Indonesia Tax Info December 2022

Preparation for upcoming corporate income tax return filing obligation for Fiscal Year 2022

As Fiscal Year 2022 (FY22) is coming to a close for most corporate taxpayers, we would like to highlight some of the required corporate income tax (CIT) calculations and CIT return documentation that taxpayers may need to start preparing, along with a few reminders. For more detailed explanations on each of the items listed below, please refer to our previous publications accessible from the links provided:

1. Debt-to-Equity (DER) ratio and foreign loan requirements

Pursuant to Law Number 7 of 2021 regarding Harmonization of Tax Regulations, the Minister of Finance (MoF) is authorized to specify the limitation on deductible borrowing costs based on internationally-accepted methods, such as debt-to-equity ratio (DER), borrowing costs compared to earnings before interest, taxes, depreciation, and amortization (EBITDA), or other methods. So far, the MoF has introduced the DER of 4:1. A taxpayer that obtains loan and would like to utilize the relevant interest as deduction is required to submit the DER calculation report. If the loan is from overseas, the taxpayer has to attach a report on the foreign loan along with the CIT return submission (please refer to *Tax Info December 2017*).

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2. Dividend tax facility requirements

As FY22 is coming to a close for most corporate taxpayers, we should start preparing the required CIT calculations and CIT returns.

To be eligible for tax exemption, the dividend, both from domestic and overseas sources, must be distributed through general shareholders meeting or interim dividend in accordance with the prevailing regulations.

Dividend income received by a domestic corporate taxpayer is tax exempted without any restriction; as such, it shall be disclosed in the CIT return as a nontaxable object.

Dividend income from offshore, profit after tax (PAT) of a permanent establishment (PE), and income from foreign active business without a PE are tax exempted when those income are reinvested into Indonesia for a minimum of three years. For dividend from an offshore non-listed company or a PE's PAT, there is a threshold for minimum amount of dividend or PAT to be reinvested into Indonesia (30% of the PAT, proportionated in accordance with the shareholding's percentage). A reinvestment realization report must be reported annually (please refer to *Tax Info March 2021*).

In the case where this facility for dividend income is not utilized by Indonesian taxpayer, the Indonesian tax office will apply CFC rule (see below).

3. Controlled foreign corporation (CFC) rule requirements

In the event a taxpayer (separately or together with other taxpayers) has a minimum of 50% capital participation in a foreign business entity, such taxpayer needs to calculate income tax on passive income (i.e., dividend with certain exceptions, interest with certain exceptions, rent of land and/or buildings, rent of other assets to related parties, royalty, and gain on sale or transfer of assets) as stipulated in MoF Regulation Number 107/PMK.02/2017, which has been amended by MoF Regulation Number 93/PMK.02/2019 (please refer to *Tax Alert July 2019* and *Tax Info February 2022*).

4. Creditable foreign income tax

Taxpayers may credit their relevant fiscal year's foreign income tax that has been paid or withheld. In particular, to claim a foreign tax credit, several requirements should be met as stipulated in MoF Regulation Number 192/PMK.03/2018 (please refer to *Tax Info January 2019*).

5. Transfer pricing documentation requirements

A summary of the master file and local file, as well as the receipt of submission of the notification or country-by-country report as stipulated in MoF Regulation Number 213/PMK.03/2016, are required (please refer to *Transfer Pricing Alert January 2017*).

6. Attachments to CIT return

To claim deductions for certain expenses (such as promotion expenses, entertainment expenses, and bad debt expenses), taxpayers must submit the relevant nominative lists or reports in accordance with the DGT's prescribed format. DGT Regulation Number PER-02/P/2019 provides a list of documents and reports that have to be attached to CIT returns (please refer to *Tax Info February 2019*).

Based on Government Regulation Number 9 of 2021 and MoF Regulation Number 18/PMK.03/2021, dividend income from overseas sources, a PE's PAT, and income from a foreign active business without a PE may qualify for tax exemption if certain amount of the income is reinvested into Indonesia. Corporate taxpayers utilizing the tax exemption treatment must submit a reinvestment realization report by the end of the fourth month after the fiscal year ends (please refer to *Tax Info March 2021*).

7. Voluntary Disclosure Program (VDP) requirements

Taxpayers that have declared their intention to repatriate net assets from offshore into Indonesia and/or committed to investing in eligible investment projects or instruments must submit an annual repatriation and/or investment realization report electronically to the DGT until the required investment holding period has been fulfilled (please refer to *Tax Alert January 2022*).

8. Tax reporting requirements

The following taxpayers should submit their CIT return via the e-filing system:

a. Taxpayers that have already submitted their tax return via the e-filing system; and
b. Taxpayers that are registered with medium tax offices, special Jakarta regional tax office, and large taxpayer regional tax office.

To date, no regulation has been issued informing taxpayers to use a new or updated CIT return form; hence, taxpayers may still use last year's form. Taxpayers are advised to continue monitoring any update to the form in the future.

Customs Focus

Update on customs value for import duty calculation

MoF has issued Regulation Number 144/PMK.04/2022 (MoF-144) concerning Customs Value for Import Duty Calculation. MoF-144 revokes MoF Regulation Number 160/PMK.04 2010, as amended by MoF Regulation Number 62/PMK.04/2018 (MoF-160).

MoF-144 introduces "customs value confirmation" and adds another type of expense that should be excluded from the transaction value.

The salient points of MoF-144 are as follows:

1. Expense excluded from the transaction value

Internal tax expense incurred in the exporting country is added to the list of expenses that should be excluded from the transaction value. Transaction value is used as a basis for determining the customs value for import duty calculation purposes.

2. Introduction of customs value confirmation

MoF-144 eliminates customs value information (*Informasi Nilai Pabean* (INP)) and introduces a new provision of customs value confirmation (*Konfirmasi Nilai Pabean* (KNP)). KNP is a clarification or request for further explanation from the Customs and Excise Official to the importers and/or goods owners for the purpose of researching the customs value of imported goods after going through a risk assessment process.

3. Risk assessment by a Customs and Excise Official

After a Customs and Excise Official performs a risk assessment to declare the customs value on an import declaration (*Pemberitahuan Impor Barang* (PIB)), issuance of a data request note and/or a KNP request will be made by the Customs and Excise Official through the Service Computer System (*Sistem Komputer Pelayanan* (SKP)). Importers must be present within a maximum period of three working days after the issuance of the KNP request and provide explanations on the relevant transaction.

MoF-144 takes effect as from January 1, 2023.

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