



## Indonesian Tax Info December 2014 & January 2015 edition

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### **Implementation and Application of Government Regulation Number 46 of 2013 ("PP-46")**

Directorate General of Taxation ("DGT") Circular Number SE-32/PJ/2014 ("SE-32") in conjunction with DGT Circular Number SE-38/PJ/2014 ("SE-38") addresses inquiries from taxpayers related to

the implementation of Government Regulation Number 46 of 2013 ("PP 46") regarding Income Tax on Income from Business Received or Earned by Taxpayers Having Certain Gross Turnover (i.e. with gross turnover of not more than IDR 4.8 billion in one Fiscal Year).

The two circulars aim to ensure uniformity and efficiency in the implementation of the regulation as laid out in PP-46. Both SE-32 and SE-38 amend and clarify the provisions laid out in SE-42/PJ/2013 ("SE-42"). Particularly, the circulars provide further guidance with main points as follows:

a. Definition on the start and end of "commercial operations" of taxpayers:

- The start of commercial operations is defined as the first time services/goods are sold and/or the income is earned.
- Corporate taxpayers who have just started commercial operations are subject to Income Tax based on the general tariff of the Income Tax Law for up to one year from the start of commercial operations.
- The circular provides an example of a Corporate Taxpayer to determine the end of commercial operation as follows :

1. Corporate tax payer with a fiscal year equivalent to the calendar year which started commercial operation on July 1, 2013. As it falls under the definition of a corporation which just began its commercial operation, the Taxpayer will be subject to Income Tax based on the general tariff of Income Tax Law for Fiscal Year 2013 and Fiscal Year 2014 (for a period of 1 year as from commercial operation of July 1, 2013 up to June 30 2014 and continued up to December 31, 2014). The imposition of Income Tax in Fiscal Year 2015 must observe the amount of gross turnover of Fiscal Year 2014.
2. Corporate tax payer with a fiscal year equivalent to calendar year which started commercial operation on January 1, 2013. Because it just started commercial operation, the Taxpayer is subject to Income Tax based on the general tariff of Income Tax Law for Fiscal Year 2013 (for period of 1 (one) year as from commercial operation of January 1, 2013 up to December 31, 2013). The imposition of Income Tax in Fiscal Year 2014 must observe the

amount of gross turnover of Fiscal Year 2013.

3. Corporate tax payer with a fiscal year equivalent to calendar year, started commercial operation on January 2, 2013. Because it just started commercial operation, the Taxpayer is subject to Income Tax based on the general tariff of Income Tax Law for Fiscal Year 2013 and Fiscal Year 2014 (period of 1 year as from commercial operation of January 2, 2013 up to January 1, 2014 and continued up to December 31, 2014). The imposition of Income Tax in Fiscal Year 2015 must observe the amount of gross turnover of Fiscal Year 2014.
4. Corporate tax payer with a fiscal year equivalent to calendar year, started commercial operation on August 1, 2013. Because it just started commercial operation, the Taxpayer is subject to Income Tax based on the general tariff of Income Tax Law for Fiscal Year 2013 and Fiscal Year 2014 (period of 1 year as from commercial operation of August 1, 2013 up to July 31, 2014 and continued up to December 31, 2014). The imposition of Income Tax in Fiscal Year 2015 must observe the amount of gross turnover of Fiscal Year 2014.

b. The Income Tax treatment for corporate taxpayers and/or institutions operating in education or non-profit research and development, mutual funds, banks/finance, and certain entrepreneurs. The clarification includes the following:

- Income Tax treatment for corporate taxpayers and/or institutions operating in education or non-profit research and development: the circular provides that any excess receipt/income which has not been reinvested in the form of education activities and/or research should be regarded as a tax object pursuant to the Income Tax Law;

- Income Tax treatment for mutual fund taxpayers: SE-32 and SE-38 stipulate that in the case where a business falls under the definition of a mutual fund, it will be subject to Final Income Tax in accordance with PP-46;
- Income Tax treatment for bank/ rural bank/ savings and loan cooperative/ lending institution: SE-32 and SE-38 state that income from business received or earned by a bank/ rural bank/ savings and loan cooperative/ lending institution taxpayer which fulfills the criteria pursuant to PP-46 will be subject to final Income Tax amounting to 1% (one percent) of the gross turnover each month. SE-38 also revises the definition of income previously provided in SE-32.
- Income Tax treatment for Individual Certain Entrepreneurs: The circulars provide that individual entrepreneurs with gross turnover not more than IDR 4.8 billion in one Fiscal Year who fall under the definition of Certain Entrepreneurs will be subject to final Income Tax amounting to 1% of the gross turnover each month. Otherwise, for certain entrepreneurs whose turnover is more than 4.8 billion, the treatment shall follow the prevailing Income Tax Law.
- Income Tax treatment for Individual Official Certifier of Title Deeds (Pejabat Pembuat Akta Tanah/ 'PPAT'): since the individual taxpayer having the profession of PPAT has equal authority as a notary and as individual taxpayer conducting independent works, the taxation treatment for taxpayers of PPAT refers to the general provision of income tax law.

SE-32 is effective as of 17 September 2014 and SE-38 is effective as of 22 October 2014.

### Update on Procedures for VAT and LGST Exemption on Importation and Delivery of Taxable Goods and/ or Services to Representatives of Foreign Countries and International Agencies

The DGT has issued Circular Number SE-39/PJ/2014 ("SE-39") dated 21 November 2014 to supplement and provide guidance on the implementation of Minister of Finance Regulations no. 160, 161, and 162 (please refer to our Monthly Tax Info October 2014 Edition), particularly to govern the procedures for the issuance of Certificate of Exemption and Dispensation Letter and refund of VAT and/or Luxury Goods Sales Tax ("LGST") on the importation and delivery of taxable goods and/or services to the representatives of foreign countries and international agencies as well as their officials.

SE-39 also provides several templates for the tax authority to use when preparing response letters to accept or reject taxpayers' request for exemption/ restitution of VAT and LGST.

SE-39 is effective as of 21 November 2014. This circular is intended to revoke and replace the previous circulars SE-10/PJ.52/1998 and S-2678/PJ.55/1993 governing related topics.

### Reporting of Annual Tax Return

DGT Regulation Number PER-29/PJ/2014 ("PER-29"), issued on 21 November 2014, governs annual tax return ("CITR") receipt and processes. PER-29 revokes and replaces the previous regulation, PER-26/PJ/2012 ("PER-26"). Most of the provisions are still the same as in PER-26, except for the following changes:

1. There will be a Tax Identification Number ("NPWP") validation process for each CITR submitted. This validation process is not

applicable to CITR submitted via e-filing. If the NPWP is found to be invalid, the tax office will send a notification to the taxpayer.

2. PER-29 introduces the Data Processing and Tax Document Unit (Unit Pengolahan Data dan Dokumen Perpajakan, "UPDDP") as the operational unit carrying out the functions of data processing and tax documents, including the Tax Document and Data Processing Center (Pusat Pengolahan Data dan Dokumen Perpajakan, "PPDDP") and Tax Document and Data Processing Offices (Kantor Pengolahan Data dan Dokumen Perpajakan, "KPDDP"). This organization is under DGT.
3. In PER-26, the obligation to submit the CITR to the filing counter ("TPT") of Tax Office was only limited to CITR in tax overpayment position, revised CITR, CITR submitted late, and CITR prepared using e-SPT. Now PER-29 emphasizes that all types of CITR must be submitted to the TPT of the tax office.
4. For an Individual Tax Return (i.e. form 1770 SS) that is submitted directly by the taxpayer, the tax office will only check the completeness of the form but is not obligated to check the registered tax office of the taxpayer.
5. In contrast, the tax office will issue a receipt without checking the completeness for Individual Tax Returns other than form 1770SS for fiscal year 2014 and after which is submitted directly by the taxpayer to a tax office which is not the taxpayer's registered tax office. The tax officer who receives the return will give the receipt without checking the completeness. The completeness check will be performed by the taxpayer's registered tax office.
6. Starting fiscal year 2014, the recording of content for Individual Tax Return (i.e. form 1770SS) will be conducted by UPDDP. The recording of forms other than the form 1770SS and for form 1770 SS prior to fiscal year 2014 will be conducted by the Tax Office or UPDDP.

PER-29 is effective as of 1 January 2015.

## **Singapore and Indonesia amend their bilateral Treaty on the Avoidance of Double Taxation and the Prevention of Tax Evasion**

Singapore and Indonesia have reached a consensus to enhance bilateral relations by amending their Tax Avoidance and Double Taxation Treaty, particularly with regard to the exchange of information on taxation. The update aims to increase investment and trade flows to and from both countries in order to align with international standards of treatment for exchange of information requests between nations.

The Indonesian Ministry of Finance has also issued a specific guideline on the implementation of automatic exchange of information ("AEOI") based on the standards developed by the OECD and the G20. This guideline aims to limit, detect and prevent tax evasion by taxpayers using foreign bank accounts.

Singapore will prioritize the implementation of the Foreign Account Tax Compliance Act ("FATCA").

## **Latest development on BPJS Kesehatan (Healthcare Social Security)**

The Indonesian government has received a number of requests from insurance providers, as well as companies and entrepreneurs, to postpone the deadline for registration to the BPJS Healthcare Security scheme. They are concerned that the current public health care system may not yet be sufficient to offer a standard of care similar to what is offered by their private health plans. As a result, companies may suffer double benefit costs by participating in the government scheme while also maintaining their current health benefit plans.

On 22 December 2014, the BPJS Healthcare agency responded to the requests and stated that the deadline for companies to register themselves to BPJS Healthcare remains 1 January 2015. However, they have agreed to provide an extension until 30 June 2015 for companies to start making payment to the BPJS agency. Those that register after 1 January 2015 will be considered

late and may be penalized based on the prevailing law and regulations.

### Update on Procedure for Determination of Assessed Property Value (“NJOP”)

The Directorate General of Tax (“DGT”) has issued a new regulation No. PER-27/PJ/2014 (“PER-27”) regarding Procedure for Determination of Assessed Property Value (“NJOP”) as the basis for imposition of Land and Building Tax (“PBB”), as an amendment of the previous DGT regulation No. PER-60/PJ/2010. PER-27 is an implementing regulation of MoF Regulation 139/2014, issued on 10 July 2014, which is applicable to plantation, forestry, mining and other sectors which are outside City/District (“Kabupaten/Kota”) areas.

Under PER-27, the NJOP for land is determined based on land sale value per square meter, which is obtained from comparison of price with other similar objects, new acquisition value, or substitute sales value.

Previously, the NJOP for land was stipulated based on Average Indication Value, which is the average Market Value that represents the value of land in a certain region.

The NJOP for buildings is determined based on building sale value per square meter, which is obtained from new acquisition value. Previously, the NJOP for buildings was stipulated based on the Cost List for Building Components (Daftar Biaya Komponen Bangunan, “DBKB”), which is an estimated cost of a building which consists of three types of cost: main component, materials, and building facilities.

### Implementation of VAT Exemption on Education Service

The Minister of Finance (“MoF”) has issued a new regulation number PER-223/PMK.011/2014 (“PER-223”) to elaborate the Educational Services subject to VAT exemption under the VAT Law and Government Regulation No. 1 of 2012.

Under this PER-223, Educational Services exempted from VAT are classified into three categories, i.e., formal, non-formal, and informal education services. This regulation also further details the types of educational services that fall under each of these categories, as summarized below.

1. Formal education services include:
  - a. Early age education (“Pendidikan Anak Usia Dini”)
  - b. Elementary education (“Pendidikan Dasar”)
  - c. Secondary education (“Pendidikan Menengah”), and
  - d. Higher education (“Pendidikan Tinggi”).
2. Non-formal education services include:
  - a. Life skills education services (“Pendidikan Kecakapan Hidup”)
  - b. Early age education (“Pendidikan Anak Usia Dini”)
  - c. Youth education (“Pendidikan Kepemudaan”)
  - d. Women’s empowerment education (“Pendidikan Pemberdayaan Perempuan”)
  - e. Literacy education (“Pendidikan Keaksaraan”)
  - f. Work training and proficiency education (“Pendidikan Keterampilan dan Pelatihan Kerja”), and
  - g. Equality education (“Pendidikan kesetaraan”).
3. Informal education service covers independent learning activity done by families and communities.

Under PMK-223, VAT Exemption does not apply to:

- Education services (formal, non-formal and informal) not stipulated in the above list;
- Formal or non-formal education services delivered by an educational institution which does not have an education license issued by the relevant central/local government authority; or
- Education service which is an integral, inseparable part of the delivery of other goods and/or services.

This regulation is effective as of 10 December 2014.

Questions concerning any of the subjects or issues contained in this newsletter should be directed to your usual contact in our firm, or any of the following individuals:

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