

Indonesian Tax Info

April 2016 edition

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Extended Working Days for 2015 Annual Corporate Income Tax Return Submission Due Date

The Director General of Tax ("DGT") has extended the working days of all Tax Service Offices throughout Indonesia, for accepting submission of 2015 Annual Corporate Income Tax Returns, whose due date falls on Saturday, 30 April 2016. DGT Circular number SE-09/PJ/2016 stipulates that the Tax Service Offices will open on Saturday, 30 April 2016 from 8 am to 3 pm. The tax offices will also cater for consultation with taxpayers on tax-related matters.

Update on Article 22 Withholding Income Tax Regulation

The Minister of Finance ("MoF") has issued Regulation number 16/PMK.010/2016 ("PMK-16") to update the Article 22 withholding tax ("WHT") provisions as stipulated under Regulation number 154/PMK.03/2010 ("PMK-154") and its four amendments.

The salient points of the changes are:

- The MoF clarifies that purchase of materials by the forestry, plantation, agriculture, livestock and fisheries industries which is subject to WHT is now limited to materials that have not undergone manufacturing processes;
- Entities that are appointed by the MoF as tax withholders on sale of gold bars also include business entities that produce gold bars through a third party;
- The Article 22 WHT base on export of certain coal and minerals is the Free on Board (FOB) value as stated in the Export Declaration (previously it was based on the Cost Insurance Freight plus duties);
- Purchase of paddy and/or unhusked rice grains by the Government Treasury and BULOG is now exempted from Article 22 WHT.

PMK-16, which serves as the fifth amendment of PMK 154, is effective retrospectively 60 days after the fourth amendment of PMK-154 (Regulation number 107/PMK.010/2015) was promulgated on 9 June 2015.

Update on Information Required by DGT from Certain Government Institutions/Business Entities

Through the issuance of Regulation number 39/PMK.03/2016 (“PMK-39”), which serves as the fifth amendment of Regulation number 16/PMK.03/2013 (“PMK-16”), the MoF has updated the list of information that is required to be submitted by certain government institutions to the DGT. One of the purposes of this information submission is to help the DGT in assessing the reasonableness of income and assets reported by taxpayers in their tax returns.

In addition, the MoF has also expanded the list of government institutions and business entities that are required to submit certain information to the DGT, to include the following parties:

- Ministry of Research, Technology and High Education;
- Directorate General of State’s Wealth - Ministry of Finance;
- PT Taspen;
- Director General of Protection and Social Security, Ministry of Social Affairs;
- Drug and Food Supervisory Agency;
- Certain Banks/Credit Card Issuers.

Under PMK-16 and its amendments, the other institutions and entities that have been subjected to this requirement are the Directorate General of Treasury in the Ministry of Finance, Center for Financial Profession Development, BPJS Manpower, Regional Governments, Ministry of Public Works and People’s Housing, Ministry of Education and Culture, Ministry of Marine Affairs and Fisheries, Ministry of Manpower, and Ministry of Environment and Forestry.

Specifically for banks and credit card issuers, the information that is required to be submitted includes data sourced from the billing statements of the customers, such as merchant details, cardholder details, description/value of transaction, and credit limit. The information should be submitted by the banks/credit card issuers on a monthly basis (due by the end of the following month); the first submission is due by 31 May 2016.

PMK-39 is effective as of 23 March 2016.

Waiver of Penalty for Late Submission of 2015 Personal Income Tax Returns through E-filing

The DGT will waive the IDR100,000 penalty for late submissions of such returns by e-Filing made after 31 March 2016 up until 30 April 2016. The relief is stipulated in DGT Regulation number KEP-49/PJ/2016 and PENG-03/PJ.09/2016. The reasons for the waiver are to encourage and give taxpayers who encounter difficulties in submitting their returns via e-filing a chance and sufficient time.

This waiver does not apply to returns submitted after 30 April 2016. Furthermore, the waiver does not extend to the interest penalty for late settlement of annual tax liability. Late settlement of 2015 annual personal income tax liability made after 31 March 2016 will remain subject to interest at the rate of 2% per month.

Tax Treaty with the Republic of Armenia

The President of the Republic of Indonesia has ratified the Double Taxation Avoidance (“DTA”) Agreement between the Governments of the Republic of Indonesia and Republic of Armenia and its protocol through issuance of Presidential Regulation number 22 of 2016.

The DTA, which was signed on 12 October 2005, was ratified by Armenia in 2006.

The withholding tax rates on dividend, interest and royalties, and the Permanent Establishment (“PE”) time tests of this DTA are summarized below:

Dividend		Interest	Royalties	Branch Profit Tax	PE Time Test	
Substantial Holding	Portfolio				Construction	Service
10%	15%	10%	10%	10%	6 months	120 days

The provisions of this DTA will be effective on or after 1 January 2017 if the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with before the end of 2016.

Offshore “Over-The-Top” Service Providers must have a Permanent Establishment in Indonesia

In the recent Circular Letter number 3 of 2016 which was issued on 31 March 2016, the Minister of Communications and Informatics (“MOCIT”) advised that the Government will issue a regulation regarding over-the-top (“OTT”) services. Meanwhile, the Circular Letter contains certain requirements, including that offshore OTT service providers shall establish a permanent establishment (PE) in Indonesia in accordance with the tax laws and regulations.

OTT includes provision of App-based Internet Services and/or Internet-based Content Services. The Circular provides the following definitions of the services:

1. App-based Internet Services: utilization of telecommunication services provided through an IP-based telecommunication network, which enable the provision of communications in the form of short messaging, telephony, video call, chatting, financial and commercial transactions, storing and collection of data, gaming,

social networking and media, and its derivatives.

2. Internet-based Content Services: provision of all forms of digital information, whether in writing, voice, visual, animation, music, video, movie, gaming, or any combination of these, including those which are accessible through streaming or downloadable, all of which utilise telecommunication services provided through an IP-based telecommunication network.

The offshore OTT service providers are expected to comply with the regulatory requirements similar to those applicable to the domestic providers.

Offshore digital providers will need to assess the potential tax impacts of this Circular on their current business structure and consider the various tax consequences of establishing a PE in Indonesia. Please also note that this Circular appears to be a temporary measure until the government introduces a specific regulation for the OTT business (there is no deadline or indication in the circular on when such a regulation will be issued).



Customs Focus

Amendment on Customs Value Provisions for the Calculation of Import Duty

The Ministry of Finance (“MoF”) has issued Regulation number 34/PMK.04/2016 (“PMK-34”) as the first amendment of MoF Regulation number 160/PMK.04/2010 (“PMK-160”), which regulates the use of customs value for calculating import duty.

The amendments made in PMK-34 are to align with trade practice and customs value for import duty calculation based on the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade.

The significant changes are summarized in the table below:

No	Updated provisions	PMK-160	PMK-34 (the update)
1	Exemption from assessment of customs value by examining the goods and identifying certain vales/ costs stated in the import customs declaration	<p>Assessment of customs value by examining the goods and identifying certain vales/ costs stated in the import customs declaration, can be exempted when the import customs declaration are submitted by certain Importers, i.e.:</p> <ol style="list-style-type: none"> 1. Importer producers with low risk category; 2. Importir Mitra Utama (MITA) priority; or 3. MITA non- priority. 	<p>Another category of importer that receives special treatment as stipulated in the prevailing laws and regulations that can be exempted from re-assessment of customs value (i.e., Authorized Economic Operator (AEO)) is added. However, if based on the factual proof or objective and measured data, there is a discrepancy between an import customs declaration and its supporting documents which leads to a discrepancy in import duty payment, the Customs Authority shall conduct verification and re-assessment on the customs value.</p>
2	Follow up on the result of Fairness Test by the Customs Authority.	<p>In the event the fairness test discovers unreasonable customs value used by a low-risk importer, the Customs Authority may use the transaction value to determine the customs value and inform this to the execution and investigation unit.</p> <p>For medium- to very high-risk importers, the Customs Authority shall issue a Customs Value Information (“INP”).</p>	<p>Adding further action by the customs authority, i.e., to also inform the audit unit.</p> <p>Adding further action for a medium- to very high-risk importer, the Customs authority shall also conduct deep verification when issuing INP.</p>

No	Updated provisions	PMK-160	PMK-34 (the update)
3	INP Issuance	<ul style="list-style-type: none"> • INP is issued through electronic means; • Followed by submission of Customs Value Declaration ("DNP") by importer 3 days after INP issuance and submission of all necessary documents, statements and information to support the determination of customs value. • Importer also needs to provide verbal and written explanations for related matters. • The Directorate General of Customs and Excise (DGCE) officials can also further consult the medium- to high-risk importer or its proxy in the event there is an inaccuracy of transaction value in the DNP assessment. • In the event the importer did not submit data requested and so customs officials are unable to determine the transaction value, the customs officials will determine the customs value based on the available methods in its mandatory sequence, from identical goods transaction value method up until the fall-back method. 	<p>Additional provision:</p> <ul style="list-style-type: none"> • Importer can now submit DNP and its supporting documents without receiving the issued INP. The DNP can be submitted at the time the hardcopy of customs import declaration is submitted. • Additional documents or information used to support the determination of customs value requested by the Customs Authority in a fairness test that were not submitted by the importer, cannot be used in a customs objection or appeal. • If the information and document submitted under the DNP is correct and valid, the customs value is determined based on the transaction value of the goods concerned. • If based on the information and document submitted under DNP, the transaction value of the goods concerned is considered incorrect and invalid, the customs value is determined based on identical transaction value until fall-back method or consultation with the importer or its proxy. If the result of the consultation shows that the transaction value is truly correct and valid and supported by the factual proof or objective and measured data, Customs Authority shall determine the customs value based on the transaction value of the goods concerned.
4	Change of terms used in Appendix of the Regulation concerning import of royalty, license and proceeds	Voluntary payment	Voluntary declaration

This regulation is effective from 4 May 2016.

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