



Indonesia Tax Info February 2023

New implementing regulation for general provisions and procedures for taxation

On 12 December 2022, the Indonesian government issued Regulation Number 50 of 2022 (PP-50) in response to the view that Government Regulation Number 74 of 2011 (PP-74) may no longer accommodate the latest requirements of tax administration as well as to accommodate changes introduced by Law Number 7 of 2021 regarding Harmonization of Tax Regulations (*Undang-Undang Harmonisasi Peraturan Perpajakan* (HPP Law)) (please refer to [Tax Info October 2021](#) and [Tax Alert November 2021](#)) to Law Number 6 of 1983 regarding General Provisions and Procedures for Taxation that has been amended several times (KUP Law). PP-50, which has come into effect as from 12 December 2022, replaces PP-74 and some provisions in Government Regulation Number 9 of 2021 that are related to the KUP Law (please refer to [Tax Info March 2021](#)) and becomes the new implementing regulation for the KUP Law.

In this issue:

1. [New implementing regulation for general provisions and procedures for taxation](#)

Customs Focus:

2. [Regional Comprehensive Economic Partnership \(RCEP\) scheme](#)

Although the provisions in PP-50 generally are similar to those in PP-74, some of the details are updated or improved to align with the changes to the KUP Law introduced by the HPP Law. This article discusses some of the major changes introduced by PP-50.

Increased certainty on the mutual agreement procedure (MAP) process

MAP is an international approach in the form of discussion to avoid double taxation.

The HPP Law adds a provision to the KUP Law whereby the MAP may now be conducted alongside with domestic disputes resolution namely an objection, appeal, or request for reduction or cancelation of an incorrect tax assessment letter (*Surat Ketetapan Pajak (SKP)*).

If the MAP negotiation comes to a conclusion, the tax treatment mutually agreed by the competent authorities of the relevant jurisdictions will be executed in Indonesia after the authorities have informed each other that the agreed procedures may be executed and the taxpayer has adjusted or withdrawn the ongoing dispute resolution attempts of the relevant case.

If the MAP negotiation does not come to a conclusion, any decision reached during the dispute resolution process will be implemented.

If tax becomes overpaid following the MAP conclusion, the tax authorities must refund the overpaid tax after offsetting it against any taxes due without any interest.

Carbon tax

PP-50 also acts as the implementing regulation for carbon tax introduced by the HPP Law. The provision is added as the preparation for carbon tax administration that is planned to take into effect once a further regulation is issued by the Minister of Finance (MoF).

For carbon tax purposes, a taxpayer is defined as an individual or corporate that meets subjective and objective requirements under Article 13 of the HPP Law (carbon taxpayer) or a carbon tax collector.

There would be two types of carbon tax reports, namely:

- An annual carbon tax return that must be submitted by a carbon taxpayer (with certain exception) by the end of the fourth month after the calendar year ends; and
- Periodic carbon tax returns that must be submitted by a carbon tax collector by the 20th day after a fiscal period ends.

Late submission of carbon tax reports will be subject to a late submission penalty.

PP-50 also requires carbon taxpayers and carbon tax collectors to maintain a record (*pencatatan*) of the activities that result in carbon emissions and/or sales of goods containing carbon and to retain the data used for calculating the carbon tax for 10 years.

Changes by PP-50 are required to accommodate latest tax administrative requirements introduced by HPP Law.

Carbon tax is added to PP-50 as the preparation for tax administration that is planned to take into effect after the MoF issues the implementing regulation.

Tax audit on preliminary evidence

In the event an indication of tax crime is found during a tax audit, the audit will be deferred and an audit on preliminary evidence for tax crime (*pemeriksaan bukti permulaan (bukper audit)*) is instigated. A *bukper* audit can be halted or proceeded with a tax investigation process.

Under PP-50, the deferred tax audit will be resumed if:

- The *bukper* audit is halted since:
 - No preliminary evidence of a tax crime is found;
 - The triggering event is not a tax crime; or
 - The individual taxpayer being audited has passed away;
- The tax investigation is halted due to:
 - Inadequate evidence;
 - The triggering event is not a tax crime; or
 - The same case cannot be prosecuted twice (*nebis in idem*) or the suspect has passed away;
- There is a tax court verdict on tax crime that acquits the taxpayer from all legal charges and a copy of the verdict has been received by the Directorate General of Taxation (DGT); or
- The *bukper* audit or tax investigation results in a tax overpayment.

PP-50 also stipulates that the deferred tax audit will be stopped if:

- The *bukper* audit is halted as the taxpayer submits a voluntary disclosure under Article 8(3) of the KUP Law and the disclosure is in accordance with the actual condition;
- The tax investigation is discontinued since:
 - The taxpayer makes a voluntary disclosure in accordance with Article 44A of the KUP Law; or
 - The taxpayer or suspect pays the loss to the state revenue in accordance with Article 44B(1) of the KUP Law;
- The *bukper* audit or tax investigation is halted because the ten-year statute of limitation for prosecuting a tax crime under Article 40 of KUP Law has expired; or
- There is a tax court verdict on tax crime other than the verdict that acquits the taxpayer from all legal charges and a copy of the decision has been received by the DGT.

Request for reduction or cancelation of a tax decision letter

The DGT (by *ex-officio*) or a taxpayer (by request) can:

- (i) Reduce or cancel a tax penalty that arises under certain condition;
- (ii) Reduce or cancel an incorrect SKP;
- (iii) Reduce or cancel a tax collection letter (*Surat Tagihan Pajak (STP)*); or
- (iv) Cancel an SKP that is issued without the provision of temporary tax audit findings (*Surat Pemberitahuan Hasil Pemeriksaan*) or closing conference.

Under PP-50, a taxpayer may request the cancelation of an SKP in accordance with point (iv) above only once, whereas the request for a reduction or cancelation in accordance with the points (i) to (iii) above may be made, at maximum, twice. The opportunity to request a reduction or cancelation of an incorrect SKP under point (ii) is forfeited once the taxpayer withdraws the objection to the relevant SKP; however, the taxpayer may request the reduction or cancelation of the associated tax penalty after the objection is withdrawn.

Although the opportunity to request for a reduction or cancellation of an incorrect SKP is forfeited once the taxpayer withdraws the objection, it still can request for a reduction or cancellation of the associated tax penalty.

Clarification on penalty related to objection, appeal, and judicial review

PP-50 confirms that if an objection is withdrawn or rejected due to failure to fulfill the formal requirements, the 30% penalty is not applicable since the objection is considered never filed, however the tax payable would be due by referring to the issuance date of the SKP. Similarly, if an appeal is not accepted under the Tax Court Law, due to a failure to comply with the formal requirements, the applicable tax surcharge will remain 30% and the tax payable would be due by referring to the issuance date of the objection decision. Meanwhile, the tax surcharge of 60% is applicable if the appeal is not granted (entirely or partially) or results in an increased tax to be paid due to certain reasons.

The regulation also embedded the provision under HPP Law whereby if a judicial review results in an increased amount of tax payable, the additional amount over the tax settled prior to the submission of the tax objection request would be subject to a surcharge of 60%. The DGT must issue the STP to collect the surcharge penalty within two years after the judicial review is received.

If an objection is withdrawn or rejected due to failure to fulfill the formal requirements, the 30% penalty is not applicable since the objection is considered never filed.

Refunds of overpaid tax

Tax overpayments resulting from the issuance of official tax letters by the authorities must be refunded within one month after the refund is requested or the official tax letter is issued (depending on the conditions). If the tax authorities do not refund the overpaid tax within the one-month period, they must pay compensation in the form of interest.

This was previously stipulated in the KUP Law but was not included in PP-74. The inclusion of this article in PP-50 provides taxpayers with certainty over their rights to a tax refund.

Tax identification number for taxpayers

The government has indicated its intention to integrate data between the Directorate General of Population and Civil Registration (*Direktorat Jenderal Kependudukan dan Pencatatan Sipil*) and the DGT by using a single identification number for both national and tax identification purposes for individual taxpayers. In July 2022, the MoF issued Regulation Number 112/PMK.03/2022 as the initial preparation for the integration for the related stakeholders (please refer to [Tax Info July 2022](#)).

The inclusion of this matter in PP-50 reinforces the government's intention for integration.

Family members acting as tax proxy

Under PP-50, certain family members may now act as a taxpayer's proxy to fulfill the taxpayer's tax obligations. The eligible family members include a spouse or a relative by blood or marriage up to two degrees (e.g., a grandchild or a grandparent).

Reissuance of SKP or tax objection decision letter resulting from a lawsuit verdict

PP-50 mentions that, if an SKP is revised as the result of the verdict of a lawsuit related to the request for a tax refund, the 12-month period for the DGT to issue an SKP will be deferred as from the date the SKP is issued until the verdict is received by the DGT.

Likewise, if there is a lawsuit verdict on an objection decision rejecting an objection due to failure to comply with the formal provisions, the DGT must reissue a decision on the objection application within a 12-month period calculating from the date when the objection letter is filed and taking into account the period when the rejection decision from the DGT is sent until the lawsuit verdict is received as the deferred period.

Electronic certification

In an attempt to modernize the tax administration system, the government provides an electronic system for taxpayers and the tax authorities to use to fulfill their tax obligations. Letters issued by the tax authorities electronically and meeting the requirements set by the DGT will have the same legal standing as letters issued in hardcopy format. Further details on the issuance of electronic letters by the tax authorities will be regulated by an MoF regulation and the procedures must be implemented within five years after PP-50 comes into effect.

Transitional provisions

The following table summarizes some of the transitional provisions under PP-50:

Activity	Applicable provision
SKP issued since 29 October 2021 (the date when the HPP Law came into effect)	<p>If the tax penalty calculation starts before 29 October 2021, the penalty is calculated using the reference interest rate issued monthly by the MoF (<i>Suku Bunga Acuan</i> (SBA)) applicable between 29 and 31 October 2021.</p> <p>If the tax penalty calculation starts as from 29 October 2021, the tax penalty is calculated using the SBA applicable on the date when the penalty should be calculated.</p>
SKP related to VAT and underpaid withholding tax issued since 29 October 2021	Tax penalty is calculated in accordance with the prevailing regulations.
Tax underpaid occurred since 29 October 2021 although the taxpayer already has obtained approval to defer the tax payment or settle the tax in installments	Tax underpaid is collected through an STP.
Tax dispute letters (related to an objection, appeal, or judicial review) that result in higher tax payable and are issued on or after 29 October 2021	Tax penalty is imposed in accordance with the prevailing regulations.
Request to terminate a tax investigation in which the request for information on the revenue loss to the government is submitted before 29 October 2021 but the decision to terminate the investigation has not been issued	Tax penalty is imposed in accordance with the prevailing regulations.
MAP negotiation that is carried out until 31 December 2022	Procedures to follow PP-74.
Tax decision letter that is issued electronically by the tax authorities before the system for electronic certification is implemented	Letter is valid provided that it can be proven to be issued from the DGT's electronic system
Appointment of taxpayer's proxy under PP-74	Appointment is valid until the implementing regulation under article 44E(2)(e) of the KUP Law is issued.

Closing remarks

PP-50 provides the statutory guidance on a broad range of tax administrative provisions and procedures and taxpayers should familiarize themselves with the new regulation and monitor further developments to be stipulated by their operative regulations in its entirety to ensure that they comply fully with their tax obligations.

Customs Focus

Regional Comprehensive Economic Partnership (RCEP) scheme

The MoF has issued Regulation Number 209/PMK.04/2022 (PMK-209) concerning Procedures for Imposing Import Duty Tariffs on Imported Goods Based on Regional Comprehensive Economic Partnership Agreements, in its course to implementation of international trade cooperation and provide legal certainty of customs services related to imports of goods from member countries of the Association of Southeast Asian Nations (ASEAN), Australia, Japan, New Zealand, People's Republic of China, and Republic of Korea.

PMK-209 allows importers to get preferential tariffs in the form of RCEP agreement, as an option.

The salient points of PMK-209 are as follows:

Countries involved in the RCEP scheme

PMK-209 stipulates that, in addition to the ten ASEAN countries, five other countries in Asia, i.e., (Australia, Japan, Republic of Korea, People's Republic of China, and New Zealand) are also covered under the RCEP scheme.

Clarification of differential tariffs

Unlike the Free Trade Agreement scheme, the RCEP scheme has differential tariffs, i.e., preferential tariffs that can be applied to goods originating from RCEP countries (RCEP Country of Origin), as the scheme allows for country of origin of the goods to be different with the exporting country.

Determination of import duty tariffs for countries in the RCEP scheme

The amount of import duty tariffs for countries applied under the RCEP scheme are further stipulated in the following regulations:

1. 221/PMK.010/2022 for the ASEAN countries;
2. 222/PMK.010/2022 for Australia;
3. 223/PMK.010/2022 for the Republic of Korea;
4. 224/PMK.010/2022 for the People's Republic of China;
5. 225/PMK.010/2022 for Japan;
6. 226/PMK.010/2022 for New Zealand.

PMK-209 takes into effect as from 2 January 2023.

Contact Persons

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:

Business Tax

Melisa Himawan

Tax & Legal Leader

mehimawan@deloitte.com

Business Tax, M&A and Tax

Technology Consulting

John Lauwrenz

jlauwrenz@deloitte.com

Transfer Pricing

Roy David Kiantiong

rkiantiong@deloitte.com

Business Tax

Heru Supriyanto

hsupriyanto@deloitte.com

Business Tax and Business Process Solutions

Ratna Lie

ratnalie@deloitte.com

Transfer Pricing

Balim

bbalim@deloitte.com

Business Tax and International Tax

Cindy Sukiman

csukiman@deloitte.com

Business Tax

Reggy Widodo

rwidodo@deloitte.com

Transfer Pricing

Sandra Suhenda

ssuhenda@deloitte.com

Business Tax

Budi Prasongko

bprasongko@deloitte.com

Business Tax

Roy Sidharta Tedja

roytedja@deloitte.com

Transfer Pricing

Shivaji Das

shivdas@deloitte.com

Business Tax

Dionisius Damijanto

ddamijanto@deloitte.com

Business Tax, Indirect Tax and Global Trade Advisory (Customs)

Turmanto

tturmanto@deloitte.com

Global Employer Services

Sri Juliarti Hariani

shariani@deloitte.com

Business Tax

Muslimin Damanhuri

mdamanhuri@deloitte.com

Global Employer Services and Business Process Solutions

Irene Atmawijaya

iatmawijaya@deloitte.com

Deloitte Touche Solutions

The Plaza Office Tower, 32nd Floor

Jl. M.H. Thamrin Kav 28-30

Jakarta 10350, Indonesia

Tel: +62 21 5081 8000

Fax: +62 21 2992 8303

Email: iddttl@deloitte.com

www.deloitte.com/id

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities, each of which are separate and independent legal entities, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Osaka, Seoul, Shanghai, Singapore, Sydney, Taipei and Tokyo.

About Deloitte Indonesia

In Indonesia, services are provided by Deloitte Touche Solutions.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.