales expenses constituting deductible expenses:

a. to maintain and/or increase sales;
b. be reasonably incurred; and
c. according to sound business practice.

In addition, all promotion expenses must be documented in a nominative list which at least includes the recipient data in the form of the name, Taxpayer Identification Number (TIN or *Nomor Pokok Wajib Pajak*/NPWP in Indonesian), address, number, form and type of the expenses, the amount of the expenses, the withholding receipt number and the amount of Withholding Tax (WHT) in a set format. The nominative list of promotion expenses must be filed as an attachment when the taxpayer files the annual corporate income tax return;

(iii) Bad debts may be expensed as deductible expenses insofar as the following requirements are fulfilled:

a. have been expensed in the commercial income statement;
b. the taxpayer must submit the list of bad debts to the DGT;
c. for the bad debts:
   - the collection case has been submitted to the District Court or government agency in charge of state receivables;
   - there is a written agreement regarding the write-off of receivables/relief of debt between the creditor and the debtor concerned;
   - the collection case has been published in a general or special publication; or
   - the debtor acknowledges that a certain amount of the debt has been written off.

These aforementioned requirements do not apply to bad debts to small business debtors and other small business debtors;

(iv) The establishment or accumulation of reserve funds are non-deductible. However, excluded from the provisions are:

a. bad debt allowances for banks and other business entities that provide loans, financial leases, consumer finance companies and factoring companies calculated based on applicable financial accounting standards with certain thresholds after coordinating with the Financial Services Authority;
b. reserves for insurance businesses, including social aids established by the Social Security Administrative Body;
c. guarantee reserves for the Indonesia Deposit Insurance Corporation (*Lembaga Penjamin Simpanan*/LPS in Indonesian);
d. reclamation reserves for mining businesses;
e. reforestation reserves for forestry businesses; and
f. reserves for closing and maintaining industrial waste disposal sites for industrial waste treatment businesses,

that fulfil certain requirement;

(v) Donations and/or expenses that are deductible up to a certain amount from gross income in the context of the calculation of taxable income for taxpayers, consisting of:

a. donations in the context of national disaster management, which are donations for national disaster victims that are submitted directly through disaster management agencies or submitted indirectly through institutions or parties that have obtained a permit from the agencies/institutions authorised to collect disaster management funds;
b. donations in the context of R&D, which are donations for R&D carried out in the territory of the Republic of Indonesia submitted through R&D institutions;
c. education facility donations, which are donations in the form of education facilities submitted through educational institutions;
d. donations in the context of sports development, which are donations to foster, develop and coordinate an organisation or a group of organisations of branches/types of professional sports submitted through sports development institutions; and
e. expenses for developing social infrastructure are expenses incurred to construct public and non-profit means and infrastructure.

To be deductible, such donations must fulfil the following requirements:

a. the taxpayer has net fiscal income based on the annual income tax return for the previous tax year;
b. the donations and/or expenses do not result in a loss in the tax year the donations are given;
c. supported by valid evidence; and
d. institutions that receive donations and/or expenses have a TIN, except for entities excluded from tax subjects as regulated under the ITL.

The amount of donations and/or social infrastructure development costs constituting deductible expenses for one year

is limited not to exceed 5% of the net fiscal income of the previous tax year.

Further details on deductible tax expenses can be found in Art. 6 of the ITL.

Incurred expenses related to income subject to the final income tax or personal allowances are non-deductible. Further, incurred joint expenses in respect of both taxable income and personal allowances or income subject to the final tax must be proportionally allocated.

However, expenses for reimbursements or remunerations given in the form of in-kind and/or fringe benefits have been deductible since the 2023 tax year. This was formerly disallowed. See Chapter 4 Individual Income Tax for more information on the income tax treatment of reimbursements or remunerations received or acquired in the form of in-kind and/or fringe benefits.

Further, interest expenses for loans exceeding the 4:1 Debt-to-Equity Ratio (DER) have to be proportionally adjusted. Borrowing costs that may be taken into account in calculating taxable income amounts to the borrowing costs corresponding to the 4:1 debt-to-equity ratio.

Please note that to apply the debt-to-equity ratio, several conditions must be fulfilled and an exception from the debt-to-equity ratio requirement may apply to certain taxpayers. In addition to the debt-to-equity ratio requirement, interests paid to related parties must be at arm's length.

Moreover, if the average amount of the loan is greater than the average amount of funds placed in the form of deposits or other savings accounts, the loan interest that may be expensed is the average amount of the loan deducted by the average amount of time deposits (or other savings accounts) multiplied by the tax rate applicable.

Expenses not related to a business whose income is subject to taxes are, in general, non-deductible expenses. Further, the following also constitute several non-deductible expenses for corporate income tax purposes.

(i) Surplus in whatever name and form, such as dividends, including dividends paid by insurance companies to policyholders and surplus by cooperatives;

(ii) Expenses charged or incurred for the personal benefit of shareholders, partners or members;

(iii) The establishment or accumulation of reserve funds, except for reserves that fulfil the certain requirements described above;

(iv) Health insurance, accident insurance, life insurance, endowment insurance and scholarship insurance premiums which are paid by individual taxpayers, unless the premiums are paid by the employers and the premiums are taken into account as income for the taxpayers concerned;

(v) Amount exceeding the reasonable amount paid to shareholders or related parties as remunerations in connection with the work performed;

(vi) Grants, aids or donations and inheritance, unless specifically stipulated as deductible expenses;

(vii) Income tax;

(viii) Expenses charged or incurred for the personal benefit of the taxpayers or their dependants;

(ix) Salaries paid to members of a partnership, firm or limited liability company without share capital;

(x) Administrative penalties in the form of interest, fines and surcharges as well as sentences of criminal fines relating to the implementation of statutory provisions in the field of taxation.

E. Depreciation and Amortisation

E.1 Depreciation

Expenses for the purchase, establishment, addition, repair or changes of tangible assets with a useful life of more than one year, except for land of ownership right, the right to build (*Hak Guna Bangunan*/HGB in

Indonesian), the right to cultivate (*Hak Guna Usaha*/HGU in Indonesian) and the right to use (*hak pakai* in Indonesian) status must be capitalised and depreciated over the specified useful life using a depreciation method.

Depreciation methods allowed under the ITL are implemented in two ways, i.e., (i) in equal parts depreciated over the useful life of the assets, known as the straight-line method or (ii) in decreasing parts by applying the appropriate depreciation rate to the net book value, referred to as the declining balance method. In terms of the declining balance method, the depreciation rate used under the ITL is the double declining balance method. Depreciation methods for assets must be used as per the consistency principle.

The above-mentioned depreciation expenses are deductible provided that the tangible assets are related to the activities to generate business income (deriving, collecting and maintaining income) subject to income tax. Depreciation commences in the month the costs are incurred, except for assets that are in progress of which the depreciation commences in the month the assets are finished.

For tangible assets that have never been used or produced, taxpayers are allowed to begin depreciation starting in the month the assets are used to derive, collect and maintain income or in the month the assets are used in production, subject to the DGT's approval.

Please note that companies may perform re-valuation of their tangible fixed assets for tax purposes insofar they have fulfilled all of their tax obligations until the last taxable period before the taxable period the re-valuation is conducted. Such companies constitute resident corporate taxpayers and PEs, excluding companies that have obtained a permit to maintain bookkeeping in English and United States Dollars (USD).

If a taxpayer performs tangible fixed asset re-valuation for tax purposes as allowed by the DGT, the depreciation basis for revaluated assets shall be the value after the re-valuation. In this regard, the re-valuation shall

be performed based on the market value or the reasonable value of the assets, as determined by a licensed public appraiser.

However, if the market value or fair value assessed by the appraisal firm or appraisers does not reflect the actual situation, the DGT will re-assess the market value or fair value of the assets concerned. This authority is a delegation from Art. 19 paragraph (1) of the ITL.

Further, the gain difference resulting from the re-valuation is subject to a final income tax of 10% which may be paid in instalments subject to the DGT's approval.

Table 3.2 Depreciation Rates per Group of Tangible Assets

Tangible Assets Group	Useful life	Depreciation Rates	
		Straight-Line Method	Double Declining Method
Non-buildings			
Group 1	4 years	25%	50%
Group 2	8 years	12.5%	25%
Group 3	16 years	6.25%	12.5%
Group 4	20 years	5%	10%
Buildings			
Permanent	20 years	5%	-
Non-permanent	10 years	10%	-

Source: Art. 11 of the ITL.

The list of groups of assets per type of business is outlined in the Appendix of MoF Reg. 72/2023. However, if a tangible asset (non-building) cannot be classified into the above four groups, it may be categorised as group 3. Tangible assets acquired and utilised in certain business sectors are further regulated by MoF Reg. 72/2023.

In addition, through MoF Reg. 72/2023, the government emphasises that repair costs for tangible assets with a useful life of more than one year are capitalised using the tax net book value of tangible assets and expensed through depreciation.

On the one hand, if the repair does not extend the useful life of a tangible asset, the depreciation is calculated based on the remaining tax useful

life. On the other hand, if the repair increases the useful life, the depreciation is calculated based on the tax net book value of the tangible asset plus additional useful life due to the repair. The useful life of a group of tangible assets is considered the maximum time limit to conduct the depreciation.

Moreover, if a transfer or withdrawal of assets is subject to insurance compensation: (i) the tax net book value of the transferred or withdrawn assets is expensed as a loss and (ii) the total selling price and/or insurance compensation is recorded or recognised as income, in the year the withdrawal occurs. However, taxpayers may defer the recognition of the loss by applying to the DGT.

E.2 Amortisation

Expenses for acquiring an intangible assets and other expenses, including the expenses to extend the right to build, right to cultivate, right to use and goodwill (*muhibah* in Indonesian) with a useful life of more than one year used to derive, collect and maintain income must be amortised in equal parts or decreasing parts over the useful life. For the amortisation expenses to be deductible, such an intangible asset must be related to the generation of business income subject to income tax.

Table 3.3 Amortisation Rates per Group of Intangible Assets

Intangible Assets Group	Useful life	Amortisation Rates	
		Straight-Line Method	Double Declining Method
Group 1	4 years	25%	50%
Group 2	8 years	12.5%	25%
Group 3	16 years	6.25%	12.5%
Group 4	20 years	5%	10%

Source: Art. 11A of the ITL.

Expenses to acquire an intangible asset are amortised starting in the month the expenses are incurred to acquire the intangible asset or the month of commercial production, except for certain business sectors.

The month of commercial production is the month in which sales commence.

The expenditures for acquiring and upgrading computer software in the form of special application programs held and used to derive, collect and maintain income with a useful life of more than one year are expensed through the amortisation of intangible assets in group 1.

In the event the special application programs are upgraded, the costs or expenses to upgrade such programs are added to the tax net book value of the programs and the sum is amortised in group 1 starting from the month the upgrade is conducted. MoF Reg. 72/2023 primarily adopts the previously specified rules on software acquisition costs in the Director General of Taxes Decree No. KEP-316/PJ./2002.

E.3 Other Issues

With the enactment of the HPP Law, taxpayers are permitted to depreciate or amortise according to the actual useful life based on the taxpayers' bookkeeping. This provision only applies to permanent buildings and intangible assets with more than 20 years of useful life.

During this transitional period, starting from the 2022 tax year, taxpayers can utilise this facility by submitting notification by 30 April 2024. This notification is submitted for permanent buildings and intangible assets owned and used before the 2022 tax year.

Moreover, if a taxpayer obtains a tax allowance, the taxpayer may be entitled to accelerated depreciation and amortisation of up to 200% for tangible assets and accelerated amortisation for intangible assets. More information on tax allowances can be found in Chapter 10 Fiscal Incentives.

F. Loss Carry-Forward

If after being deducted with deductible expenses, taxable income results in a loss position, the loss is set off against taxable income starting the following tax year for five consecutive years. This may be extended up

to ten years if the resident corporate taxpayer applies for the tax allowance.

Further, the tax loss that may be utilised will deduct taxable income. If the tax loss is re-computed due to a tax assessment, the re-computed tax loss is one to be utilised. Please note that loss carry-back is prohibited.

G. Corporate Income Tax Rates

Resident corporate taxpayers and PEs are subject to an income tax rate of 22%. Public-listed companies with total fully paid shares traded on the stock exchange in Indonesia of a minimum of 40% that fulfil certain requirements are eligible for a 3% lower income tax rate.

Further, resident corporate taxpayers with gross turnover not exceeding IDR50 billion may apply a 50% lower income tax rate (from 22%) pursuant to Art. 31E of the ITL. The lower rate is subsequently proportionally imposed on the taxable income of a fraction of the gross turnover of up to IDR4.8 billion.

Moreover, certain MSMEs with gross turnover of less than IDR4.8 billion may opt to apply a final income tax rate of 0.5% of the gross turnover for a period of three years for limited liability companies or four years for cooperatives, limited partnerships without share capital or firms.

In terms of corporate income tax rate reduction, a tax facility in the form of a tax holiday that can reduce the corporate income tax payable by 100% or 50% is available. This facility is intended for new investments. More information on tax holidays can be found in Chapter 10 Fiscal Incentives.

H. Branch Profit Tax

Taxable income for non-resident taxpayers conducting business or activities through PEs in Indonesia in a tax year shall be calculated by deducting income-related expenses as referred to in Art. 5 paragraph (1) by taking into account the provisions under Art. 4 paragraph (1) and

the deductions referred to in Art. 5 paragraph (2) and (3), Art. 6 paragraph (1) and (2) and Art. 9 paragraph (1) subparagraph (c), subparagraph (d), subparagraph (e) and subparagraph (g) of the ITL.

For a PE, administrative expenses of the head office are deductible, provided that such expenses are related to the business or activities of the PE after certain conditions are fulfilled. Non-deductible expenses of a PE for the head office include royalties or payments related to the use of assets, patents or other rights, fees in connection with management services and other services, as well as interest, except for interest in respect of banking business.

Based on Art. 26 paragraph (4) of the ITL, the net income after tax of a PE is subject to a 20% tax. The tax is commonly known as Branch Profit Tax (BPT) and the WHT is final. This rate may be reduced if tax treaty (*Persetujuan Penghindaran Pajak Berganda*/P3B in Indonesian) benefits are available. BPT is waived if the net income after tax of the PE is reinvested in Indonesia with certain conditions.

I. Tax Instalments

Tax instalments pursuant to Art. 25 of the ITL during the current tax year that must be self-paid amount to income tax payable according to the annual income tax return for the preceding tax year, deducted by WHT referred to in Art. 23 of the ITL as well as income tax collected referred to in Art. 22 of the ITL and creditable income tax paid or payable overseas (Art. 24 Income Tax), divided by 12 or the number of months in a fraction of a tax year.

Taxpayers may apply to the DGT for a reduction of the monthly tax instalments, after three months of the current tax year if the taxpayers are able to substantiate that the hypothetical tax payable for the current tax year will be less than 75% of the tax payable used as the basis of the current monthly tax instalments.

Tax instalments for certain businesses, such as financial lease companies, banks, public companies, State-Owned Enterprises (*Badan*

Usaha Milik Negara/BUMN in Indonesian) and other taxpayers, are based on the prepared periodic financial statements.

J. Domestic Tax Credit

For resident corporate taxpayers and PEs, tax payable may be deducted by tax credits for the tax year concerned, in the form of:

(i) tax collection on income from activities in the import sector or business activities in other sectors referred to in Art. 22 of the ITL. See the details in Chapter 5 Withholding Tax;
(ii) WHT on income in the form of dividends, interests, royalties, rents, gifts and awards and service fees referred to in Art. 23 of the ITL. See the details in Chapter 5 Withholding Tax;
(iii) self-payment by the taxpayers referred to in Art. 25 of the ITL;
(iv) WHT on income referred to in Art. 26 paragraph (5) of the ITL.

K. Foreign Tax Credit

In the event that a resident corporate taxpayer pays tax on foreign-sourced income such a taxpayer receives or accrues, the tax paid or payable overseas on the income is creditable against income tax payable pursuant to Art. 24 of the ITL in the same tax year. The foreign tax credit amounts to income tax paid or payable overseas but shall not exceed the tax payable calculated based on the ITL. Further, the regulation with respect to foreign tax credits can be found in MoF Reg. 192/PMK.03/2018.

L. Corporate Income Tax Underpayment or Overpayment

Corporate income tax payable after being deducted by tax credits, including monthly tax instalments, that result in (i) tax underpayment as per Art. 29 of the ITL must be settled before the annual income tax return is filed or (ii) tax overpayment the tax overpayment as per Art. 28A of the ITL shall be refunded after an audit has been conducted.

M. Taxation of Certain Businesses or Transactions

Certain businesses or transactions are taxed using specifically regulated income tax treatment or as per Art. 15 of the ITL using deemed profit. The following are businesses taxed using deemed profit.

Table 3.4 Deemed Profit for Certain Businesses

Business	Deemed Profit for Gross Turnover	Effective Tax Rate
Domestic shipping companies	4%	1.2%*
Domestic airline companies	6%	1.8%*
Foreign shipping and/or airline companies	6%	2.64%*
Foreign oil and gas drilling operations	15%	3.3%**
Certain trade representative offices	1% of export value	0.44%*

Source: processed by the Author.

* *The effective tax rate is specified in a minister of finance decree.*
** *The effective tax rate is not specified in a minister of finance decree, only deemed profit is regulated. Thus, the effective tax rate is 15% X 22% = 3.3%.*

Further, the following are certain businesses or transactions taxed using specifically regulated income tax treatment as follows.

Table 3.5 Specifically Regulated Income Tax Treatment of Certain Businesses or Transactions

Business Sectors	Specific Regulated Income Tax Treatment
Leasing companies	(i) Leasing companies must be authorised by the relevant authorities. (ii) Financial leases a. The lessor's income subject to income tax is a fraction of the financial lease payment in the form of financial lease service fees; b. The lessor may not depreciate the capital goods subject to financial lease; c. The lessor is allowed to establish deductible allowance for doubtful accounts capped maximum at 2.5% of average beginning and ending balance of financial lease receivables.

Business Sectors	Specific Regulated Income Tax Treatment
	(iii) Operating leases a. All payments of operating leases received or accrued by the lessor constitutes an income tax object; b. The lessor expenses depreciation expenses for capital goods subject to the operating lease pursuant to the provisions under Art. 11 of the ITL and the implementing regulations. Details regarding the VAT treatment of financial lease transactions and sale and leaseback transactions can be found in the Director General of Taxes Circular Letter No. SE-129/PJ/2010.
Mining companies	(i) Taxation of a mining company depends on whether the company holds a business permit based on the prevailing provisions on business permits or enters into a special contract with the government, wherein the Contract of Work (CoW or *Kontrak Karya*/KK in Indonesian) has not expired; (ii) If the company enters into such a special contract, the tax provisions in the special contract apply.
International toll manufacturing businesses	(i) Deemed profit to compute the net income in the form of the remuneration for international toll manufacturing services is 7% of the total cost of manufacturing or assembling goods, excluding the cost of direct materials. The tax on net income in the form of the remuneration for international toll manufacturing services is final; (ii) Such deemed profit applies provided that the company has not entered into an Advance Pricing Agreement (APA) with the DGT.
Sharia transactions	(i) Sharia banking a. Bonus, profit sharing and margins received or accrued by a sharia banking from the activities or transactions of facility recipient customers are income tax objects subject to income tax pursuant to the provisions on income tax on interest; b. Other income received or accrued by sharia banking other than the above-mentioned facility recipient customers is subject to income tax pursuant to the provisions stipulating transactions between sharia banking and facility recipient customers;

Business Sectors	Specific Regulated Income Tax Treatment
	c. Income received or accrued by depositor customers or investor customers from sharia banking in whatever name or form, including bonuses, profit sharing and other income of entrusted or pooled funds and funds pooled overseas through sharia banks or sharia business units incorporated or domiciled in Indonesia or branches of foreign sharia banks domiciled in Indonesia is subject to income tax pursuant to the provisions on income tax on interest; d. Income received or accrued by depositor customers or investor customers from sharia banking in whatever name or form other than the above-mentioned income is subject to income tax pursuant to the provisions stipulated under the ITL. (ii) Sharia financial services a. Leasing conducted based on *Ijarah* principles is treated the same as operating leases; b. Leasing conducted based on *Ijarah Muntahiyah Bittamlik* principles is treated the same as financial leases; c. Income received or accrued by a company from a factoring business conducted based on *Wakalah bil Ujrah* contracts in the form of profits or remunerations is subject to income tax pursuant to the provisions on income tax on interest; d. Income received or accrued by a company from consumer financing conducted based on *Murahabah, Salam,* atau *Istishna'* contracts in the form of a profit margin is subject to income tax; e. Income received or accrued by a company from sharia-principle-based credit card business in the form of fees or remunerations in whatever name and form is subject to income tax pursuant to the provisions stipulated under the ITL; f. Income received or accrued by the funder (*shohibul maal*) from funding in a company using *Mudharabah, Mudharabah Musytarakah* or *Musyarakah* contracts in the form of profits and/or profit sharing, shall be

Business Sectors	Specific Regulated Income Tax Treatment
	subject to income tax pursuant to the provisions on the income tax on interest; g. A transfer of an asset conducted solely to fulfil sharia principles in the context of financing by a company is not included in the definition of the transfer of assets referred to in the ITL. In the event of a transfer of an asset from a third party, the transfer of asset is deemed to be a direct transfer of asset from a third party to the corporate customer, subject to income tax pursuant to statutory provisions in the field of taxation.
Upstream oil and gas under gross split contracts	The following are several important points concerning upstream oil and gas income taxation under a gross split contract. (i) Income with regards to profit sharing of oil and gas is computed based on the contractor's share of the realised value of oil and gas minus the realised value of the supply of oil and gas Domestic Market Obligation (DMO) plus DMO fees plus or minus the lifting price variance; (ii) Generally, operating expenses incurred by the contractor may be taken into account as deductible expenses in the calculation of taxable income. Certain operating expenses, however, do not constitute deductible expenses; (iii) Foreign-sourced head office direct expenses charged to projects in Indonesia are only allowed for activities that cannot be conducted by institutions/agencies domestically, cannot be conducted by Indonesian workers and are non-routine; (iv) The allocation of indirect expenses for the head office are allowed provided that such expenses are used to support the business or activities in Indonesia, the contractor submits the audited consolidated financial statements and the basis for the allocation and the amount does not exceed the expenditure threshold for the allocation of indirect costs for the head office determined by the Minister; (v) A contractor's other income in the form of uplift or other similar fees are subject to final income tax at a rate of 20% of the gross amount;

Business Sectors	Specific Regulated Income Tax Treatment
	(vi) A contractor's income from the transfer of participating interest is subject to final income tax at a rate of 5% of the gross amount for the transfer of participating interest during the exploration period or 7% of the gross amount for the transfer of participating interest during the exploitation period.
Build-Operate-Transfer (BOT)	(i) Build-Operate-Transfer (BOT) is a form of cooperation agreement entered into between the holder of the rights to land (*Hak atas Tanah*/HAT in Indonesian) and an investor, which states that the holder of the rights to land grants the right to the investor to construct building during the BOT agreement period and transfer the ownership of the building to the holder of the right to land during the expiry of the BOT period. (ii) Income and expenses for investors: a. rent and income in connection with the use of assets; b. income in connection with building concession rights, such as income from the operation of hotels, sports centres, entertainment venues and so forth; c. compensation or remunerations received or accrued from the holder of the right to land if the BOT agreement period expires earlier; d. deductible expenses for investors are the costs referred to in Art. 6 paragraph (1) and with due observance of Art. 9 paragraph (1) of the ITL concerning concession of buildings constructed based on BOT agreements; e. the expenses incurred by investors to construct buildings are the acquisition value of the investors to obtain the right to use or the right to operate the buildings and the acquisition value is amortised by the investors in equal parts every year during the BOT agreement period. (iii) Income and expenses for the holder of the right to land: a. routine payments from the investor to the holder of the right to land during or throughout the BOT agreement period; b. a fraction of the building rent;

Business Sectors	Specific Regulated Income Tax Treatment
	c. a fraction of the profit from building concessions in whatever name and form that has been provided by the investor; d. other income in connection with the BOT agreement received or accrued by the holder of the right to land; e. deductible expenses for the holder of the right to land during the BOT period are the costs referred to in Art. 6 paragraph (1) and with due observance of Art. 9 paragraph (1) of the ITL; f. a building transferred from an investor to the holder of the right to land after the BOT period expires is income for the holder of the right to land and subject to income tax of 5% of the higher gross amount between the market value and sales value of taxable object (*Nilai Jual Objek Pajak*/NJOP in Indonesian) of the transferred building and must be paid by the holder of the right to land no later than on the 15th of the following month after the BOT period expires. The tax is final income tax for individuals and constitutes the payment of Art. 25 income tax that may be set off against income tax payable for the tax year concerned for corporate taxpayers. If the holder of the right to land is a government institution, the holder is excluded from tax.

Source: processed by the Author.

N. Merger, Consolidation, Spin-off or Acquisition

The acquisition or transfer value of assets **transferred** in the context of a liquidation, merger, consolidation, spin-off, split-off or acquisition is the amount that must be incurred or received based on market prices (Art. 10 paragraph (3) of the ITL). If any profit arises due to a **transfer** of assets in the context of a merger or acquisition, the profit constitutes a taxable object. In other words, the difference between the market price and the net book value of the transferred assets constitutes taxable income.

Taxpayers, however, may use book value for the transfer of assets in the context of a merger, consolidation, spin-off or acquisition if they have obtained approval from the DGT. Mergers that are permitted to use book values, among others, are mergers between two or more resident taxpayers with share capital by transferring all assets and liabilities to one of the resident taxpayers with no residual tax losses or lower residual tax losses and dissolving the resident taxpayer transferring the assets and liabilities.

Further, the application for the use of book value is submitted to the DGT and all tax liabilities of related parties must be settled, and the business purpose test requirements must be fulfilled. The following are business purpose test requirements.

(i) The main purpose of the merger, consolidation, spin-off or acquisition is to establish robust business synergies and strengthen the capital structure and not conducted for tax avoidance;

(ii) The business of the taxpayer transferring the assets remains ongoing until the effective date of the merger, consolidation, spin-off or acquisition;

(iii) The business of the taxpayer transferring the assets before the merger, consolidation or acquisition of business occurs, must be continued by the taxpayer receiving the transfer of assets for a minimum of five years after the effective date of the merger, consolidation or acquisition;

(iv) The business of the taxpayer receiving the assets in the context of the merger, consolidation, spin-off or acquisition continues for a minimum of five years after the effective date of the merger, consolidation, spin-off or acquisition; and

(v) Assets in the form of fixed assets owned by the taxpayer receiving the assets originating from the merger, consolidation, spin-off or acquisition are not transferred by the taxpayer receiving the assets for a minimum of two years after the effective date of the

merger, consolidation, spin-off or acquisition unless the transfer is carried out to increase company efficiency.

Further information on the use of book value for the transfer and acquisition of assets in the context of a merger or acquisition can be seen in MoF Reg. 52/PMK.010/2017 as amended several times, last amended by MoF Reg. 56/PMK.010/2021. The procedures can be found in the Director General of Taxes Reg. No. PER-03/PJ/2021 as amended by the Director General of Taxes Reg. No. PER-21/PJ/2021.

CHAPTER 4
INDIVIDUAL INCOME TAX

A. Overview

Individual income tax is mostly administered under Art. 21 Income Tax for employees. Pursuant to Art. 21 of the Income Tax Law (ITL), individual income tax is remitted by monthly Withholding Tax (WHT) on employees' income.

Under the amendment to the tax laws by the Harmonisation of Tax Regulations Law (HPP Law) and Job Creation Law, several significant amendments evidence the government's efforts to increase tax revenues from individual income tax, both from Art. 21 WHT and annual income tax payable. The following are four highlighted aspects.

First, the use of the national identification number (*Nomor Induk Kependudukan*/NIK in Indonesian) as the Taxpayer Identification Number (TIN or *Nomor Pokok Wajib Pajak*/NPWP in Indonesian) to improve tax compliance supervising. *Second*, the changes to tax brackets with the highest at 35% for taxable income of over IDR5 billion.

Third, the taxation of in-kind and/or fringe benefits which generally applies with certain exceptions. *Fourth*, to attract expatriates with certain expertise, income tax is only imposed on income sourced from Indonesia for four years.

Under individual income tax provisions, a married woman wishing a joint exercise of tax rights and fulfilment of tax obligations with those of her husband's cannot self-register to obtain a TIN in her own name. Minors, i.e., children who are under eighteen years old and have never been married, pursuant to statutory provisions in the field of income tax, cannot register themselves to obtain a TIN in their own name.

In other words, in general, the administration of individual income tax is the responsibility of the head of the family or husband for the income of the husband, wife and minor children (under eighteen years old and not married). A wife may administer her income tax independently based on certain criteria.

In the event that in the future, the married woman (wife):

(i) lives in separation from her husband based on a court decision;
(ii) enters into a written income and asset separation agreement;
(iii) chooses to separately exercise tax rights and fulfil tax obligations from her husband even though there is no court decision or there is no income and asset separation agreement; or
(iv) is divorced,

the said woman must re-register at the Tax Office (*Kantor Pelayanan Pajak*/KPP in Indonesian) whose working area covers the woman's residence to obtain a TIN.

B. Tax Residency

Any individual who has fulfilled the subjective and objective requirements stipulated under the ITL must be registered as a taxpayer. Subjective requirements determine the tax residency of an individual, whether such an individual is a tax resident or a non-tax resident. DDTC has also summarised the determination of tax residency in the book titled *Basic Guidelines of Tax Procedures*.

An individual, either constituting an Indonesian citizen (*Warga Negara Indonesia*/WNI in Indonesian) or a foreign national (*Warga Negara Asing*/WNA in Indonesian) who resides in Indonesia, has been present in Indonesia for more than 183 days within any twelve months period or within a particular tax year has been present in Indonesia and intends to reside in Indonesia, constitutes a tax residents. The following are the criteria for an individual determined as a non-tax resident.

(i) An individual who does not reside in Indonesia;

(ii) A foreign national who has been present in Indonesia for not more than 183 days within any twelve months period; or

(iii) An Indonesian citizen who is outside Indonesia for more than 183 days within twelve months period and fulfils the requirements of a residence, a center of vital interests, a place of habitual abode, tax residency and/or other certain requirements,

further provisions on the requirements are stipulated in a minister of finance regulation.

If a foreign national fulfils the criteria to be determined as a tax resident as described above and among others, indicating that the foreign national intends to reside in Indonesia (i.e., having a permanent stay permit card or *Kartu Izin Tinggal Tetap*/KITAP in Indonesian, visa or other document indicating the intention to reside in Indonesia for more than 183 days), the foreign national may be determined as a tax resident.

An individual tax resident constitutes a taxpayer if he/she has received or accrued income (objective requirements) exceeding the personal tax relief. An individual tax resident who has fulfilled subjective and objective requirements constitutes a resident individual taxpayer.

The significant difference between resident taxpayers and non-resident taxpayers lies in the fulfilment of their tax obligations. *First*, a resident individual taxpayer is taxed on income received or accrued from Indonesia or overseas (worldwide income), except for certain individual tax residents (for example, migrant workers). In contrast, non-resident taxpayers are only taxed on income sourced from Indonesia.

Second, resident taxpayers are taxed based on net income at the statutory rate, whereas non-resident taxpayers are taxed based on gross income at the commensurate tax rate. *Third*, resident taxpayers are required to file annual income tax returns as the means to determine tax payable in a tax year, whereas non-resident taxpayers are not

required to file annual income tax returns because their tax obligations are fulfilled through final WHT.

Further, if income is received or accrued by an individual non-tax resident through a Permanent Establishment (PE or *Bentuk Usaha Tetap/*BUT in Indonesian), the individual is taxed through the PE. The individual remains as a non-tax resident. In other words, the PE replaces the individual as a non-tax resident in fulfilling his/her tax obligations in Indonesia. If income is received or accrued without a PE, the tax is imposed directly on the non-tax resident.

C. Income Classification and the Tax Treatment

As aforementioned, most individual income taxes are remitted by monthly WHT on employment income. If an individual only receives income subject to tax (excluding income subject to final tax and not subject to tax), the annual income tax payable will amount to nil. This is because the employer has withheld taxes. The amount of WHT by the employer constitutes a tax credit for the individual.

Further, in addition to being an employee (permanent or temporary) in which his or her income is subject to Art. 21 WHT by the employer, an individual may also conduct business, independent personal services and receive other income, such as from royalty, interest or rent. In this regard, DDTC has also summarised the tax treatment of several types of individual professions in the non-employee category who conduct business or independent personal services, such as notaries, writers, consultants, musicians, artists, designers, sportsmen, doctors, teachers and so forth.

In its summary, DDTC describes statutory provisions in the field of taxation of each type of profession, the rights and obligations related to the scope of tax for each type of profession and sample calculation of tax payable. A discussion of each type of profession can be accessed on Perpajakan DDTC.

C.1 Business Income

Individuals who conduct business (i.e., entrepreneurs and retailers) may opt to (i) maintain bookkeeping and use general tax calculation for their income (Art. 17 of the ITL), (ii) maintain recording and use deemed profit (*Norma Penghitungan Penghasilan Neto*/NPPN in Indonesian) or (iii) maintain recording and be taxed at a final income tax rate of 0.5% if their gross income in a year is less than IDR4.8 billion.

If taxpayers calculate net income using deemed profit and maintain recording, the taxpayers have to notify the DGT within a period of the first three months in the tax year concerned. If they fail to submit the notification, the taxpayers are required to maintain bookkeeping and use general tax calculation for their income.

Individual taxpayers who receive or accrue income with gross of turnover not exceeding IDR4.8 billion in a tax year may also opt to be subject to final income tax at a rate of 0.5%. Individual taxpayers with these characteristics are generally referred to as individual Micro, Small and Medium Enterprises (MSMEs).

Please note that individual MSMEs with a certain gross turnover of the fraction of gross turnover up to IDR500 million in one tax year are not subject to income tax. Final income tax at a rate of 0.5% is imposed after the cumulative income in the current year exceeds IDR500 million.

Final income tax may be paid using self-remittance (monthly) by the taxpayer or withheld or collected by the income tax withholding agent or collecting agent if the taxpayer conducts transactions with parties appointed as the income tax withholding agent or collecting agent. Income that is not subject to tax (IDR0-500 million) only needs to be filed in the annual income tax return.

Individual MSMEs are also required to record all income received in a simple manner. Currently, the DGT provides a recording feature for MSMEs in the *M-Pajak* application to provide convenience for MSMEs in paying final income tax according to the gross turnover they accrue.

This final income tax rate may only be enjoyed for a maximum period of seven years since the taxpayer is registered. On the other hand, if the taxpayer's income has exceeded IDR4.8 billion within seven years, this final income tax rate cannot be used and the taxpayer must use the income tax rates under Art. 17 of the ITL.

More detailed information on individual MSMEs can be found in Chapter 5 Withholding Tax in Section E.1 Income Taxes on the Income from Business with Certain Gross Turnover.

C.2 Income from Independent Personal Services

An individual conducting independent personal services with gross turnover in a year of less than IDR4.8 billion are allowed to calculate net income using deemed profit provided that they notify the DGT within the first three months of the tax year concerned. Services related to independent personal services include:

(i) professionals who perform independent personal services, consisting of lawyers, accountants, architects, doctors, consultants, notaries, appraisers, conveyancers and actuaries;
(ii) musicians, presenters, singers, comedians, film stars, soap opera stars, commercial stars, directors, film crews, photo models, models, actors/actresses and dancers;
(iii) sportsmen;
(iv) advisors, teachers, trainers, public speakers, extension workers and moderators;
(v) authors, researchers and translators;
(vi) advertising agencies;
(vii) project supervisors or managers;
(viii) intermediaries;
(ix) salespeople;
(x) insurance agents; and
(xi) distributors of multilevel marketing or direct selling companies and other similar activities.

Individual taxpayers who calculate their net income using deemed profit are required to maintain recording as referred to in the General Provisions and Tax Procedures Law (GPTP Law). If taxpayers fail to notify the DGT concerning the calculation of net income using deemed profit, these taxpayers are deemed to have chosen to maintain bookkeeping.

If the annual gross income exceeds IDR4.8 billion, individuals who conduct independent personal services are required to maintain bookkeeping and use the general tax calculations for their income. Please note that, even if the gross income from independent personal services in one year is less than IDR4,8 billion, the final income tax rate of 0.5% may not be applied to an individual conducting independent personal services.

C.3 Income Subject to Final Income Tax

In certain conditions, an individual may receive certain income subject to final income tax. The certain income subject to final income tax includes:

(i) income in the form of deposit interests and other savings accounts, interests on bonds and government securities, interests or discounts of short-term securities traded in the money market and deposit interests paid by cooperatives to individual cooperative members;
(ii) income in the form of lottery prizes;
(iii) income from share and other securities transactions, derivative transactions traded on the stock exchange and sales of shares transactions or transfers of capital participation in the partner company received by a venture capital company;
(iv) income from transactions of property in the form of land and/or buildings, construction service businesses, real estate businesses and land and/or building rents; and
(v) certain other income, including business income received or accrued by taxpayers with certain gross turnover,

stipulated by or based on a government regulation.

In respect of the tax treatment, third parties withhold income tax on income subject to the final income tax. Individual taxpayers are only required to disclose their gross income and the amount of income tax withheld. Such is not the case if pursuant to the ITL, an income recipient is not a withholding agent. In this condition, final income tax payable may be self-remitted by the individual taxpayer.

If an individual is a husband whose wife only receives income from her sole employer, the amount of income and WHT by the employer is treated as if the income is subject to final income tax. This does not affect the amount of her husband's income tax.

In another condition, if the individual's wife receives income from her work as an employee or other taxable income, and the wife decides to choose to perform her tax rights and obligations separately (*Memilih Terpisah*/MT in Indonesian) or due to asset separation agreement (*Pisah Harta*/PH in Indonesian), her income must be consolidated with that of her husband. Further, the income tax on both will be proportionately allocated and filed separately in the husband's and wife's tax returns.

C.4 Other Income

Since the amendment to the ITL by the HPP Law, in-kind and/or fringe benefits received or accrued from employment or provision of services (due to independent personal services) are classified as income subject to tax. However, certain fringe benefits and/or in-kind are not subject to income tax.

Certain in-kind and/or fringe benefits that are not subject to tax include (i) food and beverages (as well as the ingredients) provided to all employees, (ii) in-kind and/or fringe benefits provided in certain areas, (iii) in-kind and/or fringe benefits that the employer must provide for performing work, (iv) in-kind and/or fringe benefits funded by the government budget and (v) in-kind and/or fringe benefits of certain types and/or thresholds.

Please note that the government has issued the implementing regulation concerning the taxability of in-kind and/or fringe benefits through Gov. Reg. No. 55/2022. Further, in July 2023, the government issued the technical provisions on WHT on in-kind and/or fringe benefits as stipulated under MoF Reg. 66/2023.

Moreover, if the income received is other income such as rent, royalty and interest, the individual's income will be subject to Art. 23 WHT. Through the Director General of Taxes Reg. No. PER-1/PJ/2023, the government officially lowers the Art. 23 WHT rate on royalties for individual taxpayers who use deemed profit. The effective rate of Art. 23 WHT is currently 6% (15% of the 40% royalty value), whereas formerly, it was 15% of the royalty value. Sample calculation in regards to the reduction in the effective rate of Art. 23 WHT on royalty can be seen in the DDTCNews article.

D. How to Compute Individual Income Tax

The individual income tax calculation is based on taxable income in a tax year by deducting income subject to tax with deductible expenses, including personal tax relief (*Penghasilan Tidak Kena Pajak*/PTKP in Indonesian). Individual taxpayers are taxed on their worldwide income, except for expatriates with certain expertise who are only taxed on Indonesian-sourced income for a maximum of four years.

Further, resident taxpayers who fulfil certain criteria can calculate their net income using deemed profit (4B). The following is an illustration of how to compute individual income tax. The below illustration covers all types of income that an individual may receive.

Table 4.1 The Computation of Individual Income Tax

1.	Business Income and/or Income from Independent Personal Services (with a bookkeeping obligation)
2.	Less: Deductible Expenses (Art. 6 of the ITL)
3.	Plus: Non-deductible Expenses (Art. 9 of the ITL)
4A.	Net Income from Business or Independent Personal Services, or
4B.	Deemed Profit from Business or Independent Personal Services

5.	Plus: Net Domestic Income related to work or employment
6.	Plus: Other Net Domestic Income
7.	Plus: Other Net Foreign income
8.	Less: Authorised Compulsory Religious Donations
9.	Net Fiscal Income after Deductible Donations
10.	Less: Loss Carry-Forward (only applies to individual taxpayers with bookkeeping)
11.	Less: Personal Tax Relief
12.	Taxable Income
13.	Individual Income Tax (Taxable Income X Progressive Tax Rates*) **Art. 17 of the ITL regarding tax brackets*
14.	Less: Tax Credit and Tax Instalment
15.	Individual Income Tax Underpayment/(Overpayment)

Source: processed by the Author.

E. Deductible and Non-Deductible Expenses

Expenses related to generating business income or income from independent personal services with a bookkeeping obligation are deductible. Generally, the rules to determine deductible and non-deductible expenses are similar to corporate income tax (for further details, see 'Deductible and Non-Deductible Expenses' in Chapter 3 Corporate Income Tax).

Moreover, there are additional non-deductible expenses, i.e., those that are incurred for the personal purpose of an individual taxpayer or his or her dependants. See Art. 6 of the ITL for deductible expenses and Art. 9 of the ITL for non-deductible expenses.

F. Personal Tax Relief

Personal tax relief is applied as an annual deduction to compute an individual's taxable income. Conditions of the individual at the beginning of the tax year determine the amount of personal tax relief for such an individual.

If a wife decides to administer her income tax separately, the personal tax relief for the computation of the proportional income tax of wife and

husband is the total personal tax relief of both the husband and wife. For example, suppose a husband and wife (with no dependants) both receive employment income, and the wife decides to administer her income tax separately. In that case, the total personal tax relief will amount to IDR54 million x 2 or equivalent to IDR108 million.

Table 4.2 Personal Tax Relief

	in Indonesian Rupiah (IDR)
Taxpayer	54,000,000
Spouse	4,500,000
Each dependant (maximum 3)	4,500,000

Source: Art. 7 paragraph (1) of the ITL.

G. Individual Income Tax Rates

The above-mentioned types of net income are calculated to determine the taxable income. Next, the taxable income is proportionately computed per the tax rates according to the tax brackets to determine the tax payable.

Table 4.3 Individual Income Tax Rates

Taxable Income	Rate
Up to IDR60,000,000	5%
Above IDR60,000,000 up to IDR250,000,000	15%
Above IDR250,000,000 up to IDR500,000,000	25%
Above IDR500,000,000 up to IDR5,000,000,000	30%
Above IDR5,000,000,000	35%

Source: Art. 17 paragraph (1) of the ITL.

H. Tax Instalments and Tax Credits

Pursuant to Art. 25 of the ITL, the tax instalments in the current tax year that must be self-paid by a taxpayer each month amount to income tax payable according to the annual income tax return for the preceding tax year deducted by domestic and foreign tax credits, divided by 12 or the number of months in a fraction of a tax year.

Tax credits for individuals mostly originate from Art. 21 WHT on employment income. There are other types of tax credits depending on the individuals' activities in accruing the income.

For instance, if individuals import goods for their business, Art. 22 Income Tax collected by the customs authorities may be taken into account as a tax credit. Subsequently, if the individuals receive royalties subject to Art. 23 Income Tax, the amount of the WHT may constitute a tax credit. Further, if the individuals accrue foreign-sourced income which is taxed by the foreign tax authorities, the tax paid overseas may be used as a tax credit (Art. 24 Income Tax).

Taxpayers may apply for a reduction of monthly tax instalments to the DGT, after three months of the current tax year. This reduction may be granted if the taxpayers can substantiate that the hypothetical tax payable for the current tax year is less than 75% of the tax payable used as the basis of current monthly tax instalments.

I. Individual Income Tax Underpayment or Overpayment

Individual income tax payable after being deducted by tax credits, including monthly tax instalments, will result in nil income tax, tax underpayment or tax overpayment. If tax payable for a tax year is greater than the tax credit, the underpayment of tax payable must be settled before the annual income tax return is submitted as stipulated under Art. 29 of the ITL. In contrast, if tax payable for a tax year is lower than the amount of the tax credit after an audit has been conducted, the tax overpayment is refunded after being set off against the tax liabilities as well as the penalties as stipulated in Art. 28A of the ITL.

J. Taxation of Expatriates

A foreign national residing in Indonesia may be a tax or a non-tax resident as stipulated in the ITL. It is crucial to determine the status, particularly if the foreign national works in Indonesia (an expatriate) and receives or accrues income from Indonesia and overseas.

Different status may imply different treatments in respect of tax obligations. Moreover, if an expatriate's status is unclear, tax disputes may occur.

Table 4.4 Differences in the Tax Treatment of Expatriates as Tax Residents and Non-Tax Residents

	Expatriates as Tax Residents	Expatriates as Non-tax Residents
Taxable income	Income received or accrued from Indonesia as well as from overseas	Income received or accrued from Indonesia
Tax base	Net income	Gross income
Tax rate	Statutory tax rates (Art. 17 of the ITL)	Commensurate (proportional) rates or based on the tax treaty
Income tax withheld by the employer	Art. 21 of the ITL (non-final)	Art. 26 of the ITL (final)*
Tax filing obligations	Obliged to file the annual individual income tax return	Not obliged to file the annual individual income tax return

Source: processed by the Author.

* *If there is a change in an expatriate's status from a non-tax resident to a tax resident within the same year, Art. 26 Income Tax which has been withheld and paid by the employer on the expatriate's income is creditable against income tax on the expatriate as a resident taxpayer.*

When an expatriate is determined to be a tax resident and has received or accrued income that exceeds personal tax relief, the expatriate constitutes a resident taxpayer. An expatriate constituting a resident taxpayer must comply with the applicable statutory tax provisions in Indonesia, which include the obligation to register to obtain a TIN.

J.1 Foreign Income Exemption for Certain Expatriates

Through the Omnibus Law in the field of taxation, an expatriate who has become a tax resident is only subject to income tax on income received or accrued from Indonesia insofar as two conditions are fulfilled. *First*, the expatriate has certain expertise. *Second*, this provision only applies for four tax years from the time the expatriate becomes a tax resident.

Based on the Indonesian expatriate tax regime, only expatriates constituting tax residents with certain expertise may enjoy tax exemptions on foreign-sourced income received. However, this provision does not apply to expatriates who choose to take advantage of the tax treaty between the Indonesian government and the government of the tax treaty partner where the expatriate derives income from overseas.

Foreign nationals with certain expertise referred to in this regime include (i) foreign workers who occupy certain positions determined by the Minister of Manpower or (ii) foreign researchers determined by the head of the institution that administers governmental duties in the field of research, development, review, and application as well as inventions and innovations, administration of nuclear energy and administration of space. In this regard, the criteria for certain expertise include:

(i) having expertise in the fields of science, technology and/or mathematics, as evidenced by:
    a. certificate of expertise issued by an institution appointed by the government of Indonesia or the government of the foreign worker's country of origin;
    b. education diploma; and/or
    c. five years of work experience at the minimum,

    in the field of science or field of work as per the field of expertise; and
(ii) having the obligation to transfer knowledge.

Expatriates with certain skills, among others, constitute chemists, geologists and geophysicists, civil engineers, telecommunication engineers, product and apparel designers, university lecturers, system analysts, software developers and mining supervisors. A list of other certain expertise and procedures can be found in Appendix II of MoF Reg. 18/PMK.03/2021.

K. In-Kind and/or Fringe Benefits

The government has issued MoF Reg. 66/2023 concerning the Income Tax Treatment of Reimbursements or Remunerations in Respect of Employment or Services Received or Accrued in the Form of In-Kind and/or Fringe Benefits. Reimbursements or remunerations in the form of in-kind are those other than money transferred from the employer or provider of the reimbursements or remunerations to the recipient. These constitute a form of reimbursements or remunerations for work or services.

Reimbursements or remunerations in the form of fringe benefits are remunerations in the form of the right to use a facility or service. The facility or service may be sourced from the assets of the provider of the reimbursements or remunerations and/or third-party assets financed or leased by such a provider.

Since 1 January 2022, the provisions on reimbursements or remunerations given in kind in connection with employment or services constitute deductible expenses for employers or providers of the reimbursements or remunerations have been in force. These provision are intended for employers or providers of reimbursements or remunerations maintaining bookkeeping for the 2022 accounting year starting before 1 January 2022 or the start of the 2022 accounting year, for employers or providers of reimbursements or remunerations maintaining bookkeeping for the 2022 accounting year starting on 1 January 2022 or onwards. However, under MoF Reg. 66/2023, all in-kind and/or fringe benefits received or accrued during 2022 are excluded from income tax objects.

Thus, if taxpayers as recipients or employees have calculated and self-remitted the tax on in-kind and/or fringe benefits received in the 2022 tax year (as stipulated under Gov. Reg. No. 55/2022), an application for a tax refund may be submitted for the self-assessed and remitted income tax filed in the 2022 annual income tax return. This exception is regulated under the provisions on the exclusion of in-kind and/or fringe

benefits of certain types and/or thresholds from income tax objects under MoF Reg. 66/2023.

The provisions on the application for tax refunds are stipulated in MoF Reg. 187/PMK.03/2015. The application for the tax refund is submitted after the taxpayer has amended the annual income tax return. The Director General of Taxes Reg. No. PER-5/PJ/2023 also regulates accelerated tax refunds for individual taxpayers.

PER-5/PJ/2023 stipulates that all applications for tax refunds submitted by individual taxpayers with an overpayment of up to IDR100 million will be immediately followed up pursuant to Art. 17D of the GPTP Law. With the procedures outlined in Art. 17D, the DGT conducts examination pursuant to MoF Reg. 39/PMK.03/2018 as last amended by MoF Reg. 209/PMK.03/2021. Thus, individual taxpayers are entitled to tax refunds without undergoing an audit process.

K.1 The Article 21 Withholding Tax Obligation

MoF Reg. 66/2023 has been in force since 1 July 2023. Thus, income tax on income in the form of in-kind and/or fringe benefits has been withheld by employers or providers of the reimbursements or remunerations starting 1 July 2023. The WHT on in-kind and/or fringe benefits is implemented through the Art. 21 WHT mechanism. As for the reimbursements or remunerations related to work or services in the form of in-kind and/or fringe benefits received or accrued from 1 January 2023 until 30 June 2023 that have not been subject to WHT by the employer or provider of the reimbursements or remunerations, income tax payable must be calculated and self-paid by the recipient and filed in the annual income tax return.

K.2 Taxable Events

The WHT by employers or providers of the reimbursements or remunerations is performed at the end of the month when the income is transferred or due, (i) based on whichever event occurs first for the reimbursements or remunerations in the form of in-kind or (ii) the

granting of the right or partial right to the utilisation of a facility and/or service by the provider for reimbursements or remunerations in the form of fringe benefits.

K.3 In-Kind and/or Fringe Benefits As Income Tax Objects

The employer or provider of the reimbursements or remunerations in the form of in-kind and/or fringe benefits must withhold income tax pursuant to applicable statutory tax provisions. In this case, the expenses for the reimbursements or remunerations given in the form of in-kind and/or fringe benefits related to employment or services constitute deductible expenses for the employer or provider of the reimbursements or remunerations in the form of in-kind and/or fringe benefits, to the extent that they constitute costs to derive, collect and maintain income. On the other hand, for the recipient, in-kind and/or fringe benefits constitute an income tax object.

The expenses for reimbursements or remunerations related to employment constitute the expenses for reimbursements or remunerations in connection with the employment relationship between the employer and the employee. On the other hand, the expenses for reimbursements or remunerations related to services constitute the expenses for reimbursements or remunerations due to service transactions between taxpayers.

Expenses for reimbursements or remunerations incurred in the form of fringe benefits with a useful life of more than one year are expensed through depreciation or amortisation pursuant to the provisions on income tax. The expenses for reimbursements or remunerations incurred in the form of in-kind and/or fringe benefits with a useful life of less than one year, on the other hand, are expensed in the year they are incurred.

K.4 Income Tax Object Exclusion

The following are reimbursements or remunerations in the form of in-kind and/or fringe benefits excluded from income tax objects.

(i) Food, foodstuff, beverage ingredients and/or beverages provided for all employees, including:
   a. food and/or beverages provided by the employer at the workplace;
   b. food and/or beverage vouchers for employees who due to the nature of their work cannot take advantage of the food, foodstuff, beverage ingredients and/or beverages provided by the employer at the workplace; and/or
   c. foodstuff and/or beverage ingredients for all employees with a certain value threshold;

(ii) In-kind and/or fringe benefits provided in certain areas;

(iii) In-kind and/or fringe benefits to be provided by the employer in the implementation of work related to security, health and/or employee safety requirements mandated by ministries or agencies pursuant to statutory provisions. The said in-kind and/or fringe benefits include items such as:
   a. uniform;
   b. equipment for work safety;
   c. employee shuttle service;
   d. lodging for crew members and the like; and/or
   e. in-kind and/or fringe benefits received in the context of handling endemic, pandemic or national disasters;

(iv) In-kind and/or fringe benefits sourced or financed by the state budget (*Anggaran Pendapatan dan Belanja Negara*/APBN in Indonesian), local government budget (*Anggaran Pendapatan dan Belanja Daerah*/APBD in Indonesian) and/or village budget; or

(v) In-kind and/or fringe benefits of certain types and/or thresholds.

K.5 Food and/or Beverage Vouchers

A voucher is a non-monetary transaction instrument that can be exchanged for food and/or beverages. This voucher applies to employees in marketing, transportation and other external divisions who conduct off-site assignments. Also included in the definition of a voucher is the reimbursement by the employer for the expenses for

purchasing or acquiring food and/or beverages outside the workplace paid in advance by the employees in the marketing, transportation divisions and other off-site assignments.

The value of a voucher is excluded from income tax objects insofar as not exceeding IDR2 million for each employee within a period of one month. However, if the value of the expenses for providing food and/or beverages for each employee within a period of one month provided by the employer at the workplace exceeds IDR2 million, the value of the voucher excluded from income tax objects amounts to the value of the expenses for providing food and/or beverages at the workplace.

The excess difference between the actual value of the voucher and the value of the voucher excluded from income tax objects is subject to income tax. In other words, when a food and/or beverage voucher for off-site assignments exceeds IDR2 million per month or the maximum value received by each employee at the workplace, the excess difference becomes a taxable object and must be subject to WHT by the employer.

K.6 Certain Areas

Certain areas refer to those that are economically potential to be developed but have inadequate infrastructure and are difficult to reach by public transportation. The following are in-kind and/or fringe benefits provided at the workplace for employees and their families, including means, infrastructure and/or facilities.

(i) Residence, including housing;

(ii) Healthcare services;

(iii) Education;

(iv) Worship;

(v) Transportation; and/or

(vi) Sports, excluding golf, power boating, horse racing, gliding or motorsports,

insofar as the employer's business location obtains a certain area determination from the DGT.

An employer's business location will be designated as a certain area pursuant to MoF Reg. 66/2023, depending on the absence or inadequacy of at least six out of eleven types of economic infrastructure and public transportation. If the economic infrastructure and public transportation have been independently constructed by the employer, they are deemed unavailable infrastructure.

MoF Reg. 66/2023 stipulates in more detailed provisions related to the procedures for the income tax object exclusion for reimbursements or remunerations related to employment or services received or accrued in the form of in-kind and/or fringe benefits provided in certain regions.

K.7 Certain Types and Thresholds of Excluded In-Kind and/or Fringe Benefits

The following certain types and thresholds of in-kind and/or fringe benefits are excluded from income tax objects.

Table 4.5 Certain Types and Thresholds of In-Kind and/or Fringe Benefits

No.	Type	Requirement
1.	Gifts from the employer in the form of foodstuff, beverage ingredients, food and/or beverages for religious holidays, i.e., Eid al-Fitr, Nyepi, Vesak or Chinese New Year	Received or accrued by all employees
2.	Gifts from employers that are given other than for religious celebrations	(i) Received or accrued by employees; and (ii) Maximum IDR3 million/employee/tax year.
3.	Work equipment and facilities from employers for the implementation of work, including computers, laptops or cellular phones and their related costs such as mobile phone credit or internet connection	(i) Received or accrued by employees; and (ii) Supporting employees' work.
4.	Health and medical treatment facilities from the employer	(i) Received or accrued by employees; and

No.	Type	Requirement
		(ii) Provided for handling: a. work-related accidents; b. occupational diseases; c. life-saving emergencies; or d. follow-up care and treatment due to work-related accidents or occupational diseases.
5.	Sports facilities from the employer, other than those for golf, horse racing, power boating, gliding or motorsports	(i) Received or accrued by employees; and (ii) Maximum IDR1.5 million/employee/tax year.
6.	Communal residential facilities from employers, including dormitories, lodges or barracks	Received or accrued by employees
7.	Residential facilities from employers whose utilisation rights are held by individuals, such as apartments or landed houses	(i) Received or accrued by employees; and (ii) Maximum IDR2 million/employee/month.
8.	Vehicle facilities from the employer	Received or accrued by employees who: (i) do not have capital participation in the employer; and (ii) have an average gross income of a maximum of IDR100 million/month in the last twelve months from the employer.
9.	Employer-borne contributions to pension funds approved by the Financial Services Authority (*Otoritas Jasa Keuangan*/OJK in Indonesian)	Received or accrued by employees
10.	Religious facilities, including musalla, mosques, chapels or temples	Intended solely for religious activities
11.	All in-kind and/or fringe benefits received in 2022	Received or accrued by employees or service providers

Source: processed by the Author.

K.8 Assessment

The following are procedures for the assessment and calculation of income on reimbursements or remunerations in the form of in-kind and/or fringe benefits in connection with employment and/or services.

(i) For income received that constitutes in-kind in the form of goods originally intended for sale by the provider in the form of land and/or buildings or in the form of goods other than land and/or buildings, the valuation is performed based on the market value. Such market value is the cost of goods sold;

(ii) For income received in the form of fringe benefits, the fringe benefits amount to the expenses incurred or should be incurred by the provider of the fringe benefits. If provided with a useful life of more than one month, the fringe benefits related to employment are assessed monthly during the utilisation of the fringe benefits in question.

If fringe benefits are provided to more than one recipient (joint benefits), the basis for assessing the fringe benefits is equal to the total expenses incurred, allocated proportionally to each recipient of fringe benefits based on the recording of the utilisation of the fringe benefits.

K.9 Other Issues

Currently, endorsement services by influencers on social media are subject to income tax. This is because these services fall under reimbursements or remunerations due to transactions between taxpayers. An example of the assessment is listed in Appendix letter J of MoF Reg. 66/2023.

Educational facilities or scholarships received by employees from employers are also included in in-kind constituting income tax objects, except those for employees in certain areas. Other than in the certain areas, scholarships are considered additional income and subject to tax, such as training or pursuit of further study.

In contrast, company outing activities will not be subject to income tax. Outing or employee recreational activities are not considered in-kind and are part of a company's operating expenses.

CHAPTER 5
WITHHOLDING TAX

A. Overview

The Indonesian income tax system adheres to the self-assessment system coupled with the withholding tax (WHT) system. In the self-assessment system, taxpayers receiving income are required to calculate, set off, remit and file tax payable to the state through the Directorate General of Taxes (DGT) after the end of a tax year.

In the WHT system, certain types of income paid by third parties, such as salaries, interests and dividends are subject to WHT. Under this scheme, the third-party as income payers are required to calculate, withhold and remit tax payable to the state through the DGT periodically.

WHT is imposed on certain payments to tax residents and non-tax residents, depending on the nature of the WHT, which may be final or non-final income tax. In the case of non-final income tax, the WHT that has been paid may be used as a tax credit against tax payable of the income recipient.

B. Article 21 Income Tax

According to Art. 21 paragraph (1) of the Income Tax Law (ITL), Art. 21 Income Tax is a WHT on income in respect of employment, services or activities in whatever name and form, received or accrued by resident individual taxpayers.

The scope of Art. 21 Income Tax is not limited only to salaries received by employees of a company but also includes various types of income

received by resident individual taxpayers from various types of activities or businesses. The following are individuals whose income in connection with their employment, services or activities is subject to Art. 21 (and/or Art. 26 WHT[1]).

(i) Permanent employees;

(ii) Pensioners;

(iii) Members of the board of commissioners or supervisory board who receive non-routine remunerations;

(iv) Non-permanent employees;

(v) Non-employees receiving or accruing income in connection with the provision of services, including:

a. professionals who perform independent personal services, consisting of lawyers, accountants, architects, doctors, consultants, notaries, conveyancers, appraisers and actuaries;

b. musicians, presenters, singers, comedians, film stars, soap opera stars, commercial stars, directors, film crews, photo models, models, actors/actresses, dancers, sculptors, painters, content creators in online media (influencers, celebgrams, bloggers, vloggers and the like) and other artists;

c. sportsmen;

d. advisors, teachers, trainers, public speakers, extension employmenters and moderators;

e. authors, researchers and translators;

f. service providers in all fields, including engineering, computers and application systems, telecommunications, electronics, photography, economics and social affairs as well as service providers to a committee;

g. advertising agencies;

h. project supervisors or managers;

i. couriers or brokers or intermediaries;

[1] Further explanation concerning Art. 26 Income Tax can be seen in Subchapter F. Article 26 Income Tax of this chapter.

j. salespeople;
k. insurance agents; and
l. distributors of multilevel marketing or direct selling companies and other similar activities;

(vi) Activity participants receiving or accruing income in connection with their participation in an activity, among others:

a. participants in competition in all fields, including sports, religious, arts, agility, science, technology and other competitions;
b. participants in meetings, conferences, sessions, gatherings, employment visits, seminars, workshops or shows or other certain activities;
c. participants in members in a committee as organisers of certain activities; or
d. students, trainees and interns;

(vii) Participants in pension programs of employee status; and
(viii) Former employees.

The employer is required to calculate income tax payable at the following tax rates stipulated under Art. 17 paragraph (1) subparagraph (a) of the ITL. However, to provide ease and simplicity in the exercise of tax obligations with respect to the Art. 21 WHT, the government has issued Gov. Reg. No. 58/2023. This regulation stipulates the rates of Art. 21 WHT in connection with income received by an individual from their employment, services or activities in the taxable periods **other than the last taxable period (December).**

This regulation also affirms that the provisions contained in Gov. Reg. No. 58/2023 generally apply, including to state officials, civil servants (*Pegawai Negeri Sipil*/PNS in Indonesian), members of the Indonesian National Armed Forces (*Tentara Nasional Indonesia*/TNI in Indonesian), members of the Indonesian National Police (*Kepolisian Negara Republik Indonesia*/POLRI in Indonesian) and the pensioners.

Therefore, the rates of Art. 21 WHT are aimed at individual taxpayers who receive income in connection with employment, services or

activities, including state officials, civil servants, members of the Indonesian National Armed Forces, members of the Indonesian National Police and the pensioners. The rates of Art. 21 WHT are currently determined based on the calculation of the following.

(i) The rates pursuant to Art. 17 paragraph (1) subparagraph (a) of the ITL; and

(ii) The effective tax rates of Art. 21 WHT which consist of:
   a. monthly effective tax rates; or
   b. daily effective tax rates.

In this case, the monthly effective tax rates are divided based on certain categories. The monthly effective tax rates categories are determined based on the amount of personal tax relief (*Penghasilan Tidak Kena Pajak*/PTKP in Indonesian) according to the marital status and the number of taxpayers' dependants at the beginning of the tax year.

Thus, Art. 21 WHT is to be calculated only by multiplying the effective tax rates by gross income without taking into account deductible expenses and personal tax relief. To simplify the calculation, the monthly average effective tax rates are summarised in the following tables.

(i) Category A

Category A is applied to gross monthly income received or accrued by income recipients with the following personal tax relief status.

a. Not married without dependants;
b. Not married with a maximum of one dependant; or
c. Married without dependants.

Table 5.1 Category A Monthly Average Effective Tax Rates

No.	Gross Income Brackets (IDR)			Average Effective Tax Rates A
1.	up to		5,400,000	0.00%
2.	5,400,001	up to	5,650,000	0.25%

No.	Gross Income Brackets (IDR)			Average Effective Tax Rates A
3.	5,650,001	up to	5,950,000	0.50%
4.	5,950,001	up to	6,300,000	0.75%
5.	6,300,001	up to	6,750,000	1.00%
6.	6,750,001	up to	7,500,000	1.25%
7.	7,500,001	up to	8,550,000	1.50%
8.	8,550,001	up to	9,650,000	1.75%
9.	9,650,001	up to	10,050,000	2.00%
10.	10,050,001	up to	10,350,000	2.25%
11.	10,350,001	up to	10,700,000	2.50%
12.	10,700,001	up to	11,050,000	3.00%
13.	11,050,001	up to	11,600,000	3.50%
14.	11,600,001	up to	12,500,000	4.00%
15.	12,500,001	up to	13,750,000	5.00%
16.	13,750,001	up to	15,100,000	6.00%
17.	15,100,001	up to	16,950,000	7.00%
18.	16,950,001	up to	19,750,000	8.00%
19.	19,750,001	up to	24,150,000	9.00%
20.	24,150,001	up to	26,450,000	10.00%
21.	26,450,001	up to	28,000,000	11.00%
22.	28,000,001	up to	30,050,000	12.00%
23.	30,050,001	up to	32,400,000	13.00%
24.	32,400,001	up to	35,400,000	14.00%
25.	35,400,001	up to	39,100,000	15.00%
26.	39,100,001	up to	43,850,000	16.00%
27.	43,850,001	up to	47,800,000	17.00%
28.	47,800,001	up to	51,400,000	18.00%
29.	51,400,001	up to	56,300,000	19.00%
30.	56,300,001	up to	62,200,000	20.00%
31.	62,200,001	up to	68,600,000	21.00%
32.	68,600,001	up to	77,500,000	22.00%
33.	77,500,001	up to	89,000,000	23.00%
34.	89,000,001	up to	103,000,000	24.00%
35.	103,000,001	up to	125,000,000	25.00%
36.	125,000,001	up to	157,000,000	26.00%
37.	157,000,001	up to	206,000,000	27.00%
38.	206,000,001	up to	337,000,000	28.00%
39.	337,000,001	up to	454,000,000	29.00%
40.	454,000,001	up to	550,000,000	30.00%
41.	550,000,001	up to	695,000,000	31.00%
42.	695,000,001	up to	910,000,000	32.00%
43.	910,000,001	up to	1,400,000,000	33.00%

No.	Gross Income Brackets (IDR)			Average Effective Tax Rates A
44.	more than		1,400,000,000	34.00%

Source: Gov. Reg. No. 58/2023.

(ii) Category B

Category B is applied to gross monthly income received or accrued by income recipients with the following personal tax relief status.

a. Not married with a maximum of two dependants;
b. Not married with a maximum of three dependants;
c. Married with a maximum of one dependant; or
d. Married with a maximum of two dependants.

Table 5.2 Category B Monthly Average Effective Tax Rates

No.	Gross Income Brackets (IDR)			Average Effective Tax Rates B
1.	up to		6,200,000	0.00%
2.	6,200,001	up to	6,500,000	0.25%
3.	6,500,001	up to	6,850,000	0.50%
4.	6,850,001	up to	7,300,000	0.75%
5.	7,300,001	up to	9,200,000	1.00%
6.	9,200,001	up to	10,750,000	1.50%
7.	10,750,001	up to	11,250,000	2.00%
8.	11,250,001	up to	11,600,000	2.50%
9.	11,600,001	up to	12,600,000	3.00%
10.	12,600,001	up to	13,600,000	4.00%
11.	13,600,001	up to	14,950,000	5.00%
12.	14,950,001	up to	16,400,000	6.00%
13.	16,400,001	up to	18,450,000	7.00%
14.	18,450,001	up to	21,850,000	8.00%
15.	21,850,001	up to	26,000,000	9.00%
16.	26,000,001	up to	27,700,000	10.00%
17.	27,700,001	up to	29,350,000	11.00%
18.	29,350,001	up to	31,450,000	12.00%
19.	31,450,001	up to	33,950,000	13.00%
20.	33,950,001	up to	37,100,000	14.00%
21.	37,100,001	up to	41,100,000	15.00%

No.	Gross Income Brackets (IDR)			Average Effective Tax Rates B
22.	41,100,001	up to	45,800,000	16.00%
23.	45,800,001	up to	49,500,000	17.00%
24.	49,500,001	up to	53,800,000	18.00%
25.	53,800,001	up to	58,500,000	19.00%
26.	58,500,001	up to	64,000,000	20.00%
27.	64,000,001	up to	71,000,000	21.00%
28.	71,000,001	up to	80,000,000	22.00%
29.	80,000,001	up to	93,000,000	23.00%
30.	93,000,001	up to	109,000,000	24.00%
31.	109,000,001	up to	129,000,000	25.00%
32.	129,000,001	up to	163,000,000	26.00%
33.	163,000,001	up to	211,000,000	27.00%
34.	211,000,001	up to	374,000,000	28.00%
35.	374,000,001	up to	459,000,000	29.00%
36.	459,000,001	up to	555,000,000	30.00%
37.	555,000,001	up to	704,000,000	31.00%
38.	704,000,001	up to	957,000,000	32.00%
39.	957,000,001	up to	1,405,000,000	33.00%
40.	more than		1,405,000,000	34.00%

Source: Gov. Reg. No. 58/2023.

(iii) Category C

Category C is applied to gross monthly income received or accrued by income recipients with personal tax relief status of married with a maximum of three dependants.

Table 5.3 Category C Monthly Average Effective Tax Rates

No.	Gross Income Brackets (IDR)			Average Effective Tax Rates C
1.	up to		6,600,000	0.00%
2.	6,600,001	up to	6,950,000	0.25%
3.	6,950,001	up to	7,350,000	0.50%
4.	7,350,001	up to	7,800,000	0.75%
5.	7,800,001	up to	8,850,000	1.00%
6.	8,850,001	up to	9,800,000	1.25%
7.	9,800,001	up to	10,950,000	1.50%
8.	10,950,001	up to	11,200,000	1.75%
9.	11,200,001	up to	12,050,000	2.00%

No.	Gross Income Brackets (IDR)			Average Effective Tax Rates C
10.	12,050,001	up to	12,950,000	3.00%
11.	12,950,001	up to	14,150,000	4.00%
12.	14,150,001	up to	15,550,000	5.00%
13.	15,550,001	up to	17,050,000	6.00%
14.	17,050,001	up to	19,500,000	7.00%
15.	19,500,001	up to	22,700,000	8.00%
16.	22,700,001	up to	26,600,000	9.00%
17.	26,600,001	up to	28,100,000	10.00%
18.	28,100,001	up to	30,100,000	11.00%
19.	30,100,001	up to	32,600,000	12.00%
20.	32,600,001	up to	35,400,000	13.00%
21.	35,400,001	up to	38,900,000	14.00%
22.	38,900,001	up to	43,000,000	15,00%
23.	43,000,001	up to	47,400,000	16.00%
24.	47,400,001	up to	51,200,000	17.00%
25.	51,200,001	up to	55,800,000	18.00%
26.	55,800,001	up to	60,400,000	19.00%
27.	60,400,001	up to	66,700,000	20.00%
28.	66,700,001	up to	74,500,000	21.00%
29.	74,500,001	up to	83,200,000	22.00%
30.	83,200,001	up to	95,600,000	23.00%
31.	95,600,001	up to	110,000,000	24.00%
32.	110,000,001	up to	134,000,000	25.00%
33.	134,000,001	up to	169,000,000	26.00%
34.	169,000,001	up to	221,000,000	27.00%
35.	221,000,001	up to	390,000,000	28.00%
36.	390,000,001	up to	463,000,000	29.00%
37.	463,000,001	up to	561,000,000	30.00%
38.	561,000,001	up to	709,000,000	31.00%
39.	709,000,001	up to	965,000,000	32.00%
40.	965,000,001	up to	1,419,000,000	33.00%
41.	more than		1,419,000,000	34.00%

Source: Gov. Reg. No. 58/2023.

Average effective tax rates also apply based on daily calculation. The daily effective tax rates are applied to Art. 21 WHT on the income of non-permanent employees received daily, weekly, in piece rate or lump sump payment. The amount of effective daily rates as well as daily gross income are determined for each rate. If income is not received daily, the

tax base (*Dasar Pengenaan Pajak*/DPP in Indonesian) used is the average amount of income in a day. The following are the details.

Table 5.4 Daily Average Effective Tax Rates

Daily Gross Income (IDR)			Tax Rate
up to		450,000	0%
450,001	up to	2,500,000	0.50%

Source: Gov. Reg. No. 58/2023.

In the context of improving Art. 21 WHT (and/or Art. 26 WHT) as well as the technical administration, the government has released MoF Reg. 168/2023 and the Director General of Taxes Reg. No. PER-2/PJ/2024. MoF Reg. 168/2023 elucidates in detail the implementing instructions for Art. 21 and/or Art. 26 WHT, including the calculation of Art. 21 and/or Art. 26 Income Tax based on the criteria of income recipients.

Further, in the **last taxable period (December),** the employer is required to calculate income tax payable using the tax rates pursuant to Art. 17 paragraph (1) subparagraph (a) of the ITL as follows.

Table 5.5 Individual Income Tax Rates

Taxable Income	Rate
Up to IDR60,000,000	5%
Above IDR60,000,000 up to IDR250,000,000	15%
Above IDR250,000,000 up to IDR500,000,000	25%
Above IDR500,000,000 up to IDR5,000,000,000	30%
Above IDR5,000,000,000	35%

Source: Art. 17 paragraph (1) subparagraph (a) of the ITL.

Further, in the last taxable period (December), resident individual taxpayers are also entitled to set off the personal tax relief for the calculation of Art. 21 Income Tax.

Table 5.6 Annual Personal Tax Relief

Personal Tax Relief	IDR
Taxpayer	54,000,000
Spouse	4,500,000

Personal Tax Relief	IDR
Each dependant (max. 3)	4,500,000

Source: processed by the Author.

In addition, deductible expenses for resident individual taxpayers constituting permanent employees are as follows.

Table 5.7 Deductible Expenses for Permanent Employees

Deductible Expense Component	IDR
Occupational tax relief (5% of gross income, maximum IDR500,000/month)	6,000,000
BPJS Ketenagakerjaan or old age benefits (*Jaminan Hari Tua*/JHT in Indonesian) paid by employees (2% of gross income)	Full amount
Pension expenses (5% of gross income, maximum IDR200,000/month)	2,400,000
Zakat or compulsory religious donations for adherents of recognised religions in Indonesia, which are paid through the employer to amil zakat bodies, amil zakat agencies and religious institutions incorporated or authorised by the government.	Full amount

Source: processed by the Author.

The following is the treatment of other allowances or insurance.

Table 5.8 Treatment of Insurance or Other Allowances

Type of Allowance or Insurance	For the Employer	For Employees
Insurance premiums for employment injury security (*Jaminan Kecelakaan Kerja*/JKK in Indonesian), death security (*Jaminan Kematian*/JK in Indonesian) and health care social security (*Jaminan Pemeliharaan Kesehatan*/JPK in Indonesian), paid by the employer	Deductible expenses	Taxable (increases gross income)
Accident, life, health, endowment and scholarship insurance premiums, paid by the employer	Deductible expenses	Taxable (increases gross income)
Accident, death and health insurance premiums, paid by the employee	Non-deductible expenses	Non-deductible expenses
Work-related accident, life, health care, endowment and scholarship	Non-deductible expenses	Non-deductible expenses

Type of Allowance or Insurance	For the Employer	For Employees
insurance premiums, paid by the employee		
BPJS Ketenagakerjaan or old-age allowances (*Tunjangan Hari Tua*/THT in Indonesian), paid by the employer	Deductible expenses	Non-taxable
In-kind and/or fringe benefits	Deductible expenses	Non-taxable or Taxable (increases gross income)

Source: processed by the Author.

The parties obliged to withhold Art. 21 Income Tax are employers, government agencies, pension funds, the Social Security Administrative Body for Worker Social Security (*BPJS Ketenagakerjaan* in Indonesian), individuals or entities that pay honoraria or other payments, companies and event organisers. The employer as the withholding agent is required to remit and file periodic Art. 21 Income Tax returns no later than twenty days after the taxable period ends.

The employer as the withholding agent is also required to provide the employees (or income recipient) with the Art. 21 withholding receipt, which may subsequently be used by the employees (or income recipient) to file their annual individual income tax returns. This is because Art. 21 WHT may be credited by the individuals from their annual income tax payable.

C. Article 22 Income Tax

Art. 22 Income Tax is payable on the following events.

(i) Imports of certain goods listed in Appendix I and II of MoF Reg. 34/PMK.010/2017 as last amended by MoF Reg. 41/PMK.010/2022, goods in the form of soybeans, wheat and wheat flour listed in Appendix III of MoF Reg. 34/PMK.010/2017 as last amended by MoF Reg. 41/PMK.010/2022, other goods with or without an importer identification number (*Angka Pengenal Impor*/API in Indonesian);

(ii) Exports of coal mining commodities, metallic minerals and non-metallic minerals according to the description of goods and Harmonized System (HS) codes listed in Appendix IV of MoF Reg. 34/PMK.010/2017 as last amended by MoF Reg. 41/PMK.010/2022 by exporters, except those performed by taxpayers that are bound by mining concession cooperation agreements and Contracts of Work (CoW or *Kontrak Karya*/KK in Indonesian);

(iii) Purchases of goods by the government, performed using the petty cash (*Uang Persediaan*/UP in Indonesian) or the direct payment (*Pembayaran Langsung*/LS in Indonesian) mechanism as well as purchases of goods and/or materials for business purposes by State-Owned Enterprises (*Badan Usaha Milik Negara*/BUMN in Indonesian), business entities and State-Owned Enterprises resulting from the restructuring performed by the government, and certain business entities that are directly held by State-Owned Enterprises;

(iv) Sales of oil fuel, gas fuel and lubricants by manufacturers or importers of oil fuel, gas fuel and lubricants;

(v) Sales of products to domestic distributors by business entities engaged in the cement industry, paper industry, steel industry, automotive industry and pharmaceutical industry business sectors;

(vi) Domestic sales of motor vehicles by Sole Licensee Agents (*Agen Tunggal Pemegang Merek*/ATPM in Indonesian), Licensee Agents (*Agen Pemegang Merek*/APM in Indonesian) and general importers of motor vehicles, excluding heavy equipment;

(vii) Purchases of materials in the form of forestry, plantation, agricultural, livestock and fishery products that have not undergone the manufacturing industry process by industrial business entities or exporters;

(viii) Purchases of coal, metallic minerals and non-metallic minerals, from entities or individuals holding mining business permits by industries or business entities;

(ix) Sales of gold bullion by business entities performing the sales.

Art. 22 Income Tax bases include the import value, export value and buying price on the purchase of goods by certain agencies or the selling price for the sales of goods by certain business sectors. Art. 22 Income Tax rates can be seen in the following table.

Table 5.9 Article 22 Income Tax Rates

Taxable Objects		Tax Rate (%)	Tax Base
Imports of:			
a.	certain goods	10	Import value (i.e., Cost, Insurance and Freight/CIF value plus duty payable)
b.	certain goods other than (a)	7.5	
c.	soybeans, wheat and flour wheat	0.5	
d.	goods other than (a), (b) and (c)	2.5	
e.	goods other than (c) and (d) without an importer identification number	7.5	
f.	auctioned goods	7.5	Auction prices
Purchases of goods by the government requiring payment from the government treasurer, proxy of budget user (*Kuasa Pengguna Anggaran*/KPA in Indonesian) and certain State-Owned Enterprises (with certain exceptions)		1.5	Purchase prices (excluding VAT)
Purchases of products by local distributors of:			
a.	cement	0.25	
b.	paper	0.1	
c.	steel products	0.3	Selling prices
d.	automotive products	0.45	
e.	pharmaceutical products	0.3	VAT base
Sales of certain vehicles by sole licensee agents, licensee agents and motor vehicle general importers, excluding heavy equipment		0.45	VAT base
Purchases of products by local distributors of:			
a.	oil fuel (*Bahan Bakar Minyak*/BBM in Indonesian) by public petrol stations from Pertamina and its subsidiaries	0.25	Selling prices (excluding VAT)
b.	oil fuel by public petrol stations other than Pertamina and its subsidiaries	0.3	

Taxable Objects		Tax Rate (%)	Tax Base
c.	oil fuel by parties other than public petrol stations	0.3	
d.	gas fuel (*Bahan Bakar Gas*/BBG in Indonesian)	0.3	
e.	lubricants	0.3	
Purchases of forestry, plantation, agriculture, cattle breeding and fishery products by manufacturers or exporters		0.25	Selling prices
Purchases of coal, metallic and non-metallic minerals from companies or individuals holding a mining business permit (*Izin Usaha Pertambangan*/IUP in Indonesian) by an industry or a corporate		1.5	Selling prices
Exports of coal, metallic and non-metallic minerals by exporters other than those engaged in a mining concession agreement or a Contract of Work with the government		1.5	Export value
Sales of gold bullion* Sales of gold jewellery* * *Provisions on the exclusion apply to sales to end consumers and some other criteria.*		0.25 0.25	Selling prices Selling prices
Sales of prepaid phone credit and starter packs for SIM cards by second-layer distribution agents constituting Art. 22 withholding agents		0.5	The amount in the tax invoice or selling prices
Purchases of luxury goods		5	Selling prices (excluding VAT and STLG)

Source: processed by the Author.

Taxpayers without a TIN will be subject to a surcharge penalty of 100% higher than the statutory rates as referred to in Table 5.9.

The exemption from Art. 22 WHT is automatically granted with an exemption certificate (*Surat Keterangan Bebas*/SKB in Indonesian) issued by the DGT for the following.

(i) Imports/purchases of goods that are not subject to income tax;

(ii) Imports of goods exempt or subject to import duty and subject to VAT but not collected;

(iii) Goods subject to a temporary admission;

(iv) Re-importation of certain goods;

(v) Imports of gold bullion for the production of jewellery for export purposes;

(vi) Sales of vehicles by the automotive industry, sales of certain vehicles by sole licensee agents, licensee agents and motor vehicle general importers;

(vii) Purchases of gold bullion by Bank Indonesia;

(viii) Goods related to the use of the school operational assistance (*Bantuan Operasional Sekolah*/BOS in Indonesian) fund;

(ix) Sales of grain or rice to the government treasurer, the proxy of budget user and Indonesian Bureau of Logistics (*Badan Urusan Logistik*/BULOG in Indonesian); and

(x) Sales of staple food to proxy of budget users and the Indonesian Bureau of Logistics or appointed State-Owned Enterprises.

D. Article 23 Income Tax

Art. 23 Income Tax is income tax that is withheld by government agencies, corporate taxpayers, event organisers, Permanent Establishments (PEs) or representative offices on income paid or payable or due for payments to other taxpayers or PEs on the gross amount derived from the following income.

Table 5.10 Article 23 Income Tax Rates

	Taxable Objects	Tax Rate (%)
1.	Dividends paid to corporations	exempt
2.	Interest* * *including income on loan interest paid through the lending service provider*	15
3.	Royalties	15
4.	Prizes, awards, bonuses and the like other than those that have been subject to Art. 21 WHT	15

Taxable Objects		Tax Rate (%)
5.	Rents or other income in connection with the use of assets, except rents and other income in connection with the use of assets that have been subject to Art. 4 para. (2) Income Tax and financial leases	2
6.	Fees in connection with technical services, management services, construction services, consulting services and other services other than those that have been subject to Art. 21 WHT (also stipulated under MoF Reg. 141/PMK.03/2015). Expenses related to gold jewellery and bullion are also included in this provision.	

Source: processed by the Author.

Taxpayers without a TIN will be subject to a surcharge penalty of 100% higher than the statutory rates as referred to in Table 5.10. Art. 23 WHT shall not be applied to the following.

(i) Income paid or payable to a bank;

(ii) Leases paid or payable in connection with financial leases;

(iii) Dividends referred to in Art. 4 paragraph (3) subparagraph (f) of the ITL and dividends received by the individuals referred to in Art. 17 paragraph (2c) of the ITL;

(iv) Surplus referred to in Art. 4 paragraph (3) subparagraph (i) of the ITL;

(v) Net surplus of a cooperative paid by the cooperative to its members; and

(vi) Income paid or payable to a financial service entity that distributes loans and/or financing stipulated by a minister of finance regulation.

In addition, related to Art. 23 Income Tax, the DGT has issued the Director General of Taxes Circular Letter No. SE-24/PJ/2018 concerning the tax treatment (including Art. 23 WHT) of remunerations received by buyers under certain conditions within sale and purchase transactions. SE-24/PJ/2018 defines sellers as parties that sell their products to buyers, including manufacturers, distributors and agents, whereas

buyers are defined as parties that buy products from sellers for resale purposes, including distributors, agents and retailers.

Certain conditions that occur in a sale and purchase transaction are circumstances or events that may result in the provision of remunerations from the seller to the buyer in connection with the sale and purchase transaction based on a written and/or unwritten agreement. The following are certain conditions covered under this regulation.

(i) Achievement of certain conditions;

(ii) Provision of space dan/or certain equipment; and

(iii) Compensation received in connection with sale and purchase transactions.

E. Article 4 Paragraph (2) Income Tax (Final Income Tax)

Art. 4 paragraph (2) of the ITL is a final income tax. The final income tax withheld by the income payer cannot be used as a tax credit against income tax payable for the income recipient. The final income tax is imposed on several incomes as follows.

(i) Interest on deposits and other savings accounts, interest on bonds and government securities, interest or discounts on short-term securities traded on the money market and interests on deposits paid by a cooperative to its individual members;

(ii) Lottery prizes;

(iii) Income from stock and other securities transactions, derivative transactions traded on the Indonesia Stock Exchange (IDX or *Bursa Efek Indonesia*/BEI in Indonesian) and sales of shares transactions or transfers of capital participation in the investee company received by a venture capital company;

(iv) Income from transactions of transfers of property in the form of land and/or buildings, construction service businesses, real estate businesses and land and/or building rental; and

(v) Other certain income, including business income received or accrued by taxpayers with certain gross turnover.

Corporate taxpayers, PEs or representative offices are required to withhold final income tax on gross amounts of payments to resident taxpayers and PEs as follows.

Table 5.11 Final Income Tax Rates

Payment Events	Final Income Tax Rate (%)	Notes
Rents of land and/or buildings	10	Gov. Reg. No. 34/2017 and MoF Decree No. 120/KMK.03/2002 including all service charges and income from Build-Operate-Transfer (BOT) schemes
Transfers of the right to land and/or building	2.5 / 1 / 0	Gov. Reg. No. 34/2016 and MoF Reg. 261/PMK.03/2016 If two or more taxpayers whose main business is transferring right to land and/or building cooperate to incorporate a Joint Operation (JO) to transfer the right to land and/or building, the final income tax on the transfer of right to land and/or building shall be paid by each JO member according to the share of income received by each JO member.
Lottery prizes	25	Gov. Reg. No. 132/2000 and Director General of Taxes Reg. No. PER-11/PJ/2015
Interest or discount on Bank Indonesia Certificates (*Sertifikat Bank Indonesia*/SBI in	20	Gov. Reg. No. 131/2000 as amended by Gov. Reg. No. 123/2015, Gov. Reg. No.

Payment Events	Final Income Tax Rate (%)	Notes
Indonesian), time deposits and savings accounts as well as government securities		22/2024 and MoF Reg. 212/PMK.03/2018
Interest or discount on bonds	10	Gov. Reg. No. 91/2021 and MoF Reg. 85/PMK.03/2011 as amended by MoF Reg. 7/PMK.011/2012
Interest on deposits paid by cooperatives to individual cooperative members	0 / 10	Gov. Reg. No. 15/2009 and MoF Reg. 112/PMK.03/2010
Sales of shares listed on the IDX:		Gov. Reg. No. 41/1994 as amended by Gov. Reg. No. 14/1997 and MoF Decree No. 282/KMK.04/1997
		Tax base:
• non-founder's stock	0.1	Gross amount of the sale transaction
• founder's stock	0.1 + 0.5*	Gross amount of the sale transaction + **0.5% of the share price at Initial Public Offering (IPO)*
Construction Services:		Gov. Reg. No. 51/2008 as last amended by Gov. Reg. No. 9/2022 and MoF Reg. 187/PMK.03/2008 as amended by MoF Reg. 153/PMK.03/2009
• construction consulting	3.5 / 6	• 3.5% for contractors with qualifications issued by the National Construction Services Development Board (*Lembaga Pengembangan Jasa Konstruksi*/LPJK in Indonesian)
		• 6% for contractors without qualifications
• construction work	1.75 / 2.65 / 4	• 1.75% (small-scale contractors) and 2.65% (medium-scale, large-scale and specialist

Payment Events	Final Income Tax Rate (%)	Notes
		contractors) with qualifications • 4% for contractors without qualifications
• integrated construction	2.65 / 4	• 2.65% for contractors with qualifications • 4% for contractors without qualifications
Dividends paid to individuals	10 or exempt	Gov. Reg. No. 9/2021, MoF Reg. 111/PMK.03/2010 and MoF Reg. 18/PMK.03/2021 To obtain the exemption, the dividends need to be reinvested in Indonesia for three consecutive years and the reinvestment must be reported annually.
Dividends paid in connection with the cooperation with the Indonesia Investment Authority (INA or *Lembaga Pengelola Investasi*/LPI in Indonesian) and/or entities held by INA	7.5	Gov. Reg. No. 49/2021
Venture capital company's income from the transfer of shares in its investee company	0.1	Gov. Reg. No. 4/1995
Indonesia's presumptive tax for individual or corporate taxpayers (except for PEs) whose total gross turnover does not exceed IDR4.8 billion/tax year	0.5	According to Art. 7 paragraph (2a) of the ITL, individuals with a gross turnover of up to IDR500 million are not subject to Art. 4 paragraph (2) of the ITL (final) income tax. Further details of the provisions are stipulated under Gov. Reg. No. 55/2022 and MoF Reg. 164/2023 concerning the final income tax on

Payment Events	Final Income Tax Rate (%)	Notes
		taxpayers with a certain turnover.

Source: processed by the Author.

E.1 Final Income Tax on Taxpayers with a Certain Gross Turnover

Business income received by individual or corporate taxpayers, including sole proprietorships, will be subject to income tax. However, resident taxpayers with a certain gross turnover are subject to final income tax at a rate of 0.5% within a certain period. The following is the procedure for calculating final income tax with gross turnover exceeding IDR500 million.

Final Income Tax = 0.5% x Gross Income

MoF Reg. 164/2023 elucidates that certain gross turnover amounts to the gross business income not exceeding IDR4.8 billion in one tax year. Gross turnover includes remunerations or fees in the form of cash or monetary value received or accrued from business, before deducted by sales discounts, cash discounts and/or similar discounts.

Corporate taxpayers wishing to withhold or collect final income tax at a rate of 0.5% are required to hold a certificate issued by the DGT. This certificate must be submitted to withholding or collecting agents.

Similar to corporate taxpayers, individual taxpayers wishing to withhold or collect final income tax at a rate of 0.5% are required to submit a copy of the certificate issued by the DGT. This certificate is provided when conducting transactions of sales of goods or provision of services with withholding or collecting agents.

In addition to stipulating the final income tax rate, MoF Reg. 164/2023 also stipulates that individual taxpayers with gross turnover of up to IDR500 million in one tax year are not subject to income tax. The fraction of gross turnover not subject to income tax includes the

cumulative gross turnover from business income since the first taxable period in a tax year, covering all places of business.

Further, if individual taxpayers are a husband and a wife who:

(i) desire a written prenuptial agreement on asset and income separation agreement; or

(ii) the wife chooses to exercise tax rights and obligations on her own,

the above-mentioned gross turnover of up to IDR500 million shall apply to each of the husband and wife.

Under these provisions, individual taxpayers (often referred to as individual Micro, Small and Medium Enterprises/MSMEs) are required to submit a statement letter to avoid tax imposition. The statement letter contains a declaration that the gross turnover of the taxpayer's business income when taxes are withheld or collected does not exceed IDR500 million.

If it is found that a taxpayer's gross turnover has exceeded IDR500 million in one tax year, the individual taxpayer concerned must self-remit the final income tax which should otherwise be withheld or collected. The payment corresponds to the month of the sales transaction or supply of goods with the withholding or collecting agent.

It is also important to note that the tax exemption facility for gross turnover up to IDR500 million applies only to individual MSME taxpayers. The facility does not apply to MSME corporate taxpayers.

Further, it needs to be understood that a certificate and a statement letter are different. A statement letter may be prepared by individual taxpayers themselves, whereas a certificate requires an application to the DGT. The format for the statement letter for individual taxpayer can be found in the appendix of MoF Reg. 164/2023.

Regardless of the aforementioned facilities, individual and corporate taxpayers with a specific gross turnover remain required to file the annual tax return. In the annual tax return, the taxpayers must also

provide a report on the gross turnover of their business and final income tax payable as an attachment.

E.1.1 Exclusion from Final Income Tax

On a side note, some income is excluded from the imposition of final income tax at a rate of 0.5%. The income is non-business income which includes the following.

(i) Income received or accrued by individual taxpayers from services in connection with independent personal services;

(ii) Income received or accrued overseas on which taxes are payable or have been paid overseas;

(iii) Income that has been subject to final income tax with separate statutory tax provisions;

(iv) Income excluded from taxable objects.

The following are services in connection with independent personal services as above-mentioned.

(i) Professionals conducting independent personal services, consisting of lawyers, accountants, architects, doctors, consultants, notaries, conveyancers, appraisers and actuaries;

(ii) Musicians, presenters, singers, comedians, film stars, soap opera stars, commercial stars, directors, film crew, photo models, models, actors or actresses and dancers;

(iii) Sportsmen;

(iv) Advisors, teachers, trainers, public speakers, extension workers and moderators;

(v) Authors, researchers and translators;

(vi) Advertising agents;

(vii) Project supervisors or managers;

(viii) Intermediaries;

(ix) Salespeople;

(x) Insurance agents; and

(xi) Distributors of multilevel marketing or direct selling companies and other similar activities.

Further, the following are taxpayers not allowed to use the final income tax at a rate of 0.5%.

(i) Taxpayers choosing to be subject to income tax pursuant to general provisions on income tax;

(ii) Corporate taxpayers in the form of limited partnerships or firms;

(iii) Corporate taxpayers entitled to income tax facilities pursuant to Art. 31A of the ITL, Gov. Reg. No. 94/2010 as well as Art. 75 and Art. 78 of Gov. Reg. No. 40/2021; and

(iv) PE taxpayers.

If a taxpayer chooses to be subject to income tax pursuant to general provisions on income tax, the taxpayer must submit written notification. This notification may be submitted to the DGT through the Tax Office (*Kantor Pelayanan Pajak*/KPP in Indonesian) where the taxpayer is registered. The taxpayer may submit the notification to the DGT no later than the end of the tax year and the taxpayer concerned is subject to income tax starting the following tax year.

In contrast, newly registered taxpayers may be subject to income tax based on statutory provisions in the field of income tax starting the tax year of registration by submitting the notification at the time of registration. Taxpayers that have used tax calculations pursuant to general provisions on income tax cannot use the final income tax calculation in the following year.

E.1.2 Final Income Tax Administration

Final income tax at a rate of 0.5% may be settled by self-remittance by the taxpayers or through withholding or collecting agents. The withholding or collecting agents that have withheld final income tax are required to issue a withholding receipt.

If income is sourced from transactions that are excluded from the imposition of final income tax or individual taxpayers are not subject to the final income tax because they have provided a certificate, the withholding or collecting agent issues a withholding receipt with an income tax value of nil.

Further, taxpayers are required to remit taxes and file unified periodic income tax returns. Unified periodic income tax returns also include withholding receipts with an income tax value of nil. The deadline for tax remittance and filing of unified periodic income tax returns can be found in Chapter 2 Subchapter E. Tax Payment and Tax Returns.

If there is no obligation to remit the final income tax in a particular month, taxpayers are excluded from the obligation to file the unified periodic income tax returns. The absence of this obligation is because (i) the taxpayers do not derive business income, (ii) the taxpayers conduct transactions with parties appointed as withholding or collecting agents or (iii) the cumulative gross turnover of individual taxpayers from the first taxable period of the tax year concerned has not exceeded IDR500 million.

Subsequently, entrepreneurs with a gross turnover exceeding IDR4.8 billion are obligated to report their business for Value Added Tax (VAT) registration. Refer to Chapter 2 General Provisions and Tax Procedures for further details on VAT registration.

F. Article 26 Income Tax

Art. 26 Income Tax is income tax that is withheld by government bodies, corporate taxpayers, event organisers, PEs or representative offices on income paid to, payable to or due for payment by non-resident taxpayers. Art. 26 WHT is applied to gross amounts of the following income types.

Table 5.12 Article 26 Income Tax Rates

Type of Payments	Effective Tax Rate (%)	Tax Base (%)
Dividends*, royalties, rents and other payments related to the utilisation of assets * *Foreign-sourced dividends may be excluded from income tax objects if invested in the territory of the Unitary State of the Republic of Indonesia (Negara Kesatuan Republik Indonesia/NKRI in Indonesian).*	20	Gross amount
Income in connection with services, employment or activities		
Pension and other periodic payments		
Prizes and awards		
Premium swaps and other hedging transactions		
Gains from debt write-off		
Branch Profit Tax (BPT)		Net income after tax
Interest	10 (for bond interest income) or 20 (other types of interest income*) **including income on loan interest paid through the lending service provider*	Gross amount
Sales of shares of a non-listed company on the IDX	5* **based on the product of 20% x 25% estimated net income*	Selling Price
Sales of a conduit company located in a tax haven country. The company is functioned as an intermediary of shares or the PE of the Indonesian company in the tax haven country.		
Sales of luxurious assets with a sale value exceeding IDR10 million, other than those subject to Art. 4 paragraph (2) Income Tax		
Insurance premiums paid to an overseas insurance company:		

Type of Payments		Effective Tax Rate (%)	Tax Base (%)
•	by the insured	10% of the premium amount	50% of the premium amount paid
•	by an Indonesian insurance company	2% of the premium amount	10% of the premium amount paid
•	by an Indonesian reinsurance company	1% of the premium amount	5% of the premium amount paid

Source: processed by the Author.

Art. 26 WHT rates may be lowered or exempted if the recipient of a country applies for tax treaty (*Persetujuan Penghindaran Pajak Berganda*/P3B in Indonesian) benefits. The following administrative requirements should be fulfilled to apply for tax treaty benefits.

(i) Non-resident taxpayers must provide the Certificate of Domicile (CoD or *Surat Keterangan Domisili*/SKD in Indonesian) either using the DGT Form or using the tax treaty partner's Certificate of Residence (CoR) with certain conditions;

(ii) Non-resident taxpayers must declare that there is no treaty abuse and must be declared as beneficial owners (if the treaty requires the beneficial ownership criteria);

(iii) Non-resident taxpayers using the tax treaty partner's CoR remain required to fill out the DGT Form other than Part II (legalised by the competent authority);

(iv) Withholding agents are required to prepare withholding receipts and file the withholding receipts on the tax returns. This also applies even if there is no Art. 26 WHT due to tax treaty benefits.

CHAPTER 6

INTERNATIONAL TAX AND TRANSFER PRICING

A. Tax Treaty

Indonesia's tax treaties (*Persetujuan Penghindaran Pajak Berganda*/P3B in Indonesian) provide several tax facilities or referred to as tax treaty benefits. Tax treaty benefits are facilities in a tax treaty which may be in the form of a tax rate lower than the tax rate stipulated in the Income Tax Law (ITL) or an exclusion from taxation in the source country.

To receive tax treaty benefits, a non-resident taxpayer must submit a Certificate of Domicile (COD or *Surat Keterangan Domisili*/SKD in Indonesian) in a prescribed form or referred to as the DGT Form. The CoD must be subsequently submitted electronically through the e-SKD platform.

Failure to provide the CoD implies that the non-resident taxpayer is not entitled to the tax treaty benefits with the consequence that the received income will be subject to the domestic WHT rate pursuant to the ITL. The WHT rate pursuant to the ITL generally amounts to 20%. Sales or purchase of shares are subject to an effective tax rate of 5%.

The CoD of a non-resident taxpayer is submitted once to receive tax treaty benefits according to the period listed in the non-resident taxpayer's CoD. In subsequent transactions during that period, a non-resident taxpayer should only provide the withholding and/or collecting agent with the electronic receipt (*Bukti Penerimaan*

Elektronik/BPE in Indonesian) of the e-SKD. The period referred to is generally one year.

To be entitled to tax treaty benefits, a non-resident taxpayer shall fulfil the following anti-abuse tests, which apply to all types of income sourced from Indonesia.

(i) The non-resident taxpayer has relevant economic substance either in the incorporation of the entity or the execution of the relevant transaction;

(ii) The non-resident taxpayer has the same legal form as the economic substance either in the incorporation of the entity or the execution of the relevant transaction;

(iii) The non-resident taxpayer has its own management to conduct its business and such management has independent discretion;

(iv) The non-resident taxpayer has sufficient and adequate fixed and non-fixed assets to conduct business in tax treaty partners, other than the assets generating income from Indonesia;

(v) The non-resident taxpayer has sufficient and adequate employees with certain expertise and skills according to the company's line of business to conduct business;

(vi) The non-resident taxpayer has an active business other than receiving dividends, interests and/or royalties sourced from Indonesia; and

(vii) The transaction is not aimed at directly or indirectly obtaining benefits from the tax treaty implementation that is contrary to the objective and purpose of the tax treaty.

In case of income in the form of of dividends, interest or royalties, the non-resident taxpayers, either individual or corporation, are also required to fulfil the beneficial ownership test. For non-resident individual taxpayers, insofar as they do not act as agents or nominees, they fulfil the beneficial owner test. As for non-resident corporate taxpayers, the following is the beneficial owner test.

(i) The non-resident corporate taxpayer is not acting as an agent, nominee or conduit;

(ii) The non-resident corporate taxpayer has disposal rights to use or utilise the income, the assets or the rights to generate income from Indonesia;

(iii) No more than 50% of the non-resident corporate taxpayer's income is used to fulfil liabilities to other parties that include the provision of remunerations to:

a. employees who are reasonably assigned to the employment relationship; and

b. other parties for other costs commonly incurred by non-resident corporate taxpayers in conducting their business;

(iv) The non-resident corporate taxpayer assumes the risk on its own assets, capital or liabilities; and

(v) The non-resident corporate taxpayer has neither written nor unwritten obligation to transfer part or all of the income received from Indonesia to other parties.

Hereunder is the summary of reduced withholding tax rates for each tax treaty partner.

Table 6.1 Withholding Tax Rates under Tax Treaties

No.	Tax Treaty Partner	Dividend		Interest		Royalty	Branch Profit Tax
		Substantial Holding	Other	Government/ Central Bank	Other		
1.	Algeria	15%	15%	0%	15%	15%	10%
2.	Armenia	10%	15%	0%	10%	10%	10%
3.	Australia	15%	15%	0%	10%	10%/15%	15%
4.	Austria	10%	15%	0%	10%	10%	12%
5.	Bangladesh	10%	15%	0%	10%	10%	10%
6.	Belarus	10%	10%	0%	10%	10%	10%
7.	Belgium	10%	15%	0%	10%	10%	10%
8.	Brunei Darussalam	15%	15%	0%	15%	15%	10%
9.	Bulgaria	15%	15%	0%	10%	10%	15%
10.	Cambodia	10%	10%	0%	10%	10%	10%
11.	Canada	10%	15%	0%	10%	10%	15%
12.	China	10%	10%	0%	10%	10%	10%
13.	Croatia	10%	10%	0%	10%	10%	10%
14.	Czech Republic	10%	15%	0%	12.5%	12.5%	12.5%
15.	Denmark	10%	20%	0%	10%	15%	15%
16.	Egypt	15%	15%	0%	15%	15%	15%

No.	Tax Treaty Partner	Dividend		Interest		Royalty	Branch Profit Tax
		Substantial Holding	Other	Government/ Central Bank	Other		
17.	Finland	10%	15%	0%	10%	10%/15%	15%
18.	France	10%	15%	0%	10%/15%	10%	10%
19.	Germany	10%	15%	0%	10%	10%/15%	10%
20.	Hong Kong	5%	10%	0%	10%	5%	5%
21.	Hungary	15%	15%	0%	15%	15%	20%
22.	India	10%	10%	0%	10%	10%	15%
23.	Iran	7%	7%	0%	10%	12%	7%
24.	Italy	10%	15%	0%	10%	10%/15%	12%
25.	Japan	10%	15%	0%	10%	10%	10%
26.	Jordan	10%	10%	0%	10%	10%	20%
27.	Korea (North)	10%	10%	0%	10%	10%	10%
28.	Korea (South)	10%	15%	0%	10%	15%	10%
29.	Kuwait	10%	10%	0%	5%	20%	0%/10%
30.	Laos	10%	15%	0%	10%	10%	10%
31.	Luxembourg	10%	15%	0%	10%	10%/12.5%	10%
32.	Malaysia[1]	10%	10%	0%	10%	10%	12.5%
33.	Mexico	10%	10%	0%	10%	10%	10%
34.	Mongolia	10%	10%	0%	10%	10%	10%
35.	Morocco	10%	10%	0%	10%	10%	10%
36.	Netherlands	5%	10%/15%	0%	5%/10%	10%	10%
37.	New Zealand	15%	15%	0%	10%	15%	-[2]
38.	Norway	15%	15%	0%	10%	10%/15%	15%
39.	Pakistan	10%	15%	0%	15%	15%	10%
40.	Papua New Guinea	15%	15%	0%	10%	10%	15%
41.	Philippines	15%	20%	0%	10%/15%	15%	20%
42.	Poland	10%	15%	0%	10%	15%	10%
43.	Portugal	10%	10%	0%	10%	10%	10%
44.	Qatar	10%	10%	0%	10%	5%	10%
45.	Romania	12.5%	15%	0%	12.5%	12.5%/15%	12.5%
46.	Russia	15%	15%	0%	15%	15%	12.5%
47.	Serbia	15%	15%	0%	10%	15%	15%
48.	Seychelles	10%	10%	0%	10%	10%	20%
49.	Singapore	10%	15%	0%	10%	8%/10%	10%
50.	Slovakia	10%	10%	0%	10%	10%/15%	10%
51.	South Africa	10%	15%	0%	10%	10%	10%
52.	Spain	10%	15%	0%	10%	10%	10%
53.	Sri Lanka	15%	15%	0%	15%	15%	20%
54.	Sudan	10%	10%	0%	15%	10%	10%
55.	Suriname	15%	15%	0%	15%	15%	15%
56.	Sweden	10%	15%	0%	10%	10%/15%	15%
57.	Switzerland	10%	15%	0%	10%	10%	10%
58.	Syria	10%	10%	0%	10%	15%/20%	10%
59.	Taiwan	10%	10%	0%	10%	10%	5%
60.	Tajikistan	10%	10%	0%	10%	10%	10%
61.	Thailand	15%/20%	15%/20%	0%	15%	15%	20%
62.	Tunisia	12%	12%	0%	12%	15%	12%

1 Companies under the Labuan Offshore Business Activity Tax Act 1990 are not entitled to tax treaty benefits.

2 The tax treaty is silent on the rate. The Directorate General of Taxes (DGT) usually applies a 20% Branch Profit Tax (BPT).

No.	Tax Treaty Partner	Dividend		Interest		Royalty	Branch Profit Tax
		Substantial Holding	Other	Government/ Central Bank	Other		
63.	Turkey	10%	15%	0%	10%	10%	10%
64.	Ukraine	10%	15%	0%	10%	10%	10%
65.	Uni Arab Emirates	10%	10%	0%	7%	5%	5%
66.	United Kingdom	10%	15%	0%	10%	10%/15%	10%
67.	United States of America	10%	15%	0%	10%	10%	10%
68.	Uzbekistan	10%	10%	0%	10%	10%	10%
69.	Venezuela	10%	15%	0%	10%	10%/20%	10%
70.	Vietnam	15%	15%	0%	15%	15%	10%
71.	Zimbabwe	10%	20%	0%	10%	15%	10%

Source: processed by the Author.

A.1 Permanent Establishment Time Test

Hereunder is the time-test period for certain activities conducted in Indonesia that may trigger the creation of a Permanent Establishment (PE).

Table 6.2 Time-test Period

No.	Tax Treaty Partner	Building Site Construction	Installation Assembly	Assembly	Supervisory	Services
1.	Algeria	3 months	3 months	3 months	3 months	3 months
2.	Armenia	6 months	6 months	6 months	6 months	120 days
3.	Australia	120 days	120 days	120 days	120 days	120 days
4.	Austria	6 months	6 months	6 months	6 months	3 months
5.	Bangladesh	183 days	183 days	183 days	183 days	91 days
6.	Belarus	6 months	6 months	6 months	6 months	120 days
7.	Belgium	6 months	6 months	6 months	6 months	3 months
8.	Brunei Darussalam	183 days	3 months	3 months	183 days	3 months
9.	Bulgaria	6 months	6 months	6 months	6 months	120 days
10.	Cambodia	183 days	183 days	183 days	183 days	183 days
11.	Canada	120 days	120 days	120 days	120 days	120 days
12.	China	6 months	6 months	6 months	6 months	6 months
13.	Croatia	6 months	6 months	6 months	6 months	3 months
14.	Czech Republic	6 months	6 months	6 months	6 months	3 months
15.	Denmark	6 months	6 months	6 months	6 months	3 months
16.	Egypt	6 months	4 months	4 months	6 months	3 months
17.	Finland	6 months	6 months	6 months	6 months	3 months
18.	France	6 months	-	6 months	183 days	183 days
19.	Germany	6 months	6 months	-	-	-
20.	Hong Kong	183 days	183 days	183 days	183 days	183 days
21.	Hungary	3 months	3 months	3 months	3 months	4 months
22.	India	183 days	183 days	183 days	183 days	91 days
23.	Iran	6 months	6 months	6 months	6 months	183 days
24.	Italy	6 months	6 months	6 months	6 months	3 months
25.	Japan	6 months	6 months	-	6 months	-
26.	Jordan	6 months	6 months	6 months	6 months	1 month
27.	Korea (North)	12 months	12 months	12 months	12 months	6 months

No.	Tax Treaty Partner	Building Site Construction	Installation Assembly	Assembly	Supervisory	Services
28.	Korea (South)	6 months	6 months	6 months	6 months	3 months
29.	Kuwait	3 months	3 months	3 months	3 months	3 months
30.	Laos	6 months	6 months	6 months	6 months	6 months
31.	Luxembourg	5 months	5 months	5 months	5 months	-
32.	Malaysia	6 months	6 months	6 months	6 months	3 months
33.	Mexico	6 months	6 months	6 months	6 months	91 days
34.	Mongolia	6 months	6 months	6 months	6 months	3 months
35.	Morocco	6 months	-	6 months	6 months	60 days
36.	Netherlands	6 months	6 months	6 months	6 months	3 months
37.	New Zealand	6 months	6 months	6 months	6 months	3 months
38.	Norway	6 months	6 months	6 months	6 months	3 months
39.	Pakistan	3 months	3 months	3 months	3 months	-
40.	Papua New Guinea	120 days	120 days	120 days	120 days	120 days
41.	Philippines	6 months	3 months	3 months	6 months	183 days
42.	Poland	183 days	183 days	183 days	183 days	120 days
43.	Portugal	6 months	6 months	6 months	6 months	183 days
44.	Qatar	6 months	6 months	6 months	6 months	6 months
45.	Romania	6 months	6 months	6 months	6 months	4 months
46.	Russia	3 months	3 months	3 months	3 months	-
47.	Serbia	6 months	6 months	6 months	6 months	6 months
48.	Seychelles	6 months	6 months	6 months	6 months	3 months
49.	Singapore	183 days	183 days/ 3 months	183 days/ 3 months	6 months	90 days
50.	Slovakia	6 months	6 months	6 months	6 months	91 days
51.	South Africa	6 months	6 months	6 months	6 months	120 days
52.	Spain	183 days	183 days	183 days	183 days	3 months
53.	Sri Lanka	90 days	90 days	90 days	90 days	90 days
54.	Sudan	6 months	6 months	6 months	6 months	3 months
55.	Suriname	6 months	6 months	6 months	6 months	91 days
56.	Sweden	6 months	6 months	6 months	6 months	3 months
57.	Switzerland	183 days	183 days	183 days	183 days	-
58.	Syria	6 months	6 months	6 months	6 months	183 days
59.	Taiwan	6 months	6 months	6 months	6 months	120 days
60.	Tajikistan	6 months	6 months	6 months	6 months	91 days
61.	Thailand	6 months	6 months	6 months	6 months	6 months
62.	Tunisia	3 months	3 months	3 months	3 months	3 months
63.	Turkey	6 months	6 months	6 months	6 months	183 days
64.	Ukraine	6 months	6 months	6 months	6 months	4 months
65.	Uni Arab Emirates	6 months	6 months	6 months	6 months	6 months
66.	United Kingdom	183 days	183 days	183 days	183 days	91 days
67.	United States of America	120 days	120 days	120 days	120 days	120 days
68.	Uzbekistan	6 months	6 months	6 months	6 months	3 months
69.	Venezuela	6 months	6 months	6 months	6 months	-
70.	Vietnam	6 months	6 months	6 months	6 months	3 months
71.	Zimbabwe	6 months	6 months	6 months	6 months	183 days

Source: processed by the Author.

A.2 Multilateral Instrument

Multilateral Instrument (MLI) was signed on 7 June 2017 and ratified on 12 November 2019. MLI has entered into force since 1 August 2020. MLI is used to apply a tax treaty to prevent Base Erosion and Profit Shifting (BEPS).

Indonesia notified the Organisation for Economic Co-operation and Development (OECD) to confirm the completion of internal procedures for tax treaties on 26 November 2020. The synthesised text of the MLI and tax treaties are published by the Directorate General of Taxes (DGT) using circular letters.

As per the latest updates, through Presidential Regulation No. 63/2024, Indonesia has added thirteen tax treaties to constitute Covered Tax Agreements (CTAs) to the former 47 tax treaties. Hence, since June 2024, the Indonesian government has included 60 tax treaties as CTAs in the MLI.

Up to August 2024, the DGT has released circular letters concerning the renewal of the application of the MLI to tax treaties with seven tax treaty partners, i.e., Mexico, Bulgaria, Romania, South Africa, Hong Kong, Finland and Vietnam.

A.3 Tax Information Exchange Agreements

The *Tax Information Exchange Agreement Model* (TIEA Model) was established to facilitate the exchange of information with countries that do not enter into tax treaties, as typically found in tax haven countries. The TIEA Model plays a crucial role in mitigating the effects of tax haven countries by allowing information required by a country's tax authorities to be accessed via the TIEA Model media.

The Committee on Fiscal Affairs (CFA) approved the TIEA Model Protocol titled *Model Protocol to Allow the Automatic and Spontaneous Exchange of Information under TIEA* in June 2015. This TIEA Model Protocol may be used by a country or jurisdiction should it seek to

broaden the scope of the existing TIEA to include automatic and/or spontaneous information exchange.

Indonesia has entered into TIEA with the following jurisdictions.

(i) Bahamas;
(ii) Bermuda;
(iii) Guernsey;
(iv) Isle of Man;
(v) Jersey;
(vi) San Marino.

A.4 Mutual Administrative Assistance in Tax Matters

Assistance in the collection of taxes mechanism is also required to supplement the exchange of information for tax purposes in the context of more effective administrative cooperation among tax authorities. Pursuant to MoF Reg. 61/2023, the government has updated the procedure for implementing assistance in the collection of taxes with tax treaty partners.

The DGT responds to requests for and provides assistance in the collection of taxes on a reciprocal basis based on international agreements, such as tax treaties, the *Convention on Mutual Administrative Assistance in Tax Matters* (hereinafter referred to as MAAC) or other bilateral or multilateral agreements. MoF Reg. 61/2023 details the criteria that must be fulfilled as well as how technical assistance is provided in the collection of taxes.

In terms of the MAAC, Indonesia has ratified the MAAC through Presidential Regulation No. 159/2014. In addition, Indonesia signed the *Multilateral Competent Authority Agreements* on the automatic exchange of the following.

(i) Country-by-Country Report (CbCR) in 2017; and
(ii) Financial account information using the Common Reporting Standard (CRS) with information exchange starting in 2018.

In the most recent developments, the government has also revised Presidential Regulation No. 159/2014 through Presidential Regulation No. 56/2024. The issuance of Presidential Regulation No. 56/2024 stipulates that Indonesia may request assistance in the collection of taxes based on the MAAC from 72 countries or jurisdictions, formerly thirteen countries or jurisdictions. In total, Indonesia may request assistance in the collection of taxes from 81 countries or jurisdictions.

B. Anti-Tax Avoidance Rules

Since the enactment of the Harmonisation of Tax Regulation Law (HPP Law), General Anti-Avoidance Rules (GAAR) have been included in the elucidation of Art. 18 of the ITL. However, the text of the Law itself is silent on GAAR.

The elucidation of Art. 18 of the ITL states that the government is authorised to prevent tax avoidance practices as an effort by taxpayers to reduce, avoid or delay the payment of taxes that should be otherwise payable. Tax avoidance practices are contrary to the object and purpose of statutory provisions in the field of taxation.

Further, through the HPP Law, the Indonesian government also reinforces Specific Anti-Avoidance Rules (SAAR). SAAR is intended to tackle possible tax avoidance schemes undertaken by companies, such as transfer pricing manipulation.

B.1 General Anti-Avoidance Rule

On 20 December 2022, the government issued Gov. Reg. No. 55/2022. Chapter VII of Gov. Reg. No. 55/2022 provides further regulation on the implementation of anti-avoidance rules, including a clear recognition of the presence of GAAR.

Other anti-avoidance practices that are not foreseen in SAAR will be subject to GAAR in the form of substance over form principle. Therefore, the application of SAAR prevails over GAAR and only in circumstances when SAAR is inapplicable, GAAR may be implemented by the DGT.

However, Gov. Reg. No. 55/2022 states that the implementation of GAAR must consider the (i) limitation of discretion and implementing procedures, (ii) activities conducted by taxpayers are included in the scope of tax avoidance, (iii) stages of formal and material assessments, (iv) quality assurance mechanism, and/or (v) the protection of taxpayers' rights. In principle, GAAR or the prevention of the tax avoidance practice is subject to Good Corporate Governance (GCG) and access to dispute resolution procedures.

Indeed, the main concern of GAAR is legal certainty. As such, the introduction of the above principles aims to ensure that the application of GAAR only applies to certain cases. This is intended to balance off such wide discretion inherent in GAAR. Gov. Reg. No. 55/2022 states that further detailed regulation of the above principles will be stipulated via a minister of finance regulation.

B.2 Thin Capitalisation

Thin capitalisation rules refer to the provisions that limit the amount of borrowing costs that may constitute deductible expenses. If the value of borrowing costs exceeds the prescribed threshold, the limitation stipulated under Art. 18 of the ITL as amended several times, last amended by the HPP Law and its derivative regulation in Gov. Reg. No. 55/2022.

Since the enactment of Gov. Reg. No. 55/2022, the limitation of deductible borrowing costs has been expanded. Therefore, it does not only cover Debt-to-Equity Ratio (DER) but also a certain percentage of borrowing costs compared to earnings before being deducted by borrowing costs, income tax, depreciation and amortisation (referred to as the Earning Stripping Rule/ESR) and other unspecified methods.

Further regulation regarding ESR and other unspecified methods implementation will be issued via a minister of finance regulation. As for the debt-to-equity ratio method, the applicable regulation currently continues to refer to the MoF Reg. 169/PMK.010/2015. This minister of

finance regulation determines the debt-to-equity ratio to be a maximum of 4:1.

Borrowing costs related to a loan that exceeds the 4:1 debt-to-equity ratio is deemed non-deductible. Included in the definition of borrowing costs are interest on loans, loan-related discounts and premiums, additional expenses arising in respect of the loans (arrangement of borrowing), finance charges in finance leases, costs related to obtaining loan repayment guarantees and foreign exchange differences resulting from loans.

Exceptions for the thin capitalisation rules are provided for the following parties.

(i) Bank taxpayers, including Bank Indonesia;

(ii) Financing institution taxpayers, i.e., business entities conducting financing activities in the form of providing funds and/or capital goods;

(iii) Insurance and reinsurance taxpayers, including insurance companies, sharia-compliant insurance companies, reinsurance companies and sharia-compliant reinsurance companies;

(iv) Taxpayers conducting business in the field of oil and gas mining, general mining and other mining companies under production sharing contracts, Contracts of Work (CoW or *Kontrak Karya*/KK in Indonesian) or mining concession work agreements with the government outlining specific DER provisions (if such provisions are not specified in the agreements, the taxpayer is not excluded from the thin capitalisation rules);

(v) Taxpayers whose entire income is subject to final income tax pursuant to separate statutory laws and regulations; and

(vi) Taxpayers conducting businesses in the infrastructure sector.

Director General of Taxes Reg. No. PER-25/PJ/2017 clarifies that intra-group borrowing costs must also fulfil the Arm's Length Principle (ALP or *Prinsip Kewajaran dan Kelaziman Usaha*/PKKU in Indonesian), in addition to the thin capitalisation rules.

B.3 Controlled Foreign Corporation

A Controlled Foreign Corporation (CFC) is a foreign subsidiary that may be controlled by its shareholders. In the Indonesian context, a resident taxpayer with direct capital participation of a minimum 50% of the amount of share deposit in a CFC (or *Badan Usaha Luar Negeri/*BULN *nonbursa terkendali* in Indonesian), either individually or collectively with another resident taxpayer, is deemed to directly hold a CFC. Such a corporation is referred to as a CFC.

In Indonesia, the following income of a CFC is subject to deemed dividend rules.

(i) Dividends, except those received and/or accrued from a CFC;

(ii) Interest, except for that received and/or accrued by a CFC held by a resident taxpayer with a banking business permit. However, this exception does not apply if the interest income is received from direct or indirect transactions with a resident taxpayer that is related to that CFC;

(iii) Rent in the form of:

   a. rent received and/or accrued by a CFC in respect of the use of land and/or buildings; and

   b. rent other than the rent referred to in point (a) received and/or accrued by a CFC from transactions with a party related to the CFC;

(iv) Royalties; and

(v) Capital gains.

The CFC rules do not apply if the CFC's shares are listed on the stock exchange. More information on CFC rules can be found in MoF Reg. 93/PMK.03/2019.

B.4 Indirect Transfers of Shares

Sales or transfers of shares of a special purpose vehicle or conduit company are deemed sales or transfers of shares of an Indonesian company or a PE in Indonesia in the event of the following.

(i) The special purpose vehicle or conduit company is incorporated or domiciled in a tax haven country; and

(ii) The special purpose vehicle or conduit company is related to a resident taxpayer, including a PE in Indonesia.

Therefore, income from sales or transfers of shares is subject to a 5% WHT in Indonesia. This WHT may be exempt in the event of tax treaty benefits. The tax rates are listed in Chapter 5 Withholding Tax, specifically Subchapter F. Article 26 Income Tax.

B.5 Redetermination of Tax Payable for Taxpayers with Consecutive Loss Position

In addition to GAAR, Gov. Reg. No. 55/2022 introduces a new provision on SAAR that is not previously foreseen in the delegated regulatory powers in Art. 32C of the ITL. The new provision on SAAR targets taxpayers that have commercially operated for five years and filed consecutive losses for at least three years.

In this case, the DGT is authorised to re-calculate the income tax that should otherwise be payable based on a benchmark with other taxpayers in the same type of business activities against taxpayers that file operating profits that are too low compared to the financial performance of other taxpayers in similar business sectors or file unreasonable business losses even though the taxpayers have performed commercial sales for five years and filed tax losses for three consecutive years.

The new SAAR provision applies only to transactions between parties that are influenced by a special relationship. However, Gov. Reg. No. 55/2022 is silent on whether this new provision on SAAR is part or separate from the transfer pricing regulations since the new provision on SAAR does not refer to the ALP.

Taxpayers qualifying for consecutive or abnormal losses, as implied by the new provision on SAAR, may be benchmarked to 'other taxpayers' in the 'same' industry. Notably, the rule uses the following terms 'other

taxpayers' instead of 'comparables' and 'the same industry' instead of a 'comparable industry'. Up to the writing of this book in August 2024, there are no further regulations other than a statement that further regulations will be issued via a minister of finance regulation.

B.6 Hybrid Mismatch Arrangements

Also not foreseen in Art. 32C of the ITL but now regulated in Gov. Reg. No. 55/2022 is the prevention of tax avoidance practices through hybrid mismatch arrangements. Under Gov. Reg. No. 55/2022, the DGT is authorised to re-calculate the amount of tax that should be payable by not charging the payments made by a resident taxpayer to a non-resident taxpayer as deductible expenses due to the utilisation of the differences in the tax treatment of an instrument or entity which may have more than one characteristic in the country or jurisdiction where the taxpayer is domiciled.

In summary, hybrid mismatch arrangements may include hybrid financial instruments or hybrid entities. In the context of hybrid entities, for example, an entity for tax purposes is treated as a transparent entity in one country and opaque in another country.

If a resident taxpayer is proven to benefit from hybrid mismatch arrangements, i.e., if the payments made by a resident taxpayer to a non-resident taxpayer:

(i) are not taken into account as income of the non-resident taxpayer taxed in the country or jurisdiction where the non-resident taxpayer is domiciled; or

(ii) charged as deductible expenses of the non-resident taxpayer in the country or jurisdiction where the non-resident taxpayer is domiciled,

resulting in the payments being not taxed or low-taxed either in Indonesia or in the country or jurisdiction where the non-resident taxpayer is domiciled, the payment made by the resident taxpayer to the non-resident taxpayer cannot be charged as deductible expenses.

C. Transfer Pricing Rules and Documentation

Under Indonesia's domestic transfer pricing provisions, special relationships include both *de jure* control and *de facto* control. Referring to Art. 2 paragraph (2) of MoF Reg. 172/2023, a special relationship is a state of dependence or attachment between one party and another party due to ownership or capital participation, control or family relationship by blood or marriage.

The state of dependence or attachment between one party and another party is a state where one or more parties (i) control the other party or (ii) are not independent in conducting business or performing activities.

The special relationship due to ownership or capital participation is deemed to exist in the event of the following.

(i) A taxpayer has direct or indirect capital participation of a minimum of 25% in another taxpayer; or

(ii) The relationship between the taxpayers with capital participation of a minimum of 25% in two or more taxpayers or the aforementioned relationship between two or more taxpayers.

The special relationship due to control is deemed to exist in the event of the following.

(i) One party controls another party or one party is controlled by another party, directly and/or indirectly;

(ii) Two or more parties are under the control of the same party, directly and/or indirectly;

(iii) One party controls another party or one party is controlled by another party through management or use of technologies;

(iv) There are the same individuals who are directly and/or indirectly involved or participating in the managerial or operational decision making on two or more parties;

(v) Parties that are commercially or financially known or claim to be in the same business group; or

(vi) One party claims to be related to another party.

Lastly, the special relationship due to family relationship by blood or marriage is deemed to exist if there is a family relationship, either by blood or by marriage, in a vertical and/or horizontal lineage of one degree.

The concept of *de facto* control is evident in the fact that Indonesia also categorises a transaction conducted between unrelated parties wherein the affiliated parties of one or both parties involved as a transaction influenced by a special relationship. Art. 1 number 7 of MoF Reg. 172/2023 states that transactions influenced by a special relationship include controlled transactions and/or transactions conducted between unrelated parties but the affiliated parties of one or both the transacting parties determine the counterparty and the price of the transaction.

With the interpretation of *de facto* control, a special relationship may be established if one party controls the other party in (i) making decisions or (ii) how to conduct business and activities without the existence of a formal agreement. This implies that an uncontrolled transaction may be deemed as a transaction influenced by a special relationship and bound by the obligation to apply the ALP.

C.1 Arm's Length Principle

Taxpayers' transactions influenced by a special relationship must apply the Arm's Length Principle (ALP or *Prinsip Kewajaran dan Kelaziman Usaha*/PKKU in Indonesian). The ALP must be applied based on actual conditions, upon the setting of the transfer price and/or when transactions influenced by a special relationship occur according to the stages in the application of the ALP.

The ALP must be applied separately to each type of transaction influenced by a special relationship. However, in certain conditions, the testing of these transactions may be performed in an aggregate manner. If there are two or more transactions influenced by a special relationship that are interrelated and affect each other in determining transfer prices, it is not possible to apply ALP separately reliably and accurately. Therefore, in such situations, ALP may be applied by

combining the two or more transactions influenced by the special relationship.

Further, the ALP stages include preliminary stages, identifying transactions influenced by a special relationship and affiliated parties, performing industry analysis related to the taxpayers' business, identifying commercial and/or financial relationships between taxpayers and affiliated parties by analysing the conditions of transactions, performing comparability analysis, determining and applying the transfer pricing method and determining arm's length transfer prices.

Pursuant to Art. 4 paragraph (5) of MoF Reg. 172/2023, the application of the ALP to certain transactions influenced by special relationships (hereinafter referred to as specific transactions) must be conducted using the preliminary stages. The specific transactions listed in the article include service transactions, transactions related to the use or the right to use intangible assets, financial transactions related to loans, other financial transactions, asset transfer transactions, business restructuring and Cost Contribution Arrangement (CCA).

In the preliminary stages, taxpayers with specific transactions must, among others, first evidence the benefits, which are in the form of an increase in sales, reduction of costs, protection of the commercial positions or the fulfilment of the needs of other commercial activities, including activities to derive, collect and maintain income. If a taxpayer cannot demonstrate that the benefit evidencing on the specific transactions based on the preliminary stages, the transactions are deemed not to fulfil the ALP. Moreover, the taxpayer's transactions are potentially re-tested and corrected by the DGT.

The DGT is authorised to correct taxpayers' transactions influenced by a special relationship to supervise the application of the ALP. MoF Reg. 172/2023 states that the DGT is authorised to re-determine the amount of income and/or deductible expenses to calculate the amount of taxable income through the assessment of compliance in the application of the ALP. The assessment of compliance includes the assessment of

the fulfilment of provisions for the maintenance of transfer pricing documentation and the application of the ALP.

Further, the DGT is also authorised to adjust the selling price or remuneration influenced by the special relationship as a basis for calculating Value Added Tax (VAT) payable. This adjustment of selling price or remuneration influenced by special relationship is calculated on the basis of arm's length market price of taxable goods or taxable services (*Barang Kena Pajak*/BKP or *Jasa Kena Pajak*/JKP in Indonesian) at the time of selling price or remuneration is lower than the arm's length market price (hereinafter referred to as VAT transfer pricing adjustment).

Please also note that the VAT transfer pricing adjustment is conducted only if there is a transfer price by the DGT that can be allocated to each supply of taxable goods and/or services transaction. Further, the VAT transfer pricing adjustment will not result in an input VAT adjustments for the taxable person (*Pengusaha Kena Pajak*/PKP in Indonesian) of the buyer of taxable goods or the recipient of taxable services. However, the taxable person for purchasing taxable goods or services is allowed to credit input VAT based on the applicable regulation concerning tax invoices.

Art. 9 paragraph (2b) of the VAT Law also states that credited input VAT must use a tax invoice. Thus, taxable persons constituting buyers of taxable goods or recipients of taxable services may continue to credit VAT listed in the tax invoices issued by taxable persons supplying taxable goods and/or services insofar as the provisions on input VAT crediting are fulfilled.

Further, the documents that contain data and/or information to support that transactions conducted with related parties comply with the ALP are referred to as transfer pricing documentation. The obligation to prepare transfer pricing documentation and the obligation to apply the ALP must be distinguished. The ALP must be applied to all transactions influenced by a special relationship (there is no threshold), whereas the

obligation to prepare transfer pricing documentation has specific thresholds.

Therefore, for example, a taxpayer conducts controlled transactions (transactions conducted with related parties), but does not fulfil the threshold to maintain transfer pricing documentation, the taxpayer conducting controlled transactions is not required to maintain and retain transfer pricing documentation. However, the taxpayer remains required to fulfil the ALP provisions.

Further, in the event that a taxpayer does not conduct controlled transactions, but there are transactions influenced by a special relationship, the taxpayer must maintain and retain documents. The documents refer to those containing data and/or information to support that the conducted transactions comply with the ALP provisions.

C.2 Transfer Pricing Methods

Transfer pricing methods in the application stage of the ALP may be in the form of:

(i) the comparable uncontrolled price method;
(ii) the resale price method;
(iii) the cost plus method; or
(iv) other methods, such as:
    a. the profit split method;
    b. the transactional net margin method;
    c. the comparable uncontrolled transaction method;
    d. tangible asset and intangible asset valuation; or
    e. business valuation.

Methods in tangible asset and/or intangible asset valuation are more commonly used for transfer transactions of assets and transfer of rights. Methods in business valuation are used for transactions in connection with business restructuring and transfer transactions of assets other than cash.

Business valuation is defined in further detail in the Director General of Taxes Circular Letter No. SE-54/PJ/2016 as amended by SE-

05/PJ/2020. In the circular letter, business valuation refers to a series of activities to determine the amount of a certain type of value at a certain time conducted objectively and professionally based on valuation standards to implement statutory tax provisions, on a going concern, including business ownership interest as well as transactions and activities effecting the value of a company.

Please also note that the context of business restructuring in terms of transfer pricing is only relevant to cross-border transactions. This is because of the risk of tax avoidance due to differences in tax rates in other countries and forgone future income that should constitute tax revenues for the source country (Indonesia).

Referring to Art. 10 paragraphs (7) and (8) of MoF Reg. 172/2023, methods in tangible asset and/or intangible asset valuation as well as methods in business valuation are both conducted pursuant to statutory provisions stipulating valuation procedures for taxation purposes. Valuation procedures for taxation purposes are stipulated under MoF Reg. 79/2023.

C.3 Transfer Pricing Documentation

Transfer pricing documentation refers to documents prepared by taxpayers that contain data and/or information to support that the transactions conducted with related parties conform to the ALP. Since the 2016 tax year, Indonesia has adopted a three-tiered transfer pricing documentation obligation, in line with agreed standards in Action 13 of the *OECD Base Erosion and Profit Shifting (BEPS) Action Plan*.

Transfer pricing documentation consists of a master file, local file and Country-by-Country Report (CbCR). These three documents must be prepared by the taxpayers that fulfil certain requirements. Master and local file documentation obligations are imposed on taxpayers conducting controlled transactions with the following conditions:

(i) the value of gross turnover in the preceding tax year within one tax year exceeding IDR50 billion;

(ii) the value of controlled transactions in the preceding tax year in one tax year exceeding IDR20 billion for tangible goods transactions or exceeding IDR5 billion for each supply of services, payment of interest, utilisation of intangible goods or other controlled transactions; or

(iii) affiliated parties are located in the countries or jurisdictions with lower income tax rates (i.e., jurisdictions with a statutory corporate income tax rate of lower than 22%).

The master file and local file must be maintained based on available data and information when the controlled transactions are performed (*ex-ante* approach). Further, both the master file and local file must be available no later than four months after the end of the taxpayer's fiscal year. However, the regulation does not require filing these documents in the annual corporate income tax return.

Under Art. 19 of MoF Reg. 172/2023, a summary of these documents must be prepared using a prescribed format and must be attached together with the letter of statement when filing the corporate income tax return. The information contained in the summary includes the statement that the taxpayer has prepared master file and local file documentation that covers the information stipulated under MoF Reg. 172/2023, including the date when such a document becomes available.

Further, CbCR filing obligation is imposed on taxpayers that fulfil the following criteria.

(i) A resident taxpayer that constitutes the parent entity of a business group with a consolidated gross revenue in the tax year before the reporting tax year of a minimum of IDR11 trillion; or

(ii) If a resident taxpayer constituting a constituent entity and the parent entity of a business group is a non-tax resident, the resident taxpayer must submit the CbCR insofar as the country or jurisdiction where the parent entity is domiciled:

   a. does not require the submission of the CbCRs;

b. does not enter into an agreement with government of Indonesia concerning the exchange of tax information; or
c. enters into an agreement with the Indonesian government concerning the exchange of tax information, but CbCR cannot be obtained by the government of Indonesia from that country or jurisdiction.

Please note that the gross turnover referred to in transfer pricing documentation threshold is income received and/or accrued from business and outside business after deducted by sales returns and deductions as well as cash discounts, before deducted by the expenses to derive, collect and maintain income.

CbCRs must subsequently be maintained based on data and information available up to the end of the tax year. Please also note that before preparing CbCRs, taxpayers must also prepare CbCR working paper.

Further, resident taxpayers constituting parts of a business group that are CbC reporting taxpayers or non-reporting taxpayers remain required to file notification to the DGT via a taxpayer portal online platform. The online notification must identify which entities in the group have a CbCR prepared, including the country where it is submitted.

In addition to the notification, CbC reporting entities must maintain the actual CbCR via the same online platform where the notification is submitted. Taxpayers that have completed the CbCR notification or submission of the CbCR document will receive a receipt.

This receipt must be filed along with the annual corporate income tax return. The CbCR notification and document must be submitted to the DGT within twelve months after the end of the taxpayer's fiscal year.

Transfer pricing documentation which includes the master file, local file and CbCR, must be written in the Indonesian language. A taxpayer with prior approval to use the English language needs to submit the documentation in the English language attached with an Indonesian translation.

To supervise compliance and audits, the DGT is authorised to request a master file and a local file from the taxpayers. Referring to Art. 34 paragraph (2) of MoF Reg. 172/2023, taxpayers must fulfil the DGT's request no later than one month. In the event of failure to fulfil such an obligation, the taxpayers shall be subject to the penalties pursuant to statutory provisions in the field of taxation.

The new regulation concerning transfer pricing documentation pursuant to MoF Reg. 172/2023 applies to transfer pricing documentation starting the 2024 tax year. Thus, transfer pricing documentation prepared before the 2024 tax year continues to comply with the provisions listed in MoF Reg. 213/PMK.03/2016.

D. Transfer Pricing Audits and Dispute Resolution

Pursuant to Art. 36 paragraph (1) of MoF Reg. 172/2023, the DGT is authorised to re-determine the amount of income and/or deductible expenses to calculate the amount of taxable income through the assessment of taxpayer's compliance in the application of the ALP. The assessment of a taxpayer's compliance in applying the ALP includes:

(i) assessing the fulfilment of the provisions on the maintenance of transfer pricing documentation; and

(ii) application of the ALP by tracing the correctness of the transfer pricing documentation compared to the actual conditions of the taxpayer.

If the taxpayer is not required to maintain transfer pricing documentation, the DGT assesses the application by tracing the actual conditions of the taxpayer.

In the event that the DGT discovers that the taxpayers fulfil one of the following conditions, the DGT may also re-determine the amount of income and/or deductible expenses to calculate the amount of the taxpayers' taxable income. *First*, the taxpayers are known not to apply the ALP.

Second, the taxpayers apply the ALP, but not in accordance with the provisions. *Third*, the taxpayers cannot prove certain transactions influenced by a special relationship based on the preliminary stages. *Fourth*, the transfer prices determined by the taxpayers do not fulfil the ALP.

The amount of income and/or deductible expenses shall be re-determined by the DGT by determining the transfer prices according to the ALP and considering the application stages of the ALP of taxpayers that have fulfilled the provisions.

In the event that when the DGT re-determines the amount of income and/or deductible expenses, a discrepancy is found between the value of the transactions influenced by a special relationship that do not comply with the ALP and transactions influenced by a special relationship that comply with the ALP, the discrepancy between the value of transactions that comply and do not comply with the ALP is deemed an indirect distribution of profits to affiliated parties treated as dividends.

The indirect distribution of profits to affiliated parties treated as dividends is a form of secondary adjustment. The secondary adjustment applies to all transactions with an affiliated party, notwithstanding whether the counterparty constitutes a shareholder or not.

Further, the indirect distribution of profits to affiliated parties treated as dividends is subject to income tax pursuant to statutory provisions in the field of taxation. Moreover, if (i) the transfer price determined by the DGT through audits or (ii) corrections of the determination of the transfer price by the tax authorities of the tax treaty partner for non-tax residents results in double taxation, the resident taxpayer constituting the counterparty may perform the corresponding adjustment.

D.1 Transfer Pricing Audits

The DGT has specifically issued guidelines on audits in relation to transfer pricing disputes under the Director General of Taxes Reg. No. PER-22/PJ/2013 and Director General of Taxes Circular Letter No. SE-

50/PJ/2013. One of the procedures that the DGT must perform in conducting transfer pricing audits is to identify the risks in the related party transaction performed by the taxpayers.

In respect of related party transactions, taxpayers are required to maintain transfer pricing documentation containing the information required by the DGT. Therefore, the DGT's starting point of analysis is based on the information provided in the transfer pricing documentation prepared by the taxpayers.

In the condition where taxpayers do not provide transfer pricing documentation and its explanation, the DGT may establish the facts and analysis based on information available to the DGT. If this is the case, the DGT is authorised to propose a transfer pricing adjustment, and the burden of proof lies on the taxpayer to demonstrate that the notice of tax assessment (*Surat Ketetapan Pajak*/SKP in Indonesian) is incorrect.

The role of the taxpayers in any tax audit is to assist in the audit process by attending the discussions and providing books of accounts, documents or other relevant records as requested by the DGT to be audited within the specified time limit.

D.2 Primary, Secondary and Corresponding Adjustments

As aforementioned, transactions influenced by a special relationship must apply the ALP. If taxpayers do not apply the ALP, the tax authorities (in this case, the DGT) are authorised to re-determine the amount of the arm's length prices. The transfer pricing adjustment or correction performed by the DGT is referred to as primary adjustment.

The DGT's authority to correct taxpayers' arm's length prices for transactions influenced by a special relationship is stipulated under Art. 18 paragraph (3) of the ITL. Primary adjustment may be performed if it can be proven that the taxpayers fulfil one of the four conditions referred to in Subchapter D. Transfer Pricing Audits and Dispute Resolution.

Insofar as the taxpayers cannot be proven to fulfil one of the four above-mentioned conditions, the provisions on the DGT's authority will be void. If one of the four above-mentioned conditions is fulfilled, however, the DGT is authorised to correct the taxpayers' arm's length price.

In cross-border transactions, the primary adjustment performed by the tax authorities of a country may not necessarily be followed by an adjustment by the tax authorities of the counterparty's country. In this situation, double taxation is possible. Mutual Agreement Procedure (MAP) must be initiated to avoid potential double taxation and obtain a corresponding adjustment.

MoF Reg. 172/2023 also stipulates the procedure to obtain corresponding adjustment in domestic transactions. Through MoF Reg. 172/2023, provisions on domestic corresponding adjustment provisions are stipulated as follows.

(i) Resident taxpayers constituting counterparties may perform corresponding adjustment in the event that the transfer price is determined by the DGT through audits. Corresponding adjustment is not automatically performed by each Tax Office (*Kantor Pelayanan Pajak*/KPP in Indonesian), but an application based on the taxpayers' initiative must be submitted.

(ii) From the perspective of the taxpayers subject to the primary adjustment, the taxpayers must state their agreement to the transfer pricing proposed by the DGT during tax audit and the taxpayer does not file a legal remedy in the form of an objection against the notice of tax assessment.

(iii) From the perspective of the counterparty, corresponding adjustment is implemented through the following:

   a. the amendment of the annual income tax return by the taxpayer's counterparty if the counterparty is not yet subject to tax audit;

   b. the issuance of a notice of tax assessment by the DGT, thereby, considering the primary adjustment if the taxpayer's counterparty is currently under tax audit process; or

c. the amendment of the notice of tax assessment by the DGT, thereby considering the primary adjustment if the taxpayer's counterparty is already subject to a tax audit and a notice of tax assessment has been issued and no legal remedy is filed against the primary adjustment materials.

(iv) To implement the corresponding adjustment, the taxpayer's counterparty must submit a written request to the Tax Office. In case of implementation by issuance of a notice of tax assessment by the DGT, the written request may also be submitted by the taxpayer through the procedure of notification of incorrect tax return.

(v) Corresponding adjustment performed through the amendment of the notice of tax assessment is implemented *ex-officio* by the DGT.

MoF Reg. 172/2023 does not guarantee that a corresponding adjustment for domestic transactions will be granted even if the taxpayer has fulfilled the required conditions.

Further, in respect of primary adjustment, the DGT is also authorised to perform secondary adjustment. The secondary adjustment is performed to restore a company's cash position in the event of transfer pricing corrections by the DGT. Currently, the provisions on the secondary adjustment are also stipulated under the domestic transfer pricing provisions in Indonesia through MoF Reg. 172/2023.

Pursuant to MoF Reg. 172/2023, the following are the provisions on secondary adjustment.

(i) The discrepancy between the value of transactions that comply and do not comply with the ALP is deemed an indirect distribution of profits to affiliated parties treated as dividends.

(ii) The indirect distribution of profits in the form of dividends is also subject to income tax pursuant to applicable statutory provisions in the field of taxation. The dividends are subject to income tax when the income is paid, allocated for payment or on the maturity date of the payment of income, depending on whichever event

occurs first. These dividends are also eligible for benefits from the provisions under the tax treaty.

(iii) The provisions on the secondary adjustment apply to cross-border and domestic transactions and all forms of special relationships.

However, secondary adjustment may not apply to the DGT if taxpayers repatriate and/or agree to the transfer price determined by the DGT. Repatriation refers to an addition and/or return of cash or cash equivalents amounting to the discrepancy between the transaction value that does not comply and that which complies with the ALP.

Repatriation is performed before the notice of tax assessment is issued, namely during the audit process until the closing conference. However, up to the writing of this book in August 2024, there is no further regulation concerning detailed technical provisions on repatriation, such as the period for the repatriation and whether the cash or cash equivalents may be used during the current repatriation period.

D.3 Resolution Mechanisms for Transfer Pricing Issues

Three instruments may be used by taxpayers in resolving transfer pricing issues, i.e., through the Advance Pricing Agreement (APA), Mutual Agreement Procedure (MAP) and appeals to the Tax Court, which can extend to civil review requests to the Supreme Court.

If a transfer pricing issue has escalated to a dispute, the taxpayer may file a legal remedy in the form of an appeal up to a civil review. The tax dispute resolution processes in Indonesia take twelve months respectively for objection and appeal, while civil review takes six months. However, in appeals and civil review processes, the dispute resolution period may be longer than stipulated.

Further, in the event that a transfer pricing issue has escalated to a dispute, MAP may be used by taxpayers as a form of alternative dispute resolution. MAP provisions refer to the rules contained in the tax treaty clauses between Indonesia and the tax treaty partner.

On another note, MAP can be initiated by taxpayers or the DGT. In general, the MAP process may commence if an action of the contracting state results or will result in taxation not in accordance with the provision of a tax treaty. In practice, taxpayers can initiate a MAP following the issuance of a notice of tax audit. Therefore, the exhaustion of domestic dispute resolution remedies is not necessary to initiate an MAP.

In addition to MAP, APA is an alternative solution in addressing transfer pricing issues. Through APA, taxpayers may prevent the rise of future transfer pricing disputes. APAs can be concluded unilaterally, bilaterally or multilaterally. Moreover, APAs can cover a period of up to five tax years.

Pursuant to MoF Reg. 22/2020 as amended by MoF Reg. 172/2023, APAs can now also cover a roll-back period for tax years for which the statute of limitation for an assessment by the DGT has not elapsed (i.e., five years under the current regulations). The Director General of Taxes Reg. No. PER-17/PJ/2020 has been intentionally enacted to specify procedures for APA application settlement, implementation and evaluation.

D.3.1 Advance Pricing Agreement

Advance Pricing Agreement (APA) refers to a written agreement between the DGT and a taxpayer or the competent authority of a tax treaty partner to agree on the criteria in transfer pricing and/or determine the setting transfer price in advance. The transfer price is agreed upon by applying the ALP according to conditions that have occurred and are expected to occur during the APA period.

APA period is a tax year covered under APA according to the application of a resident taxpayer or according to the mutual agreement for a maximum of five tax years after the tax year the application for APA is submitted. APA may be subject to a roll-back if the taxpayers request a roll-back in the application for APA.

A resident taxpayer applying for APA must submit the application to the DGT through the Tax Office where the taxpayer is registered. The submission of the application must fulfil the requirements listed in MoF Reg. 172/2023.

One of the requirements is that the proposed transfer price in the application for APA is submitted based on the ALP. Moreover, the determination of the transfer price cannot result in taxpayers' operating profit being lower than the operating profit that has been filed in the annual corporate income tax returns for three consecutive tax years before the tax year the application for APA is submitted. In the application for APA, the profit level indicators used are (i) Return on Sales (RoS) ratio or (ii) Net Cost Plus Mark-up (NCPM) ratio.

However, if the taxpayers' business is negatively affected by a national disaster determined by the central government, the profit level of the taxpayers' business may be adjusted. An example of a national disaster that has been declared by the government is Covid-19 pandemic which was declared a national disaster through Presidential Decree No. 12/2020.

Further, adjustments to profit levels are stated in the projected financial statements for the APA period. The profit level in these projected financial statements is the profit level resulting from adjustments to normal conditions.

The application for APA is deemed to not result in the taxpayers' operating profit being lower if the lower level of profit in projected financial statements during the APA period is greater or at least equal to the lowest level of profit in the annual corporate income tax return for three tax years before the tax year the application for APA is submitted.

Furthermore, in addition to not resulting in the taxpayers' operating profit being lower, four other requirements must be fulfilled by the resident taxpayers before applying for APA. *First*, the resident taxpayers must have filed the annual corporate income tax returns for three

consecutive tax years before the tax year the application for the APA is submitted.

Second, the resident taxpayers have been required and have fulfilled the obligation to maintain and retain transfer pricing documentation, in the form of master file and local file, for which MAP is applied for three consecutive tax years before the tax year the application for APA is submitted. *Third*, the resident taxpayers are not subject to preliminary audits, tax crime investigations, prosecutions, trials or serving sentences for tax crimes.

Fourth, the controlled transactions for which the application for APA is submitted are controlled transactions that have been filed by the taxpayers in the annual corporate income tax returns for three consecutive tax years before the tax year the application for APA is submitted. Moreover, in applying for APA, taxpayers must also fulfil several administrative requirements.

First, the application for APA is submitted in writing in the Indonesian language by completing the application form for APA using the sample format stipulated under MoF Reg. 172/2023. *Second*, the application for APA is signed by the management whose names are listed in the deed of establishment or the deed of amendments (in the event of changes in management).

Third, the application for APA is submitted in a period of six to twelve months before the start of the APA period (if the application is based on the taxpayers' initiative) or before the start of the APA period (if the application is based on the written notification from the DGT). *Fourth*, the application for APA is attached with the statement letter that the taxpayers are willing to complete all documents required in the APA process and the statement letter that the taxpayers are willing to implement the agreement listed in APA.

If all the requirements have been fulfilled, taxpayers may apply for APA in person or electronically if the system is available. For the application

for APA, the DGT issues proof of receipt. The date listed in the proof of receipt is the date of receipt of the application for APA.

Three types of APA are known under MoF Reg. 172/2023, namely unilateral, bilateral and multilateral APA. Unilateral APA refers to the agreement between the DGT and a resident taxpayer, whereas bilateral/multilateral APA refers to the agreement between the DGT and one or more competent authorities of the tax treaty partner implemented based on the application of a resident taxpayer.

Please note that the application for APA may be submitted based on the taxpayer's initiative or written notification from the DGT. The application is related to the application for bilateral or multilateral APA submitted by non-tax residents to the competent authority of the tax treaty partner.

Further, the results of the APA negotiations may contain agreement or disagreement on the criteria in the APA and the setting of the transfer price in advance. In the event that the APA negotiations result in disagreement, the DGT shall terminate the APA process and issue written notification to the taxpayer.

However, if agreed upon, the agreement in the APA must be subsequently implemented in the taxpayer's transfer pricing policy. Further, its implementation must be stated in the transfer pricing documentation for the APA period.

Taxpayers are allowed to revoke the application for APA. However, if the application for APA is revoked after APA negotiations start, the taxpayers may not re-apply for APA for the tax year covered in the revoked application for APA. In the event that the application for bilateral or multilateral APA is revoked, the taxpayers may apply for unilateral APA.

MoF Reg. 172/2023 also stipulates the follow-up to administrative penalties arising due to the implementation of APA. If for the APA period or roll-back, the annual corporate income tax return has been filed, the DGT has not conducted audit measures and there is an underpayment

of income tax payable calculated based on the agreement in APA, the taxpayers must amend the annual corporate income tax return according to the APA contained in the APA implementation decision letter no later than one month after the issuance of the decision on APA implementation. Administrative penalties arising from the amendment of the annual corporate income tax return will be nullified by the DGT pursuant to the provisions under the GPTP Law.

However, if during the APA or roll-back period, the annual corporate income tax return for that period is being audited, the DGT will issue a notice of tax assessment taking into account the agreement stated in the APA implementation decision letter. If a notice of tax assessment has been issued for a tax year within the APA period, the DGT will amend the notice of tax assessment *ex officio* by taking into account the agreement contained in the APA implementation decision letter. Administrative penalties arising due to notice of tax assessments or the above-mentioned amendment of notices of tax assessment are also nullified by the DGT pursuant to the GPTP Law.

D.3.2 Mutual Agreement Procedure

Mutual Agreement Procedure (MAP) refers to an administrative procedure regulated in a tax treaty to resolve issues arising in the application of the tax treaty, i.e., in the event of tax treatment by the tax authorities of the tax treaty partner that does not comply with the provisions of the tax treaty. Under MoF Reg. 172/2023, the DGT is authorised to implement MAP to prevent or resolve issues, such as double taxation and differences in the interpretation of the provisions of the tax treaty.

MAP may be implemented based on the request from resident taxpayers, Indonesian citizens, the DGT or tax authorities of the treaty partner through the competent authority of the treaty partner pursuant to the provisions in the tax treaty. Requests for the implementation of MAP must be submitted within the time limit stipulated under the tax treaty or no later than three years if not stipulated under the tax treaty,

from the date of the notice of tax assessment; the date of the payment receipt, withholding tax or collection receipt; or the time the tax treatment that does not comply with the provisions of the tax treaty occurs.

The request for the implementation of MAP may be submitted simultaneously with the resident taxpayers' application to file lawsuits, objections, appeals, the reduction or cancellation of incorrect notices of tax assessment or civil reviews. The request for the implementation of MAP does not delay the obligation to pay tax payable, the implementation of tax collection and tax refunds. If the request for the implementation of MAP cannot be followed up (rejected), it may be re-submitted insofar as the time limit has not elapsed.

MAP negotiations are conducted within a maximum period of 24 months from (i) the receipt of the written request for the implementation of MAP from the competent authority of the tax treaty partner or (ii) the submission of the written request for the implementation of MAP to the competent authority of the tax treaty partner.

Further, pursuant to Art. 50 paragraph (1) of MoF Reg. 172/2023, the DGT issues a mutual agreement decision letter within a maximum period of one month from (i) the date the written notification from the competent authority of the tax treaty partner is received and (ii) the date the written notification to the competent authority of the tax treaty partner is submitted.

The written notification outlines that mutual agreement may be implemented. Mutual agreement refers to the results agreed upon in the application of a tax treaty by the competent authority of the Government of Indonesia and the competent authority of the tax treaty partner government in connection with the implemented MAP.

The provisions under Art. 27C paragraph (6) of the GPTP Law as last amended by the HPP Law are re-affirmed in MoF Reg. 172/2023, i.e., the mutual agreement decision letter (the decision letter to follow up on the

agreement in the mutual agreement) constitutes the basis for tax refunds or the basis for tax collection. This implies that the MAP decision is independent as the basis for tax refunds or tax collection.

This implies that if a notice of tax assessment and an objection decision letter have been issued, the notice of tax assessment and objection decision letter do not need to be revised because they are independent. Matters submitted in the MAP may or may not be submitted in objection and appeal matters in dispute. If the implementation of MAP has not resulted in mutual agreement until the appeal decision or civil review decision is pronounced, the DGT:

(i) continues the negotiations if the matter in dispute decided in the appeal decision or civil review decision is not the matter for which MAP is applied; or

(ii) uses the appeal decision or civil review decision as the negotiating position or terminates the negotiations if the decided matter in dispute is not the matter for which the application for which MAP is applied.

The following is a summary of the re-assessment of tax payable after a mutual agreement decision letter has been issued.

(i) The mutual agreement decision letter is issued before the notice of tax assessment is issued.

    a. Resident taxpayers related to the request for the implementation of MAP must re-assess the amount of tax payable. The re-assessment is based on the mutual agreement decision letter by filing the amendment of tax returns or disclosure of the incorrectness in the completion of tax returns within the time limit stipulated under statutory provisions in the field of taxation.

       If within a time limit of three months from the issuance of mutual agreement decision letter or with due regard to the statute of limitation of assessments under the GPTP Law, resident taxpayers do not amend tax returns or do not disclose the incorrectness of the completion of the tax

returns, the DGT issues a notice of tax assessment by taking into account the mutual agreement decision letter.

b. If the mutual agreement decision letter is issued before the notice of tax assessment and results in the over-withholding and/or over-collection of income tax payable, resident taxpayers of the tax treaty partner may apply for refunds. The application for tax refunds which should not be otherwise payable is submitted pursuant to statutory provisions in the field of taxation.

(ii) The mutual agreement decision letter is issued after the notice of tax assessment is issued.

The DGT may issue the mutual agreement decision letter by re-calculating the amount of tax payable in the notice of tax assessment. The said condition arises if the mutual agreement decision letter is issued after the notice of tax assessment is issued and against the notice of tax assessment:

a. no objection is filed;
b. no application for the reduction or cancellation of incorrect notices of tax assessment is submitted;
c. an objection or application for the reduction or cancellation of incorrect notices of tax assessment is filed but not considered;
d. an objection or application for the reduction or cancellation of incorrect notices of tax assessment is filed but is revoked; or
e. an objection is filed but it has been adjusted based on the matters agreed in the mutual agreement.

(iii) The mutual agreement decision letter is issued after the tax assessment relief decision letter or tax assessment cancellation decision letter is issued.

In this situation, the DGT issues the mutual agreement decision letter by re-calculating the amount of tax payable in the tax assessment relief decision letter or the tax assessment cancellation decision letter.

(iv) The mutual agreement decision letter is issued after a lawsuit decision.

If the mutual agreement decision letter is issued after a lawsuit decision on cancellation is issued, the DGT issues the mutual agreement decision letter by re-calculating the amount of tax payable in the notice of tax assessment. The lawsuit decision on cancellation is issued against the tax assessment relief decision letter, the tax assessment cancellation decision letter or the objection decision letter whose issuance does not comply with the procedures or methods stipulated under statutory laws and regulations in the field of taxation.

(v) The mutual agreement decision letter is issued after the objection decision letter is issued.

The DGT issues the mutual agreement decision letter by re-calculating the amount of tax payable in the objection decision letter. These provisions apply if the mutual agreement decision letter after the objection decision letter is issued and against the objection decision letter:

a. no appeal is filed;
b. an appeal is filed but is revoked and the Tax Court has granted written approval of the revocation;
c. an appeal is filed but has been adjusted based on the matters agreed upon in the mutual agreement and the Tax Court has granted written approval of the adjustments; or
d. an appeal is filed but a Tax Court decision on rejection is issued.

(vi) Other non-covered matters in dispute:

a. in the event of other matters in dispute that are not covered in the mutual agreement decision letter, but have a connection with the matters in dispute covered in the mutual agreement decision letter, the DGT issues the objection decision letter or the reduction or cancellation of incorrect notice of tax assessment decision letter by considering the mutual agreement decision letter;

b. if the mutual agreement decision letter is issued when the taxpayers file an appeal against matters in dispute not included in the mutual agreement decision letter, the DGT issues the mutual agreement decision letter by re-calculating the amount of tax payable in the objection decision letter;

c. if the mutual agreement decision letter is issued after the appeal or civil review decision that covers matters in dispute other than those covered in the mutual agreement decision letter is issued, the DGT issues the mutual agreement decision letter by re-calculating the amount of tax payable in the implementation letter of appeal decision or the implementation letter of civil review decision;

d. if for taxpayers, the mutual agreement decision letter is issued after the issuance of the objection decision, appeal decision and/or civil review decision, the basis for the imposition of administrative penalties in the notice of tax collection also takes into account the amount of taxes in the mutual agreement decision letter.

CHAPTER 7
VALUE ADDED TAX

A. Overview

Value Added Tax (VAT) is imposed on supplies of taxable supplies and/or utilisation of taxable supplies from outside or within Indonesia occurring in the Indonesian customs territory. Under the Indonesian VAT Law, there is the term taxable persons (*Pengusaha Kena Pajak*/PKP in Indonesian), which is defined as an entrepreneur supplying taxable goods (*Barang Kena Pajak*/BKP in Indonesian) and/or taxable services (*Jasa Kena Pajak*/JKP in Indonesian) that are subject to taxes pursuant to VAT Law.

An entrepreneur in the context of VAT is any individual or entity in whatever form that in the course of business or work produces goods, imports or exports goods, conducts trading business, utilises intangible goods from outside the customs territory, conducts service businesses (including exporting services) or utilises services from outside the customs territory. Entrepreneurs supplying taxable goods or taxable services include both (i) entrepreneurs that have been registered as taxable persons as referred to in Art. 3A paragraph (1) of the VAT Law and (ii) entrepreneurs that should be registered as taxable persons but have not been registered.

The following are requirements to be fulfilled in supplies of goods or services subject to VAT.

(i) The supplies are in the form of taxable goods (including intangible taxable goods) and/or taxable services;

(ii) The supplies are conducted within the customs territory; and

(iii) The supplies are conducted in the context of their business or work.

Unlike the above criteria, any person bringing in taxable goods, utilising taxable intangible goods or utilising taxable services from outside Indonesia into Indonesia or to be utilised in Indonesia, regardless of whether carried out in the context of their business or work or not, remains subject to VAT.

Entrepreneurs supplying taxable goods and/or taxable services are required to report their businesses to be registered as taxable persons if within a month in an accounting year, their gross turnover and/or gross revenue exceeds the threshold of small-scale entrepreneurs (IDR4.8 billion). The obligation to report their business for VAT registration must be exercised no later than the end of the accounting year when the amount of gross turnover and/or gross revenue exceeds IDR4.8 billion.

The taxable persons are subsequently required to collect, remit and file VAT or VAT and Sales Tax on Luxury Goods (STLGs) payable starting from the first taxable period of the following accounting year. Business entities or individuals that in one accounting year supply taxable goods and/or taxable services with the amount of gross turnover and/or gross revenues not exceeding the small-scale entrepreneur threshold may opt to report their businesses for VAT registration. See further details concerning VAT registration in Chapter 2 General Provisions and Tax Procedures.

Taxable persons typically conduct business in Indonesia through various business units. Due to their dispersed locations, they are required to register each of their business units with the Tax Office (*Kantor Pelayanan Pajak*/KPP in Indonesian) situated there (decentralisation). This is because every location where a transaction occurs will be the place of supply. However, the Directorate General of Taxes (DGT) may receive applications from taxable persons with more than one place of business to consolidate the administration of VAT under one location (centralisation).

In certain cases, the DGT may determine a place other than the residence or domicile and place of business as the place of supply. Moreover, (i) holding companies that only hold shares and do not conduct any other activities or (ii) places of activities that solely purchase or collect raw materials are not required to perform VAT registration.

B. Taxable Events

In further detail, the following are events subject to VAT.

(i) Supplies of taxable goods within the customs territory conducted by entrepreneurs;

(ii) Imports of taxable goods;

(iii) Supplies of taxable services within the customs territory conducted by entrepreneurs;

(iv) Utilisation of intangible taxable goods from outside the customs territory within the customs territory;

(v) Utilisation of taxable services from outside the customs territory within the customs territory;

(vi) Exports of tangible taxable goods by taxable persons;

(vii) Exports of intangible taxable goods by taxable persons; and

(viii) Exports of taxable services by taxable persons.

Tax becomes payable upon the above-mentioned taxable events. In the event that (i) payment is received before a supply of taxable goods and/or taxable services or (ii) the payment is performed before the start of the utilisation of intangible taxable goods and/or taxable services from outside the customs territory, the time of supply is upon the payment.

The DGT may stipulate other times as the time of supply in the event that such time of supply is difficult to determine, such as in the event of supplies of taxable luxury goods from the head office to branches or vice

versa and between branches and supplies of taxable goods in the context of corporate restructuring and corporate debt restructuring.

The definition of a supply of taxable goods itself is broad. The following are events included in the scope of the definition.

(i) Supplies of rights to taxable goods due to an agreement;

(ii) Transfers of taxable goods under a lease purchase agreement and/or a leasing agreement;

(iii) Supplies of taxable goods to intermediary traders or through auctioneers;

(iv) Personal use and/or free-of-charge taxable goods;

(v) Taxable goods in the form of inventories and/or assets that, according to their original purpose, are not for sale and are remaining at the dissolution of a company;

(vi) Supplies of taxable goods from the head office to branches or vice versa and/or supplies of taxable goods between branches; and

(vii) Supplies of taxable goods by taxable persons in the context of a financing agreement based on sharia principles, in which these supplies are considered direct supplies by the taxable persons to the parties requiring the taxable goods.

The following are events excluded from the definition of supplies of taxable goods.

(i) Supplies of taxable goods to a broker as referred to in the Indonesian Commercial Code (*Kitab Undang-Undang Hukum Dagang*/KUHD in Indonesian);

(ii) Supplies of taxable goods to guarantee debts;

(iii) Supplies of taxable goods in the event that taxable persons centralise the place of supply;

(iv) Transfers of taxable goods in the context of a merger, consolidation, spin-off, split-up and acquisition and transfers of taxable goods for paid-up capital, provided that the parties transferring and receiving such transfers are taxable persons; and

(v) Taxable goods in the form of assets that, according to their original purpose, are not for sale remaining at the company's dissolution and whose input VAT on their acquisition is non-creditable as referred to in Art. 9 paragraph (8) subparagraph (b) of the VAT Law.

C. Non-Taxable Goods and Services

VAT is a general and neutral tax on consumption, implying that VAT is imposed on all types of consumption in every stage of production, distribution and the entire supply chain. However, the government stipulates a list of excluded goods and services categorised as not subject to VAT. The following are goods not subject to VAT.

(i) Food and beverages served in hotels, restaurants, eateries, grocery shops and the like, including food and beverages, either those consumed on the premises or not, including food and beverages supplied by catering businesses that constitute taxable objects of local taxes and charges pursuant to statutory provisions on local taxes and user charges; and

(ii) Money, gold bullion for foreign exchange reserves and securities.

The following are services not subject to VAT.

(i) Religious services;

(ii) Arts and entertainment services, including all types of services performed by artists and entertainers that constitute taxable objects of local taxes and user charges pursuant to statutory provisions in the field of local taxes and user charges;

(iii) Hospitality services, including bedroom rental services and/or room rental services in hotels that constitute taxable objects of local taxes and user charges pursuant to statutory provisions in the field of local taxes and user charges;

(iv) Services provided by the government in the context of governance in general, including all types of services in connection with service activities that may only be carried out by

the government according to its authority pursuant to statutory provisions and such services cannot be provided by other forms of business;

(v) Car park services, including the provision of car parks by car park owners or car park entrepreneurs to car park users that constitute taxable objects of local taxes and user charges pursuant to statutory provisions in the field of local taxes and user charges; and

(vi) Catering services, including all services activities of providing food and beverage that constitute taxable objects of local taxes and user charges pursuant to statutory provisions in the field of local taxes and user charges.

D. VAT Rates and Calculation

The VAT rate amounts to 11%. This rate has been effective from 1 April 2022 and will be increased to 12% no later than 1 January 2025. However, exports of tangible taxable goods, intangible taxable goods and taxable services as further regulated under a minister of finance regulation are subject to a 0% VAT rate. Specifically, certain limitations apply to exports of taxable services when utilising the VAT rate of 0%.

VAT payable is calculated by multiplying the above-mentioned rate by the tax base (*Dasar Pengenaan Pajak*/DPP in Indonesian), which includes the selling price, remunerations, import value, export value or other values. All discounts on the tax invoice are not included in the taxable amount calculation.

Please note that input VAT on acquisitions of taxable goods and/or taxable services, imports of taxable goods as well as the utilisation of intangible taxable goods and/or utilisation of taxable services from outside the customs territory, whose calculation of VAT payable uses the tax base in the form of another value, is creditable. Further, other values as the tax base is stipulated pursuant to MoF Reg. 75/PMK.03/2010 concerning Other Values as the Tax Base as amended

several times, last amended by MoF Reg. 121/PMK.03/2015. Moreover, other values as tax base can also be found under MoF Reg. 71/PMK.03/2022.

E. Input and Output VAT

In the context of VAT, obligations for a taxable person are collecting, remitting and filing tax payable. The tax payable is set off using the input VAT and output VAT method. Input VAT arises when a taxable person purchases taxable goods or utilises taxable services from another taxable person.

Output VAT, on the other hand, arises when a taxable person supplies goods or renders services to a counterparty. The taxable persons may claim input VAT as a tax credit, reducing the total output VAT. Please note that input VAT in a taxable period is credited against output VAT in the same taxable period.

If in a taxable period, output VAT is greater than input VAT, the difference constitutes VAT that must be remitted by the taxable persons. However, if the creditable input VAT is greater than the output VAT in a taxable period, the difference constitutes tax overpayment that may be carried forward to the next taxable period or for which a refund may be applied at the end of the accounting year.

The imposition of a 0% rate implies that input VAT that has been paid for the acquisition of taxable goods and/or taxable services related to the activity is creditable. To claim input VAT, the following are some terms and conditions that must be fulfilled.

(i) Input VAT that is credited must use a tax invoice that fulfil the requirements under Art. 13 paragraph (5) and paragraph (9) of the VAT Law.

(ii) Input VAT crediting cannot be applied to expenses for:

   a. acquisitions of taxable goods or taxable services without a direct relationship with business;

b. acquisitions of taxable goods or taxable services related to businesses but the supply is subject to VAT exemption;
c. acquisitions of taxable goods or taxable services for which the tax invoice does not fulfil the provisions referred to in Art. 13 paragraph (5) or (9) of the VAT Law or does not include the name, address and Taxpayer Identification Number (TIN or *Nomor Pokok Wajib Pajak* in Indonesian) of the buyer of taxable goods or the recipient of taxable services;
d. utilisation of intangible taxable goods or taxable services from outside the customs territory within the customs territory for which the tax invoice does not fulfil the provisions referred to in Art. 13 paragraph (6) of the VAT Law.

(iii) Creditable input VAT but not yet credited against output VAT in the same taxable period is creditable in the next taxable period. The crediting should be performed no later than three taxable periods after the end of the taxable period when the tax invoice is prepared. This applies provided that it has neither been expensed nor capitalised in the acquisition prices of taxable goods or taxable services as well as fulfil the provisions on crediting under VAT Law.

F. Reverse Charge

The seller is typically in charge of collecting VAT from the customer. However, there are certain circumstances, such as the use of offshore services, where the buyer is required to pay the VAT due on a transaction or self-assessed VAT (also referred to as reverse charge) on the consumption or use of foreign taxable services or taxable intangible goods.

However, foreign vendors or service providers constituting non-tax residents may be designated to collect VAT from the importer or buyer in Indonesia (see Subchapter J. Other Issues regarding VAT on Electronic Commerce). In other words, the importer or buyer in Indonesia must pay VAT for and on behalf of the non-resident vendors

or service providers if they are not appointed and are unable to collect VAT.

The obligation for a vendor or service provider constituting a non-tax resident is collecting VAT on the utilisation of foreign intangible taxable goods and/or taxable services. The obligation takes effect on the first day of the following month after the issuance of the decision appointing the vendor or service provider as a VAT collecting agent.

G. VAT Refunds

If in a taxable period, creditable input VAT is greater than output VAT, the difference that constitutes tax overpayment is entitled to refunds from the tax authorities. Based on the General Provisions and Tax Procedures (GPTP) Law, the refund mechanism can be divided into the general mechanism (Art. 17B of the GPTP Law) and the special mechanism (also known as preliminary tax refunds). The special mechanism is a refund mechanism that applies to low-risk taxable persons (Art. 9 paragraph (4c) of the VAT Law).

In the general mechanism, after a taxable person applies for tax refund, the taxable person will be audited for a maximum period of twelve months from the time the application is completely received. In contrast to the general mechanism, in the special mechanism, tax refunds for low-risk taxable persons are implemented through an examination process and the taxable persons are eligible for the VAT refund in a shorter period (a decision is issued no later than one month after the application for tax refunds is submitted), provided that several conditions are fulfilled.

Procedures for preliminary tax refunds are further regulated under MoF Reg. 39/PMK.03/2018 as last amended by MoF Reg. 209/PMK.03/2021 in conjunction with the Director General of Taxes Reg. No. PER-5/PJ/2023 concerning accelerated tax refunds.

Moreover, Art. 16E of the VAT Law stipulates the VAT and STLGs treatment of individuals holding foreign passports who purchase

taxable goods in Indonesia. An individual holding a foreign passport who purchases goods in Indonesia to be brought outside the customs territory is entitled to request a refund of VAT and STLGs that have been paid on the purchase of such taxable goods.

The administrative requirements for the request for VAT and STLG refunds include (i) the VAT minimum value must be IDR500,000, (ii) taxable goods must be purchased within a period of one month before the departure from the customs territory and (iii) tax invoices must fulfil the provisions referred to in Art. 13 paragraph (5) of the VAT Law. The procedure and required documents are further set out in MoF Reg. 120/PMK.03/2019.

H. Tax Invoices

A taxable person is required to prepare a tax invoice in the event of the following.

(i) A supply of taxable goods as referred to in Art. 4 paragraph (1) subparagraph (a) or Art. 16D of the VAT Law;

(ii) A supply of taxable services as referred to in Art. 4 paragraph (1) subparagraph (c) of the VAT Law;

(iii) An export of tangible taxable goods as referred to in Art. 4 paragraph (1) subparagraph (f) of the VAT Law;

(iv) An export of intangible taxable goods as referred to in Art. 4 paragraph (1) subparagraph (g) of the VAT Law; and/or

(v) An export of taxable services as referred to in Art. 4 paragraph (1) subparagraph (h) of the VAT Law.

For the following times, tax invoices must be prepared or issued.

(i) A supply of taxable goods and/or taxable services;

(ii) The receipt of payment if payment is received before the supply of taxable goods and/or taxable services;

(iii) The receipt of term payment in the event of a supply of part of work phases;

(iv) An export of tangible taxable goods, intangible taxable goods and/or taxable services; or

(v) Other times regulated by or based on a minister of finance regulation.

The following is information on supplies of taxable goods and/or taxable services that must at least be included in a tax invoice.

(i) The name, address and TIN of the supplier of taxable goods or taxable services;

(ii) The identity of the buyer of taxable goods or taxable services which includes:

a. the name, address and TIN for resident corporate taxpayers and government agencies;

b. the name, address and TIN or national identification number (*Nomor Induk Kependudukan*/NIK in Indonesian) for individual tax residents;

c. the name, address and passport number, for individual non-tax residents; or

d. the name and address, for corporate non-tax residents or non-tax subjects as referred to in Art. 3 of the Income Tax Law (ITL);

(iii) Types of goods or services, the amount of the selling price or remunerations and discount;

(iv) The collected VAT and/or STLGs;

(v) The code, serial number and preparation date of the tax invoice; and

(vi) The name and signature of the person entitled to sign the tax invoice.

Retailer taxable persons may prepare tax invoices without including information concerning the identity of the buyer as well as the name and signature of the seller if performing supplies of taxable goods and/or taxable services to buyers with the characteristics of end consumers further stipulated by a minister of finance regulation. The tax invoice

used by retailer taxable persons is known as *faktur pajak digunggung* in Indonesian.

Further, the DGT may determine certain documents equivalent to tax invoices such as tax payment slips (*Surat Setoran Pajak*/SSP in Indonesian), export and/or import declaration on goods, or export declaration on intangible goods and/or services. Further provisions regarding the list of certain documents equivalent to tax invoices can be found in Director General of Taxes Reg. No. PER-16/PJ/2021.

Moreover, taxable persons are allowed to prepare one tax invoice which includes all supplies of taxable goods or taxable services occurring in one calendar month to the same buyer of taxable goods or recipient of taxable services to ease the administrative burden. This is referred to as a consolidated tax invoice (*faktur pajak gabungan* in Indonesian).

If taxable persons supply taxable goods and/or taxable services for which a tax invoice must be prepared using more than one transaction code, taxable persons may prepare the consolidated tax invoice only for supplies of the same transaction code, for each of the transaction codes. This provision does not apply to supplies of taxable goods and/or taxable services eligible for the subject to VAT or VAT and STLGs but not collected facility pursuant to the provisions stipulating supplies of taxable goods and/or supplies to and/or from certain areas or certain places.

Further provisions on procedures for the preparation of tax invoices and the amendment or replacement of tax invoices are stipulated by or based on MoF Reg. 18/PMK.03/2021 and the Director General of Taxes Reg. No. PER-03/PJ/2022 concerning tax invoices as amended by Director General of Taxes Reg. No. PER-11/PJ/2022.

A tax invoice is deemed not prepared if the tax invoice is issued more than three months from the time the tax invoice should have been prepared. In this case, the taxable person will be considered to have failed to issue a tax invoice, and the taxable goods buyer and/or taxable service recipient will be unable to claim the input VAT.

The tax invoice will be considered incomplete if it does not fulfil the applicable provisions. Issuing an incomplete tax invoice and after the three-month period has elapsed is subject to a fine of 1% of the tax base. Further, to successfully claim input VAT as a tax credit, specific tax invoices must be valid. Otherwise, it is not creditable.

I. Filing of Periodic VAT Returns

Periodic VAT returns must be filed to the DGT by the end of the following month after the taxable period ends. However, technically, a taxable person may only upload tax invoices to the system (*e-faktur*) no later than the 15th of every month after the taxable period ends.

J. Other Issues

After the enactment of the Harmonisation of Tax Regulation Law (HPP Law), major changes in VAT regulation have occurred. In December 2022, the government enacted the implementing regulation of VAT Law through Gov. Reg. No. 49/2022. In addition, at least sixteen minister of finance regulations have been issued to regulate VAT imposition on specific matters.

(i) MoF Reg. 58/PMK.03/2022 concerning the Appointment of Other Parties as Collecting Agents and Procedures for the Collection, Remittance and/or Filing of Taxes Collected by Other Parties on Procurement Transactions of Goods and/or Services through the Government Procurement Information System

This minister of finance regulation regulates that taxable persons instead of the government may constitute the party to collect VAT. This regulation focuses on rendering legal assurance to counterparties conducting transactions with the government.

(ii) MoF Reg. 59/PMK.03/2022 concerning the Amendment to MoF Reg. 231/PMK.03/2019 concerning Procedures for TIN Registration and Deregistration, VAT Registration and

Deregistration As Well As Withholding and/or Collection, Remittance and Filing of Taxes for Government Agencies

The regulation stipulates the provisions on the general procedures of tax administration for government agencies. In the context of VAT, it focuses on the precept of how government agencies are deemed taxable persons.

(iii) MoF Reg. 60/PMK.03/2022 concerning Procedures for the Appointment of Collecting Agents, Collection, Remittance and Filing of VAT on the Utilisation of Intangible Taxable Goods and/or Taxable Services from Outside the Customs Territory Within the Customs Territory Through Electronic Commerce

The minister of finance regulation stipulates how individuals or entities conducting business activities in the electronic commerce (e-commerce or *Perdagangan Melalui Sistem Elektronik*/PMSE in Indonesian) sector consisting of sellers, foreign e-commerce operators and/or domestic e-commerce operators (hereinafter referred to as e-commerce merchants) may be considered VAT collecting agents. If appointed as a VAT collecting agent by the Minister of Finance, an e-commerce merchant is required to collect, remit and file VAT. The appointment of e-commerce merchants as VAT collecting agents on e-commerce by the Minister of Finance is delegated to the DGT.

The following are the thresholds of certain criteria for the DGT to appoint e-commerce merchants as VAT collecting agents.

a. The value of transactions with the buyer of goods and/or service recipient in Indonesia exceeds IDR600 million in one year or IDR50 million in one month; and/or
b. The amount of traffic or accessors in Indonesia exceeds 12,000 in one year or 1,000 in one month.

When a customer pays the utilisation of intangible taxable goods and/or taxable services from outside the customs territory within the customs territory via e-commerce, VAT is payable. Further provisions on e-commerce VAT collecting agents can be seen in the Director General of Taxes Reg. No. PER-12/PJ/2020.

(iv) MoF Reg. 61/PMK.03/2022 concerning VAT on Self-Building Activities

Based on the minister of finance regulation, the following are several points that may be concluded concerning VAT on self-building activities.

a. Self-building activities refer to the construction of new buildings and the expansion of old buildings, not carried out in the conduct of business or work by individuals or entities and whose results are for personal use or used by other parties.
b. Buildings in the form of one or more technical constructions which are permanently planted or attached to one unit of land and/or body of water with the following criteria:
   - the main construction consists of wood, concrete, bricks or similar materials and/or steel;
   - designated for residence or a place of business; and
   - the area of the constructed building is at least 200 m^2.
c. VAT is calculated, collected and remitted by an individual or entity that carries out independent construction of a certain amount which is the product of the multiplication of 20% by the VAT rate (11%) multiplied by the tax base.
d. The tax base is in the form of a certain value amounting to the total costs incurred and/or paid to construct a building for each taxable period until the building is completed, excluding land acquisition costs.

(v) MoF Reg. 62/PMK.03/2022 concerning VAT on Supplies of Certain Liquefied Petroleum Gas (LPG)

Pursuant to the minister of finance regulation, VAT on supplies of certain LPG of which part of the price is subsidised, is paid by the government. However, VAT on supplies of certain LPG of which part of the price is not subsidised, is paid by the buyer. The following are several points that may be concluded from MoF Reg. 62/PMK.03/2022.

a. VAT payable on supplies of certain LPG of which part of the price is not subsidised at:

- the custody transfer point of the business entity is calculated by multiplying the VAT rate by other values as the tax base; and
- the custody transfer point of the agent or depot is collected and remitted at a certain amount.

b. Other values are determined using the following formula:

{100/(100+t)} multiplied by the retail price, in which t is the figure of the VAT rate.

c. A certain amount of VAT payable on supplies of certain LPG is stipulated:

- at the custody transfer point of the agent:
  1) to amount to 1.1/101.1 which took effect on 1 April 2022; and
  2) to amount to 1.2/101.2 which will take effect when the application of VAT rates stipulated under Art. 7 paragraph (1) subparagraph (b) of the VAT Law is enacted,

  of the difference between the agent selling price and the retail price.
- at the custody transfer point of the depot:
  1) to amount to 1.1/101.1 which took effect on 1 April 2022; and
  2) to amount to 1.2/101.2 which will take effect when the application of VAT rates stipulated under Art. 7 paragraph (1) subparagraph (b) of the VAT Law is enacted,

  of the difference between the depot and agent selling price.

(vi) MoF Reg. 63/PMK.03/2022 concerning VAT on Supplies of Tobacco Products

The following are several points that may be concluded based on the minister of finance regulation.

a. Supplies of:

- tobacco products produced domestically by manufacturers; or

- tobacco products produced overseas by importers,

are subject to VAT.

b. VAT imposed on supplies of tobacco products is calculated by multiplying the VAT rate by other values as the tax base.

c. Other values are determined using the following formula:

{100/(100+t)} multiplied by the retail price of tobacco products, for supplies of tobacco products, in which t is the figure of the VAT rate.

d. Based on the VAT rate and other values as the tax base, VAT on supplies of tobacco products is payable based on rounding is calculated to amount to:

- 9.9% multiplied by the retail price of tobacco products, for supplies of tobacco products which took effect on 1 April 2022; and
- 10.7% multiplied by the retail price of tobacco products, for supplies of tobacco products which will take effect when the application of the VAT rates stipulated under Art. 7 paragraph (1) subparagraph (b) of the VAT Law is enacted.

(vii) MoF Reg. 64/PMK.03/2022 concerning VAT on Supplies of Certain Agricultural Products

The following are several points that may be concluded based on the minister of finance regulation.

a. Taxable persons supplying certain agricultural products may use a certain amount to collect and remit VAT payable.

b. The certain amount is stipulated to amount to:

- 1.1% of the selling price, which took effect on 1 April 2022; and
- 1.2% of the selling price, which will take effect when the application of the VAT rates stipulated under Art. 7 paragraph (1) subparagraph (b) of the VAT Law is enacted.

(viii) MoF Reg. 65/PMK.03/2022 concerning VAT on Supplies of Used Motor Vehicles

The following are several points that may be concluded based on the minister of finance regulation.

a. Taxable persons conducting certain businesses in the form of supplies of used motor vehicles are obliged to collect and remit VAT payable on supplies of used motor vehicles at a certain amount.

b. The certain amount is stipulated to amount to:
   - 1.1% of the selling price, which took effect on 1 April 2022; and
   - 1.2% of the selling price, which will take effect when the application of VAT rates stipulated under Art. 7 paragraph (1) subparagraph (b) of the VAT Law is enacted.

(ix) MoF Reg. 66/PMK.03/2022 concerning VAT on Supplies of Subsidised Fertilisers for the Agricultural Sector

The following are several points that may be concluded based on the minister of finance regulation.

a. Supplies of subsidised fertilisers by taxable persons are subject to VAT. To VAT on supplies of subsidised fertilisers, the following provisions shall apply:
   - for the subsidised part of the price, VAT is paid by the government; and
   - for the unsubsidised part of the price, VAT is paid by the buyer.

b. VAT payable on supplies of subsidised fertilisers is calculated by multiplying the VAT rate by the tax base. The tax base for calculating VAT payable on supplies of subsidised fertilizers use other values.

c. Other values on the part of the price of subsidised fertilisers receiving subsidies shall be calculated using the following formula:

   {100/(100+t)} multiplied by the amount of subsidy payment, including VAT, where t is the figure of the applicable VAT rate.

d. Other values for the part of the price of subsidised fertilisers not receiving subsidies shall be calculated using the following formula:

{100/(100+t)} multiplied by the maximum retail price, where t is the figure of the applicable VAT rate.

(x) MoF Reg. 67/PMK.03/2022 concerning VAT on Supplies of Insurance Agent Services, Insurance Brokerage Services and Reinsurance Brokerage Services

The following are several points that may be concluded based on the minister of finance regulation.

a. VAT is payable on supplies of:
   - insurance agency services by insurance agents to insurance companies or sharia insurance companies;
   - insurance brokerage services by insurance brokerage companies to insurance companies and/or sharia insurance companies; and
   - reinsurance brokerage services by reinsurance brokerage companies to reinsurance companies and/or sharia reinsurance companies.

b. VAT payable shall be collected and remitted at a certain amount. The certain amount is:
   - 10% of the VAT rate multiplied by the commission or remuneration in whatever name and form paid to the insurance agent; or
   - 20% of the VAT rate multiplied by the commission or remuneration in whatever name and form received by the insurance brokerage company or reinsurance brokerage company.

(xi) MoF Reg. 68/PMK.03/2022 concerning VAT and Income Tax on Crypto Asset Trading Transactions

The following are several points that may be concluded based on the minister of finance regulation.

a. VAT is imposed on supplies of:
   - intangible taxable goods in the form of crypto assets by crypto asset sellers;

- taxable services in the form of the provision of electronic means services used for crypto asset trading transactions, by e-commerce operators; and/or
- taxable services in the form of crypto asset transaction verification services and/or mining pool management services by crypto asset miners.

b. VAT payable on a supply of intangible taxable goods in the form of crypto assets by a crypto asset seller is collected and remitted at a certain amount. The certain amount is stipulated to:
   - (1% x VAT rate) multiplied by the value of the crypto asset transaction, in the event that the e-commerce operator is a crypto asset physical trader; or
   - (2% x VAT rate) multiplied by the value of the crypto asset transaction, in the event that the e-commerce operator is not a crypto asset physical trader.

   The value of the above-mentioned transaction can be seen in the minister of finance regulation.

c. VAT payable on supplies of the provision of electronic means services must be withheld by e-commerce operators. VAT payable is calculated by multiplying the VAT rate by the tax base. The tax base is in the form of fees, amounting to the commission or remuneration in whatever name and form, including the commission or fees received by e-commerce operators which will be forwarded to crypto assets miners.

d. VAT on supplies of crypto asset transaction verification services and/or mining pool management services by crypto assets miners is collected by crypto assets miners. VAT payable is collected and remitted at a certain amount. The certain amount is stipulated to amount to 10% of the VAT rate multiplied by the monetary value of the crypto assets received by crypto asset miners, including crypto assets received from the crypto asset system (block reward).

(xii) MoF Reg. 69/PMK.03/2022 concerning Income Tax and VAT on the Implementation of Financial Technology

The minister of finance regulation focuses on how to tax financial technology activities as a whole and outlines that supplies of financial technology services by taxable persons are subject to VAT. VAT is subsequently calculated by multiplying the VAT rate by the tax base.

The tax base is in the form of remunerations, amounting to the fees, commissions, merchandise discount rates or other remunerations in whatever name and form received by the provider.

(xiii) MoF Reg. 70/PMK.03/2022 concerning the Criteria and/or Details of Food and Beverages, Arts and Entertainment Services, Hotel Services, Car Park Services and Catering Services Not Subject to VAT

The minister of finance regulation explains the criteria for goods and services not subject to VAT, among others food and beverages served in hotels, restaurants, eateries, grocery shops or served by catering service entrepreneurs constituting objects of local taxes and user charges.

Further, services not subject to VAT are those included in groups of arts and entertainment, hospitality, car park services provision and catering services constituting objects of local taxes and user charges. Further details of the criteria of each goods and/or services can be seen in MoF Reg. 70/PMK.03/2022.

(xiv) MoF Reg. 71/PMK.03/2022 concerning VAT on Supplies of Certain Taxable Services

The minister of finance regulation focuses on the use of certain amounts in calculating VAT payable. The following are certain taxable services included in the scope of this regulation.

a. Package delivery services pursuant to statutory provisions in the postal sector. The certain amount is set at 10% of the VAT rate multiplied by the remunerations;

b. Travel agency services and/or travel agent services in the form of tour packages, means of transport booking and accommodation booking, the supply of which is not based on the provision of commission or fees for a supply of sales intermediary services. The certain amount is set at 10% of the VAT rate multiplied by the selling price of the package tour, means of transport and accommodation;

c. Freight forwarding services in which the invoice for freight forwarding services includes freight charges. The certain amount is set at 10% of the VAT rate multiplied by the collected amount or the amount that should be collected;

d. Pilgrimage services that also organise trips to other places pursuant to statutory provisions on the criteria and/or details of religious services not subject to VAT. The certain amount is set at 10% of the VAT rate multiplied by the selling price of the tour package to other places, in the event that the invoice specifies the invoice for the pilgrimage services and the invoice for the tour package to other places. However, in the event that the invoice does not specify the invoice for pilgrimage services and the invoice for the tour package to other places, the certain amount is set at 5% multiplied by the selling price of the entire tour package; and

e. Organisation services of:

- marketing using the voucher media;
- payment transaction services in connection with voucher distribution; and
- consumer loyalty and reward programs,

the supply of which is not based on the provision of commission and there is no margin, pursuant to statutory provisions stipulating the calculation and collection of VAT and income tax on supplies/income in connection with sales of mobile phone credit, starter packs for SIM cards, tokens and vouchers. The certain amount is set at 10% of the VAT rate multiplied by the voucher selling price.

(xv) MoF Reg. 48/2023 concerning Income Tax and/or VAT on Sales/Supplies of Gold Jewellery, Gold Bullion, Non-Solid Gold Jewellery, Gemstones and/or Other Similar Stones As Well As

Services Related to Gold Jewellery, Gold Bullion, Non-Solid Gold Jewellery and/or Gemstones and/or Other Similar Stones Performed by Gold Jewellery Manufacturers, Gold Jewellery Merchants and/or Gold Bullion Entrepreneurs

The following are several points that may be concluded based on the minister of finance regulation.

a. Gold jewellery manufacturers and gold jewellery merchants must report their business for VAT registration;
b. Gold jewellery manufacturer taxable persons are required to collect VAT at an effective rate of 1.1% of the selling price (for supplies of self-manufactured gold to other gold jewellery manufacturers and/or gold jewellery merchants) or 1.65% of the selling price (for supplies of self-manufactured products to end consumers);
c. Gold jewellery merchant taxable persons are required to collect VAT with an effective rate of 1.1% of the selling price (if the gold jewellery merchant taxable persons have tax invoices for the acquisition of the said gold jewellery and/or certain documents equivalent to tax invoices for imports of the said gold jewellery) or 1.65% of the selling price if the gold jewellery merchant taxable persons do not have tax invoices and/or certain documents equivalent to tax invoices;
d. For supplies of gold jewellery from gold jewellery merchants taxable persons to gold jewellery manufacturers, VAT is imposed at 0% of the VAT rates multiplied by the selling price;
e. If gold jewellery manufacturer taxable persons and gold jewellery merchant taxable persons also supply non-solid gold jewellery and/or gemstones and/or other similar stones, the said taxable persons must collect and remit VAT payable on the supplies of non-solid gold jewellery and/or gemstones and/or other similar stones, at a certain amount. The certain amount is 10% of the VAT rate multiplied by the selling price;
f. Supplies of gold bullion for state foreign exchange reserve purposes are not subject to VAT; and
g. The obligation to report their businesses to be registered as taxable persons remains valid for gold jewellery

manufacturers and gold jewellery merchants that fulfil the criteria for small-scale entrepreneurs.

(xvi) MoF Reg. 60/2023 concerning the Thresholds of Public Housing, Workforce Housing, University Students and Pupil Dormitories As Well As Employee Housing That Are Exempt from VAT

This regulation stipulates the VAT incentives for public housing, workforce housing, university students and pupil dormitories as well as employee housing. See Chapter 10 Fiscal Incentives for further details.

Along with the major changes in the VAT regulation through Gov. Reg. No. 49/2022, rules related to application of VAT to taxable goods and taxable services and STLGs are also regulated in Gov. Reg. No. 44/2022. In addition, one minister of finance regulation has been issued to regulate the application of VAT on specific matters.

(i) MoF Reg. 41/2023 concerning VAT on the Transfer of Collateral Acquired by Creditors to Collateral Buyers

The transfer of collateral by a creditor to a collateral buyer is included in the definition of the transfer of rights to taxable goods subject to VAT. The collateral is a collateral acquired by the creditor for the settlement of credit, financing based on sharia principles or loans based on pawn law. VAT payable on the transfer of acquired collateral is collected, remitted and filed by the creditor.

VAT is collected upon receipt of payment by the creditor from the collateral buyer for the transfer of the collateral. VAT payable is subsequently collected and remitted in a certain amount. The certain amount is set at 10% of the VAT rate multiplied by the selling price of the collateral.

Input VAT on the acquisition of taxable goods and/or taxable services in respect of the transfer of collateral cannot be credited by the creditor. However, collateral buyers constituting taxable persons may credit VAT listed in the tax invoices.

CHAPTER 8
SALES TAX ON LUXURY GOODS

A. Overview

Sales Tax on Luxury Goods (STLGs) is a tax imposed on supplies of taxable luxury goods conducted by entrepreneurs producing the goods in the customs territory in their business or work. In addition, STLGs is also imposed on the imports of taxable luxury goods.

STLGs is only imposed once, i.e., upon a supply of taxable luxury goods by the manufacturer or producer of the taxable luxury goods or upon imports of taxable luxury goods. Therefore, supplies at the next levels are no longer subject to STLGs. STLGs that has been paid cannot be credited against STLGs or Value Added Tax (VAT) payable.

The imposition of STLGs is stipulated under Law No. 8 of 1983 concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods (VAT Law) as last amended by Law No. 7 of 2021 concerning the Harmonisation of Tax Regulations (HPP Law). Pursuant to the VAT Law, four considerations underlie the imposition of STLGs by the government.

First, the balance of tax burden between low and high-income consumers is necessary. *Second*, the control of consumption patterns on taxable luxury goods is necessary. *Third*, protection of small-scale or traditional producers is necessary. *Fourth*, securing state revenues is necessary.

The VAT Law also stipulates four criteria for taxable luxury goods. The four criteria include (i) goods that do not constitute basic necessities, (ii) goods that certain people consume, (iii) goods that high-income people generally consume and/or (iv) goods consumed to show status.

Provisions on VAT registration and the appointment of other parties to collect, remit and/or file VAT and STLGs, calculate VAT and STLGs and determine the time and place of supply are further regulated in Gov. Reg. No. 44/2022.

Pursuant to the VAT Law, STLGs rate is set at a minimum of 10% and a maximum of 200%. The STLGs rates are set differently depending on the classification of luxurious goods. However, exports of taxable luxury goods are subject to a tax rate of 0%.

The classification of luxury goods and the respective rates are mainly based on the ability to pay of different groups of people utilising these goods, in addition to their use value for society in general. These goods subject to STLGs are classified after consultation with the organs of the House of Representatives (*Dewan Perwakilan Rakyat*/DPR in Indonesian) in charge of finance.

Further regulation of the classification of goods subject to STLGs and the imposed rates are stipulated by government regulations. In this regard, the government generally issues government regulations concerning the imposition of STLGs on luxurious motor vehicles and luxurious goods other than motor vehicles.

B. STLGs on Luxurious Motor Vehicles

Details of the provisions on the imposition of STLGs on luxurious motor vehicles are regulated under Gov. Reg. No. 73/2019 as amended by Gov. Reg. No. 74/2021 and MoF Reg. 141/PMK.010/2021 as amended by MoF Reg. 42/PMK.010/2022. Further details regarding fiscal incentives of STLGs on luxurious motor vehicles can be seen in Chapter 10 Fiscal Incentives.

The STLG rates imposed on luxurious motor vehicles vary, namely 10%, 12%, 15%, 20%, 25%, 30%, 40%, 50%, 60%, 70% and 95%. The imposition of STLG rates depends on the type of vehicle, cylinder capacity, fuel oil consumption or carbon dioxide (CO_2) emission level and the technology used. Details of the STLG rates applicable to both

four-wheeled and two-wheeled vehicles are listed in the Appendix of MoF Reg. 141/PMK.010/2021.

The government differentiates the STLGs rates on eco-friendly motor vehicles and the tax base to encourage the use of energy-efficient and eco-friendly motor vehicles. The tax base is set in various ways, ranging from 20% to 80% of the selling price. The percentage of the tax base is set depending on the type of technology used, cylinder capacity, fuel oil consumption and the level of CO_2 emissions produced per kilometre.

The provisions on rates and the percentage of tax bases for vehicles with low carbon emissions apply to groups of motor vehicles that fulfil the requirements set by the Minister of Industry after coordinating with the Coordinating Minister for Economic Affairs, Coordinating Minister for Maritime Affairs and Investment as well as the Minister of Investment.

In respect of electric vehicles, the government through Gov. Reg. No. 74/2021 provides STLGs facilities for the purchase of electric cars. On the other hand, Battery Electric Vehicles (BEVs or *Kendaraan Bermotor Listrik*/KBL *berbasis baterai* in Indonesian) or fuel cell electric vehicles are subject to 0% STLGs (a STLGs rate of 15% multiplied by a tax base of 0% of the selling price). The tax base for calculating STLGs on motor vehicles with plug-in hybrid electric vehicles and full hybrid technology can be seen in Gov. Reg. No. 74/2021.

Not all motor vehicles classified as luxurious are subject to STLGs. The government has stipulated several vehicles exempt from STLGs. Several of these vehicles include ambulances, fire engines, vehicles for state protocols and/or vehicles used for patrol purposes of the Indonesian National Armed Forces (*Tentara Nasional Indonesia*/TNI in Indonesian) or the Indonesian National Police (*Kepolisian Negara Republik Indonesia*/POLRI in Indonesian) patrols.

C. STLGs on Taxable Luxury Goods Other Than Motor Vehicles

Details of the provisions on the imposition of STLGs on goods classified as luxurious other than motor vehicles are regulated under Gov. Reg. No. 61/2020 in conjunction with MoF Reg. 96/PMK.03/2021 as amended by MoF Reg. 15/PMK.03/2023. The following is the list of taxable luxury goods other than motor vehicles subject to STLGs and the respective rates pursuant to the regulations.

Table 8.1 STLGs Rates of Taxable Luxury Goods Other Than Motor Vehicles

No.	Description of Goods		STLGs Rates
1.	Luxurious residential groups, such as luxury homes, apartments, condominiums, townhouses and the like with a selling price of IDR30 billion or more		20%
2.	a.	Air and piloted air balloon groups, other aircraft without propulsion	40%
	b.	Bullets for firearm and other firearm groups, except for state purposes: bullets and parts thereof, excluding air rifle cartridges	
3.	a.	Aircraft groups other than those subject to the 40% rate, except for state purposes or commercial air transport: helicopters or other aircraft and air vehicles, other than helicopters	50%
	b.	Firearms and other firearm groups, except for state purposes: artillery guns, revolvers and pistols, firearms (other than artillery guns, revolvers and pistols) and similar equipment operated by firing explosives	
4.	a.	Cruise ships, excursion boats and similar vessels, specifically those primarily designed for the transport of people, ferries of all types except for state purposes or public transport	75%
	b.	Yachts, except for state purposes or public transport or tourism businesses	

Source: Gov. Reg. No. 61/2020.

D. Goods Excluded from the Imposition of STLGs

Pursuant to MoF Reg. 96/PMK.03/2021 as amended by MoF Reg. 15/PMK.03/2023, the imposition of STLGs is excluded for imports or supplies of:

(i) firearm bullets and/or other firearm bullets for state purposes;

(ii) aircraft with propulsion for state purposes or commercial air transportation;

(iii) firearms and/or other firearms for state purposes;

(iv) cruise ships, excursion boats and/or similar vessels specifically designed for the transportation of people, ferries of all kinds and/or yachts for state purposes or public transport; and

(v) yachts for tourism business.

The exclusion from the imposition of STLGs on imports or supplies of taxable luxury goods in points (i) to (iv) is given to taxpayers without having to hold an STLGs exemption certificate (*Surat Keterangan Bebas*/SKB in Indonesian). This applies in the event that the taxable luxury goods have obtained the VAT exempt or subject to VAT but not collected. However, the exclusion from the imposition of STLGs on imports or supplies of taxable luxury in point (v) is given to taxpayers conducting tourism businesses that hold an STLGs exemption certificate for every import or supply.

In contrast, in the event that the taxable luxury goods in points (i) to (iv) do not obtain the exempt from or subject to VAT but not collected facility, the exclusion from the imposition of STLGs on imports or supplies of taxable luxury goods is given to taxpayers that hold an STLGs exemption certificate for every import or supply. The STLGs exemption certificate must be held by the taxpayers importing or receiving supplies of taxable luxury goods before submitting the import declaration or receiving supplies.

E. Imports of Import-Duty-Exempt Taxable Goods Subject to STLGs but Not Collected

Some taxable goods may be exempt from import duty while remaining subject to VAT or VAT and STLGs. However, the imports of several types of taxable goods are exempt from import duty and subject to STLGs but not collected. The list of taxable goods exempt from import duty and subject to STLGs but not collected is stipulated in Gov. Reg. No. 49/2022 and can be seen in Chapter 10 Fiscal Incentives.

In respect of imports of taxable goods exempt from import duty and subject to STLGs but not collected, this provision applies without using a Subject to VAT but Not Collected Certificate (*Surat Keterangan Tidak Dipungut*/SKTD in Indonesian). The types of cooperation contracts, criteria for the goods and procedures for being subject to STLGs but not collected are implemented pursuant to the provisions on the exemption from import duty under statutory provisions in the field of customs.

CHAPTER 9
CUSTOMS AND EXCISE

A. Customs Overview

Provisions concerning customs are stipulated in Law Number 10 of 1995 as amended by Law Number 17 of 2006 concerning Customs (Customs Law). Customs is defined as all matters related to supervision of the traffic of goods entering or leaving the customs territory and the collection of import duty and export duty.

The Indonesian Customs Tariff Book (hereinafter referred to as *Buku Tarif Kepabeanan Indonesia*/BTKI in Indonesian), contains the nomenclature of the goods classification applicable in Indonesian customs. The list of types of goods systematically compiled based on their criteria with certain codes is needed in international trade traffic.

BTKI is updated regularly every five years. MoF Reg. 26/PMK.010/2022 stipulates BTKI 2022, which refers to the Harmonized System and the ASEAN Harmonized Tariff Nomenclature (AHTN). Self-checking of tariffs and classification of goods is also possible via the Indonesia National Trade Repository.

As aforementioned, BTKI contains a system of classification of goods and the imposition of import duties on imported and exported goods in Indonesia. The following are several of BTKI's functions.

(i) Collecting import duties, export duties and taxes on imports (*Pajak Dalam Rangka Impor*/PDRI in Indonesian);

(ii) Serving as a basis for negotiations in the Free Trade Agreement (FTA) scheme, rules of origin and statistical data collection;

(iii) Facilitating the monitoring of prohibited and restricted commodities, including products deemed hazardous both for trade and society;

(iv) Facilitating industrial assistance, for example, the determination of commodities on which import duty is exempt and government-borne import duty (*Bea Masuk Ditanggung Pemerintah*/BM DTP in Indonesian).

In addition to BTKI, the Most Favoured Nation (MFN) is also used to determine import and export duty tariffs. MFN is a principle in an agreement between World Trade Organization (WTO) member states. However, in addition to the MFN tariff, FTA have also resulted in preferential tariffs. The agreement could be entered into between each country or regionally to provide reduced tariff benefits to transacting parties involved in the transaction. This provision reduces duty tariffs on transacting parties through bilateral or regional agreements.

Based on the above explanation, the steps used to determine the tariffs could be summarised as follows. *First*, searching the product description in the BTKI. *Second*, the MFN clause in any treaty between the countries of origin and destination must be carefully examined. The MFN tariff will be used by all WTO members. However, if a preferential trade agreement exists, the preferential tariff can be used insofar as the requirements are fulfilled. *Third*, the MFN tariff must be used if the importer does not fulfil the preferential tariff requirements.

B. Export Duties

Export is the activity of releasing goods from the customs territory. The government may impose export duties on exported goods. The imposition of export duties is intended to ensure the fulfilment of domestic needs, conserve natural resources, anticipate fairly drastic price increases of certain export commodities in the international market or maintain the stability of certain commodity prices.

B.1 Exported Goods Subject to Export Duties

Export duties are not imposed on all types of goods, but only on certain goods. The Minister of Finance stipulates exported goods subject to export duties after receiving considerations and/or recommendations from the Minister of Trade and/or ministers or heads of non-departmental government institutions or heads of related technical agencies. In addition, the Minister of Finance also determines certain exported goods that may be excluded from the imposition of export duties.

Currently, exported goods subject to export duties consist of (i) leather and wood, (ii) cocoa beans, (iii) palm oil, Crude Palm Oil (CPO) and their derivative products, (iv) products from the processing of metallic minerals and (v) metallic mineral products with certain criteria. The export duty tariffs imposed on these goods may be determined based on a percentage of the export price (*ad valorem*) or specifically. The following is the formula to calculate export duties on exported goods.

(i) *Ad Valorem*

Export Duty = Export Duty Tariff x Unit of Goods x Export Price per Unit of Goods x Currency Exchange Rate

(ii) Specific

Export Duty = Export Duty Tariff per Unit of Goods in Certain Currency Units x Unit of Goods x Currency Exchange Rate

Generally, the Minister of Finance periodically issues a ministerial regulation stipulating the list of goods subject to export duties and the respective applicable tariffs. Exported goods subject to export duty must be declared using an export declaration by the exporter.

B.2 Customs Procedures in the Field of Exports

Exporters are required to declare the goods to be exported to the Customs Office of loading using an export declaration (*Pemberitahuan*

Ekspor Barang/PEB in Indonesian) (BC 3.0). The obligation to submit an export declaration, however, does not apply to (i) goods for the personal use of passengers, (ii) crew's effects, (iii) border-crossers' goods or (iv) consignment goods sent by post with a gross weight not exceeding 30 kilograms.

The export declaration is prepared by an exporter based on customs complementary documents, including (i) invoices, (ii) packing lists, (iii) bill of lading/airway bills and (iv) other required documents. The export declaration may be used for each export or periodically.

For the submission of the export declaration used for each export, the export declaration must be submitted by the exporters or their attorney to the Customs Office of loading no later than seven days before the estimated date of export and no later than before the goods are entered into the customs area of the loading point.

Specifically for exports of bulk cargo, Completely Built-Up (CBU) motor vehicles without containers or goods loaded outside the customs area without the permit from the Head of the Customs Office, the export declaration may be submitted no later than before the departure of the means of transport.

On the other hand, the export declaration used periodically must be submitted for exports of goods in the power of electricity, liquids or gas transported through transmissions or pipes.The export declaration is to be submitted periodically no later than the end of the current period with a maximum period of one month.

Exporters are also required to comply with the provisions on export prohibitions and/or restrictions stipulated by the relevant technical agencies. Further, the exporters are responsible for export duty, which implies that they are required to self-pay and calculate export duty (self-assessment).

The exporters must pay export duty payable no later than when the export declaration or other customs declarations are submitted to the Customs Office. However, the Minister of Finance may stipulate

exported goods with certain characteristics on which export duty is paid after the export declaration is submitted to the Customs Office.

Even though the export declaration has been submitted, the exporters may amend the export declaration in the event of data errors insofar as within the time limit stipulated in the Director General of Customs and Excise Reg. No. PER-9/BC/2023. Please note that should exporters fail to fulfil their obligations and the handling of the export declaration is represented by customs brokers (*Pengusaha Pengurusan Jasa Kepabeanan*/PPJK in Indonesian), the obligations in terms of export duty are shifted to the customs brokers.

Further, pursuant to Director General of Customs and Excise Reg. No. PER-9/BC/2023, exported goods may be subject to a customs inspection that consists of document examination and physical inspection. Document examination includes examination of compliance with provisions on prohibition and/or restrictions, examination by the service computer system (*Sistem Komputer Pelayanan*/SKP in Indonesian) and examination by customs and excise officials. Physical inspection is carried out of the following exported goods.

(i) Exported goods to be re-imported;

(ii) Export goods which upon import are intended to be re-exported;

(iii) Exported goods that receive exemption, drawback and small and medium industry import facilities for export (*Kemudahan Impor Tujuan Ekspor*/KITE in Indonesian);

(iv) Exported goods subject to export duty;

(v) Exported goods based on recommendations from related ministries or agencies or the internal units of the Directorate General of Customs and Excise (DGCE), stipulated by the Director General on behalf of the Minister;

(vi) Exported goods that based on analysis results of the information from the supervision unit show a strong indication that violations of statutory provisions will occur or have occurred; and/or

(vii) Exported goods other than those mentioned above, that are determined based on risk management by the supervision unit.

In summary, export procedures are as follows.

(i) The exporter or attorney submits the export declaration document to the Customs Office of the loading point;

(ii) The documents for the exported goods declared in the export declaration must be subject to document examination. Further, if the examination of the received export declaration documents shows that the export declaration data is filled in:

a. incompletely and/or unaccordingly, a rejection notification note (*Nota Pemberitahuan Penolakan*/NPP in Indonesian) response is issued;

b. completely and accordingly but includes goods whose exports are prohibited and/or restricted and the export requirements have not been fulfilled, a document requirement notification note (*Nota Pemberitahuan Persyaratan Dokumen*/NPPD in Indonesian) response is issued;

c. completely and accordingly, and does not include goods whose exports are prohibited and/or restricted or includes goods whose exports are prohibited and/or restricted but the export requirements have been fulfilled and the exported goods have not been physically inspected, the export declaration is given a number and date of registration and an export service note (*Nota Pelayanan Ekspor*/NPE in Indonesian) response is issued;

d. completely and accordingly, and does not include goods whose exports are prohibited and/or restricted or includes goods whose exports are prohibited and/or restricted but the export requirements have been fulfilled and the exported goods are physically inspected, the export declaration is given a number and date of registration and goods inspection notification (*Pemberitahuan Pemeriksaan Barang*/PPB in Indonesian) response is issued.

(iii) Further, the exported goods may be subject to a physical inspection.

In 2023, the government stipulated the provisions on re-examination in the customs sector. Re-examination in the customs sector refers to document examination in the context of re-assessment by the DGCE of import declarations (*Pemberitahuan Impor Barang*/PIB in Indonesian) and/or export declarations. These provisions have been issued to assess the compliance of service users after the goods leave the customs territory.

Pursuant to the Customs Law and MoF Reg. 78/2023, the DGCE is authorised to re-assess the calculation of import duty and export duty through re-examination. The re-examination may be conducted within a period of two years from the date of registration of the import or export declaration.

The import declaration is subject to a re-examination of the tariff and/or customs value. On the other hand, the export declaration is subject to a re-examination of the export duty tariff, export price, type of exported goods and/or quantity of exported goods.

B.3 Facilities

Through the DGCE, the government provides several facilities and concessions related to exports and the imposition of export duties. These facilities include the provision of payment deferral of export duties for exporters experiencing financial difficulties. In addition, there are also import facilities for export, drawback import facilities for export (KITE *pengembalian* in Indonesian) and small and medium industries (*Industri Kecil dan Menengah*/IKM in Indonesian) import facilities for export.

Further provisions on the imposition of export duty and the provisions on export duty can be seen in Customs Law, Gov. Reg. No. 55/2008, MoF Reg. 155/PMK.04/2022, MoF Reg. 106/PMK.04/2022, MoF Reg. 38/2024, Director General of Customs and Excise Reg. No. PER-9/BC/2023, Director General of Customs and Excise Reg. No. P-41/BC/2008 as last amended by Director General of Customs and Excise Reg. No. PER-34/BC/2016, MoF Reg. 154/2023.

C. Import Duties

Goods entered into the customs territory are treated as imported goods and subject to import duty payable. Details of imported goods subject to import duty are listed in MoF Reg. 26/PMK.010/2022. Further, the import duty imposed on imported goods may be calculated based on a percentage of the import price (*ad valorem*) or specifically, with the following formula.

(i) *Ad Valorem*

Import Duty = Import Duty Tariff x Customs Value

(ii) Specific*

Import Duty = Tariff per Unit of Goods x the Unit of Goods

* *only imposed on certain imported goods, such as rice, sugar and several cinematographic products.*

Further, some import duty tariffs are statutory (MFN tariffs) and some differ from MFN tariffs. These different tariffs may apply to imported goods subject to import duty tariffs based on international treaties or agreements or commonly referred to as preferential tariffs. MFN tariffs are imposed on all imports that are not covered by FTAs or other international treaties or agreements.

The use of the preferential tariffs must be completed with a Certificate of Origin (CoO or *Surat Keterangan Asal*/SKA in Indonesian).[1] An imported product may obtain a CoO if it fulfils the rules of origin. Nevertheless, please note that an import that is completed with a CoO, but the CoO is not accepted or cancelled, will also be subject to MFN tariffs.

The Indonesian government has currently entered into various international agreements to use preferential tariffs. These international agreements are, among others, ASEAN Trade in Goods Agreement (ATIGA), ASEAN-China Free Trade Area (ACFTA), ASEAN-Korea FTA

[1] CoO is Proof of Origin issued by the CoO issuing agency which will be used as the basis for the granting of preferential tariffs.

(AK-FTA), ASEAN-Australia-New Zealand FTA (AANZFTA), Indonesia–Australia Comprehensive Economic Partnership Agreement (IA-CEPA) and Developing Eight (D-8) Free Trade Agreement (D-8 FTA). The preferential import duty tariff amounts are determined separately under a minister of finance regulation.

In 2023, the government issued MoF Reg. 35/2023, which stipulates the procedures for the submission of the CoO and/or Declaration of Origin (DoO or *Deklarasi Asal Barang*/DAB in Indonesian)[2] in the context of the imposition of import duty tariffs on imported goods based on international agreements or treaties.

Procedures for the submission of the CoO and/or DoO were formerly stipulated under 17 minister of finance regulations stipulating procedures for the imposition of import duty tariffs on imported goods based on the above-mentioned international agreements. Further, MoF Reg. 35/2023 is present to simplify the provisions on the procedures for the use of the CoO and/or DoO.

Further, import duty tariffs that differ from MFN tariffs may also apply to imported goods carried by passengers, crew members, border crossers or goods sent by post or courier services. In addition to import duties, imported goods may be subject to additional import duties.

The additional import duties consist of anti-dumping, countervailing, safeguard and retaliatory import duties. As the names imply, these additional import duties will increase the amount of import duty that must be paid. In contrast to preferential tariffs whose use replaces MFN tariffs, imported goods subject to additional import duties remain subject to import duties, either using MFN or preferential tariffs.

2 DoO is proof of origin that contains a statement of the origin of goods prepared by exporters or producers as stipulated in each international agreement or treaty, which will be used as the basis for the granting of preferential tariffs.

C.1 Customs Procedures in the Field of Imports

In summary, the flow of customs procedures in the import sector commences from the arrival of the means of transport, unloading and stockpiling of imported goods, import declaration, inspection and release of goods. Imported goods are released using import declaration documents. Each party involved in the import activities has customs obligations to be fulfilled.

The import declaration is prepared by importers or customs brokers based on the customs complementary documents by self-assessing import duty, excise and/or taxes on import payable. The import declaration is submitted before or after the carrier submits the inward manifest or other customs declarations of transportation. The importer submits the import declaration through the service computer system to the Customs Office supervising the final destination of the transportation of goods.

In respect of the arrival of the means of transport, the carrier must submit the arrival notice (*Rencana Kedatangan Sarana Pengangkut*/RKSP in Indonesian) or the vessel schedule (*Jadwal Kedatangan Sarana Pengangkut*/JKSP in Indonesian) to the officials at the destination Customs Office before the arrival of the means of transport. In addition, the carrier must also submit a customs declaration in the form of a manifest of the imported goods being transported to the officials at the destination Customs Office.

Next, the unloading process may be carried out in the Customs Office or other places after obtaining a permit. On the other hand, stockpiling may be carried out in temporary storage (*Tempat Penimbunan Sementara*/TPS in Indonesian) or other places equivalent to temporary storage after obtaining a permit.

In the next stage, these imported goods are also subject to a customs inspection. The customs inspection includes document examination and goods physical inspection. The customs inspection is performed selectively based on risk management analysis, in this case, the

determination of the red, yellow, green channels and main partner (*Mitra Utama*/MITA in Indonesian) of customs (hereinafter referred to as Customs MITA).

Further, imported goods may be released based on a number of purposes, namely imported for home use, temporary admission, stockpiled in bonded storage (*Tempat Penimbunan Berikat*/TPB in Indonesian), transported to temporary storage in another customs territory, transitted and transhipped.

Imported objects are becoming more diverse over time because they are no longer limited to physical objects but may take the form of digital products. Considering these developments, the government has issued MoF Reg. 190/PMK.04/2022, which further regulates the release of imported goods for home use, including intangible goods. In respect of the release of imported goods for home use, the release channel for imported goods for home use is determined in the form of the red and green channel.

It is important to understand that the provisions of MoF Reg. 190/PMK.04/2022 stipulate the procedures for the release of imported goods for home use from the customs territory, excluding bonded storage, customs territories in Special Economic Zones (SEZs or *Kawasan Ekonomi Khusus*/KEK) and customs territories in Free Trade Zones and Free Ports (*Kawasan Perdagangan Bebas dan Pelabuhan Bebas*/KPBPB in Indonesian).

Further, each of the provisions in MoF Reg. 190/PMK.04/2022 may apply in general or to specific parties, namely importers or customs brokers with Authorised Economic Operator (AEO) and MITA status or importers without AEO or MITA status. More details on the procedures for releasing imported goods for home use can also be found in MoF Reg. 190/PMK.04/2022 as well as the Director General of Customs and Excise Reg. No. PER-2/BC/2023.

Moreover, the DGCE provides various import concessions and facilities, including truck losing, rush handling as well as the release of goods with

payment deferral of import duties and taxes on imports. In line with this, the government also provides government-borne import duty facility for certain industries as well as exemptions or relief from import duties for certain imports.

C.2 Bonded Storage

Bonded storage (*Tempat Penimbunan Berikat*/TPB in Indonesian) is a building, place or territory that fulfils certain requirements used for stockpiling goods for specific purposes by obtaining an import duty deferral. A bonded storage is established to improve the competitiveness of Indonesia's exported products by reducing logistics costs, stockpiling costs and dwelling time at ports.

Provisions on bonded storage are stipulated in Gov. Reg. No. 32/2009 as amended by Gov. Reg. No. 85/2015 and Director General of Customs and Excise Reg. No. PER-6/BC/2023. The regulation explains that bonded storage place consists of the following seven forms.

(i) Bonded warehouses (*Gudang Berikat* in Indonesian);

(ii) Bonded zones (*Kawasan Berikat* in Indonesian);

(iii) Bonded exhibition places (*Tempat Penyelenggaraan Pameran Berikat/*TPPB in Indonesian);

(iv) Duty-free shops (*Toko Bebas Bea* in Indonesian);

(v) Bonded auction places (*Tempat Lelang Berikat* in Indonesian);

(vi) Bonded recycling areas (*Kawasan Daur Ulang Berikat* in Indonesian); and

(vii) Bonded logistics centres (*Pusat Logistik Berikat*/PLB in Indonesian).

Goods entered from outside the customs territory into the aforementioned seven bonded storage receive the following facilities.

(i) Given import duty deferral;

(ii) Not subject to taxes on imports collection; and/or

(iii) Given excise exemption.

C.3 Customs MITA and Authorised Economic Operator

Customs examination of consignment goods imported by importers recognised as Authorised Economic Operator (AEO) and/or Customs MITA is conducted minimally and/or relatively sparingly pursuant to statutory provisions in the field of customs. However, in cases where a company holds dual status (as both a Customs MITA and an AEO), the Customs MITA status of the company must be revoked if the company already holds AEO status.

C.3.1 Customs MITA

A Customs MITA refers to an importer and/or exporter that is provided with special services in the field of customs. These special services include the following.

(i) Concessions in the field of customs pursuant to statutory provisions in the field of customs;

(ii) Other facilities provided by relevant ministries or institutions stipulated under statutory provisions;

(iii) Client Coordinators Specifically for Customs MITA; and/or

(iv) Facilities in the field of customs other than those referred to in number (i), granted by the Head of the Prime Customs and Excise Office (*Kantor Pelayanan Utama Bea dan Cukai*/KPUBC in Indonesian) or the Customs and Excise Office (*Kantor Pengawasan dan Pelayanan Bea dan Cukai*/KPPBC in Indonesian) by considering risk management in the context of the smooth release and/or entry of goods flow from and/or into the customs area at the port of loading and/or unloading.

The Customs MITA is directly appointed by the DGCE. This appointment is based on the company's profile and recommendations from both internal and external parties of the DGCE. It implies that the appointment of Customs MITA is determined directly by the DGCE without any application from the importer and/or exporter.

Importers and/or exporters are appointed as Customs MITA insofar as they fulfil several requirements in customs and taxation. The requirements to be fulfilled include the following.

(i) In the field of customs, including:
   a. there are import and/or export activities within the last six months;
   b. having compliance that includes:
      - within the last six months, having never misstated the quantity, types of goods and/or customs value in the customs declaration having never violated the facilities in the field of customs and/or having never committed any other violations in the field of customs;
      - not having arrears in the payment for import duty, export duty, excise duty, taxes on imports and/or administrative penalties in the form of fines that have matured; and
      - if a customs audit has been conducted, no recommendation states that the company cannot be audited based on the last audit findings;

(ii) In the field of taxation, including:
   a. having obtained a taxpayer status information containing valid status; and
   b. not currently having tax liabilities whose tax liability payment has been due;

(iii) Having never committed a customs, excise and/or tax crime;

(iv) In the form of a business entity by conducting activities according to business classification;

(v) Having an adequate internal control system which at least includes:
   a. organisational structure that reflects the separation of functions, authorities and responsibilities between divisions in managing the company's operations;
   b. procedures for the administration of permits from ministries or institutions if customs activities require permit documents;

c. procedures for the preparation and filing of customs documents; and
d. procedures for the recording, receipt and/or release of imported and/or exported goods;

(vi) Having employees with knowledge and understanding of customs as evidenced by a certificate issued by an agency tasked to organise education and training in the field of state finances;

(vii) Having financial statements with an unqualified opinion based on the results of a public accountant audit of the financial statements for the last two years; and

(viii) Expressing the intent to be registered as Customs MITA.

Importers and/or exporters that have been registered as Customs MITAs have several obligations, including ensuring the fulfilment of the requirements and appoint company employees as Customs MITA contact persons determined by the director of the company to communicate with Client Coordinators Specifically for Customs MITAs. In addition, importers and/or exporters that have been registered as Customs MITAs also apply for data changes to the DGCE in the event of data changes in the director general of customs and excise decree.

The DGCE may issue technical guidance for the appointment of importers and/or exporters as Customs MITAs and oversee the monitoring and evaluation of Customs MITAs. In this regard, monitoring and evaluation of Customs MITA provisions has been updated through MoF Reg. 128/2023. This minister of finance regulation also affirms the obligations that companies with Customs MITA status must fulfil.

Monitoring and evaluation are crucial to ensure all companies with Customs MITA status fulfil their obligations accordingly. The Customs MITA status may be revoked, among others, if a company fails to follow up on monitoring and evaluation results within a three-month period from the date of the proof of the suspension letter is sent.

C.3.2 Authorised Economic Operator

Through MoF Reg. 137/2023, the government has updated the regulations concerning Authorised Economic Operator (AEO). This update aims to refine AEO regulations to align with international best practices outlined in the World Customs Organization (WCO) *SAFE Framework of Standards* to secure and facilitative global trade.

AEOs are parties involved in international movement of goods in the global supply chain function and have been recognised by the DGCE, thereby, receiving certain customs treatment. Entrepreneurs eligible for recognition as AEOs include manufacturers, exporters, importers, customs brokers, carriers and/or other parties related to the global supply chain functions, including but not limited to consolidators, companies conducting activities as temporary storage, bonded storage and companies in the Free Trade Zone (FTZ).

To be recognised as AEOs, the following are general requirements to be fulfilled by economic operators.

(i) Having never committed a customs and/or excise and tax crime; and

(ii) Having financial statements audited by a public accountant firm within the last two years.

In addition to the general requirements, the following are conditions and requirements to be fulfilled by economic operators.

(i) Compliance with statutory provisions in the field of customs and related statutory provisions;

(ii) Trade data management system;

(iii) Financial viability;

(iv) Consultation, co-operation and communication system;

(v) Education, training and awareness system;

(vi) Security and safety management system; and

(vii) Measurement, analysis and improvement system.

Further details concerning the fulfilment of the conditions and requirements are listed in Appendix letter A of MoF Reg. 137/2023. The fulfilment of the conditions and requirements may differ for each type of economic operator depending on their roles and responsibilities in the international trade supply chain.

An economic operator must apply to the DGCE to obtain recognition as an AEO. The application may be a new or an amended one. The application must be attached with a list of general information on the economic operator and a completed qualitative self-assessment questionnaire. Additionally, the letter of intent to constitute an AEO signed by the lead economic operator and audited financial statements for the last two years must be provided.

The decision on AEO recognition is valid for five years and may be extended every five years based on the evaluation results conducted by the DGCE. Specific customs treatments granted to AEOs are now divided into two types, i.e., general and/or special customs treatments.

The general customs treatment is given to all types of operators, which include but are not limited to the following.

(i) Being recognised as a partner of the DGCE;

(ii) Receiving special services in the form of services provided by the Client Manager;

(iii) Prioritised to be included in new programmes initiated by the DGCE; and/or

(iv) Receiving customs consultancy and/or assistance services outside the working hours of the Customs Office.

The special customs treatment is granted according to certain types of operators, which include but are not limited to the following.

(i) Obtaining the predicate as low-risk companies;

(ii) Document examination and/or physical inspection based on risk management pursuant to applicable provisions;

(iii) Prioritised to obtain simplified customs procedures;

(iv) Prioritised to obtain customs services;

(v) Special services in the field of customs for the smooth release and/or entry of goods traffic from and/or to the customs area at the port of loading and/or unloading by considering risk management; and/or

(vi) Facilities stipulated pursuant to statutory provisions in the field of customs.

In addition to the special above-mentioned customs treatment, AEOs also receive the following treatment.

(i) Concessions agreed upon with customs administration of other countries under the mutual recognition arrangement; and/or

(ii) Concessions provided by government agencies pursuant to statutory provisions.

In summary, companies recognised as AEOs may enjoy the benefit of being recognised by all WCO member states worldwide as entities with high compliance and supply chain security levels.

In addition to having the above-mentioned rights, AEOs are responsible for maintaining and/or improving the conditions and requirements that have to be fulfilled as mentioned in the beginning and developing and maintaining ethical values and/or accountability in trading practices. AEOs are subject to monitoring and evaluation in their implementation. Please note that companies designated as AEOs differ from Customs MITA.

C.4 Other Issues

C.4.1 Customs Inspections

The government simplifies the customs inspection provisions by amending the provisions stipulating customs inspections in the import sector in line with the issuance of MoF Reg. 185/PMK.04/2022. Changes were performed to simplify the provisions on the physical inspection of imported goods and document examination.

MoF Reg. 185/PMK.04/2022 is part of the DGCE's bureaucratic reforms and institutional transformation programs as well as the alignment of business processes and digital transformation. The instructions for the implementation of the physical inspection of imported goods can also be found in the Director General of Customs and Excise Reg. No. PER-1/BC/2023.

C.4.2 Safeguard Import Duty

The number of imports of yarn products other than sewing thread from synthetic and artificial staple fiber continues to rise, causing severe losses in the domestic industry. As a result, through MoF Reg. 46/2023, the government will continue to levy a safeguard import duty (*Bea Masuk Tindakan Pengamanan*/BMTP in Indonesian) on imports of yarn products other than synthetic and artificial staple fibre sewing threads.

In summary, imports of yarn products other than sewing thread from synthetic and staple fibre from all countries are subject to safeguard import duty. However, if yarn products other than sewing thread from synthetic and staple fibre are imported from one of the 120 countries listed in the Appendix of MoF Reg. 46/2023, safeguard import duty is excluded for these imports. In obtaining the facilities, the importer must submit a CoO for imports originating from these excluded countries as listed in the Appendix of MoF Reg. 46/2023.

D. Excise

Excise is a state levy imposed on certain goods whose nature or characteristics are stipulated in Law Number 11 of 1995 as amended by Law Number 39 of 2007 concerning Excise (Excise Law). The categories of certain goods that are subject to excise pursuant to the Excise Law are goods that have the following nature or characteristics.

(i) Their consumption needs to be controlled;
(ii) Their distribution needs to be monitored;
(iii) Their use may have a negative impact on the people or the environment; or

(iv) Their use requires state levies for justice and balance.

D.1 The Growth in Excise Revenue

Based on the Ministry of Finance's data, the realisation of excise revenue in Indonesia throughout 2023 amounted to IDR221.8 trillion. Through Presidential Regulation No. 76/2023, the government subsequently set a higher excise revenue target of IDR246 trillion in 2024. In efforts to optimise this target achievement, the government has undertaken various measures.

First, plans to expand the scope of excisable goods (*Barang Kena Cukai*/BKC in Indonesian). To date, the Indonesian government imposes excise on products, such as ethyl alcohol, beverages containing ethyl alcohol (*Minuman Mengandung Etil Alkohol*/MMEA in Indonesian), concentrates containing ethyl alcohol (*Konsentrat Mengandung Etil Alkohol*/KMEA in Indonesian) and tobacco products. The following table details the excise tariffs that apply to these products.

Table 9.1 Excise Tariffs Based on Products

Product	Category	Ethyl Alcohol Level	Excise Tariff	
			Domestic Product	Foreign Product
Ethyl alcohol	Without category	In whatever level	IDR20,000/litre	IDR20,000/litre
Beverages containing ethyl alcohol	A	≤5%	IDR16,500/litre	IDR16,500/litre
	B	>5%-20%	IDR42,500/litre	IDR53,000/litre
	C	>20%-55%	IDR101,000/litre	IDR152,000/litre
Product	**Category**	**Types**	**Excise Tariff**	
			Domestic Product	**Foreign Product**
Concentrates containing ethyl alcohol	Without category	In the form of liquid	IDR228,000/litre	IDR228,000/litre
	Without category	In the form of solid	IDR1,000/gram	IDR1,000/gram
Tobacco products	The excise tariff amounts to IDR10 to IDR110,000/stick or gram			

Source: processed by the Author.

In the recent update, plans to expand the scope of excisable objects consisting of plastics and packaged sugar-sweetened beverages (*Minuman Berpemanis Dalam Kemasan*/MBDK in Indonesian) remain

under the government's agenda. In this regard, the government targets plastic excise revenues to reach IDR1.84 trillion and packaged sugar-sweetened beverages excise revenue of IDR4.38 trillion in 2024.

Second, the increase in the tobacco excise (*Cukai Hasil Tembakau*/CHT in Indonesian) tariffs. To provide legal certainty, the government will announce the tobacco excise tariffs for the next two years (2025-2026). The classification of the excise on tobacco products based on their tier and category in 2023-2024 can be seen in Table 9.2 and Table 9.3 (see the full regulation in MoF Reg. 191/PMK.010/2022).

Table 9.2 Minimum Prices and Excise Tariffs of Domestically Manufactured Tobacco Products

No.	Types of Tobacco Product Factories	Category	2023		2024	
			Minimum Retail Price (IDR)	Excise (IDR)	Minimum Retail Price (IDR)	Excise (IDR)
1.	Machine-made Clove Cigarettes	I	2,055	1,101	2,260	1,231
		II	1,255	669	1,380	746
2.	Machine-made White Cigarettes	I	2,165	1,193	2,380	1,336
		II	1,295	710	1,465	794
3.	Hand-made Filtered Clove Cigarettes or Hand-made White Cigarette	I	Above 1,800	461	Above 1,980	483
			1,250 – 1,800	361	1,375 – 1,980	378
		II	720	214	865	223
		III	605	118	725	122

Source: processed by the Author.

Having the same fate as excise on conventional tobacco products, the government will also announce the excise tariffs on electric cigarettes (e-cigarettes or *Rokok Elektrik*/REL in Indonesian) and other tobacco products for the next two years (2025-2026). Details of the excise tariffs of e-cigarettes and other tobacco products in 2023-2024 are as follows (see the full regulation in MoF Reg. 192/PMK.010/2022).

Table 9.3 Minimum Retail Price and Excise Tariffs of E-Cigarettes and Other Tobacco Products

No.	Tobacco Product Type		2023				2024			
			Minimum Retail Price (IDR)		Excise Tariff (IDR)		Minimum Retail Price (IDR)		Excise Tariff (IDR)	
			Value	Unit	Value	Unit	Value	Unit	Value	Unit
1.	E–cigarettes:									
	a.	solid e–cigarettes	5,527	Per gram	2,886	Per gram	5,886	Per gram	3,074	Per gram
	b.	liquid e–cigarettes with an open system	938	Per millilitre	532	Per millilitre	1,121	Per millilitre	636	Per millilitre
	c.	liquid e–cigarettes with a closed system	37,365	Per cartridge	6,392	Per millilitre	39,607	Per cartridge	6,776	Per cartridge
2.	Other Tobacco Products:									
	a.	molasses tobacco	228	Per gram	127	Per gram	242	Per gram	135	Per gram
	b.	snuff tobacco	228	Per gram	127	Per gram	242	Per gram	135	Per gram
	c.	chewing tobacco	228	Per gram	127	Per gram	242	Per gram	135	Per gram

Source: processed by the Author.

D.2 Agglomeration of Tobacco Product Factories

The government's efforts to increase excise revenue are also balanced with government policies in the tobacco industry, namely the agglomeration of tobacco product factories. Agglomeration of factories is the concentration or centralisation of factories in a certain place, location or area.

As the centralisation area of tobacco product factories, factory agglomeration is aimed at improving guidance, services and supervision of manufacturers. This program is designed specifically for manufacturers operating on a micro, small or medium industrial scale. Manufacturers conducting business in the factory agglomeration area will be provided with the following facilities.

(i) Permits in the field of excise

The ease of permits in the field of excise is in the form of the exclusion from the condition of having a location, building or place of business that will be used as a tobacco product factory, stipulated under statutory laws and regulations concerning

excisable goods operator identification number (*Nomor Pokok Pengusaha Barang Kena Cukai*/NPPBKC in Indonesian).

(ii) Ease of production of excisable goods

Encouraging cooperation in the production of excisable goods, in the form of tobacco products. Based on a cooperation agreement, tobacco product manufacturers in one place of factory agglomeration can carry out this cooperation.

(iii) Excise payment

Ease of excise payment in the form of the deferral of excise payment is given within a deferral period of 90 days from the order date of excise stamps.

The agglomeration of tobacco product factories provisions are further stipulated in MoF Reg. 22/2023.

D.3 Excise Settlement

Excise is imposed upon the completion of the excisable goods that are manufactured for home use. On the other hand, excise is imposed upon the entry of imported excisable goods into the customs territory.

Excise must subsequently be settled upon the release of excisable goods from the factory or storage. In the event of imported excisable goods, the settlement must be performed when the excisable goods are imported for home use.

Excise may be settled using payment, attachment of excise stamps or affixture of other excise receipts. The following are procedures for the attachment of excise stamps to excisable goods.

(i) The materials for the manufacture of goods are processed at the factory

The processing of raw materials in a factory into ready-to-use goods is subject to excise.

(ii) The excisable goods are completed

Following the production of excisable goods, the manufacturer must periodically notify the Head of the Prime Customs and Excise Office or the Customs and Excise Office of finished excisable goods, for instance, tobacco products in the form of sliced tobacco have been packaged for retail sales. In this stage, the manufacturer's bookkeeping or recording is used to prepare the notification of finished excisable goods.

(iii) The excisable goods are packaged

If the process of packaging and affixing excise stamps constitutes an integral process of activities, the finished excisable goods must be packaged for retail sales and attached with excise stamps.

To encourage ease of doing business, the government has released MoF Reg. 161/PMK.04/2022. This minister of finance regulation has been released to provide ease of doing business and administration in the event that the excisable goods notification is completed. Several minimum criteria that should be included in the notification of excisable goods, which are differentiated based on the type of goods.

Table 9.4 Minimum Requirements for the Notification of Finished Excisable Goods

No.	Type of Excisable Goods	Details
1.	Ethyl alcohol	(i) Factory identity; (ii) The amount of production.
2.	Beverages containing ethyl alcohol	(i) Factory identity; (ii) The brands, levels and beverages containing ethyl alcohol category; and (iii) The type of packaging, contents of each package and the number of packages.
3.	Tobacco products	(i) Factory identity; (ii) The types of tobacco products; and (iii) The brand of tobacco products, the retail price, the contents of each package and the number of packages.
4.	Sliced tobacco packaged not for retail sales	(i) Factory identity; (ii) The types of tobacco products; and (iii) The retail price, contents of each package and the number of packages.

Source: processed by the Author.

The above information must be included in the notification of finished excisable goods by the manufacturer. The notification may be submitted daily or monthly, depending on the type of excisable goods. The complete procedures for the notification of excisable goods may also be found in the Director General of Customs and Excise Reg. No. PER-24/BC/2022.

Excise payment deferral may be granted to manufacturers or importers that order excise stamps. The payment deferral period is given for two months from the order of excise stamps for manufacturers and one month for importers. However, to obtain the excise payment deferral without interest, several requirements must be fulfilled by manufacturers or importers.

First, the manufacturer or importer must be a low-risk entrepreneur based on the manufacturer or importer's profile, having taxpayer status confirmation of valid status and has never violated provisions in the field of excise within the last six months. *Second,* the manufacturer or importer does not currently have arrears in excise liabilities, excise underpayment, subject to administrative penalties in the form of fines and/or interest in the field of excise, unless an objection is filed or deferral is granted, unless an objection is filed or deferral is granted.

Third, the manufacturer or importer is not currently paying the notice of tax collection (*Surat Tagihan Pajak*/STP in Indonesian) in instalments. *Fourth,* the manufacturer or importer's financial statements have been audited by a public accountant with an unqualified opinion for the last two years and has sound financial performance. *Fifth*, within the last twelve months, has never received a reprimand letter.

Next, the manufacturer or importer receiving the decision on excise payment deferral may order excise stamps using deferral after submitting a guarantee. The guarantee that may be used are bank guarantee, guarantee from an insurance company or corporate guarantee.

Further details on the provisions and technical guidance for excise payment deferral for manufacturers or importers of excisable goods performing settlement by attaching excise stamps can be seen in MoF Reg. 74/PMK.04/2022 as amended by MoF Reg. 168/PMK.04/2022 and the Director General of Customs and Excise Reg. No. PER-3/BC/2022 as last amended by the Director General of Customs and Excise Reg. No. PER-2/BC/2024.

E. Other Customs and Excise Issues

E.1 Resolution of Objections in the Field of Customs and Excise

To accomodate developments in technology and information, the DGCE has issued the Director General of Customs and Excise Reg. No. PER-25/BC/2022 concerning procedures for the resolution of customs and excise objections, which have to be submitted electronically starting 1 January 2023. PER-25/BC/2022 was issued as a derivative regulation of MoF Reg. 136/PMK.04/2022, which amends the provisions of MoF Reg. 51/PMK.04/2017 regarding the submission and resolution of objections in the customs and excise sector.

In customs and excise disputes, only one objection may be filed in one submission of an objection letter against one assessment. However, the objection must be filed to the DGCE in writing and electronically. Manual filing is no longer accepted.

E.2 Compliance Audits of Excisable Goods Manufacturers or Importers

Further, the DGCE issued the Director General of Customs and Excise Reg. No. PER-10/BC/2023 concerning procedures for auditing the compliance of excisable goods manufacturers or importers. The DGCE may also conduct regular or *ad hoc* compliance audits for excisable goods manufacturers or importers. Compliance audits are conducted with the following objectives.

(i) Providing recommendations in formulating excise policies;

(ii) Handling the compliance issues of excisable goods operators;

(iii) Assessing the compliance of excisable goods operators with statutory provisions in the field of excise;

(iv) Obtaining a factual overview of the compliance conditions of excisable goods operators; and/or

(v) Conducting other activities required in the context of excisable goods operators' compliance.

Compliance inspections of excisable goods manufacturers or importer's compliance are implemented based on the principles of fiscal security, orderly administration and guidance.

E.3 Goods Brought by Passengers and Crew Members

The following are exported goods brought by passengers or crew members that must be declared to customs and excise officials.

(i) Gold jewellery, pearl jewellery and other high-value jewellery included in the category of goods listed in Chapter 71 of the BTKI;

(ii) Goods to be brought back into the customs territory;

(iii) Cash and/or other payment instruments with a minimum value of IDR100 million or in a foreign currency of equivalent value; and/or

(iv) Exported goods subject to export duties.

Moreover, imported goods brought by passengers or crew members must also be declared to customs and excise officials at the Customs Office. Imported goods brought by passengers or imported goods brought by crew members consist of:

(i) goods for the personal use of passengers or crew's effects that are used/consumed for personal purposes, including the remaining supplies; and/or

(ii) imported goods brought by passengers or imported goods brought by crew members other than goods used/consumed for personal use (non-personal use).

However, pursuant to Art. 11 paragraph (1) of MoF Reg. 203/PMK.04/2017, imported goods brought by passengers and/or crew members may be given import duty exemption up to a certain customs value threshold. In this context, for goods for the personal use of passengers, the maximum excluded customs value is Free On Board (FOB) USD500 per person for each arrival.

Further, for goods for the personal use of crew members, the excluded customs value is FOB USD50 per person for each arrival. If the customs value of goods for the personal use of passengers and/or crew members imported from overseas exceeds the customs value threshold, the excess is subject to import duty and taxes on imports.

In addition to being granted import duty exemptions, the goods for personal use of passengers and/or crew members constituting excisable goods are also granted excise exemptions up to a certain threshold. For goods for the personal use of passengers, excise exemptions are granted for every adult in the following maximum quantity.

(i) 200 cigarettes;

(ii) 25 cigars;

(iii) 100 grams of sliced tobacco/other tobacco products; and/or

(iv) 1 litre of beverages containing ethyl alcohol.

For goods for the personal use of crew members, excise exemptions are granted for every adult in the following maximum quantity.

(i) 40 cigarettes;

(ii) 10 cigars;

(iii) 40 grams of sliced tobacco/other tobacco products; and/or

(iv) 350 millilitres of beverages containing ethyl alcohol.

If other tobacco products consist of more than one type of tobacco products, the exemption from import duties and/or excise is given in proportion to the ratio of the quantity per type of the other tobacco products. If exceeding the above-mentioned amount, the excess

quantity is immediately destroyed by the customs and excise officials with or without being witnessed by the crew members concerned.

Further details regarding the import duty treatment and other tax treatment can be found on Perpajakan DDTC on the tax guidelines channel concerning crew's effects.

E.4 Consignment Goods

Consignment goods refer to goods delivered through postal service providers pursuant to statutory provisions in the postal sector. These consignment goods will be subject to import duty and taxes on imports.

Consignment goods imported for personal use declared with a Consignment Note (CN) with a customs value not exceeding the *de minimis value* threshold of FOB equal to or less than USD3 are exempt from customs duty, excluded from Art. 22 Income Tax and subject to an 11% VAT.

On the other hand, consignment goods imported for personal use declared with a CN with a customs value between FOB USD3 and FOB USD1,500 are subject to a 7.5% customs duty, excluded from Art. 22 Income Tax and subject to an 11% VAT.

Further, in cases where the customs value of the consignment goods exceeds USD1,500, the goods must be declared using an import declaration or a special import declaration (PIB *Khusus*/PIBK in Indonesian) and subject to the general import duty tariff (MFN tariff), imposed with Art. 22 Income Tax and 11% VAT.

However, there are certain commodities that after exceeding the *de minimis* value threshold will immediately be subject to the MFN and taxes on imports regulations and tariffs. Please refer to MoF Reg. 96/2023 for further details.

In the update of customs, excise and tax provisions on consignment goods through MoF Reg. 96/2023, consignment goods are now divided into merchandise and goods other than merchandise. Previously, MoF Reg. 199/PMK.010/2019 did not differentiate such provisions.

Merchandise refers to goods with one or an accumulation of the following three criteria.

First, the consignment goods are merchandise through an electronic commerce (e-commerce) operator (*Penyelenggara Perdagangan Melalui Sistem Elektronik*/PPMSE in Indonesian), including online retail and marketplace. *Second*, the consignee and/or consignor is a business entity. *Third*, there is proof of transactions in the form of invoices or other similar documents.

One of the important points to be highlighted in MoF Reg. 96/2023 is the obligation for e-commerce operators to partner with the DGCE. The partnership obligation applies to e-commerce operators conducting import transactions of more than 1,000 consignments in a period of one calendar year.

The partnership with the DGCE takes the form of data exchange of e-catalog and e-invoices for consignment goods. With e-catalog and e-invoices, it will be more convenient for the DGCE to reconcile the e-invoices sent by e-commerce operators and the CN provided by courier service companies (*Perusahan Jasa Titipan*/PJT in Indonesian).

The exchanged e-catalog data between e-commerce operators and the DGCE should at least include the e-commerce operator's name, seller's identity, item description, item code, item category, item specifications, country of origin, units of measurement, item price in Delivery Duty Paid (DDP) incoterms, price effective date, currency type and item Uniform Resource Locators (URLs).

Further, the exchanged e-invoice data covers the e-commerce operator's name, consignee's name, e-invoice number, e-invoice date, item description, item code, quantity, units of measurement, item price in DDP incoterms, currency type, exchange rate, value, type and the party giving the promotions, in the event of promotions, item URLs and consignee's telephone number.

Moreover, export CNs are now equivalent to tax invoices. This is aimed at facilitating Micro, Small, and Medium Enterprises (MSMEs or *Usaha*

Mikro, Kecil, dan Menengah/UMKM in Indonesian) to apply for tax refunds.

Pursuant to MoF Reg. 96/2023, there have also been changes in the customs declaration system and the assessment of tariff or customs value for merchandise. The formerly applied mechanism, the official assessment, has now become self-assessment.

With the self-assessment mechanism, the declarant will calculate the import duty and taxes to be paid. If the declared value is found to be undervalued, the underpayment is subject to a penalty in the form of a fine of the import duty underpayment.

Moreover, a partnership may also be established in other forms to improve services and supervision by the DGCE. If the provisions on the partnership are not fulfilled, imports of consigned goods transacted through e-commerce operators will not be served.

In contrast, e-commerce operators that have conducted import transactions of more than 1,000 consignments within a period of one calendar year before the enactment of MoF Reg. 96/2023 shall be required to enter into a partnership no later than four months from the enactment MoF Reg. 96/2023. Through MoF Reg. 111/2023, the government accelerated the implementation of the partnership provisions to 17 October 2023.

E.5 Consignment Goods of Indonesian Migrant Workers

Indonesian migrant workers (*Pekerja Migran Indonesia*/PMI in Indonesian) are significant contributors to the foreign exchange reserves and play a vital role in economic development. Consequently, the government is committed to facilitating services for Indonesian migrant workers. Among these facilities is granting the exemption from import duties and taxes on imports for consignment goods of Indonesian migrant workers. See the definition of Indonesian migrant workers and consignment goods in the DDTCNews Article.

Through MoF Reg. 141/2023, the government relaxes the customs regulation of the import of consignment goods of Indonesian migrant workers. Under these provisions, imports by Indonesian migrant workers with a maximum customs value of FOB USD500 are eligible for exemptions, including the exemption from import duty, subject to VAT and STLGs but not collected and the exclusion from Art. 22 Income Tax on imports. If the value exceeds USD500, a 7.5% import duty will be imposed on the difference.

For Indonesian migrant workers registered with the Indonesian Migrant Workers Protection Board (*Badan Pelindungan Pekerja Migran Indonesia*/BP2MI in Indonesian), this facility is granted a maximum of three times a year, allowing for a total consignment value of up to USD1,500 annually. Indonesian migrant workers registered elsewhere other than the BP2MI verified by the Ministry of Foreign Affairs receive customs facilities only once a year.

Indonesian migrant workers must be registered with both the BP2MI and the Ministry of Foreign Affairs. Failure to register with both institutions will result in the ineligibility to benefit from the customs facilities in MoF Reg. 141/2023. Refer to the DDTCNews article for mandatory procedures. Also, refer to the Minister of Trade Reg. No. 36/2023 concerning the Ease of Consignments Goods for Indonesian Migrant Workers. This regulation covers ten groups of consignment goods.

Further, the exemptions from import duties on passengers' baggage in the form of mobile phones, Handheld Computers and Tablets (HCT) are also regulated. The regulation contains specific policies for Indonesian migrant workers' HCTs under the passenger baggage scheme, allowing a maximum exemption of two units of HCT per arrival within a year.

MoF Reg. 141/2023 has established different provisions on consignment goods of Indonesian migrant workers compared to other imported consignment goods pursuant to MoF Reg. 96/2023 as amended by MoF Reg. 111/2023. MoF Reg. 96/2023, as amended by MoF Reg. 111/2023 states that the exemption from import duties is only

granted to items with a maximum customs value of FOB USD3 per shipment, while any prohibitions or limitations shall comply with the general rules set by the respective ministries or sectoral supervising agencies (K/L).

CHAPTER 10
FISCAL INCENTIVES

Fiscal incentives constitute one of the instruments to support the business sector, ease of doing business and boost Indonesia's global competitiveness. These fiscal incentives encompass incentives in the fields of income tax, Value Added Tax (VAT), Sales Tax on Luxury Goods (STLGs), import duties and Land and Building Tax (L&B Tax).

This chapter will briefly outline several incentive menus that may be utilised by taxpayers. The entire tax incentive package is outlined by DDTC in detail in the book titled *Guidelines for Tax Incentives in Indonesia 2024*, published in July 2024. This book outlines in detail several types of the benefits, requirements in the utilisation, the flow for the application for tax incentives as well as post-incentive utilisation obligations.

A. Tax Holiday

A.1 Tax Holiday for Pioneer Industries

Up to 100% corporate income tax reduction may be given to investments that fulfil certain criteria of pioneer industries. The exemption from the corporate income tax burden and/or corporate income tax reduction constitutes a form of tax holiday. The tax holiday itself is the most frequently granted tax facility to encourage foreign investments.

The application to obtain the tax holiday may be submitted online through the Online Single Submission (OSS). Please note that an application for a tax holiday must be submitted before the start of

commercial production. More information on the regulation can be found in MoF Reg. 130/PMK.010/2020.

Table 10.1 Tax Holiday for Pioneer Industries in Indonesia

Clause	Mini Tax Holiday	Full Tax Holiday	
Percentage of the corporate income tax reduction	50% of the amount of corporate income tax payable for new investments of IDR100-500 billion	100% of the amount of corporate income tax payable for new investments of a minimum of with a minimum paid-up capital of IDR500 billion	
Period of tax reduction (tax years)	5	5	IDR500 billion-1 trillion
		7	IDR1-5 trillion
		10	IDR5-15 trillion
		15	IDR15-30 trillion
		20	> IDR30 trillion
Period of transition	25% corporate income tax reduction of corporate income tax payable for the next two tax years	50% corporate income tax reduction of corporate income tax payable for the next two tax years	
Eligible industries	18 sectors of pioneer industries and other sectors that fulfil the criteria of pioneer industries		

Source: processed by the Author.

A.2 Tax Holiday in Special Economic Zones

Pursuant to MoF Reg. 237/PMK.010/2020 as amended by MoF Reg. 33/PMK.010/2021, entities and entrepreneurs in Special Economic Zones (SEZs or *Kawasan Ekonomi Khusus*/KEK in Indonesian) are given a facility in the form of a tax holiday. The tax holiday is in the form of corporate income tax reduction of 100% of the amount of corporate income tax payable.

The tax holiday is given for investments of a minimum of IDR100 billion and may be utilised for ten tax years. The details of the period and the value of investment plans can be seen in the table below.

Table 10.2 Period and Value of Investment Plans in Special Economic Zones

Period (tax years)	Value of Investment Plan
10	A minimum of IDR100 billion to less than IDR500 billion
15	A minimum of IDR500 billion to less than IDR1 trillion
20	A minimum of IDR1 trillion

Source: processed by the Author.

If the above period has elapsed the corporate taxpayer remains eligible for the corporate income tax reduction, i.e., 50% of the amount of corporate income tax payable for the next two years. Please see the list of SEZ areas in Indonesia in the following subchapter in this chapter.

A.3 Tax Holiday in Industrial Parks

As an effort to encourage investments in industrial parks (or *kawasan industri* in Indonesian), the government grants a tax holiday in the form of corporate income tax reduction of a maximum of 100% and a minimum of 10% of the amount of corporate income tax payable. The tax holiday is granted to industrial companies in industrial parks and industrial park companies conducting business activities in potential industrial development areas (*Wilayah Pengembangan Industri*/WPI in Indonesian) II.

The tax holiday is granted for a maximum period of fifteen tax years and a minimum of five tax years from the tax year of the start of commercial production. Further provisions on tax holiday in industrial parks can be seen in MoF Reg. 105/PMK.010/2016.

B. Tax Allowances

B.1 Tax Allowances for Investments in Certain Business Sectors and/or Regions

Investments, either new investments or spin-offs of existing businesses, in certain business sectors and/or regions that fulfil certain criteria are entitled to the following facilities.

(i) Net income reduction by 30% of the value of the investment in the form of tangible fixed assets, including land, used for the main business, charged for six years at 5% respectively;

(ii) Accelerated depreciation for tangible fixed assets and accelerated amortisation for intangible assets acquired in the context of investments;

(iii) The imposition of income tax on dividends paid to non-resident taxpayers other than Permanent Establishments (PEs) in Indonesia of 10% or a lower rate according to the applicable tax treaty (*Persetujuan Penghindaran Pajak Berganda*/P3B in Indonesian); and

(iv) Loss carry-forward for more than five years, but not exceeding ten years.

The above facilities are known as tax allowances.

A tax allowance is one form of facility offered to investors performing new investments or spin-offs in certain business sectors and/or regions. Tax allowances are given to increase direct investments and encourage economic growth, equitable development and accelerated development in certain business sectors and/or regions.

Tax allowances may be given to investments that fulfil certain criteria and requirements. The application may be submitted through the OSS. More information on the regulation can be found in Gov. Reg. No. 78/2019 and MoF Reg. 11/PMK.010/2020 as amended by MoF Reg. 96/PMK.010/2020.

B.2 Tax Allowances in Special Economic Zones

Corporate taxpayers investing in the main activity or other activities in SEZs may be given tax allowances. The tax allowances given are the same as investments in certain business sectors and/or regions outlined in the previous subchapter.

In summary, corporate taxpayers investing in the main activities or other activities in SEZs may be given a net income reduction, accelerated depreciation or amortisation, special income tax rates for dividends and loss carry-forward of more than five years (maximum ten years).

Further provisions concerning tax allowances in SEZs can be seen in MoF Reg. 237/PMK.010/2020 as amended by MoF Reg. 33/PMK.010/2021. In cases where corporate taxpayers have obtained the tax holiday, the corporate taxpayers are not eligible for the tax allowances and vice versa.

B.3 Tax Allowances in Industrial Parks

Industrial companies in industrial parks and industrial park companies conducting business in (developing and potential) industrial development areas may be given the same tax allowances as those for investments in certain business sectors and/or regions as well as SEZs. Further provisions on tax allowances in industrial parks can be seen in MoF Reg. 105/PMK.010/2016.

B.4 Tax Allowances for the Utilisation of Renewable Energy Sources

In order to reduce the dependency on the use of non-renewable energy and guarantee the availability of sustainable energy, the government grants a facility in the form of tax allowances to taxpayers for the utilisation of renewable energy. The provisions are stipulated under MoF Reg. 21/PMK.011/2010. The forms of the granted tax allowances are the same as those for investments in certain business sectors and/or regions, SEZs and industrial parks.

B.5 Tax Allowances for Labour-Intensive Industries

Taxpayers investing in labour-intensive industries are eligible for a tax allowance in the form of net income reduction amounting to 60% of the investments for six years (10% reduction each year), charged for six years from the tax year of the start of commercial productions. The investments must be in the form of tangible fixed assets (including land) that are used for main businesses and one of the requirements is employing more than 300 Indonesian workers. Other requirements and further information concerning the utilisation of income tax facilities for investments in labour-intensive industries can be found in MoF Reg. 16/PMK.010/2020.

C. Preferential Rates

C.1 Corporate Income Tax Rate 50% Reduction

Resident corporate taxpayers with gross turnover of up to IDR50 billion are eligible for a facility in the form of a rate reduction by 50% of the statutory tax rate of 22% referred to in Art. 17 paragraph (1) subparagraph (b) of the Income Tax Law (ITL) imposed on the taxable income of a fraction of the gross turnover of up to IDR4.8 billion.

C.2 Corporate Income Tax Rate Reduction for Public Companies

The government also provides a corporate income tax rate reduction for public-listed companies with the total share deposits traded on the stock exchange in Indonesia that fulfil certain requirements. These companies are eligible to obtain a 3% lower corporate income tax rate from the statutory tax rate of 22% stipulated in Art.17 paragraph (2) subparagraph (b) of the ITL.

In obtaining the corporate income tax reduction, a resident corporate taxpayer must fulfil certain requirements as follows.

(i) In the form of public companies;

(ii) Having a total number of share deposits traded on the stock exchange in Indonesia of a minimum of 40%; and

(iii) Fulfilling certain requirements, as follows:

a. the shares must be held by a minimum of 300 parties;
b. each party may only hold shares of less than 5% of the total issued and fully paid shares;
c. the above-mentioned provisions, (ii), (iii)(a) and (iii)(b), must be fulfilled within a minimum period of 183 calendar days within one tax year; and
d. the above-mentioned requirements are fulfilled by public company taxpayers by submitting a report to the Directorate General of Taxes (DGT).

The format and procedures for the submission of the report and list of taxpayers in the context of the fulfilment of the requirements for the income tax rate reduction for resident corporate taxpayers in the form of public companies are stipulated by MoF Reg. 40/2023.

D. Super Tax Deduction

Super tax deduction may be given for activities with the following certain characteristics.

(i) Deductibility of a maximum of 300% may be given for expenses incurred for certain Research and Development (R&D) activities performed in Indonesia which are expensed within a certain period. The activities should aim for new inventions, based on original hypotheses, contain uncertainties in respect of the final results, be well-planned and budgeted and should be aimed at creating transferrable or exchangeable products; and

(ii) Deductibility of a maximum of 200% may be given for expenses incurred for job training, internships and/or apprenticeships.

E. Income Tax Exemption for Dividends

Dividend income may be excluded from income tax objects, whether sourced from Indonesia or overseas derived by individuals and/or companies. The following is the summary of the provisions.

Table 10.3 Dividends Excluded from Income Tax Objects

Resident Taxpayers	Source of Dividends	Income Tax Treatment of the Dividends
Individuals	Domestic	The dividends are excluded from income tax objects if reinvested domestically for at least three years. The list of applicable investment instruments for the reinvestments can be found in MoF Reg. 18/PMK.03/2021. If the dividends received are not entirely reinvested, only the amount invested domestically will be excluded from income tax objects. The remaining amount will be taxed pursuant to applicable statutory provisions.
Corporate	Domestic	Non-income tax objects (without specific terms and conditions)
Individuals	Overseas	(i) For the distributed dividends from overseas public listed business entities, only the amount of domestically reinvested dividends are excluded from income tax objects. (ii) For the distributed dividends from overseas non-public listed business entities, the amount of the dividends that must be reinvested domestically income tax objects is a minimum of 30% of net income after tax. In the event of a difference wherein the reinvested amount is less than the threshold, the difference is subject pursuant to applicable statutory regulations. In contrast, if the reinvested amount exceeds the threshold, all of the dividends are excluded from income tax objects.
Corporate	Overseas	

Source: processed by the Author.

Dividends excluded from income tax objects must be filed by the taxpayers after the investment is realised. Next, the dividends are also filed in tax returns as income not included in taxable objects.

F. VAT Exemption for Certain Strategic Taxable Goods

Certain imports and/or domestic supplies of strategic taxable goods (*Barang Kena Pajak*/BKP in Indonesian) may be VAT exempt. The following are goods included in such taxable goods.

(i) Machinery and factory equipment constituting a single unit, both installed and detached, which are used directly in the process of producing taxable goods by taxable persons (*Pengusaha Kena Pajak*/PKP in Indonesian) producing these taxable goods, including those imported/acquired by parties carrying out integrated construction, excluding spare parts thereof;

(ii) Goods produced from businesses in the marine and fisheries sectors, both fishing and aquaculture, the criteria and/or details of which are listed in the Appendix of Gov. Reg. No. 49/2022;

(iii) Raw hides;

(iv) Livestock, the criteria and/or details of which are regulated by a ministerial regulation after receiving considerations from the minister who administers governmental affairs in the agricultural sector;

(v) Seedlings and/or seeds from agricultural, plantation, forestry, animal husbandry or fishery goods;

(vi) Animal feed as regulated under statutory provisions in the animal husbandry and health sector, excluding pet food;

(vii) Raw materials for the manufacture of animal feed and fish feed, excluding feed additives and feed supplements, the criteria and/or details of which are regulated by a ministerial regulation after receiving considerations from the minister who administers governmental affairs in the agricultural sector and the minister

who administers governmental affairs in the marine and fisheries sector;

(viii) Raw materials for silver craft in the form of silver granules and/or silver bullions;

(ix) Weapons, ammunition, bulletproof helmets and jackets or bulletproof vests, special land vehicles, radars and spare parts thereof, imported by/supplied to:

a. the ministry or government agencies that administer governmental affairs in the defence or state security sector; or

b. non-ministerial government agencies that are under and responsible to the President through the coordination of the Head of the Indonesian National Police (*Kepolisian Negara Republik Indonesia*/POLRI in Indonesian) and have duties and functions in the field of prevention and eradication of the abuse and illicit traffic of narcotics, psychotropics and precursors and other addictive substances, except for addictive substances for tobacco and alcohol; or

(x) Components or materials that have not been manufactured domestically imported by/component or materials acquired by State-Owned Enterprises (*Badan Usaha Milik Negara*/BUMN in Indonesian) engaged in the national defence industry appointed by the ministry or government agencies referred to in number (ix) point (a) or (b), which are used in the manufacture of weapons, ammunition, special land vehicles, radar and spare parts thereof, which will be supplied to:

a. the ministry or government agencies that administer governmental affairs in the defence or state security sector; or

b. non-ministerial government agencies that are under and responsible to the President through the coordination of the Head of the Indonesian National Police and have duties and functions in the field of prevention and eradication of the abuse and illicit traffic of narcotics, psychotropics and precursors and other addictive substances, except for addictive substances for tobacco and alcohol;

(xi) Certain goods in the group of staple goods constituting basic necessities;

(xii) Sugar for consumption in the form of white crystals derived from sugar cane without added flavouring or colouring;

(xiii) Mining or drilling products extracted directly from the sources, excluding coal mining products, including:

a. crude oil;

b. natural gas, in the form of natural gas flowing through pipes, excluding natural gas such as LPG which is ready for direct consumption by the public;

c. geothermal;

d. asbestos, slate, semi-precious stones, limestones, pumice, gemstones, bentonite, dolomite, feldspar, rock salt (halite), graphite, granite/andesite, gypsum, calcite, kaolin, leucite, magnesite, mica, marble, nitrate, obsidian, ocher, sand and gravel, quartz sand, pearlite, phosphate, talc, fullers earth, diatomaceous earth, clay, alum, trass, jarosite, zeolite, basalt, trachyte and sulphur, the threshold and criteria of which may be regulated by a ministerial regulation; and

e. iron ore, tin ore, gold ore, copper ore, nickel ore, silver ore and bauxite ore;

(xiv) Liquified natural gas and compressed natural gas.

In addition, imports of the following certain strategic taxable goods may also be VAT exempt.

(i) Fish feed that fulfil the general and special/technical requirements in imports of fish feed as regulated under statutory provisions in the fisheries sector;

(ii) Weapons, ammunition, bulletproof helmets and jackets or bulletproof vests, special land vehicles, radars and spare parts thereof, imported by other parties appointed by the ministry or government agencies referred to in number (ix) point (a) or (b) above to carry out the imports;

(iii) Weapons, ammunition, military equipment and supplies belonging to other countries imported by the Indonesian National

Armed Forces (*Tentara Nasional Indonesia*/TNI in Indonesian) in the context of military activities as part of military cooperation in the form of joint military exercises;

(iv) Equipment, including spare parts used by the ministry that administers governmental affairs in the field of national defence or the Indonesian National Armed Forces for the provision of border data, topographic maps, hydrographic maps and aerial photographs of the territory of the Unitary State of the Republic of Indonesia (*Negara Kesatuan Republik Indonesia*/NKRI in Indonesian) carried out to support national defences, imported by:

a. the ministry that administers governmental affairs in the defence sector;
b. the Indonesian National Armed Forces; or
c. parties appointed by the ministry that administers governmental affairs in the defence sector or the Indonesian National Armed Forces;

(v) Presidential official vehicles imported by presidential agencies or parties appointed by the presidential agencies to carry out the imports, which are granted import duty exemptions;

(vi) Goods for museums, zoos and other similar places which are open to the public as well as goods for nature conservation, which are granted import duty exemptions;

(vii) Goods imported by the central or local governments that are intended for public use which are granted exemption from import duty;

(viii) Medicine imported using the state or local government budget (*Anggaran Pendapatan dan Belanja Negara*/APBN or *Anggaran Pendapatan dan Belanja Daerah*/APBD in Indonesian) for the public interest, which is granted the exemption from import duty;

(ix) Human therapeutic materials, blood grouping and tissue-type materials imported using state or local government budget for the

benefit of the public, which are granted the exemption from import duty.

On the other hand, supplies of the following certain strategic taxable goods may also be VAT exempt.

(i) Fish feed that fulfils the registration and distribution of fish feed requirements as regulated under statutory provisions in the fisheries sector;

(ii) Proprietary public flat units whose acquisition is financed through subsidised housing loans or financing that fulfil the following provisions:

a. the area for each unit is at least 21 m^2 and not exceeding 36 m^2;

b. the construction refers to the regulation of the minister who administers governmental affairs in the public works and public housing sector;

c. is the first residential unit owned, self-used as a residence and not transferred within the period regulated under statutory provisions in the flat sector; and

d. the threshold of the selling price of proprietary public flat units and income for individuals who obtain proprietary public flat units are regulated by the minister after receiving considerations from the minister who administers governmental affairs in the public works and public housing sector;

(iii) Public housing, workforce housing, university student and pupil dormitories as well as employee housing, the threshold of which is regulated by the minister after receiving considerations from the minister who administers governmental affairs in the public works and public housing sector;

(iv) Raw materials for silver craft in the form of silver granules and/or silver bullions;

(v) Electricity, including electrical installation fees and electricity load fees, except for houses with power above 6,600 amperage voltage;

(vi) Clean water;

(vii) Equipment and spare parts thereof used for the provision of border data, topographic maps, hydrographic maps and aerial photographs of the territory of the Unitary State of the Republic of Indonesia carried out to support national defences, supplied to the ministry that administers governmental affairs in the defence sector or the Indonesian National Armed Forces.

Further provisions concerning the use of exemption certificates (*Surat Keterangan Bebas*/SKB in Indonesian) to utilise the VAT exemption facility can be seen in Gov Reg. No. 49/2022.

G. VAT Exemption for Certain Strategic Taxable Services

The imports or domestic acquisition of the following certain strategic taxable services (*Jasa Kena Pajak*/JKP in Indonesian) may be VAT exempt.

(i) Medical healthcare services;

(ii) Social services;

(iii) Mailing services using stamps;

(iv) Financial services;

(v) Insurance services;

(vi) Educational services;

(vii) Non-advertising broadcasting services;

(viii) Public transport services on land and water as well as domestic air transport services which constitute an integral part of foreign transport services;

(ix) Labour services;

(x) Coin-operated public telephone services;

(xi) Money transfer services by postal money order;

(xii) Public flats and public housing rental services; and

(xiii) Services received by the ministry that administers governmental affairs in the field of national defence or the Indonesian National Armed Forces utilised to provide border data, topographic maps, hydrographic maps and aerial photographs of the territory of the Unitary State of the Republic Indonesia to support national defence.

Further provisions concerning the use of exemption certificates to utilise the VAT exemption facility can be seen in Gov Reg. No. 49/2022.

H. Subject to VAT but Not Collected for Certain Strategic Taxable Goods

Imports and/or domestic supplies of the following certain strategic taxable goods that may be subject to VAT but not collected.

(i) Water transport, underwater transport, air and rail transport, as well as spare parts, marine safety equipment and personal protective equipment as well as aviation safety equipment and personal protective equipment imported by and/or supplied to the ministry or government agencies that administer government affairs in the field of state defence or security;

(ii) Ships, river vessels, lake vessels and ferries, fishing vessels, pilot boats, tugboats, barges, including spare parts, vessel equipment, marine safety equipment and personal protective equipment imported and used by and/or supplied to national commercial shipping companies, national fishing companies, national port service provider companies and national river, lake and ferry transport service provider companies according to their business;

(iii) Aircraft, including spare parts, aviation safety equipment and personal protective equipment and equipment for its repair and maintenance imported and used by and/or supplied to national commercial air transport business entities;

(iv) Aircraft spare parts as well as equipment for aircraft repair and maintenance acquired or imported by parties appointed by

national commercial air transportation business entities used in the context of providing aircraft maintenance and repair services to national commercial air transport business entities;

(v) Trains and spare parts thereof as well as equipment for repair and maintenance and railway infrastructure imported and used by and/or supplied to business entities operating public railway facilities and/or business entities operating public railway infrastructure;

(vi) Components or materials imported by/supplied to parties appointed by business entities operating public railway facilities and/or business entities operating public railway infrastructure in the context of manufacturing;

a. trains;
b. spare parts;
c. equipment for repair and maintenance; and/or
d. railway infrastructure,

which will be used by business entities operating public railway facilities and/or business entities operating public railway infrastructure; and

(vii) Gold bullions other than for state foreign exchange reserves.

Moreover, water transport, underwater transport, air and rail transport as well as the sparepart, marine safety equipment and personal protective equipment as well as aviation safety equipment and personal protective equipment imported by other parties appointed by the ministry or government agencies that administer government affairs in the field of state defence or security to perform the imports are also subject to VAT but not collected. The list, procedures and further information can be found in Gov. Reg. No. 49/2022.

I. Subject to VAT but Not Collected for Certain Strategic Taxable Services

The following are certain strategic taxable services whose supplies are subject to VAT but not collected.

(i) Services received by national commercial shipping companies, national fishing companies, national port service provider companies and national river, lake and ferry transport service provider companies, which include the services of:
   a. ship rental;
   b. port services, including tugboat services, pilotage services, mooring services and docking services; and
   c. ship maintenance and repair;

(ii) Services received by national commercial air transport business entities, which include the services of:
   a. aircraft rental; and
   b. aircraft maintenance and repair; and

(iii) Train maintenance and repair services received by business entities operating public railway facilities.

Certain strategic taxable services from outside the customs territory whose utilisation is subject to VAT but not collected are aircraft charter services utilised by national commercial air transportation companies. More information about the facility can be found in Gov. Reg. No. 49/2022.

J. Subject to VAT and STLGs but Not Collected for Imports of Taxable Goods that Are Exempt from Import Duty

The imports of the following import duty exempt taxable goods are subject to VAT and STLGs but not collected.

(i) Gifts for public worship, charity, social or cultural purposes by bodies or institutions in the field of public worship, charity, social or culture:

a. domiciled in the territory of the Unitary State of the Republic of Indonesia;
b. established pursuant to statutory provisions; and
c. which are non-profit;

(ii) Goods for scientific R&D purposes by:
a. universities;
b. ministries or government agencies that carry out research and/or science and technology development activities; or
c. legal entities or institutions conducting business and one of their activities is conducting research or experiments to enhance or develop science and technology pursuant to statutory provisions;

(iii) Goods for the special needs of persons with disabilities by social agencies or institutions that take care of persons with disabilities;

(iv) Crates or other packages containing corpses or ashes;

(v) Personal effects of Indonesian migrant workers (*Tenaga Kerja Indonesia*/TKI in Indonesian), students studying abroad, civil servants, members of the Indonesian National Armed Forces or members of the Indonesian National Police who serve overseas for a minimum of one year if the goods are not to be traded and obtain a recommendation from the local representatives of the Republic of Indonesia;

(vi) Goods for the personal use of passengers, crew members, border crossers and consignment goods up to a certain threshold pursuant to statutory provisions in the customs sector;

(vii) Goods subject to temporary admission pursuant to statutory provisions on temporary admission;

(viii) Goods used by certain cooperation contract contractors for:
a. upstream oil and natural gas business, including exploration and exploitation; or
b. geothermal operations for indirect utilisation which include the assignment of preliminary surveys and exploration, exploration, exploitation and utilisation;

(ix) Goods that have been exported and subsequently re-imported in the same quality as when they were exported;

(x) Goods that have been exported for repair, work and testing and subsequently re-imported;

(xi) Goods and materials to be processed, assembled or installed on other goods eligible for import facilities for exports (*Kemudahan Impor untuk Tujuan Ekspor*/KITE in Indonesian);

(xii) Goods and materials or machinery imported by micro, small and medium businesses or industries or consortia for micro, small and medium businesses or industries using import facilities for exports;

(xiii) Goods in the context of cooperation or coal mining concession agreements carried out by contractors of cooperation/coal mining concession agreements with the following provisions:

a. the contract was signed before 1990;
b. the contract includes provisions on the granting of import duty exemptions or relief for imports of goods in the context of cooperation/coal mining concession agreements;
c. the contract does not include provisions on the period of the granting of import duty exemptions or relief; and
d. the imported goods are state property; and

(xiv) Gifts or grants for natural disaster relief proposed by:

a. agencies or institutions engaged in the field of public worship, charity, social or culture;
b. the central government and local governments; or
c. international organisations or foreign non-governmental organisations.

Subject to VAT and STLGs but not collected for imports of the above-mentioned taxable goods is granted without using subject to VAT but not collected certificate. Further provisions concerning imports of taxable goods subject to VAT and STLGs but not collected can be seen in Gov. Reg. No. 49/2022.

K. Foreign-Sourced Income Exemption for Certain Expatriates

Expatriates constituting tax residents may obtain tax exemption for their foreign-sourced income for four years. The expatriates under this provision have to be foreign workers holding certain positions or researchers with expertise in certain knowledge, technology and/or mathematics as stipulated under MoF Reg. 18/PMK.03/2021. Further details about this tax exemption can be found in Chapter 4 Individual Income Tax.

L. Special Economic Zones

Special Economic Zones (SEZ) are zones with certain borders within the jurisdiction of the Unitary State of the Republic of Indonesia determined to carry out economic functions and obtain certain facilities. Businesses conducted in SEZs may obtain the following tax facilities.

(i) Tax holiday;

(ii) Tax allowances;

(iii) Subject to Art. 22 Income Tax but not collected on imports;

(iv) Subject to VAT and STLGs but not collected;

(v) Import duty exemption and subject to other taxes on imports (*Pajak Dalam Rangka Impor*/PDRI in Indonesian) but not collected;

(vi) Excise exemption;

(vii) The reduction in local taxes and/or user charges is given at a minimum of 50% and a maximum of 100%.

Until the writing of this book in August 2024, there are 22 SEZs in Indonesia. These 22 SEZ are shown in the following table.

Table 10.4 Special Economic Zones

No.	Name	Area	Main Activities
1.	Arun Lhokseumawe	North Aceh; Lhokseumawe (Special Region of Aceh Province)	(i) Energy industry; (ii) Petrochemical and other chemical industries; (iii) Palm oil processing industry; (iv) Wood processing industry; (v) Logistics.
2.	Sei Mangkei	Simalungun (North Sumatra Province)	(i) Palm oil processing industry; (ii) Rubber processing industry; (iii) Tourism; (iv) Logistics.
3.	Batam Aero Technic	Batam (Riau Islands Province)	Aircraft Maintenance, Repair and Overhaul (MRO) industry
4.	Nongsa	Batam (Riau Islands Province)	(i) IT-digital; (ii) Tourism.
5.	Galang Batang	Bintan (Riau Islands Province)	(i) Bauxite processing industry; (ii) Logistics.
6.	Tanjung Kelayang	Belitung (Bangka Belitung Province)	Tourism
7.	Tanjung Lesung	Pandeglang (Banten Province)	Tourism
8.	Lido	Bogor (West Java Province)	(i) Tourism; (ii) Creative industries.
9.	Kendal	Kendal (Central Java Province)	(i) Textile and fashion industry; (ii) Furniture and game tools industry; (iii) Food and beverage industry; (iv) Automated industry; (v) Electronics industry; (vi) Logistics.
10.	Gresik	Gresik (East Java Province)	(i) Metal industry; (ii) Electronics industry; (iii) Chemical industry; (iv) Energy industry; (v) Logistics.
11.	Singhasari	Malang (East Java Province)	(i) Tourism; (ii) Technology development.
12.	Sanur	Denpasar (Bali Province)	(i) Health; (ii) Tourism.
13.	Kura Kura Bali	Denpasar (Bali Province)	(i) Tourism; (ii) Creative industries.
14.	Mandalika	Central Lombok (NTB Province)	Tourism

No.	Name	Area	Main Activities
15.	Maloy Batuta Trans Kalimantan	East Kutai (East Kalimantan Province)	(i) Palm oil processing industry; (ii) Energy industry; (iii) Logistics.
16.	Palu	Palu (Central Sulawesi Province)	(i) Base metal industry; (ii) Logistics.
17.	Likupang	North Minahasa (North Sulawesi Province)	Tourism
18.	Bitung	Bitung (North Sulawesi Province)	(i) Coconut processing industry; (ii) Fishery processing industry; (iii) Logistics.
19.	Morotai	Morotai Island (North Maluku Province)	(i) Fishery processing industry; (ii) Tourism; (iii) Logistics.
20.	Sorong	Sorong (West Papua Province)	(i) Nickel processing industry; (ii) Palm oil processing industry; (iii) Forest and plantation products industry (sago); (iv) Logistics.
21.	Tanjung Sauh	Batam (Riau Islands Province)	(i) Electronics industry; (ii) Energy industry; (iii) Logistics; (iv) Renewable energy.
22.	Setangga	Tanah Bambu (South Kalimantan Province)	Manufacturing

Source: https://kek.go.id/id/investment/distribution.

More information can be found in Gov. Reg. No. 40/2021, including how to obtain the facilities. The application to obtain the facilities may be submitted through certain applications the government provides.

M. Tax Facilities for Free Trade Zones and Free Ports

Transfer of goods within or into the Free Trade Zones and Free Ports (*Kawasan Perdagangan dan Pelabuhan Bebas*/KPBPB in Indonesian) are entitled to the following tax facilities.

(i) VAT exemption;

(ii) Subject to VAT and STLGs but not collected;

(iii) Subject to Art. 22 income tax but not collected;

(iv) Import duty exemption;

(v) Excise exemption or subject to excise but not collected.

There are four free trade zones, i.e., Sabang, Batam, Bintan and Karimun. More information about the facilities can be found in Gov. Reg. No. 41/2021.

N. Fiscal Incentives to Accelerate the Development of the Nusantara Capital

The government provides fiscal and non-fiscal incentives for entrepreneurs to accelerate the development of the Nusantara Capital (*Ibu Kota Nusantara*/IKN in Indonesian). These incentives aim to provide entrepreneurs with greater certainty, opportunity and participation.

The fiscal and non-fiscal incentive policies in the context of accelerating the development in the Nusantara Capital are stipulated in Gov. Reg. No. 12/2023 as amended by Gov. Reg. No. 29/2024. This regulation concerns the granting of business permits, ease of doing business and investment facilities to entrepreneurs in the Nusantara Capital. The entrepreneurs that may take advantage of these facilities are those conducting business in the Nusantara Capital.

In the context of investment facilities, the facility component is divided into two authorities, i.e., the authority of the central government and that of the Nusantara Capital authority. The details of tax facilities based on their authorities are as follows.

Table 10.5 Investment Facilities in the Nusantara Capital

The Central Government's Authority
In the corporate income tax context, tax facilities are divided into nine components, as follows. (i) The corporate income tax reduction for resident corporate taxpayers; * (ii) Income tax on financial sector activities in the financial centre; * (iii) The corporate income tax reduction for the incorporation and/or relocation of the head office and/or regional offices;

The Central Government's Authority
(iv) The gross income reduction for the implementation of job training, internships and/or apprenticeships in the context of fostering and developing certain-competency-based human resources; (v) The gross income reduction for certain R&D; (vi) The gross income reduction income for donations and/or expenses for the construction of public facilities, social facilities and/or other non-profit facilities; (vii) Government-borne (*Ditanggung Pemerintah*/DTP in Indonesian) Art. 21 Final Income Tax; (viii) 0% Final Income Tax on income from a certain gross business turnover for Micro, Small and Medium Enterprises (MSMEs or *Usaha Mikro, Kecil, dan Menengah*/UMKM in Indonesian); and (ix) The income tax reduction on transfers of rights to land and/or buildings.
In the context of VAT and STLGs, the following are the provided tax facilities. (i) Subject to VAT but not collected; and (ii) The exclusion from STLGs on supplies of taxable goods.
In the context of customs, the facilities are divided into three components below. (i) Import duty exemption and taxes on imports facilities for imports of goods by the central or local governments intended for public interest in the Nusantara Capital and partner regions; (ii) Import duty exemption and taxes on imports facilities on imports of capital goods for industrial construction and development in the Nusantara Capital and partner regions; and (iii) Import duty exemption facility on imports of goods and materials for industrial construction and development in the Nusantara Capital and/or partner regions.
The Nusantara Capital Authority's Authority
(i) Special Nusantara Capital local tax and special revenue facilities; and (ii) Facilitation, provision of land, means and infrastructure for the implementation of investments in the Nusantara Capital.

Source: processed by the Author.

* *After officially obtaining the facilities, taxpayers must realise their investment in the Nusantara Capital no later than two years after the issuance of the tax facility approval.*

In respect of the fiscal incentives, if not stipulated specifically under Gov. Reg. No. 12/2023 as amended by Gov. Reg. No. 29/2024, the regulations related to fiscal incentives apply *mutatis mutandis* to Nusantara Capital. However, suppose a tax facility pursuant to Gov. Reg. No. 12/2023 as amended by Gov. Reg. No. 29/2024 has the same scope as a facility outside the Nusantara Capital but has different benefits. In

that case, the more favourable provisions on tax facilities shall apply. Further, entrepreneurs wishing to invest in the Nusantara Capital must apply for business permits, ease of doing business and investment facilities through the OSS.

In May 2024, the government released MoF Reg. 28/2024 which further stipulates the specific criteria and conditions to utilise the various above-mentioned facilities, the period for the granting of the facilities, procedures for the submission of the application for approval of these facilities, obligations and prohibitions for taxpayers that obtain the facilities, withholding tax and income tax collection on taxpayers that obtain these facilities as well as other matters relating to the use of tax and customs facilities in the Nusantara Capital.

O. Government-Borne VAT for Battery Electric Vehicles

The government supports policies that accelerate the transition from fuel oil fossil energy to electrical energy and increase public interest in purchasing Battery Electric Vehicles (BEVs or *Kendaraan Bermotor Listrik*/KBL *berbasis baterai* in Indonesian). The support is given in the form of government-borne VAT for supplies of electric vehicles.

Supplies of electric vehicles eligible for the government-borne VAT facility are certain four-wheeled BEVs and/or certain bus BEVs that fulfil the criteria for the value of the Local Content Requirement (LCR or *Tingkat Komponen Dalam Negeri*/TKDN in Indonesian). The policies regarding the government-borne VAT facility are stipulated under MoF Reg. 8/2024. This government-borne VAT facility is provided from the January 2024 until December 2024 taxable periods.

The LCR serves as the basis for calculating the government-borne VAT facility. For further information, please refer to Table 10.6. When MoF Reg. 8/2024 came into force, supplies of certain four-wheeled BEVs and/or certain bus BEVs are subject to VAT of 11% of the selling price.

Table 10.6 The Amount of Government-Borne VAT

No.	Type of BEVs	LCR Value	Government-Borne VAT
1.	Certain Four-Wheeled	A minimum of 40%	10% of the selling price
2.	Certain Bus	A minimum of 40%	10% of the selling price
		A minimum of 20% to less than 40%	5% of the selling price

Source: processed by the Author.

Certain four-wheel BEVs and/or certain bus BEVs that fulfil the LCR value are determined by the minister who administers governmental affairs in the industrial sector. Further, taxable persons supplying certain four-wheeled BEVs and/or certain bus BEVs have several obligations, as follows.

(i) Preparing tax invoices pursuant to statutory provisions in the field of taxation; and

(ii) Preparing the government-borne VAT realisation report.

The government-borne VAT realisation report is filed in periodic VAT returns. The filing and amendment of periodic VAT returns for supplies of certain four-wheeled BEVs and/or certain bus BEVs, for the January 2024 until the December 2024 taxable periods may be treated as the realisation report insofar as filed no later than 31 January 2025. More information about government-borne VAT administration and realisation reports can be seen in MoF Reg. 8/2024.

If the two above-mentioned obligations are not fulfilled and/or in fact, the certain four-wheeled BEVs and/or certain bus BEVs do not fulfil the required criteria, VAT is not borne by the government. Hence, the supplies are subject to VAT pursuant to statutory provisions.

Buyers constituting taxable persons and utilising government-borne VAT when acquiring certain four-wheeled BEVs and/or certain bus BEVs cannot credit government-borne VAT in the calculation of VAT payable when periodic VAT returns are filed.

Nonetheless, taxable persons supplying certain four-wheeled BEVs and/or certain bus BEVs may be granted preliminary tax refunds as low-risk taxable persons pursuant to the VAT Law. Provisions on preliminary tax refunds can be seen in Art. 12 of MoF Reg. 8/2024.

However, if taxable persons only supply certain four-wheeled BEVs and/or certain bus BEVs for personal use and/or free of charge in the taxable period in which the application for preliminary tax refunds is submitted, the preliminary tax refunds are not granted for the taxable persons.

P. Government-Borne STLGs for Battery Electric Vehicles

In line with MoF Reg. 8/2024, the government also bears STLGs on imports and/or supplies of taxable luxury goods in the form of certain four-wheeled BEVs. The policies regarding government-borne STLGs facility on imports and/or supplies of taxable luxury goods in the form of certain four-wheeled BEVs are stipulated in MoF Reg. 9/2024.

The government-borne STLGs facility is provided for the January 2024 until December 2024 taxable periods. The government-borne STLGS facility is granted to the entrepreneurs that conduct the following activities subject to STLGs.

(i) Imports of certain four-wheeled Completely Built-Up (CBU) BEVs. The STLGs tax base amounts to 100% of the amount of STLGs payable; and

(ii) Supplies of certain four-wheeled BEVs originating from the production of four-wheeled Completely Knocked-Down (CKD) BEVs. The STLGs tax base amounts to 100% of the amount of STLGs payable.

The following are several requirements that entrepreneurs need to take into account in order to utilise this facility.

(i) The entrepreneurs must be registered as taxable persons pursuant to statutory provisions in the field of taxation;

(ii) The entrepreneurs attach the approval letter for the utilisation of import incentive and/or supplies of certain four-wheeled BEVs issued by the minister who administers governmental affairs in the field of investments.

For imports of certain four-wheeled CBU BEVs, taxable persons must prepare the import declaration documents (*Pemberitahuan Impor Barang*/PIB in Indonesian) pursuant to statutory provisions in the field of customs. For supplies of certain four-wheeled BEVs originating from the production of four-wheeled CKD BEVs, taxable persons must prepare tax invoices pursuant to statutory provisions in the field of taxation.

Moreover, for both, the government-borne STLGs realisation report must be prepared to be filed in periodic VAT returns. Technical provisions and details regarding the information that must be included in each document can be seen in MoF Reg. 9/2024.

In the event of failure to fulfil all documents required in MoF Reg. 9/2024 and information is obtained that taxable persons do not fulfil the prerequisite conditions for utilising the government-borne STLGs facility, STLGs shall not be borne by the government. Hence, the imports and/or supplies are subject to STLGs pursuant to VAT and STLGs Law.

Q. VAT Exemption for Public Housing, Workforce Housing, University Student and Pupil Dormitories As Well As Employee Housing

As stated in Gov. Reg. No. 49/2022, the supplies of public housing, workforce housing (*pondok boro* in Indonesian), university student and pupil dormitories as well as employee housing may be exempt from the imposition of VAT. MoF Reg. 60/2023 further stipulates the provisions on this VAT exemption. The following are criteria that must be fulfilled to obtain the VAT exemption facility.

Table 10.7 VAT Exemption Requirements

No.	Building Type	Conditions
1.	Public Housing*	(i) A minimum building area of 21 m^2 to 36 m^2; (ii) A minimum land area of 60 m^2 up to 200 m^2; (iii) The selling price does not exceed the selling price threshold as listed in the Appendix of MoF Reg. 60/2023; (iv) The first residential unit owned by individuals included in the low-income community criteria, self-used as a residence and not transferred within four years since owned.
2.	Employee Housing*	
3.	University Student and Pupil Dormitories	(i) Simple buildings, in the form of multi-storey or non-storey buildings; (ii) Specifically intended for student or university student residences; (iii) Not transferred within four years since acquisition.
4.	Workforce Housing	(i) Simple buildings, in the form of multi-storey or non-storey buildings; (ii) Intended for permanent workers or low-income informal sector workers with an agreed rental fee; (iii) Not transferred within four years since acquisition.

Source: processed by the Author.

* *Public housing and employee housing only function as habitable residences, excluding shophouses or office houses.*

* *Taxpayer Identification Numbers (TINs or Nomor Pokok Wajib Pajak/NPWP in Indonesian) are required for those who provide public housing, workforce housing, university student and pupil dormitories as well as employee housing.*

Further information about VAT exemption for public housing, workforce housing, university student and pupil dormitories as well as employee housing can be found in MoF Reg. 60/2023.

R. Government-Borne VAT for Supplies of Landed Houses and Flat Units

The government has officially issued MoF Reg. 7/2024 concerning VAT on supplies of landed houses and flat units borne by the government for the 2024 fiscal year (hereinafter referred to as government-borne VAT facility for house supplies). This regulation is a continuation of MoF Reg.

120/2023 concerning VAT on supplies of landed houses and flat units borne by the government for the 2023 fiscal year.

The government-borne VAT facility, pursuant to MoF Reg. 7/2024, are provided for VAT due in the January 2024 to December 2024 taxable periods. To utilise the government-borne VAT facility, taxable persons must have registered via sikumbang.tapera.go.id no later than 1 July 2024.

The amount of the granted government-borne VAT facility depends on the date of the official report of handover (*Berita Acara Serah Terima*/BAST in Indonesian). If the official report of handover for a house is dated between 1 January 2024 and 30 June 2024, the government-borne VAT facility for the house supply is granted at 100%. However, if the official report of handover is dated between 1 July 2024 and 31 December 2024, the government-borne VAT facility for the house supply is granted at 50%.

The government-borne VAT facility applies to the sales of houses with a maximum selling price of IDR5 billion. However, the government-borne VAT facility is only provided for VAT payable for a tax base of up to IDR2 billion.

Further, the official report of handover must be filed no later than the end of the following month after the handover is carried out. For instance, if the handover is in May 2024, it must be filed in June 2024 through *Sikumbang* under the Ministry of Public Works and Public Housing (*Kementerian Pekerjaan Umum dan Perumahan Rakyat*/PUPR in Indonesian).

Government-borne VAT is utilised for every one individual for the acquisition of one landed house or one flat unit. Individuals who have utilised or received the government-borne VAT facility in the previous period must refer to the provisions below.

(i) Individuals who have utilised the government-borne VAT facility for supplies of houses before the enactment of MoF Reg.

120/2023 may utilise the government-borne VAT facility pursuant to MoF Reg. 7/2024;

(ii) Individuals who have received the government-borne VAT facility for supplies of landed houses or flat units pursuant to MoF Reg. 120/2023 and there are outstanding payments subject to VAT payable in 2024, may utilise the government-borne VAT facility pursuant to MoF Reg. 7/2024 for the outstanding payments subject to VAT payable;

(iii) Individuals who have utilised the government-borne VAT facility pursuant to MoF Reg. 120/2023 cannot utilise the government-borne VAT facility pursuant to MoF Reg. 7/2024 for purchases of other landed houses or flat units.

S. Land and Building Tax Relief

The government has redefined L&B Tax (*Pajak Bumi dan Bangunan*/PBB in Indonesian) relief provisions through MoF Reg. 129/2023. L&B Tax referred to in this regulation excludes L&B Tax-Urban and Rural (*Pajak Bumi dan Bangunan Perdesaan dan Perkotaan*/PBB-P2 in Indonesian). The focus is instead on taxes administered by the DGT (plantation sector, forestry sector, oil and gas mining sector, mining sector for geothermal exploitation, mineral or coal mining sector and other sectors) or known as PBB-P5L.

MoF Reg. 129/2023 includes amendments concerning specific conditions of taxable objects eligible for the L&B Tax reduction. These conditions refer to taxable objects that are owned, controlled and/or utilised by taxpayers experiencing difficulties in settling the L&B Tax payment liabilities.

Taxpayers experiencing difficulties in settling the L&B Tax payment liabilities are taxpayers experiencing commercial losses and insolvencies for two consecutive years. MoF Reg. 129/2023 further outlines the criteria for commercial losses and insolvencies. An L&B Tax

relief may be granted up to a maximum of 75% of the L&B Tax that the taxpayers have not settled.

Additionally, MoF Reg. 129/2023 addresses the *ex officio* granting of the L&B Tax relief. The relief is granted to taxpayers if the taxable objects are subject to natural disasters or other extraordinary causes. In this condition, the L&B Tax relief may be granted at a maximum of 100% of the L&B Tax that the taxpayers have not settled.

T. VAT Exemption for State Defence and/or Security Purposes

Imports and/or supplies of certain strategic taxable goods and/or services for national defence and/or security purposes may be VAT exempt as mentioned in Subchapters F and G. The technical regulations concerning procedures for VAT exemption are stipulated under MoF Reg. 157/2023. VAT exemption for strategic taxable goods and/or taxable services for national defence and/or security purposes is granted using the exemption certificate.

CHAPTER 11
STAMP DUTY

Stamp duty is a tax on documents. In response to information technology developments, the format of documents subject to stamp duty is not limited to printed documents. Under the recent regulation, documents subject to stamp duty include documents in the form of handwriting, printed or electronic documents, which may be used as evidence or information.

Provisions on stamp duty are stipulated under Law Number 10 of 2020 concerning Stamp Duty (Stamp Duty Law) and several of its implementing regulations, such as MoF Reg. 133/PMK.03/2021 and MoF Reg. 134/PMK.03/2021.

A. Documents Subject to Stamp Duty

Stamp duty is imposed on two types of documents, namely (i) documents prepared as a tool to explain a civil incident and (ii) documents used as evidence in court. The following are documents prepared to explain a civil incident.

(i) Letters of agreement, certificates, statement letters or other similar letters and the copies thereof;

(ii) Notarial documents and the *grosse*, copy and extract thereof;

(iii) Conveyance deeds and the copy and extract thereof;

(iv) Securities in whatever name and form;

(v) Documents of securities transactions, including documents of futures contract transactions, in whatever name and form;

(vi) Auction documents in the form of the extract of auction report, minutes of auction report, copy of auction report and *grosse* of auction report;

(vii) Documents stating an amount of money with a nominal value exceeding IDR5 million which:

a. state the receipt of money; or

b. contain an acknowledgment that the debt has been fully or partially settled or taken into account;

and

(viii) Other documents stipulated by a government regulation.

A detailed explanation of the types of documents subject to stamp duty payable can be found in the DDTCNews article.

One of the civil documents is a document stating an amount of money with a nominal value exceeding IDR5 million. If the amount of money or nominal value stated in this document is expressed in a foreign currency, to determine the rupiah value, the amount of money or nominal value is multiplied by the exchange rate set by the Minister of Finance (minister of finance decree exchange rate) in effect at the time the document is prepared, thereby, it may be ascertained whether the documents is subject to stamp duty or not.

Not all documents, however, are subject to stamp duty. The Stamp Duty Law stipulates several documents not subject to stamp duty in Art. 7 of the Stamp Duty Law. Additionally, the Stamp Duty Law provides a stamp duty exemption facility for certain documents. Certain types of documents that are subject to stamp duty, but may be given the stamp duty exemption facility, either temporarily or permanently, can be seen in Art. 22 of the Stamp Duty Law.

B. Stamp Duty Rate

Stamp duty is imposed once for each document at a fixed rate of IDR10,000. In determining the fixed rate, the government may also set

different fixed rates for certain documents to implement government programs and support the implementation of monetary and/or financial sector policies.

C. Taxable Events

The time stamp duty becomes payable (taxable events) may vary depending on the document type. Stamp Duty Law classifies the time stamp duty becomes payable based on five events, as follows.

Table 11.1 The Time Stamp Duty Becomes Payable

Taxable Events	Document Type
Documents are affixed with a signature	Agreement letters and copies thereof; notarial documents and the *grosse*, copy and extract thereof; conveyance deeds and the copy and extract thereof
Documents are completed	Securities in whatever name and form; documents of securities transactions, including documents of futures contract transactions, in whatever name and form
Documents are submitted to the party for whom they are prepared	Certificates, statement letters or other similar letters and copies thereof; auction documents; documents stating an amount of money above IDR5 million
Documents are submitted to the court	Documents used as evidence in court
Documents are used in Indonesia	Civil documents that are prepared overseas

Source: Art. 8 of the Stamp Duty Law.

In addition to the taxable events, the Stamp Duty Law stipulates parties liable to stamp duty. *First*, stamp duty becomes payable to the party receiving the documents for documents that are prepared unilaterally.

Second, for documents prepared by two or more parties, stamp duty becomes payable to each party for the documents they receive. However, excluded from the first and second provisions, for documents

in the form of securities in whatever name and form, stamp duty becomes payable to the party issuing the securities.

Third, for documents used as evidence in court, stamp duty becomes payable to the party submitting the documents. *Fourth*, for documents prepared overseas and used in Indonesia, stamp duty becomes payable to the party constituting the beneficiary of the documents.

However, the provisions concerning the liable party in the Stamp Duty Law do not prevent the party or parties from being able to agree or determine the party that pays the stamp duty.

D. Payment of Stamp Duty

Parties liable to stamp duty may pay stamp duty payable using stamps or tax payment slip (*Surat Setoran Pajak*/SSP in Indonesian). In further detail, three types of stamps may be used to settle stamp duty payable, namely (i) adhesive stamps, (ii) electronic stamps or (iii) stamps in other forms as stipulated by the Minister of Finance. Stamps in other forms are stamps manufactured using digital stamping machines, computerised systems, printing technologies and other systems or technologies.

Stamp duty is paid using a tax payment slip for payment of stamp duty by liable parties in the event: (i) of post-dated stamping totaling more than fifty documents; (ii) that it is not possible to pay stamp duty using adhesive stamps because adhesive stamps are not available or cannot be used; or (iii) that it is not possible to pay stamp duty using electronic stamps due to failure of the electronic stamp system.

Each stamp duty payment method has its procedures. Stamp duty is paid using an adhesive stamp by affixing an adhesive stamp that is valid and in effect as well as has never been used. Further, stamp duty may be paid by affixing electronic stamps, among others, via e-Meterai.co.id webpage.

Stamp duty is paid using stamps in other forms by the stamp manufacturer by affixing stamps in other forms to the documents

subject to stamp duty payable. Payment of stamp duty using stamps in other forms is subject to prior approval for manufacturers of stamps in other forms. Details of the procedures for the settlement of stamp duty can be found in MoF Reg. 134/PMK.03/2021.

As above-mentioned, another provision to be considered regarding the payment of stamp duty is post-dated stamping. Post-dated stamping is necessary in the event of documents that will be used as evidence in court or documents on which stamp duty is unpaid or underpaid.

Please note that the party obliged to pay stamp duty through post-dated stamping is the liable party. However, in practice, stamp duty may be paid through post-dated stamping by the document holder, either as the liable party or non-liable party.

E. Administrative and Criminal Penalties

Pursuant to MoF Reg. 80/2023, if stamp duty is not or underpaid by the liable party, a notice of tax assessment (*Surat Ketetapan Pajak*/SKP in Indonesian) is issued pursuant to statutory provisions in the field of general provisions and tax procedures. The issuance of the notice of tax assessment also applies to collecting agents that fail to fulfil the obligation to collect stamp duty.

The notice of tax assessment will include the amount of stamp duty underpayment, which consists of the stamp duty that has not been collected or has been under-collected and/or the stamp duty that has not been remitted or has been under-remitted. Further, an administrative penalty of 100% of the stamp duty that has not been collected or has been under-collected and/or has not been remitted or has been under-remitted will be added to the notice of tax assessment.

On the other hand, a notice of tax collection (*Surat Tagihan Pajak*/STP in Indonesian) may be issued pursuant to statutory provisions in the field of general provisions and tax procedures if a stamp duty collecting agent:

(i) is late in remitting stamp duty;

(ii) is not or is late in filing the collection and remittance of stamp duty; and/or

(iii) corrects periodic stamp duty returns, resulting in greater stamp duty payable.

Further provisions on the issuance of the notice of tax assessment and notice of tax collection can be seen in MoF Reg. 80/2023.

Moreover, criminal penalties may also be imposed on anyone who violates the rules and/or provisions related to stamp duty. Several of the violations include imitating or falsifying stamps issued by the Indonesian government and/or removing marks that indicate the stamps cannot be used anymore on stamps that have been used. Provisions related to criminal penalties can be found in further detail in Articles 24, 25 and 26 of the Stamp Duty Law. DDTC has translated the Stamp Duty Law into English that can be accessed on Perpajakan DDTC.

CHAPTER 12
LOCAL TAXES

A. Overview

In 2022, to efficiently allocate national revenues through the relationship between the central and local governments, the government issued Law No. 1 of 2022 concerning Financial Relationships between the Central Government and Local Governance (HKPD Law). The HKPD Law was issued to improve the existing provisions, namely Law No. 33 of 2004 concerning the Financial Balance between the Central Government and Local Governance and Law No. 28 of 2009 concerning Local Taxes and User Charges (PDRD Law). Primarily, the HKPD Law is aimed to reinforce local tax revenue performance and increase regions' fiscal capacity.

In general, three changes are enshrined in the HKPD Law. *First*, the simplification of the local tax structure. One of the simplifications is evident from the consolidation of consumption-based local taxes, such as hotel tax, restaurant tax, entertainment tax, parking tax and street lighting tax into certain goods and services tax (*Pajak Barang dan Jasa Tertentu*/PBJT in Indonesian). This effort aims to optimise local tax collection and streamline taxpayers' compliance costs in exercising their tax obligations.

Second, expanding the tax basis by applying the surtax (*opsen* in Indonesian) scheme and expanding the objects through the synergy of central and local taxes (valet parking, recreational objects and so forth). In the event of the application of the surtax scheme, this mechanism allows regency/municipal governments to collect additional taxes on

one tax basis that has been subject to taxes by the provincial government, or vice versa.

The surtax scheme applies for three types of taxes, i.e., the motor vehicle tax, motor vehicle duty and non-metallic mineral and rock tax. For example, motor vehicle tax and motor vehicle duty that have been collected at the provincial level are subject to a surtax at the regency/municipal level. Conversely, non-metallic mineral and rock tax that has been collected at the regency/municipal level is subject to a surtax at the provincial level.

Third, the introduction of a new nomenclature type of tax. The HKPD Law introduces a new nomenclature type of tax, namely the heavy equipment tax. This tax was introduced as a follow-up to the Constitutional Court Decision No. 15/PUU-XV/2017 mandate.

The HKPD Law also regulates the types of local taxes and the applicable rates. Applicable local taxes may vary across regions. However, the scope and applicable rates must comply with the provisions on the thresholds set out in the HKPD Law. The scope stipulated under the HKPD Law is listed in Table 12.1 and Table 12.2 below.

Table 12.1 Local Taxes at the Provincial Level

Tax Type (abbreviations in Indonesian)	Maximum Tax Rate
Motor vehicle tax (*Pajak Kendaraan Bermotor*/PKB)	1.2%-6%* / 2%-10%** / 0.5%
Motor vehicle duty (*Bea Balik Nama Kendaraan Bermotor*/BBNKB)	12% / 20%**
Heavy equipment tax (*Pajak Alat Berat*/PAB)	0.2%
Motor vehicle fuel tax (*Pajak Bahan Bakar Kendaraan Bermotor*/PBBKB)	10% (for public transport fuel, the rate may be set at a maximum of 50% of the motor vehicle fuel tax rate for personal vehicles)
Surface water tax (*Pajak Air Permukaan*/PAP)	10%

Tax Type (abbreviations in Indonesian)	Fixed Tax Rate
Cigarette tax	10%
Non-metallic mineral and rock surtax (*Opsen Pajak Mineral Bukan Logam dan Batuan*/*Opsen* PMBLB)	25%

Source: processed by the Author.

* *For the ownership and/or control of the first motor vehicle, the rate is set at a maximum of 1.2%. On the contrary, for the ownership and/or control of the second motor vehicle and so forth, the rate may be progressively set at a maximum of 6%.*

** *Higher rates apply to regions at the same level as provinces not divided into autonomous regencies/municipalities.*

Table 12.2 Local Taxes at the Regency/Municipality Level

Tax Type (abbreviations in Indonesian)	Maximum Tax Rate
Land and Building Tax (L&B Tax)-Urban and Rural (*Pajak Bumi dan Bangunan Perdesaan dan Perkotaan*/PBB-P2)	0.5%
Acquisition duty on right to land and building (*Bea Perolehan Hak Atas Tanah dan Bangunan*/BPHTB)	5%
Certain goods and services tax (*Pajak Barang dan Jasa Tertentu*/PBJT)	10% or specifically, within a range of rate between 1.5%-75%**
Advertisement tax (*Pajak Reklame*)	25%
Groundwater tax (*Pajak Air Tanah*/PAT)	20%
Non-metallic mineral and rock tax (*Pajak Mineral Bukan Logam dan Batuan*/PMBLB)	20% / 25%*
Swallow's nest tax	10%
Tax Type (abbreviations in Indonesian)	**Fixed Tax Rate**
Motor vehicle surtax (*Opsen* PKB)	66%
Motor vehicle duty surtax (*Opsen* BBNKB)	66%

Source: processed by the Author.

* *Higher rates apply to at the same level as provinces not divided into autonomous regencies/municipalities.*

** *The certain goods and services tax rate is set at a maximum of 10%. However, special rates set based on the type of goods and/or services apply to, for instance, entertainment and electricity services. For example, specifically for the certain goods and services tax rate on entertainment services, such as karaoke, the rate is set at a minimum of 40% and a maximum of 75%. Specifically for certain goods and services tax rate on electricity for the consumption of self-generated electricity is set at a maximum of 1.5% and a maximum of 3% for electricity generated from other sources.*

Based on Article 114 of Law No. 11 of 2020 concerning Job Creation as last amended by Law No. 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into a Law (hereinafter referred to as Law No. 6/2023), provisions on local taxes and user charges in the context of job creation have also been adjusted to the provisions stipulated in the HKPD Law.

Further, Article 35 of Law No. 39 of 2009 concerning Special Economic Zones (SEZs or *Kawasan Ekonomi Khusus*/KEK in Indonesian) as last amended by Article 150 of Gov. Reg. in Lieu of Law No. 2/2022 as last amended by Law No. 6/2023 also contains changes in provisions regarding local taxes. The article stipulates that taxpayers conducting business in SEZs may be provided facilities in the form of an exemption or relief from local taxes pursuant to statutory provisions in the field of local taxes. Further, the facilities may take the form of a reduction in acquisition duty on right to land and/or building and L&B Tax-rural and urban, as well as other incentives and facilities provided by the local governments.

Onwards, local governments are expected to provide more local tax facilities that are targeted to improve the people's economy and social welfare. As a follow-up to the HKPD Law, local governments had only one full year of 2023 to implement changes and adjustments to the new provisions. Local governments had to revise their local regulations by 5 January 2024 as regulated.

In June 2023, the government issued the government regulation concerning General Provisions on Local Taxes and User Charges (hereinafter referred to as *Ketentuan Umum Pajak Daerah dan Retribusi Daerah*/KUPDRD in Indonesian) as a derivative regulation of the HKPD Law. The provisions are stipulated in Gov. Reg. No. 35/2023.

In turn, the government regulation related to KUPDRD is designed to provide guidance for local governments in drafting local regulations concerning local taxes and user charges. Moreover, the KUPDRD governs cooperation in optimising tax collection between the central and local governments, as well as between local governments and third parties.

B. Taxable Events and Tax Bases

The provisions under Gov. Reg. No. 35/2023 stipulates in detail the time local taxes become payable (taxable event) and the tax base (*Dasar Pengenaan Pajak*/DPP in Indonesian) for each type of local taxes. The taxable event of a local tax is based on the fulfilment of subjective and objective requirements by individuals or entities for a type of tax in a certain period.

The above-mentioned certain period may be a taxable period, a tax year or a fraction of a tax year. In the context of local taxes, the taxable period is set for a period of one calendar month or a maximum of three calendar months.

Further, in calculating local taxes, comprehension of the tax base of each local tax type is necessary. The following are details of the taxable event and the local tax bases summarised in the Table 12.3.

Table 12.3 The Time Local Taxes Become Payable and the Tax Bases

Local Tax Type	Taxable Event	Local Tax Base
Motor Vehicle Tax		
(i) land motor vehicles	The time ownership and/or control of a motor vehicle occurs	Sales value of the motor vehicle x weight that relatively reflects the

Local Tax Type	Taxable Event	Local Tax Base
		level of road damage and/or environmental pollution due to the use of the motor vehicle
(ii) water motor vehicles		Sales value of the motor vehicle
Motor Vehicle Duty	The time a motor vehicle is first supplied	Sales value of the motor vehicle set in a minister of home affairs regulation and governor regulation
Heavy Equipment Tax	The time ownership and/or control of heavy equipment occurs	Sales value of the heavy equipment
Surface Water Tax	The time groundwater is extracted and/or utilised	Acquisition value of groundwater* (the base price of the groundwater x groundwater weight) * *set based on a governor regulation*
Motor Vehicle Fuel Tax	The time motor vehicle fuel is supplied by a motor vehicle fuel supplier	Sales value of motor vehicle fuel before being subject to value added tax
Cigarette Tax	The time cigarette excise is collected on a cigarette manufacturer or a cigarette producer and importer with a permit	The excise set by the government on cigarettes
Non-Metallic Mineral and Rock Surtax	The time non-metallic mineral and rock tax becomes payable	Non-metallic mineral and rock tax payable
L&B Tax-Urban and Rural	The time ownership, control and/or use of land and/or building occurs	Sales value of taxable object (*Nilai Jual Objek Pajak*/NJOP in Indonesian) according to the object's condition on 1 January. The sales value of the taxable object is set at a minimum of 20% and a maximum of 100% of the sales value of taxable object after deducted by the non-taxable sales value of taxable object

Local Tax Type	Taxable Event	Local Tax Base
Advertisement Tax	The time the advertisement is organised	Advertisement rent value
Groundwater tax	The time groundwater is extracted and/or utilised	Acquisition value of groundwater* (raw water price x groundwater weight) * *set based on a governor regulation*
Motor Vehicle Surtax	The time motor vehicle tax becomes payable	Motor vehicle tax payable
Motor Vehicle Duty Surtax	The time motor vehicle duty becomes payable	Motor vehicle duty payable
Acquisition Duty on Right to Land and Building	The time the land and/or building is acquired, i.e., on the date: (i) the sale and purchase agreement is prepared and signed for a sale and purchase; (ii) the deed is prepared and signed for an exchange, grant, bequest, participation in a company or another legal entity, the separation of rights resulting in a transfer, merger, consolidation, spin-off and/or gift; (iii) the heir/heiress or the heir/heiress' attorney registers the transfer of his/her rights at the land office for inheritance; (iv) court decision which has permanent legal force for the judge's decision;	Acquisition value of the taxable object

Local Tax Type	Taxable Event	Local Tax Base
	(v) the decision letter on the granting of the right for a new right to land as a continuation of the relinquishment of the right is issued; (vi) the decision letter on the granting of the right for a new right other than the relinquishment of the right; (vii) the auction winner is appointed for an auction; and (viii) if a sale and purchase of land and/or building does not use a sale and purchase agreement, when the sale and purchase deed is signed.	
Certain Goods and Services Tax		
(i) food and beverages	The time the food and/or beverages are paid or supplied	The amount of payment received by the supplier of the food and/or beverages
(ii) electricity	The time electricity is consumed or paid	Sales value of electricity set for electricity from other sources with the payment of: (i) the amount of the fixed cost/charge bill plus the kWh/variable usage costs billed in the electricity account, for postpaid electricity; (ii) the amount of purchase of prepaid electricity.

Local Tax Type	Taxable Event	Local Tax Base
		Sales value of electricity set for self-generated electricity: (i) available capacity; (ii) level of electricity usage; (iii) period of electricity usage; and (iv) applicable unit price of electricity in the area concerned.
(iii) hotel services	The time the hotel services are paid or supplied	The amount of payment to the provider of the hotel services
(iv) parking services	The time the provision of car park services are paid or supplied	The amount of payment to the car park provider or operator and/or valet parking service provider
(v) arts and entertainment services	The time arts and entertainment services are paid or supplied	The amount of payment received by arts and entertainment service operators
Non-Metallic Mineral and Rock Tax	The time non-metallic minerals and rocks are extracted at the mine mouth	Sales value of the extracted non-metallic minerals and rocks (volume or tonnage x reference price of each type of non-metallic minerals and rocks)
Swallow's Nest Tax	The time the swallow's nest is extracted and/or exploited	Sales value of the swallow nest (standard market price of the swallow's nest in the area concerned x volume of the swallow's nest)

Source: Gov. Reg. No. 35/2023, processed by the Author.

C. Certain Goods and Services Tax

Previously, it has been mentioned that the HKPD Law restructures local taxes by reclassifying five types of consumption-based taxes into one type of tax, namely certain goods and services tax. The object of certain

goods and services tax are sales, supplies and/or consumption of certain goods and services, which include (i) food and/or beverages, (ii) electricity, (iii) hotel services, (iv) parking services and (v) arts and entertainment services.

The implementing regulation released until the writing of this book in August 2024 is for certain goods and services tax on electricity. Further, sales and/or supplies of food and/or beverages, hotel services, parking services and arts and entertainment services are awaiting implementation regulations, both at the level of government regulations and minister of finance regulations. The local regulations for the other four types of taxes remain valid (which implement Law No. 28/2009) insofar as they do not contradict the HKPD Law.

C.1 Certain Goods and Services Tax on Electricity

Gov. Reg. No. 4/2023 stipulates Certain Goods and Services Tax on Electricity. This regulation changes the street lighting tax nomenclature into certain goods and services tax on electricity. Therefore, this regulation mandates local governments to adjust local regulations concerning street lighting tax pursuant to Gov. Reg. No. 4/2023 no later than 5 January 2024.

The object of certain goods and services tax on electricity is the use of electricity by end users. However, Gov. Reg. No. 4/2023 also stipulates several exclusions from certain goods and services tax on electricity in certain conditions. Excluded from the consumption of electricity as certain goods and services tax objects are:

(i) consumption of electricity by government institutions, local governments and other state organisers;

(ii) consumption of electricity in places used by embassies, consulates and foreign representatives based on the principle of reciprocity;

(iii) consumption of electricity in houses of worship, nursing homes, orphanages and other similar social institutions;

(iv) consumption of self-generated electricity with a certain capacity that does not require a permit from the relevant technical agency; and

(v) other electricity consumption regulated by local regulations.

In contrast, the tax calculation is based on the amount paid by consumers for the selling value of electricity. If there is no payment by the consumer, the tax base is calculated based on the applicable selling value of electricity in the area concerned. The sales value of electricity is assessed for electricity from other sources with payment and self-generated electricity. In respect of the assessment of certain goods and services tax on electricity, the following are details of the applicable tax rates.

Table 12.4 Scheme for Determining the Maximum Tax Rate of Certain Goods and Services Tax on Electricity

No.	Condition	Maximum Rate
1.	Standard rate	10%
2.	Special rate for electricity consumption from other sources by industries and oil and gas mining	3%
3.	Special rate for the consumption of self-generated electricity	1.5%

Source: processed by the Author.

Further, Gov. Reg. No. 4/2023 also stipulates local governments' obligations regarding the allocation of certain goods and services tax on electricity revenues. In this regard, the local governments are required to allocate a minimum of 10% of certain goods and services tax on electricity revenues for the provision of public street lighting. The provision of public street lighting includes the provision and maintenance of public street lighting infrastructure as well as the payment of costs for consumption of electricity for public street lighting.

D. Bookkeeping or Recording

Taxpayers must maintain bookkeeping or recording as stipulated under Gov. Reg. No. 35/2023 (KUPDRD). Bookkeeping or recording may be

maintained electronically or non-electronically. The following are provisions on bookkeeping or recording.

(i) Taxpayers conducting business with turnover of a minimum of IDR4.8 billion per year are required to maintain bookkeeping; and

(ii) Taxpayers conducting business with turnover of less than IDR4.8 billion may choose to maintain bookkeeping or recording.

All documents constituting the basis for bookkeeping or recording must be retained for five years in Indonesia at an individual taxpayer's place of activity or residence or a corporate taxpayer's domicile.

E. Local Tax Return Completion and Filing Obligations

Taxpayers must complete the local tax return (*Surat Pemberitahuan Pajak Daerah*/SPTPD in Indonesian) based on the type of taxes collected using the taxpayer's self-assessment. The local tax return at least contains business turnover and the amount of tax payable per type of tax in one taxable period.

The local tax return must be filed to the regional head after the end of a taxable period, attached with the local tax payment slip (*Surat Setoran Pajak Daerah*/SSPD in Indonesian) as the receipt of tax settlement. Please note that the local tax return is filed every taxable period, except for acquisition duty on right to land and/or building. In the context of acquisition duty on right to land and/or building, filing is performed using a local tax payment slip which is equivalent to the local tax return.

F. Administrative Penalties

Compared to the previous regime, administrative penalties contained in Gov. Reg. No. 35/2023 (KUPDRD) have changed in terms of the amounts. The Minister of Finance is authorised to review the amount of administrative penalty rates in the form of interest and interest compensation under Article 106 of Gov. Reg. No. 35/2023. A number of

articles under Gov. Reg. No. 35/2023 containing provisions on administrative penalties, are among others, as follows.

Table 12.5 Amount of Administrative Penalty for Each Violation

No.	Event or Condition	Rate
1.	Taxpayers who do not pay or remit local tax payable in a timely manner.	An interest of 1% per month of tax payable that is not paid or underpaid or remitted, calculated from the payment due date until the payment date, for a maximum period of 24 months and a fraction of a month is treated as one full month and collected using the notice of local tax collection (*Surat Tagihan Pajak Daerah*/STPD in Indonesian)
2.	The amendment to the local tax return stating an underpayment.	An interest of 1% per month of the amount of underpaid taxes, calculated from the payment due date until the payment date for a maximum period of 24 months and a fraction of a month is treated as one full month
3.	The head of the region or appointed officials issue a notice of local tax collection based on examination results of the local tax return, it is found that there is tax payable that is not or has been underpaid.	An interest of 1% per month of the amount of underpaid tax, calculated from the payment due date until the payment date for a maximum period of 24 months and a fraction of a month is treated as one full month
4.	If the head of the region or appointed officials conduct an audit to assess compliance with the fulfilment of tax obligations and based on audit findings, there is tax underpayment and then issue a notice of local tax underpayment assessment (*Surat Ketetapan Pajak Daerah Kurang Bayar*/SKPDKB in Indonesian).	An interest of 1.8% per month of the amount of underpaid tax or tax not paid on time, calculated from the time the taxes are payable or the end of the taxable period, a fraction of a tax year or tax year until the issuance of a notice of local tax underpayment assessment, for a maximum period of 24 months and a fraction of a month is treated as one full month
5.	If the head of the region or appointed officials calculate unpaid or underpaid	An interest penalty of 2.2% per month of the amount of the taxes

No.	Event or Condition	Rate
	taxes *ex officio* and issues a notice of local tax underpayment assessment because the taxpayer: (i) does not file the local tax return no later than fifteen business days after the end of the taxable period and has been reprimanded in writing but not filed on time as specified in the reprimand letter; or (ii) does not fulfil the obligation to maintain bookkeeping or recording electronically and/or non-electronically or present and/or lend books of accounts or records, the underlying documents and other documents related to the objects of local tax and user charge payable, grant access to premises or rooms deemed necessary and assist to facilitate the audit and/or provide other necessary information.	that are underpaid or late to be paid, calculated from the time the taxes are payable or the end of the taxable period, a fraction of a tax year or tax year until the issuance of the notice of local tax underpayment assessment, for a maximum period of 24 months and a fraction of a month is treated as one full month, from the time the taxes become payable plus administrative penalties in the form of: (i) a surcharge of 50% of the underpaid principal amount of taxes (specifically for motor vehicle fuel tax and certain goods and services tax); (ii) a surcharge of 25% of the underpaid principal amount of taxes (other than motor vehicle fuel tax and certain goods and services tax).

Source: processed by the Author.

G. Acquisition Duty on Right to Land and/or Building

Acquisition duty on right to land and/or building is a type of self-assessment tax under the authority of the regency or municipality. Acquisition duty on right to land and/or building aims to acquire the right to land and/or building through transactions such as buying and selling, exchanges, grants, will, inheritance, auctions, prizes, etc.

Acquisition duty on right to land and/or building is payable on the date the sale and purchase agreement (*Perjanjian Pengikatan Jual Beli*/PPJB in Indonesian) is prepared and signed in the context of buying and selling. If the sale and purchase agreement is not used in the sale and purchase of land and/or building, the acquisition duty on right to land

and/or building is payable when the sale and purchase deed (*Akta Jual Beli*/AJB in Indonesian) is signed.

Please note that acquisition duty on right to land and/or building taxpayers are individuals or entities acquiring the right to land and/or building. As a result, acquisition duty on right to land and/or building must be paid by buyers of land and/or buildings.

In the HKPD Law, regencies or municipalities set acquisition duty on right to land and/or building rates at a maximum of 5%. On the other hand, the basis for the imposition of acquisition duty of right to land and/or building is the acquisition value of the taxable object. The acquisition value of the taxable object is the transaction value, market value or transaction price in the auction minutes.

If the acquisition value is not known or lower than the sales value of taxable object (*Nilai Jual Objek Pajak*/NJOP in Indonesian) used in the imposition of L&B Tax in the year the acquisition occurs, the tax base of the acquisition duty on right to land and/or building used is the sales value of taxable object used in the year the acquisition occurs. Provisions concerning the sales value of taxable object for L&B Tax refer to MoF Reg. 234/PMK.03/2022.

Through Gov. Reg. No. 35/2023 (KUPDRD), the government has raised the administrative penalty rates for fines levied against conveyancers (*Pejabat Pembuat Akta Tanah*/PPAT in Indonesian) or notaries who fail to fulfil their obligations relating to acquisition duty on right to land and/or building.

Pursuant to Art. 60 paragraph (1) subparagraph (a) of Gov. Reg. No. 35/2023, the conveyancer or notary is required to request the payment receipt of acquisition duty on right to land and/or building payment from the taxpayer before signing the deed of the transfer of right to land and/or building. If this obligation is not fulfilled, the conveyancer or notary will be subject to an administrative penalty in the form of a fine of IDR10 million for each violation. Previously, a fine of IDR7.5 million was imposed.

Further, the conveyancer or notary is required to notify the local government of the execution of the sale and purchase agreement and/or the execution of the deed of the land and/or building by the 10th of the following month. If this obligation is not fulfilled, the conveyancer or notary will be fined IDR1 million for each report as listed in Gov. Reg. No. 35/2023.

H. Cigarette Tax

The cigarette tax took effect on 1 January 2024. Pursuant to MoF Reg. 143/2023, the cigarette tax base is the excise determined by the central government on cigarettes. This regulation confirms that cigarette tax covers all types of cigarettes, including electronic cigarettes (e-cigarettes).

The cigarette tax rate is set at 10% of the cigarette excise. The amount of cigarette tax payable is calculated by multiplying the cigarette tax base by the cigarette tax rate. Cigarette tax is collected by the Customs and Excise Office simultaneously with the collection of the cigarette excise even though they are different levies. The implementation of the cigarette tax collection complies with technical guidelines for the collection of cigarette tax in the Appendix of MoF Reg. 143/2023.

Cigarette tax is self-assessed by the taxpayers and subsequently stated in the cigarette tax return (*Surat Pemberitahuan Pajak Rokok*/SPPR in Indonesian). The cigarette tax return is filed to the Head of the Customs and Excise Office together with the tobacco product excise stamp purchase order (*Permohonan Pemesanan Pita Cukai Hasil Tembakau*/CK-1 in Indonesian) documents. The cigarette tax return may be filed through an application system in the field of excise.

In the event of disruptions in the filing of the cigarette tax return through the system, the cigarette tax return may be filed in writing through the Customs and Excise Office. The cigarette tax return filed in writing may use the format as per the sample format in Appendix letter B of MoF Reg. 143/2023. The filing of the cigarette tax return must be

attached with all CK-1 documents for e-cigarettes upon excise payment, effective from 2 January 2024.

For further details on the provisions of the cigarette tax, please refer to Perpajakan DDTC on the tax guidelines channel concerning the tax on cigarettes, including e-cigarettes.

I. Other Issues

In this subchapter, there are two noteworthy local tax aspects. *First*, Gov. Reg. No. 35/2023 comprises a clause concerning local taxes that may be paid by the governments, including surface water tax, groundwater tax and/or certain goods and services tax on electricity.

The three taxes may be paid by the government if the taxpayer signs an agreement with the government in upstream oil and gas or other business activities on which tax payable is exempt and borne by the government. The taxes that may be paid are sourced from a certain amount constituting part of state revenues for each business activity conducted by the taxpayers. In this case, the taxes are paid by the Minister of Finance.

Second, as of 22 April 2024, 540 out of 546 local governments had submitted draft local regulations (*Rancangan peraturan daerah*/Raperda in Indonesian) concerning local taxes and user charges. The other six regions have not submitted the draft local regulations due to several reasons.

Based on the submitted draft local regulations, the following are findings in respect of the provisions concerning local taxes determined by the local governments.

(i) Some draft local regulations have not stipulated in detail the types of local taxes to be collected and not collected;

(ii) The values of several non-taxable objects for certain goods and services tax are deemed to be set too low, lacking consideration of fairness to encourage ease of doing business for Micro, Small

and Medium Enterprises (MSMEs or *Usaha Mikro, Kecil, dan Menengah*/UMKM in Indonesian);

(iii) Lower L&B Tax-Rural and Urban rates for agricultural land have not been set;

(iv) Some rates are set within a certain range, whereas definitive rates should be set for local regulations;

(v) The non-metallic mineral and rock tax collection areas, tax base of motor vehicle surtax and tax base of motor vehicle duty surtax have not been regulated in detail.

The forthcoming agenda that needs to be established by local governments is the formulation of regional head regulations for the technical procedures for the collection of local taxes. Generally, the provisions concerning the technical procedures for the collection of local taxes are regulated at two levels, i.e., the governor level and the regent or mayor level.

CHAPTER 13
CARBON TAX

Since the issuance of Law No. 7 of 2021 concerning the Harmonisation of Tax Regulations (HPP Law), the Indonesian government has issued a legal umbrella to impose a carbon tax on taxpayers. The carbon tax was initially planned to come into force on 1 April 2022. However, up to the writing of this book in August 2024, the Indonesian government had not implemented the carbon tax.

Carbon tax and carbon trading are two complementary carbon emission control instruments. The following are noteworthy aspects of the carbon tax regulation.

(i) Taxable objects: carbon taxes are imposed on carbon emissions with an adverse impact on the environment.

(ii) Carbon tax is payable upon the purchase of carbon-containing products and/or activities that produce a certain amount of carbon emissions in a certain period.

(iii) Tax subjects: individuals or entities that purchase carbon-containing products and/or conduct activities that produce a certain amount of carbon emissions in a certain period.

(iv) The time carbon tax becomes payable is determined:

   a. upon the purchase of carbon-containing products;
   b. at the end of the calendar year period of the activities that produce carbon emissions in a certain amount; or
   c. other times regulated by or based on government regulations.

(v) Carbon tax rates are set higher or equal to the carbon price in carbon markets per kilogram of carbon dioxide equivalent (CO_2e) or equivalent units. If the price of carbon in the carbon market is

lower than IDR30.00 per kilogram of CO_2e or equivalent unit, the carbon tax rate is set at a minimum of IDR30.00 per kilogram of CO_2e or equivalent unit.

(vi) Carbon tax is settled by being:
   a. self-paid by the taxpayer; and/or
   b. collected by the carbon tax collecting agents.

(vii) Taxpayers conducting carbon-emitting activities are required to file the annual tax return to report carbon tax calculations and/or payments.

(viii) Taxpayers collecting carbon taxes are required to file periodic tax returns to report carbon tax calculations and/or payments.

(ix) Taxpayers conducting carbon-emitting activities and carbon tax collecting agents are required to maintain recording of carbon-emitting activities and/or sales of carbon-containing products. The records will be used as a basis for calculating the amount of carbon tax payable.

(x) Taxpayers participating in carbon emission trading, carbon emission offsets and/or other mechanisms pursuant to statutory provisions in the environmental sector may be granted:
   a. carbon tax reductions; and/or
   b. other treatment for fulfilling carbon tax obligations.

Promulgated on 12 December 2022, as a derivative regulation of the HPP Law and specifically elucidating the regulation of carbon tax, Gov. Reg. No. 50/2022 can be found in Perpajakan DDTC.

Moreover, the following are several recent issues related to carbon tax.

(i) Carbon tax is an alternative measure by the government to realise net zero emissions at the sectoral or company level. Technically, a cap (the maximum amount of carbon emission per period) will be allowed in every sector.

(ii) Further, the differences in cap per sector from the allowed maximum amount of carbon emission per period can be offset in two ways, as follows:

a. paying carbon tax; or
b. purchasing a carbon certificate from the carbon market, which is currently being prepared by the Financial Services Authority (*Otoritas Jasa Keuangan*/OJK in Indonesian).

LIST OF ABBREVIATIONS

A	
AANZFTA	ASEAN-Australia-New Zealand Free Trade Area
ACFTA	ASEAN-China Free Trade Area
AEO	Authorised Economic Operator
AHTN	ASEAN Harmonized Tariff Nomenclature
AK-FTA	ASEAN-Korea Free Trade Area
APA	Advance Pricing Agreement
ALP	Arm's Length Principle
Art.	Article
ATIGA	ASEAN Trade in Goods Agreement
B	
BEPS	Base Erosion and Profit Shifting
BEV	Battery Electric Vehicle
BOT	Build-Operate-Transfer
BPT	Branch Profit Tax
C	
CbCR	Country-by-Country Report
CBU	Completely Built-Up
CCA	Cost Contribution Arrangement
CFA	Committee on Fiscal Affairs
CFC	Controlled Foreign Corporation
CIC	Collective Investment Contract
CIF	Cost, Insurance and Freight
CKD	Completely Knocked-Down
CN	Consignment Note
CO_2	Carbon dioxide
CO_2e	Carbon dioxide equivalent
CoD	Certificate of Domicile
CoO	Certificate of Origin

CoR	Certificate of Residence
CoW	Contract of Work
CPO	Crude Palm Oil
CRM	Compliance Risk Management
CRS	Common Reporting Standard
CTA	Covered Tax Agreement
CTAS	Core Tax Administration System
D	
D-8	Developing Eight
D-8 FTA	Developing Eight Free Trade Agreement
DDP	Delivery Duty Paid
DER	Debt-to-Equity Ratio
DGCE	Directorate General of Customs and Excise
DGT	Directorate General of Taxes
DMO	Domestic Market Obligation
DoO	Declaration of Origin
E	
EBITDA	Earnings Before Interest, Taxes, Depreciation and Amortisation
e-cigarette	Electronic Cigarette
e-commerce	Electronic Commerce
ESR	Earning Stripping Rule
F	
Fintech	Financial technology
FOB	Free on Board
FTA	Free Trade Agreement
FTZ	Free Trade Zone
FY	Fiscal Year
G	
GAAR	General Anti-Avoidance Rules
GCG	Good Corporate Governance

GDP	Gross Domestic Product
Gov. Reg.	Government Regulation
GPTP	General Provision and Tax Procedures
GRDP	Gross Regional Domestic Product
H	
HCT	Handheld Computers and Tablets
HKPD	*Hubungan Keuangan antara Pemerintah Pusat dan Pemerintahan Daerah*
HPP	*Harmonisasi Peraturan Perpajakan*
HWI	High-Wealth Individual
I	
IA-CEPA	Indonesia–Australia Comprehensive Economic Partnership Agreement
IDX	Indonesia Stock Exchange
INA	Indonesia Investment Authority
IPO	Initial Public offering
ITL	Income Tax Law
J	
JO	Joint Operation
K	
KUPDRD	*Ketentuan Umum Pajak Daerah dan Retribusi Daerah*
L	
LCR	Local Content Requirement
LPG	Liquefied Petroleum Gas
L&B Tax	Land and Building Tax
M	
MAAC	Convention on Mutual Administrative Assistance in Tax Matters
MAP	Mutual Agreement Procedure
MFN	Most Favoured Nation

MITA	*Mitra Utama*
MLI	Multilateral Instrument
MoF Reg.	Minister of Finance Regulation
MSMEs	Micro, Small and Medium Enterprises
N	
NCPM	Net Cost Plus Mark-up
NDC	Nationally Determined Contribution
O	
OECD	Organisation for Economic Co-operation and Development
OSS	Online Single Submission
P	
P2P	Peer-to-Peer
para.	paragraph
PE	Permanent Establishment
PoEM	Place of Effective Management
Q	
QDMTT	Qualified Domestic Minimum Top-up Tax
R	
R&D	Research and Development
Reg.	Regulation
RoS	Return on Sales
S	
SAAR	Specific Anti-Avoidance Rules
SEZ	Special Economic Zone
SP2DK	*Surat Permintaan Penjelasan atas Data dan/atau Keterangan*
STLGs	Sales Tax on Luxury Goods
T	
TAM	Taxpayer Account Management
TCL	Tax Court Law

TIEA Model	Tax Information Exchange Agreement Model
TIN	Taxpayer Identification Number
U	
URL	Uniform Resource Locator
US	United States
USD	United States Dollar
V	
VAT	Value Added Tax
W	
WCO	World Customs Organization
WHT	Withholding Tax
WTO	World Trade Organization
Y	
yoy	year-on-year

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